Proprietaries, for the Charter was granted by them in 1764, in the following words:

## CHARTER

*From Thomas Penn and Richard Penn, Proprietaries, incorporating the Trustees. 1764.*

THOMAS PENN AND RICHARD PENN, ESQS., true and absolute Proprietaries and Governors in Chief of the Counties of New Castle, Kent and Sussex, on Delaware, and Province of Pennsylvania, TO ALL to whom these presents shall come, GREETING.

WHEREAS, in pursuance of a warrant from the late honoured father, William Penn, Esquire, there was surveyed and laid out, on the tenth day of April, in the year of our Lord one thousand seven hundred and four, to the inhabitants of the town of New Castle, in the County of New Castle, a tract or parcel of land, adjoining or near to the said town, containing one thousand and sixty-eight acres, as and for a common, for the use, behoof and accommodation of the inhabitants of the said town of New Castle; beginning at an old corner black oak, formerly of Joseph Wood, standing by the road that leads to Christiana ferry, and running along the road towards New Castle south nine degrees easterly sixty-eight perches to an old corner black oak formerly of Robert French's land; then by his old line of marked trees, south eighty-five degrees westerly one hundred and eighty-two perches, to an old corner black oak formerly of the said Robert French; then by an old line of marked trees, south twenty degrees westerly one hundred and nine perches, to another old corner red oak, formerly of the said Robert French; then along the cripple, north eighty-two degrees westerly eighteen perches, west sixteen perches, south seventy degrees westerly eighteen perches, south twenty three degrees westerly fifty-five perches, south sixty degrees [sixty-eight degrees in original survey] easterly eighty-four perches, to an old corner white oak, formerly of the said Robert French; then along the cripple, south fifty-six degrees westerly forty-four perches, to a black oak, south five degrees easterly fourty-four perches, to an old corner white oak, formerly of William Houston, standing near to the Smith's boom; then along the said Houston's line, south thirty-nine degrees westerly ninety-two perches, to an old corner Spanish oak of the said Houston, standing by Maryland road; thence by the several courses of the said road, north eighty-four degrees westerly eighty-seven perches, north seventy-five degrees westerly one hundred and thirty-four perches, over against the house formerly of Joseph Kent; then by the several courses of the

road that leads to Christiana Bridge, north sixty-two degrees westerly seventy-five perches, north sixty-four degrees westerly forty-two perches, west forty-eight perches, north eighty-five degrees westerly thirty perches, north seventy-six degrees westerly thirty-four perches, south eighty-two degrees westerly sixty-two perches, south fifty-eight degrees westerly twenty perches, south eight degrees westerly sixty-four perches, to a new corner hickory, by the said road; then by a line of marked trees, north thirty-six degrees easterly thirty-three perches, to an old corner tree, formerly of John Wilson; then by the line, formerly of Robert Hutchinson and Garret Garretson, north-east three hundred and twenty-nine perches, to an old corner hickory sapling; then by an old line of marked trees south-east two hundred perches, to an old corner red oak, being a corner tree formerly of Robert Dyer's and Edward Blake's land; then along their line, north-east one hundred and fourteen perches, to an old corner red oak of the aforesaid Dyer and Blake, and still by their lines, north-west, one hundred and forty-four perches, to an old corner hickory, formerly of John Hussey's land; then with the said Hussey's line, north sixty-eight degrees easterly two hundred and sixty-eight perches, to an old corner white oak of the said Hussey, and continuing the same course sixty-two perches, to a new corner black oak, standing in a line of the aforesaid Joseph Wood's land, and running by his line, south fifty-two degrees easterly twenty-eight perches, to an old corner black oak of the said Joseph Wood, and running by his line south eighty degrees easterly one hundred and fifty-five perches, to the first mentioned black oak and place of beginning; containing, within the said bounds, one thousand and sixty-eight acres of land, more or less, as by the said warrant and survey, remaining of record in our Surveyor General's office, at Philadelphia, may more at large appear.

AND WHEREAS, the inhabitants of the said town of New Castle have lately represented to us, that, nothwithstanding the said warrant and survey, and the many benefits and advantages which our said honoured father intended the inhabintants of the said town of New Castle should reap and enjoy under the same, great quantities of the said tract of land, surveyed as a Common, in manner aforesaid, have been enclosed by the owners of tracts of land lying contiguous thereto, and by them tilled and cultivated, and encroachments are daily making on the same, and that great waste and destruction of the wood and timber on the said tract growing, hath been and still is committed by many evil disposed persons, to the great damage and injury of the inhabitants aforesaid, who at present

are remediless in the premises, for want of a legal power in them, or any of them, to sue and implead the wrong-doers. WHEREFORE, they have humbly requested us to incorporate a certain number of them, the said inhabitants of the town of New Castle, and give them perpetual succession, and to confirm to them the said tract of land in common for the use and behoof of all the inhabitants of the said town.

NOW KNOW YE, that we, favouring the request of the said inhabitants of the town of New Castle, have, of our special grace, certain knowledge and mere motion, named, constituted and appointed, and by these presents DO name, constitute and appoint John Finney, Richard M'William, David Finney, Thomas M'Kean, George Read and George Munro, Esquires, John Van Gezell, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M'Lonen and Robert Morrison, gentlemen, thirteen of the present inhabitants of the town of New Castle, to be trustees of New Castle Common, hereby giving and granting, willing and ordaining for US, our heirs, successors or assigns, that they, the said trustees and their successors, forever hereafter, shall be one body corporate and politic, in deed, by the name of the Trustees of New Castle Common; and by that name shall have perpetual succession, for the special ends and purposes, and with the powers hereinafter mentioned, and no other. AND we have given, granted, released and confirmed, and by these presents do give, grant, release and confirm for us, our heirs and successors, unto them, the said John Finney, Richard M'William, David Finney, Thomas M'Kean, George Read, George Munro, John Van Gezell, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M'Lonen and Robert Morrison, and their successors, for ever, all that the aforesaid tract and parcel of land, situate in the said county of New Castle, adjoining or near to the town of New Castle, as the same is hereinbefore set forth, butted and bounded, containing one thousand and sixty-eight acres, more or less, with all the woods, waters, pastures, feedings, ways, rights, privileges, advantages and appurtenances whatsoever thereunto belonging, or in any wise appertaining. TO HAVE AND TO HOLD the said one thousand and sixty-eight acres of land and premises hereby granted, with their appurtenances, unto the said John Finney, Richard M'William, David Finney, Thomas M'Kean, George Read, George Munro, John Van Gezell, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M'Lonen and Robert Morrison, and their successors, in trust, nevertheless, and to and for the uses, intents and purposes following, THAT IS TO SAY, to and for the use of the present inhabitants and those who shall hereafter become and be inhabitants of the said town of New

Castle, and dwelling within the bounds and limits thereof, as a Common, forever, and to no other use, intent or purpose whatsoever. TO BE HOLDEN of US, our heirs and successors, proprietaries of the said counties of New Castle, Kent and Sussex, on Delaware, as of our manor of Rockland, in free and common socage, by fealty only, in lieu of all other services. YIELDING AND PAYING, therefore, yearly and every year, unto us, our heirs and successors, at the town of New Castle, aforesaid, the rent of one ear of Indian corn, if demanded. AND WE DO further, for us, our heirs and successors, grant, ordain and declare, that the aforesaid trustees and their successors, by the name of the Trustees of New Castle Common, be and shall forever hereafter be, persons able and capable, in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any court or courts, and before any judges or justices, in all manner of actions, suits, complaints, pleas, causes and matters whatsoever, and of what nature or kind soever. AND that it shall and may be lawful to and for the said trustees and their successors forever hereafter, to have and use one common seal for the transacting any business respecting the said corporation; and the same, from time to time, at their will and pleasure, to change and alter, and to summon and convene a meeting of the said trustees as often as there shall or may be occasion: *Provided, always,* and we do will and ordain, that no business of any kind whatsoever done or transacted at any meeting of the trustees, or their successors, shall be valid or of any effect unless nine of the said trustees, or their successors, be present, and seven of those met assent thereto. AND we do further give, grant and ordain for us, our heirs and successors, that it shall and may be lawful for the said trustees and their successors to make, frame, and establish, from time to time, such and so many good and reasonable by-laws, ordinances and constitutions, respecting the said Common, for the supporting, bettering and improvement thereof, for the uses herein before mentioned, and for the good ordering and governing the inhabitants of the said town of New Castle, and every of them, in the reasonable use they shall make thereof, as to them shall seem just, convenient and necessary: *Provided,* That such by-laws, ordinances and constitutions are not repugnant to the laws of England or the government of the counties aforesaid; and the same to be put in force, revoke, alter and make new, as occasion shall require. AND, also, to impose and levy reasonable mulcts, fines and amerciaments on the breakers of such by-laws, ordinances and constitutions to their own use, without rendering any account therefor to us, our heirs or successors, or the same to mitigate, remit or release at their pleasure: AND, in case

any of the said trustees shall die, be removed from his office for misbehaviour therein, or remove himself out of the said town of New Castle, and dwell elsewhere, then and in such case, the inhabitants of the said town of New Castle, who have freeholds therein, or otherwise pay a yearly rent of forty shillings per annum, within ten days after the death, removal of any such trustee for misbehaviour, or removal out of the said town, shall, and they are hereby authorized, directed and empowered to meet at the court house, in the said town of New Castle, and choose and elect, by a majority of voices of the said electors, by ballot or otherwise, another trustee or trustees in his or their stead: *Provided always,* and it is our express intent, will and meaning, that the said trustees, or their successors, shall not have, nor be deemed or construed to have, any right, power or capacity, as a body politic, by these our letters patent or charter of incorporation, or any thing herein contained, to purchase, take or hold by deed, gift or will, any lands, tenements hereditaments, rents or other estate, real or personal, of any kind whatsoever, except the tract of land herein before mentioned by us, granted to them for a Common for the inhabitants of the town of New Castle, and for the uses herein before expressed; but every such other purchase, gift or devise of lands, hereditaments, rents or other estate, real or personal, to them made, shall be, and is hereby declared to be, null and void, as if these presents had never been made: *Provided, also,* That the said trustees, or their successors, shall not have, nor shall be deemed or construed to have, any right, power or authority to grant, bargain, sell, alien, convey, release or confirm the hereby granted premises, or any part thereof, to any person or persons whatsoever; but that the same shall be and remain, and be held and enjoyed by them, for the use of a Common for the inhabitants of the town of New Castle, and to no other use, intent or purpose whatsoever. *And, further,* These presents are made, and hereby declared to be made, upon and under this express condition: THAT IS TO SAY, that if the said trustees, or their successors, shall, at any time hereafter, give, grant, alien, bargain, sell or convey away the hereby granted tract of land and premises, or any part thereof, or dispose of the same to any other use than that of the Common for the inhabitants of the said town of New Castle, or if the said trustees or their successors, who are, by these presents, incorporated and made a body politic, shall, by any means, be dissolved, or do any act by which this charter may become forfeited, then, or in any or either of the said cases, these presents and the grant hereby made, and every matter and thing herein contained, shall cease, determine and become absolutely void, to all intents and purposes whatsoever, as if the same

had never been made or granted, these presents, or any thing herein contained to the contrary thereof in any wise notwithstanding; and thereupon all and singular the said hereby granted premises, with the appurtenances, shall revert and return to the said Thomas Penn and Richard Penn, their heirs and assigns forever, as of their former estate. *In testimony whereof,* we have caused these our letters to be made patent. WITNESS John Penn, Esquire, Lieutenant Governor and Commander in Chief of the Counties of New Castle, Kent and Sussex, upon Delaware, and province of Pennsylvania, who, by virtue of certain powers and authorities to him, for this purpose (among other things) granted by the said Thomas Penn and Richard Penn, Esquires, proprietaries of the said counties and province, hath to these presents set his hand and caused the great seal of the government of the said counties to be hereunto affixed, at New Castle, this thirty first day of October, in the fifth year of the reign of our Sovereign Lord, George the third, of Great Britain, France and Ireland, King, Defender of the Faith, &c., and in the year of our Lord one thousand seven hundred and sixty-four.

JOHN PENN.

Recorded in the Rolls Office at New Castle, in Book W. page 631, &c. In witness whereof, I have hereunto put my hand and seal, November 14, 1764.

R. M'WILLIAM, *R. Deeds.*

From 1764, then, there existed a body charged with the duty of preserving and protecting the existence of the Common. From 1764 until 1790 nothing is known of the changing membership of the Board. George Read and David Finney were the only trustees named in 1764 who remained as such when the consecutive minutes start in 1791. No minutes have survived for the intervening period and it is doubtful if any ever existed, for there could have been little to record but the fact of membership, itself. The tract was not tilled and probably consisted entirely of woodland from which the heavier timber trees had been taken, leaving little but overgrown fields and brush land.