

An Act to amend the act, entitled "An act to enlarge the Corporate Powers of the Trustees of the Newcastle common" passed at Dover, January 25th 1792.

Section. 1. Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly Met, That the second enactment clause of the said act be and the same is hereby amended, by striking out the word "thirty", and inserting in lieu thereof, the words "nine hundred and ninety nine".

Passed at Dover February 18th 1873.

William M. Smith

Speaker of the Senate

Joseph Buckwalter

Speaker of the House of Representatives

An Act to amend the
 act entitled "An act to
 enlarge the corporate
 powers of the Trustees
 of the Newcastle Common"
 passed at Dover Jan. 25th
 1792. 710

Senate

Ex S
 by H

Passed at Dover Feb. 19th 1873.

1026

An Act to enlarge the corporate powers of the Trustees of the New Castle Common...

Whereas there is a tract of land, situate near to the Town of New Castle, in the Hundred and County of New Castle, in the State of Delaware, commonly called and known by the Name of, the New Castle Common, 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, toward 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, 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 forty four perches,

to

to an old corner White Oak, formerly of William Huston, standing near to the Smiths Boom, ...
then, along the said Huston's line, South thirty nine degrees, Westerly ninety two perches, to an
old corner Spanish Oak, of the said Huston, standing by Maryland Road, then 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 eighty 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,
Mutchinson, 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

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 Woods 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, be the same more or
less. — And Whereas the Inhabitants of the said Town of Newcastle have hitherto
been restrained in using or occupying the before described Tract of Land, in other manner, or
for other purpose, than as a sand for a Common, which hath not been productive of benefit
or advantage to the said Town, equivalent to the disadvantage arising from so large a body
of Land, lying in a waste & uncultivated State. And Whereas the Trustees of the said
Common, who are the Organ of the said Inhabitants, in the disposition and Manage-
ment of the said Tract of Land, are vested with corporate powers, merely adequate to
the regulation, and protection, of the said Inhabitants, in the use and enjoyment of the
said Tract of Land, as a Common — — And Whereas it hath been represented

to the

^{General Assembly.}
to this ~~legislation~~ by the said Inhabitants, that the cultivation, and improvement of the
said Tract of land, and appropriation thereof, to other purposes than as and for a
Common, would redound much more to the benefit and advantage of the said
Inhabitants, and that in order to effect such purpose, it is essential the corporate
capacity and powers of the said Trustees be enlarged and extended. Be it therefore
enacted by the ^{General Assembly} ~~Legislature~~ of Delaware, that those who are at the time of the passing
this Act, and those who shall hereafter be, and become, Trustees of the before described Tract
of Land, for the use of the Inhabitants of the Town of New-Castle aforesaid, be, now are, and
hereafter shall be, One body Politic and Corporate in Deed and in Law; to all intents
and purposes, by the Name, Style, and Title, of the Trustees of the New-Castle Common.
And that the said Trustees, as a Corporate body in Deed and in Law, shall have perpetual
succession; and that in case of a Vacancy, or Vacancies, that shall hereafter happen, or that
heretofore have happened, in any event, specified in the said Charter of Incorporation, the
said Vacancy, or Vacancies, shall be supplied, and the perpetual succession aforesaid of the
said Trustees kept up, and preserved, by the Inhabitants of the said Town of New-Castle,
by election, or choice, in the manner and form, according to the mode, and at the place,

prescribed

prescribed by their existing Charter of incorporation, and within such time, as hath been or
 shall be fixed and determined by the ordinances of the said corporation. Provided always
 That the Electors of the said Trustees shall have the like qualifications, as are prescribed for electors
 of the Trustees of the New-Castle Common in and by the aforesaid Charter of incorporation.
 And be it ~~further~~ enacted, that in addition to the Corporate powers vested in the Trustees afo:
 as Trustees of the New-Castle Common under their existing Charter of incorporation they
 are hereby declared and made able and capable in law and equity to have, purchase, take,
 accept, receive, possess, enjoy, and retain, to them, and their successors, all that the aforesaid tract
 or parcel of land with the appurtenances; And the same, or any part thereof, to grant, demise,
 and dispose of, For the use and behoof of the Inhabitants of the said Town of Newcastle, to be appro-
 priated in such manner, as a majority of the said Trustees, in their Wisdom, may direct. Provided
 always that they reserve to themselves, and their Successors, for the benefit and use of the Inhabit-
 ants of the said Town, an annual, or other rent, as a reasonable equivalent, for the leasing and
 disposing of the before described Tract of land, or any part or parts thereof; And that neither
 the said, Trustees, nor their Successors, shall have power to sell the said Tract of Land, nor
 any part, or parts thereof, absolutely, nor lease, nor otherwise dispose thereof, for a longer
 Term than thirty ~~12~~ 11 11 11 11 years from the commencement, of the lease, or other contract.

And

And be it ~~furthor~~ enacted, that not less than seven Trustees shall constitute a board for the transaction of business; and the said Trustees on the first Tuesday of March annually, and when intermediate vacancies may happen, shall, and are hereby authorized, to chose one of their number, as President. And be it ~~furthor~~ enacted, That the said corporation be, and hereafter shall be, capable in law, to sue, and be sued, implead, and be impleaded, answer, and be answered unto, defend, and be defended, in Courts of law and equity, or any other place whatsoever, and to do, and execute, all and singular other matters and things, which Bodies Politic, or corporate, lawfully may do: And also to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure. And be it ~~furthor~~ enacted, That the Trustees of the said Corporation, shall be capable of exercising such Powers, for the well governing, and ordering, the said Corporation, and the affairs and business thereof, and of holding such occasional meetings for that purpose, as have been, or shall be fixed, described, and determined by laws, Regulations, and ordinances, of the said Corporation.

And be it ~~furthor~~ enacted, that the said Corporation shall and may make, ordain, and establish, such Laws, Regulations, and ordinances, as to them shall seem necessary, and convenient, for the Government of the said Corporation: Provided always, Nevertheless, That, nothing herein contained, shall be construed to authorize the said Corporation, to exercise any Powers, repugnant, or contrary, to the Laws or Constitution of this State.

Signed by order of the House of Assembly

J. M. M. Speaker

Signed by order of Council

Geo. Mitchell Speaker

Passed at Dover January
25th 1792.

Under Act for enlarging
Corporate powers of the
Trustees of the New South
Commons.

Imp. Decree to 1792.

Jan. 25th 1792. A. M. Road.

25. Received at this
time by special order by
Paragraph of Pastoral Council
sent for concurrence.

Jan 25th 1792. A. M. Road.

25. A. M. Road the 25th
time by special order by
Paragraph and passed.

Passed January 25th 1792.

1792.

191

A Supplement to an Act Entitled "An Act to enlarge the Corporate powers of the Trustees of the New Castle Common," passed January 25th 1792.

Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met (Two thirds of each Branch thereof Concurring)

Section 1 That the Trustees of the New Castle Common are hereby authorized and empowered to subscribe to and hold the Capital Stock or Loans of any Company which has been or may be incorporated for the purpose of supplying The Town of New Castle with water or to Guarantee the Bonds of any Such Company to an amount ~~to an~~ ~~amount~~ not exceeding in the aggregate the sum of Fifty Thousand Dollars. And for this purpose said Trustees shall have power to mortgage or pledge the whole or any part of the lands known by the name of the New Castle Common or the rents, issues, and profits thereof in fee simple or for any less Estate or terms.

Section 2 That such parts of the said Act to which this is a Supplement as are inconsistent with this act are hereby repealed.

Section 3 That this Act shall have no force or effect whatever unless the Trustees of the New Castle Common shall within one year from the Passage of this act certify to the Governor of this State their acceptance thereof under the hand of the President and the Seal of said Corporation.

Passed at Dover
March 30th 1869

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James Williams
Speaker of the Senate

John Hickman
Speaker of the House of Reps

NEW CASTLE

New Castle Co. Del.
Scale 25 rods to the inch

New Castle Business Directory.

Attorneys.

W. C. Spruance...Attorney at Law.
Wm. T. Read... " " "
G. B. & J. H. Rodney...Attorneys at Law.
James M. Johns...Attorney at Law.

Physicians and Surgeons.

A. V. Lesley...Physician and Surgeon.
C. E. Ferris... " " "
T. J. Goslin...Surgeon Dentist.

Hotels.

Z. M. Smith...Proprietor of Stockton House. Front St.
John Keegan...Proprietor of Rising Sun House. Harmony St.

Miscellaneous.

H. J. Terry...Cashier of Farmers' Bank, New Castle. Corner Front & Del. Street.
Thomas R. Sharp...Vice-President of Hick's Steam Engine Company.
Jacob Hermann...Marble Manufacturer. 8th St.
Elihu Jefferson...Merchant and Grain Dealer. Corner Front and Del. St.
Chas. E. Ferris...Dealer in Drugs, Medicines, Paints, Soaps, Wines, Liquors, Dye-Staffs, &c.
Andrew Gray...Civil Engineer. Front St.
J. H. Rogers... " " "
I. M. Housman...New Castle Institute.
W. Couper...Farmer and Resident.
J. D. Janvier...Farmer and Resident.
Tasker & Clark...Farmers and Residents.
John Newlove...Farmer and Resident.

Pastors.

Rev. Spotswood...Pastor of Presbyterian Church.
Rev. Spencer...Pastor of Emanuel Church.
Rev. Paddock...Chaplain of Port Delaware.

REFERENCES	
1	W.G. Turner
2	W. Shearer Store
3	Miss A. Bowman
4	E. Lachler
5	Wm. Harris
6	E. Dolby
20	W. Herbert
21	Yining
22	"
23	M. Robinson
24	L. Wright
25	S. Wright

33	Wm. Hughes
40	M. Adams
41	M. Point
42	E. Hallin
43	M. Suttin
44	M. King

25	W. T. Read
26	W. Herbert
27	J. Herbert
28	R. Barr
29	Miss L. Johnson
30	"
31	"
32	D. Lewis

45	P. Burr
46	M. Murphy
47	A. Millon
48	J. Perry
49	Miss M. Cook
50	Miss S. Allen
51	W. Cage

74	Rev. J. E. Spotswood
75	T. Turner
76	Miss Darrah
77	J. Atkinson
78	M. Murphy
79	W. Hulschammer

52	M. M. Bride
53	J. Sink
54	M. M. Bride
55	P. O. Donnell
56	T. Brookfield
57	W. Duncan
58	Miss Moody



REFERENCES		REFERENCES	
1	W.G. Turner	33	Wm. Hughes
2	W. Shearer Store	40	M. Adams
3	Miss A. Bowman	41	M. Point
4	E. Lachler	42	E. Hallin
5	Wm. Harris	43	M. Suttin
6	E. Dolby	44	M. King
7	J. Pedrick	45	P. Burr
8	Miss Toman	46	M. Murphy
9	M. Bradford	47	A. Millon
10	W. Holschumaker	48	J. Perry
11	T. Challenger	49	Miss M. Cook
12	"	50	Miss S. Allen
13	W. S. Smith	51	W. Cage
14	Rev. J. E. Spotswood	52	M. M. Bride
15	T. Turner	53	J. Sink
16	Miss Darrah	54	M. M. Bride
17	J. Atkinson	55	P. O. Donnell
18	M. Murphy	56	T. Brookfield
19	W. Hulschammer	57	W. Duncan
20	W. Herbert	58	Miss Moody
21	Yining		
22	"		
23	M. Robinson		
24	L. Wright		
25	S. Wright		
26	W. T. Read		
27	W. Herbert		
28	J. Herbert		
29	R. Barr		
30	Miss L. Johnson		
31	"		
32	D. Lewis		
33	M. Slogden		
34	W. H. Herbert		
35	P. Vandereere		
36	"		
37	M. Duncan		
38	M. Sutton		

To George Dakeyne Surveyor
of the County of Newcastle.

Edw. Tupper
Tho: Fort
James Logan

Nov 21

Pennsylvania. William Penn Proprietary and Govern^r of the
Province of Pennsylvania and Counties annexed

For the accommodation of the Inhabitants of the Town of Newcastle
These are to require thee forthwith to survey or cause to be surveyed to the
only

only use and behoof of the said Inhabitants to lie in common one thousand acres
of the Land adjoining or near to the said Town hitherto reputed and called
Newcastle Common, in one convenient Tract, and if there prove more than the^d
number of Acres lay out the residue in one convenient piece to me and for my
use and make returns thereof into my Secretaries Office. Given under my hand and
Seal at Newcastle the 31th Day of 8th 1701.

Wm Penn

To Edward Penington Surveyor General
of the Province of Pennsylvania & Territories

By Virtue of a Warrant to me directed bearing date the twenty third Day of the tenth
mth 1701 to Survey and lay out to the Inhabitants of Fort Castle to live in common for their
accommodation and to their only use and behoofe one thousand acres of Land adjoining or
near to the said Town of Fort Castle reputed always to be common and to make Returns of the
same unto the Generall Survey^r office at Philadelphia This may certify into the Gen^l Survey^r
office

Lana is a Branch called the Mill Branch runs up the several courses
 thereof North 29° West 16 per. & 79° West 10 per. & 59° West 22. & 82 West
 10 per. & 27 West 30 per. & 71 West 34 & 74 West 6 per. to a white oak formerly
 of Adam Petersens but now Andrew Petersens Lana runs with the
 line & 2° Ely 380 per to a Corner Mark of the aforesaid Petersens
 Land thence & 86 Ely 10 per to a corner Red oak standing in
 Robert Mucksons Line formerly but now Andrew Petersens
 thence with the said Andrew Petersens line & 15° West 56 to a
 Cor Black Oak of the aforesaid Mucksons of the Land formerly
 Williams Burrows thence with the said Burrows line
 North 26° Ely 180 to the first mentioned white oak place of
 Beginning containing within these Bounds Eighty three acres of
 Land Surveyed as aforesaid the 25th October 1733 according to
 John Gore Surveyor

I do certify the 1st Day of Sep^r 1733 I do certify the above to be a True Copy of the return
 made by me of the above Lana into Wth Jacob Sakers office the 25th of Oct 1733 as witness
 my hand the Day & Year first mentioned in this Certificate John Gore Sur^r of N^o 6
 Wmth from the Sur^r dated the 13th of July 1733

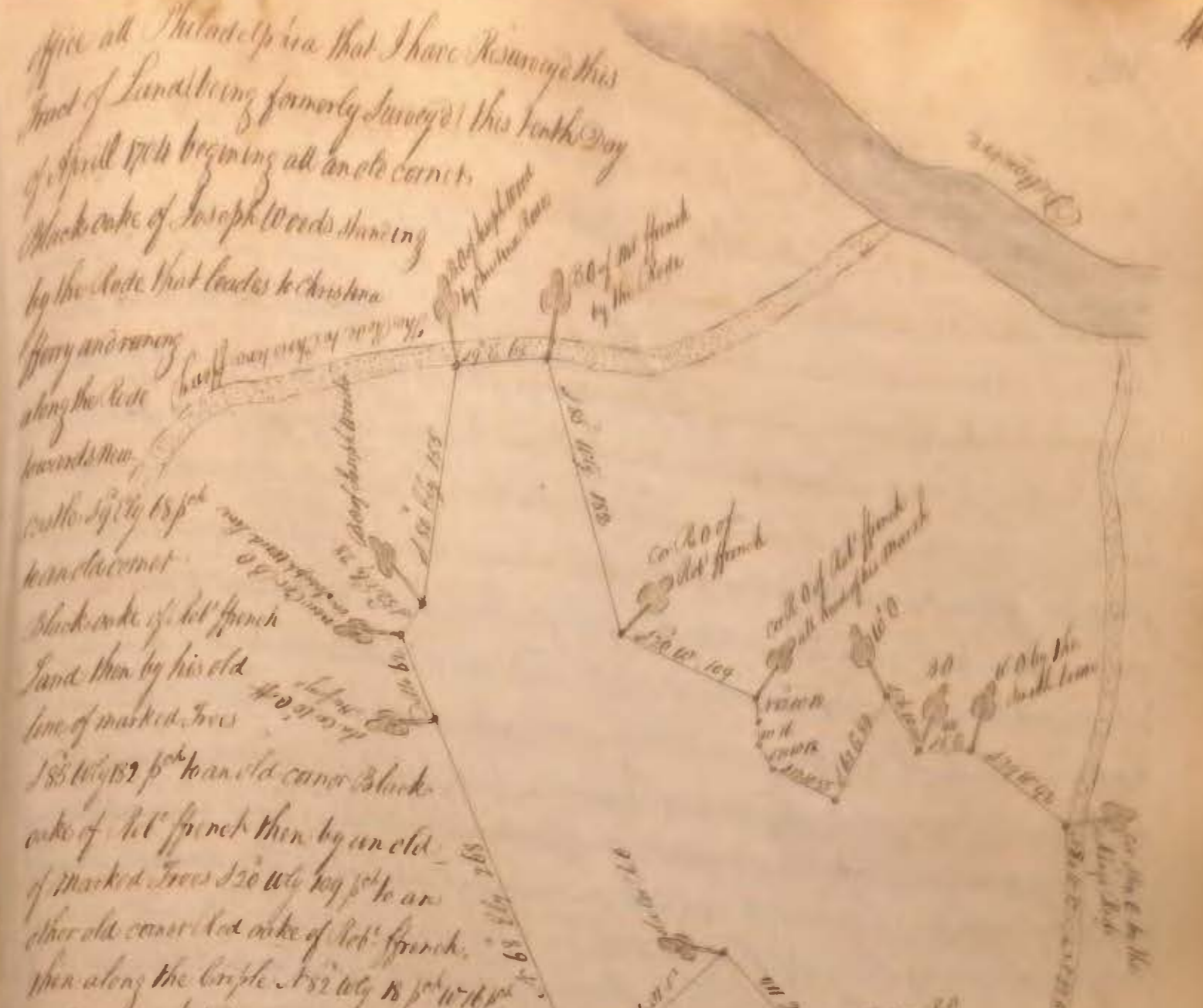


The Town Marsh begins at an old corner white oak
 of John Williams Brickyard and runs S 61° 36' E 320 per
 S 25° E 22 per. & 33° E 32 per. then leaving the Brickyard and
 running along the four Licks by the Marsh S 35° Ely 36 per. and
 S 39° West 37 per. to Delaware River and along the same S 72°
 West 50 per. to a white oak by Delaware then by Justice Licks
 Line S 13° West 80 per. to a new Corner Black oak by the
 side of the Cradle and still along the Cradle S 52° Ely 90 per. &
 S 25° Ely 10 per. & 13° West 39 per. & 15° Ely 12 per. to a new Corner Pine oak by
 Maryland Side then along the Side S 8° Ely 36 per. then through the Cradle S 15° Ely 37 per. to the
 beginning containing 88 acres of Marsh and Cradle Surveyed the 10th of April 1704

Wth G. Dakogne Surveyor

By Virtue of a War^{nt} to me directed bearing date the twenty third Day of the tenth
 moth 1701 to Survey and lay out to the Inhabitants of Newcastle to live in common for their
 accommodation and to their only use and to keep one thousand acres of Land adjoining or
 near to the said Town of Newcastle to be kept always to be common and to make Returns of the
 same into the severall Surveyors Office all Philadelphia This may certify into the Gen^l Survey
 Office

office all Philadelphia that I have Assurance this
 part of Land being formerly Surveyed this tenth Day
 of April 1701 beginning at an old corner
 Black oak of Joseph Woods standing
 by the Side that leads to Christina
 Ferry and running
 along the Side
 towards New
 Castle 57° Ely 65 per
 to an old corner
 Black oak of let french
 Land then by his old
 line of marked Trees
 S 88° West 152 per to an old corner Black
 oak of let french then by an old
 line of marked Trees S 20° West 109 per to an
 other old corner Red oak of let french
 then along the Cradle S 22° West 18 per & 17 per
 S 70° West 18 per S 23° West 53 per S 68° Ely 84 per to an
 old corner white oak of let french then along
 the Cradle S 31° West 109 per to a corner S 15° Ely
 10 per to an old corner white oak of William
 Howsons standing near to the Smith Boorn then
 along the said Howsons line S 39° West 92 per to an
 old corner Spanish oak of the said Howsons standing by
 Maryland Side then by the severall courses of the said
 Side S 54° West 57 per S 73° West 134 per cut against Joseph Kents
 House then by the severall courses of the Side that leads to Christina
 Bridge S 65° West 75 per S 64° West 112 per & 112 per S 88° West 30 per S 76° West
 30 per S 52° West 62 per S 58° West 20 per S 51° West 64 per to an old corner
 Hickory by the said Side then by a line of marked Trees S 36° Ely 33 per to an old corner
 of John Wilsons then by the line of let Hukhenson and Garrett Garretson S 6° 33 per to an old corner
 Hickory sapling then by an old line of marked Trees S 6° 30 per to an old corner Black oak being
 a corner Tree of let Rogers Land and Edwards Blak then along their line S 6° 11 per to an
 old corner Red oak of the aforesaid Dyers and Blaks and still by their line S 11 per to an old
 corner Hickory of John Hupps Land then with the said Hupps line S 15° Ely 56 per to an old corner
 oak of the said Hupps and continuing the same course to per to a new corner Black oak standing in a line of Joseph
 Woods Land and running by his line S 52° Ely 28 per to an old corner Black oak of the said Joseph Woods and running by his line
 S 80° Ely 158 per to the beginning containing 105 acres of Land Assured the Day and Year above written
 Wth G. Dakogne Surveyor



Francis Grice of the City of Philadelphia Master
of the Ship called Marquis de la Fayette maketh
oath that the Indenture herunto annexed bearing
Date the seventh Day of July instant was duly signed
sealed and delivered by John Penn of Stoke Pogis
Esquire and John Penn of Door Street Esquire there-
named as and for their acts and Deeds respectively
in the presence of John Bason of the City of
Philadelphia aforesaid Captain of the Ship called the
Harmony and of this Deponent And this Deponent
saith that the Names of the said John Penn of Stoke
Pogis and John Penn of Door Street aforesaid as the
same appear to be set and subscribed to the said
Indenture as the parties executing the same and the
Names of the said John Bason and of this Deponent
as the same appear to be set and subscribed thereto
as Witnesses attesting the Execution of the said
Indenture are of the proper Hands writing of the
said John Penn of Stoke Pogis John Penn of Door Street
John Bason and of this Deponent respectively.

Sworn this 8th Day of
July 1791 at Guildhall London
before me

John Boydell
Mayor.

Francis Grice

To all to whom these Presents shall come
I John Boydell Esquire Lord Mayor
of the City of London Do hereby Certifie
that on the Day of the Date hereof, personally came
and appeared before me Francis Grice
_____ the Deponent
named in the Affidavit hereunto annexed, being a
person well known and worthy of good Credit,
and by solemn Oath which the said Deponent then took
before me upon the Holy Evangelists of Almighty God,
did solemnly and sincerely declare testifie and depose to
be true the several matters and things mentioned and
contained in the said annexed affidavit

In Faith and Testimony
whereof I the said Lord Mayor have
caused the Seal of the Office of
Mayoralty of the said City of London
to be hereunto put and affixed and
the Indenture _____

_____ mentioned
and referred to in and by the said Affidavit
to be hereunto also annexed Dated
in London the Eighth
Day of July _____ in the Year of
our Lord One thousand seven hundred
and Ninety one
Widdale



**NEW CASTLE, DELAWARE:
A WALK THROUGH TIME**

**BARBARA E. BENSON
&
CAROL E. HOFFECKER**

**Oak Knoll Press
2011**

homes in Pennsylvania or traveled on to the Shenandoah Valley and down into the Carolinas.

The migration greatly enhanced New Castle's trade and provided a steady stream of clients for the town's innkeepers. Inns and taverns were especially prominent on the street closest to the river, now called The Strand, which was the place where sailors and passengers embarked for, or disembarked from, lengthy sea voyages. New Castle was also an important market town for local farmers, who provided the provisions for those ships. In addition,

TRUSTEES OF THE COMMON

According to the jurist and historian, Judge Richard S. Rodney, the designation of common land for use by the residents of New Castle dates back to the period of Dutch rule. After a century of people cutting down trees and using the land with no thought for a common benefit, the town's leading men decided that a way must be found to maintain the land for the use of future generations. In 1760 they filed a petition with the Penn proprietors, and in 1764 Thomas and Richard Penn granted that request by creating the Trustees of the Common. There were to be thirteen trustees, who were appointed under the law and were to serve for life, now reduced to a term. When a term ends, the outgoing trustee is replaced by someone elected by the voters of New Castle for a twelve-year term. Although trustees no longer serve for life, they can continue to seek reelection.

The mandate of the trustees was to ensure that the common land was used for the benefit of the people of New Castle. They and their successors have been unerringly true to that civic responsibility. In the early days of the trusteeship, the common land was subdivided into tenant farms. The income from the rents was used to pay for improvements in the town such as streetlights, trees on the Green, a town clock, a wharf, better water supply, and cobblestone streets. The trustees also used common land profits to build the Academy and the Town Hall, and to buy the town's first fire engine. All of these improvements came without costing townspeople a penny in taxes. Indeed, there was no town tax in New Castle until 1850.

In 1885 a state law gave the trustees authority to sell parcels of common land and to invest the proceeds in sound investments. It was this provision that permitted the trustees to sell some land to steel corporations to entice them to relocate at New Castle. When the United States entered World War II, the trustees gave up land to create the New Castle Army Air Base. That land is now the New Castle County Airport and Delaware Air National Guard headquarters.

Perhaps the most important way in which the Trustees of the Common have served the people of New Castle in more recent times is their role, beginning in 1939, in the purchase and improvement of Battery Park. In response to that effort, the city of New Castle expanded the trustees' responsibilities to make them the city's Park Board.

New Castle on the Delaware

Compiled by the
DELAWARE FEDERAL WRITERS' PROJECT
WORKS PROGRESS ADMINISTRATION

Sponsored and Published by the
NEW CASTLE HISTORICAL SOCIETY

THE STORY OF NEW CASTLE

New Castle elects the members of two quite unusual bodies that exist under authority of State law; these occupy a place between municipal government and ordinary beneficial trusteeships. They are known respectively as the Trustees of the Common and the Trustees of Market Square; both bodies must be classed among the city's many survivals from Colonial times and are in some ways the town's most interesting political feature, as will be seen.

Trustees of the Common

The lands known as the New Castle Common must not be confused with the Green. The Green, being a broad central square, corresponds with what many New England towns know as "the Common." But here in New Castle the Common comprises other lands quite separate and distinct. They lie beyond the northwestern bounds of the present town and are mainly in the open country. In former days they were all farm lands. Lately a small part of the area has become the site of manufacturing industry or of residence, but the greater part remains in farms. All the present possessors hold under lease from the Trustees of New Castle Common. This body owns the land in trust "for the use, benefit and behoof of the inhabitants of the town." The beneficiaries are "the inhabitants"—not the town as a political body, for its government has no hand in the trust.

The lands comprise 1,068 acres, as originally surveyed between 1701 and 1704. The peculiar device that put the broad tract in the hands of trustees is ancient and, above all, unusual in American municipal history.

Before 1704 the land north of the town had been used for many years as common property; there each townsman cut wood or grazed animals as he chose. Soon after William Penn's proprietorship was extended over New Castle, the community grew numerous enough to make the exact limits of the common land a serious concern, since people whose farms adjoined it hankered after the way of men to annex portions of it and fence it in. Penn, acting upon complaints of some of the townspeople, ordered his provincial surveyor-general in 1701 to survey and set off 1,000 acres, thus delimiting the previously vague area of the communal tract. The survey, reported more than two years later, set aside 68 acres more than the area Penn had specified.

This survey sufficed to prevent encroachment for a while, but by 1764 some of the inhabitants had occasion to complain anew; this time to Penn's sons, Thomas and Richard, who had succeeded him as proprietors. They begged the Penns to grant the land in perpetual trust to such men of New Castle as would care for the property and administer it in the interest of the rest. The two Penns executed the desired deed of trust on November 17, 1764 and by this deed named the original 13 trustees: John Finney, Richard McWilliams, David Finney, Thomas McKean, George Read, George Monro, John Van Gezel, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel McLonen and Robert Morrison, all of leading families, to hold title of the proprietary forever, "in free and common socage . . . paying therefor yearly . . . one ear of Indian corn, if demanded." Trustees who died or moved away from New Castle were to be replaced by election, in which

NEW CASTLE ON THE DELAWARE

all persons who held or rented property worth 40 shillings a year might vote. The successors of the original thirteen are still elected for life.

Years after the Revolution, when the Penns had lost all proprietary rights in Delaware, the two John Penns, who had been the last proprietaries, signed a second deed in 1791, removing restrictions that had been found to impede the operation of the trust. In the following year the General Assembly of Delaware gave the trust a statutory existence as a corporate body. Under these successive grants of power it has functioned more than 170 years, leasing lands, receiving the proceeds, and applying these in various ways to the town's benefit. The revenue, though not imposing, has been substantial until the recent farming depression; as long ago as 1887, the yearly rent from the leases then in force, of nine farms and two lots, exceeded \$8,000. Handled by a trust, and not a branch of the municipal government, the money could be used as the trustees might decide—an odd but fairly successful anomaly in municipal finance. In 1823 the trustees built the Town Hall and they still control it.

In recent years the trustees have not adventured extensively into leasing lands to others than farmers. The Bellanca Corporation is now one of the leaseholders, but rents only a strip bordering its site. It is evident that the trust's ample powers give it no small control in determining what leases will in its judgment promote local welfare in an industrial and economic way. It has been the townpeople's custom to elect to the trust, when the opportunity occurred, men whose families had long been identified with New Castle's history.

On account of this trusteeship of the Commons, and the trusteeship of the Market Square, New Castle has been called an "endowed town." It receives the applied income of lands much as a university or a hospital might receive the income of its endowment. The arrangement, although an exceptional one for a municipality, has stood a longer trial than many others more usual.

Of interest among early accounts of the Common are references in the Records of the Court of New Castle to a *STINTED COMMON*:

Letter
from
the Court
at New
Castle to the
Governor
February
1677

"That the valley above the Towne Lately belonging to Captn John Carr and by yor Honor given to the Towne for a *stinted Common*, to bee shut upp the first of May & opened againe the Last of July: and that Every Individual Burger have his Equall sheare therein, and their parts being Laid out by the surveigor, then to draw Lotts for their Shears, andnoe man to put in more than one other: Lykewyse thatt all prsons who shall bee Concerned in the said comon bee oblidged to maintaine the dyke & fence wth the sluice in keeping itt in Repair, and if any one openly Refuse, then to Loose their sd Commonadge."

Court
Record
October
1677

"Itt was this day Resolved and ordered by the Court, that all the Inhabitants of this Towne of New Castle whoe haue and Clayme any Interest in the Common fly or Marrish, Every one to make up his proportionable sheare or part of *the fence wch*

THE STORY OF NEW CASTLE

is now begun, and Lykewyse the Towns sheare between the sd fly and the Land of Captn Cantwell and Mr Dehaes, The same to bee done betweene this and the 25th of the month of March next upon penalty that every neglective prson shall forfeit the sume of twenty and fyve Gilders; and to Loose his sheare and Intrest In the same; The Court further appointing Mr Johan: De haes & Mr hendrik Williams to bee ouerseers ouer the Towne dyke sluys and the fences belonging to the Towne fly, whoe are hereby Impowered and Requiered to see that the aforestanding order be observed presenting all prsons in default and to take Care that the said sluys dyke and fence bee kept in good Repair."

Trustees of Market Square

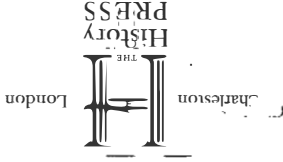
As now constituted, the trustees of Market Square and Court House Square (to give them their full designation) are a body of five men, elected one at a time, each to serve ten years; their powers and qualifications and the manner of their election are prescribed by an act of the State Legislature; it authorized them in 1883 to hold in trust for the city of New Castle, public buildings on Market Square and Court House Square (the Green) subject to the county's reasserting later, if it so wished, its rights in the old Court House and its jail, but only for their original purpose.

The responsibility rests with these trustees for determining what use shall be made of the buildings and adjoining land in their charge and also for deciding what restorations or alterations may be made. They may admit tenants into the buildings, as has been done; the city government occupies space in the Old Court House; and in the old jail a club makes its home. A tearoom utilizes part of the Old Court House.

The trust is independent of the city government, being much older than the municipal government as now constituted, for it originated in an act of Colonial times, passed by the assembly of the Delaware counties in 1772. The purpose of this act was apparently to put the property of the once important but now vanished public market under permanent and trustworthy control, and the original authority of the trustees extended only over Market Square. The assembly designated the first five trustees, to serve for life, and provided that the last survivor should name his successors. This was actually done as late as 1877, by John Janvier, the last survivor at that time.

New Castle and Frenchtown Railroad

This railroad was a local wonder in its day and a great improvement in travel up and down the eastern border of the country. Its history furnishes a good example of early railroading enterprise. A turnpike had been built from New Castle to Frenchtown, Md., by 1818, and over it a line of stage-coaches called the "Union Line," organized by John and Thomas Janvier, ran regularly, carrying passengers sixteen and one-half miles. It connected the steamboat route from the Elk River to Baltimore and the steam packet from New Castle to Philadelphia. In 1827 the New Castle and



THEODORE CORBETT

THE STRUGGLE FOR INDEPENDENCE
NEW CASTLE
Revolutionary

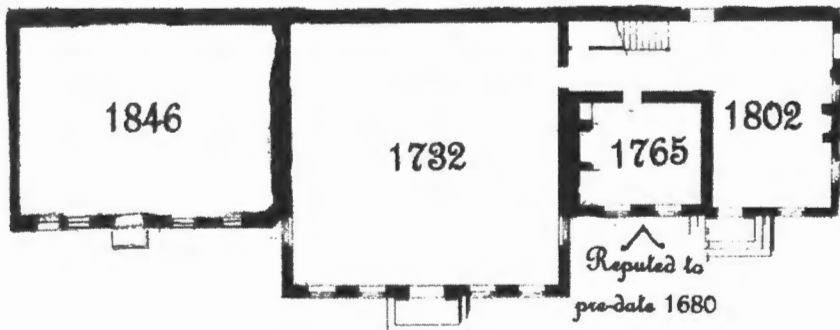
ORIGINAL RETURN OF SURVEY—1704

Original text describing the survey of the Common, mentioning the Delaware River and the village of New Castle.



Left: Original Return of Survey—1704. In this map of the Common, the Delaware River is at the top right, with the village of New Castle along it, bounded by roads to Christiana Bridge, Maryland and the Christiana Ferry. The first boundary lines represent the end of the village and the beginning of the Common, which stretches to the second boundary lines. Courtesy Trustees of the Common.

Below: Evolution of the Court House, 1732–1845. The drawing shows how the Courthouse grew from a central block of 1732, adding a portion of the east wing in 1765, but not until 1805 was it full size, while the west wing did not appear in brick until 1845. Courtesy Timothy Mullin.



rail structure, covered by four levels of wooden planks. It is noteworthy that three ornamental rather than shade trees line the outside of the fence. They have elaborate wooden protectors at their bases, indicating that animals like pigs might root them up. However, it appears that the fence and plantings are conjectural, a proposal by Latrobe rather than reality. Elsewhere, trees are also in Latrobe's view behind the courthouse, but on the whole the Green is devoid of landscaping. A well-worn path runs from one of the Delaware Street gates to the edge of Immanuel's burial yard. Visible is the burial yard masonry wall, broken by two ornamental pillars that support a wooden gate. While no livestock or people appear in the view, the tree protectors serve as a reminder that trees on the street had to be shielded from wandering livestock. (See illustration.)

Two years later, three Trustees of the Common—James Riddle, George Read Jr. and James Booth—intervened and urged that the Public Square be made “handsome” by enclosing it anew and ornamenting it with trees. The next year, a committee headed by a trustee was set up to obtain post and rail fencing. The committee purchased the materials, but it was not until October 1809 that Jacob Colesbery was employed to erect and paint the post and rail fence.

An 1822 painting of the Green shows it as fenced and gated, with a post and rail fence at three levels, with the top/fourth level covered with planks. A post and rail gate opens along Delaware Street, and a fancier pointed iron gate is in the rear, which serves as the entrance to the Immanuel churchyard. The church burial yard has its own brick wall covered with mortar to make it look smooth. A willow and a few fur trees are on the eastern and western edges of the Green, and Immanuel's burial yard has trees, but they do not create a landscaped space. The Delaware Street front is edged with stone slabs.

Other conditions contributed to ending the use of the Green for pasturing animals. Beginning in 1816 and continuing for several decades, the ownership of livestock by townspeople declined so that in 1828 only a quarter of households kept them. While a few households would maintain cows and pigs in the second half of the nineteenth century, the days of keeping livestock in New Castle were numbered.

Not to be confused with the Green, the Common was land located beyond the town that in English tradition was available to citizens of New Castle for pasture, hay, wood lots, fishing and garden plots—though not settlement. Commons were established in medieval England, Scotland and Ireland chiefly in an effort to attract peasants to manorial lands. They continued to exist traditionally and in English law before William Penn arrived in New Castle in 1682. He planned politically strong townships, whose urban centers drew from the agricultural production of the countryside—a situation that

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already existed at New Castle. To promote this, Penn granted the town a common that was “for the only use and behoof of the inhabitants of New Castle, to be in common for their accommodation forever.” Penn defined it in law from 1701 to 1704 when 1,068 acres were set aside outside the village and surveyed by his order as the proprietor of the Three Lower Counties, which became Delaware. The Common extended around New Castle to the north and west but did not cover the waterfront.

After the colonial wars, New Castle’s gentry felt the need for someone to administer the Common. The valuable wood had entirely been cut, and squatters had extended their cultivation into the Common, making a legal entity necessary to remove them. In 1760, twenty-nine gentlemen petitioned the General Assembly of the Three Lower Counties, asking that a body be established to administer the Common. Evidently, the assembly did not respond, so the petitioners passed it on to the proprietor’s heirs, Thomas and Richard Penn.

In 1764, the Penns replied affirmatively to the petitioners, appointing Trustees of the Common. They were to annually give the Penns a rent of a single ear of Indian corn, if demanded. Thus, from this date a body of trustees was recognized to act as an executive for the Common. When setting up the trustees, the Penns stipulated that none of the land be sold; instead it had to be kept “for the use of a common for the inhabitants of the town of New Castle.” The trustees did not have the right “to grant, bargain, sell, alien,



The Courthouse and the Green, 1805 survey, Benjamin Latrobe, unfinished watercolor. The central part of the Courthouse was built in 1732. Here, on June 15, 1776, the Delaware Assembly unanimously declared Delaware to be separate from the proprietorship of the Penn family and set about establishing a new government. The structure was briefly the capitol of the state of Delaware until 1777. *Courtesy Delaware Public Archives.*

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convey, release or confirm” the Common to any person. If the trustees violate these stipulations, the Common would revert to the Penns and their heirs. As a group, the trustees would not be easily caught up in the political controversy over taxes with Britain that was just beginning as they were formed. The New Castle County Committee of thirteen, created a decade later on the Green to support the closing of the port of Boston, had only three trustees on it.

At the center of town, the Courthouse was erected in 1732, the same year construction began on Independence Hall in Philadelphia. The brick structure was in the Georgian style, looking like a large townhouse, its principal decoration being windows in perfect symmetry. Both wings were added later, and while they look similar, the east wing is considerably larger than the other. Its interior was Spartan; costly embellishments would have come later. In 1750, from the cupola of the courthouse, the famous twelve-mile circle was run as stipulated in William Penn’s grant of 1682, which created and still forms the northern boundary of Delaware.

A government meeting building had been erected on the site of the existing courthouse in the 1680s, but we have very little knowledge of it except that a prisoner, William Kelsey, burned down it and the jail in an attempt to escape in 1729. The new building of 1732 served as the home of the Three Lower Counties Assembly. The privilege had been granted by William Penn in 1704 to the counties of New Castle, Kent and Sussex which would make up Delaware. The executive remained in the hands of the Penn family, and in practice the governor resided in Philadelphia although he visited New Castle occasionally. During the colonial period then, New Castle was the home of an assembly and courts.

The Courthouse’s role as a colonial capitol ended symbolically on July 2, 1776, when public presentation of the Declaration of Independence was made in front of it before a crowd and militia, which, after three huzzas, destroyed the symbols of the British monarchy that decorated the building. For the next several months, the Courthouse was capitol of the new state of Delaware and was where the state’s first constitution was written and approved. Still, the state government was permanently moved to Dover in 1777. But this did not end the building’s political role, as it continued to be the seat of New Castle County until 1882.

As the county seat, a complex developed behind the Courthouse and in the Green. In 1732, along with the new Courthouse, a new jail was erected to replace the one burned by Kelsey. By 1805, the fenced county lot behind the Courthouse included separate structures for a workhouse and jail.

A final civic space is the Town Hall, the only one that did not exist during the Revolutionary era. It was the culmination of the promise of the era, for it offered

a place where the business of municipal government could transpire, as well as be a home for its fire companies and the Trustees of the Common. Completed in 1826, meetings held inside allowed these entities to encourage and finance projects in the community aimed at making New Castle an urban center.

Before 1826, the Trustees of the Common and the Town Commissioners met in taverns and private houses, where town meetings were also held. As their purpose only involved New Castle, these entities made no effort to meet in the Courthouse, which was the center of state and county government.

The Town Hall was planned by a committee of the Trustees of the Common from June 1823 to July 1825, when construction actually began. It was completed a little more than a year later in September 1826, fifty years after New Castle had declared its independence from Britain. The Trustees of the Common called for a structure that was three stories, with finished plaster ceilings, a four-way pitched roof, a cupola with small windows—placed in the midst of the roof—thirteen windows, copper flashing and drain pipes at the front corners of the building. It was to have a three-part cupola with surrounding rail, a hipped roof, a rear chimney for fireplaces and two rear three-over-three windows. What you see today is a brick structure, built on a brick floor, that looks square, but it is in fact thirty-eight feet wide by thirty-four feet deep.

During the planning process for the Town Hall in October 1823, the Union Fire Company presented a request to the Trustees of the Common to build an engine house. A room above would serve as a meeting space for the Town Commissioners and the Trustees of the Common. The firemen's plan for a town hall was combined with the trustees' plan. The firemen eventually moved into the first-floor spaces on either side of the central passageway.

By visiting these five civic spaces, you will be able to see how New Castle evolved from a colonial hamlet to a fledgling city. The Market House was an important urban amenity for the town and was meant to protect the quality of the perishable products that the average person consumed. The Green is the oldest civic space in New Castle and was the scene of protest against the tyranny of the British Parliament. The Trustees of the Common took surrounding territory that had been conceived of as a resource to be shared by all of New Castle's inhabitants and, after the Revolution, turned it into a source of revenue for capital projects that improved the town. The Town Hall, erected at the end of the Revolutionary era, was meant by the Trustees of the Common to give the town's local government a boost. The Courthouse performed the role of bringing politics from another place into New Castle while also dispensing justice to the local community. Collectively, the five civic spaces were symbols of New Castle's role as an autonomous community during the Revolutionary era.

The Struggle for Independence

completed, William Penn's government awarded the free man one new suit, ten bushels of wheat or fourteen of corn, one axe, two hoes and, at first, fifty acres of land. So it was worth it.

Those Scots-Irish servants who stayed in New Castle rose in numbers and built the Presbyterian meetinghouse in 1707 as a sign of their influence. Fifteen years later, George Ross, the Anglican pastor at Immanuel Church, was envious of their growth, calling them "the bitterest railers against [his] Church that ever trod upon American ground." Two of Delaware's signers of the Declaration of Independence, Thomas McKean and George Read, were from families who had emigrated from Ireland. Not all Irish Protestants were Presbyterians, however, for Read's family was from the Pale around Dublin, where Anglicanism prevailed.

FARMERS

Farmers were the third part of the citizen mix, though they were divided between the planters, or wealthy plantation owners, and the vast majority, who were small holders and even poor. While most cultivated land in the surrounding hundreds, they traded and went to church in New Castle and were an integral part of New Castle's economic and social life. In the 1780s, unlike Sussex and Kent Counties, where the vast majority were subsistence small holders, a majority of those in New Castle County were commercial farmers of some scale, selling their produce outside their community, exporting wheat, which had replaced tobacco in the 1730s as the dominant staple. The two richest commercial agricultural areas in the state were south of New Castle, Red Lion and St. George's Hundreds and were tied to New Castle's port and market. New Castle and Dover Hundreds shared honors as the wealthiest communities in the state with the greatest number of large property owners, many of whom were planters.

New Castle's elite of merchants or lawyers also needed farms to support their homes in town. The farms became seasonal retreats, especially in autumn, when the fever and ague prevailed in town. These farms furnished fuel and necessities beyond what was in the kitchen garden or at the market so that the elite did not have to use the market. George Read Sr.'s home on Front Street (the Strand) had supporting farms, the first of which was Stonum, developed from 1763 to 1769, while the substantial brick country house you see today dates from a decade later. Read also had two lots near New Castle, perhaps within the Common, for hay and pasturing his horses

REVOLUTIONARY NEW CASTLE



Stonum, one of George Read Sr.'s country houses, circa 1780. He needed supporting farms for his home on Front Street, the first of which was Stonum, developed from 1763 to 1769. These farms furnished fuel and necessities beyond what was in the kitchen garden so that the elite did not have to use the market. Investment in productive land made one a gentleman.

and cows. However, to build substantial country estates, one had to go beyond the Common.

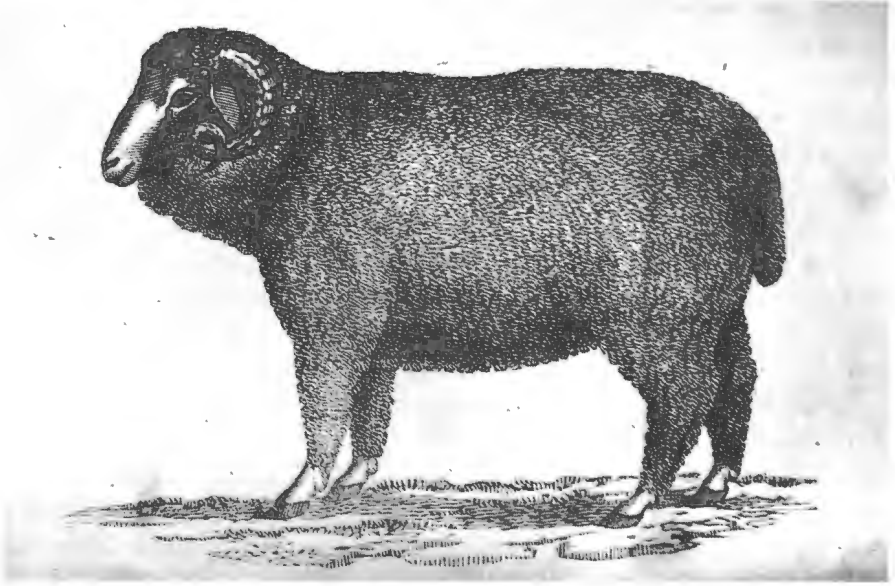
After the Revolution, farmers who made a living by selling wheat or flaxseed surplus received a boost when the Trustees of the Common became able to rent the Common. The development of the market also helped farmers because they became its chief suppliers when they came to New Castle's Market House and shambles two days a week. Still, agricultural production declined in the nineteenth century as estates were split into smaller parcels and farmland lost its value, while many free blacks moved to the countryside to work on farms, where the cost of living was cheaper than in New Castle. In the early 1800s, New Castle Hundred became more like the conditions in Kent and Sussex Counties.

Fulfilling the Promise of Independence

In October 1781, New Castle greeted the news of the surrender of the British army at Yorktown with joy, erecting a flagpole for the Congress's Continental colors near the courthouse that were placed "a little above those of the British," which were evidently still flying. Salutes were fired, the town illuminated and toasts drunk. Even more extensive festivities greeted the news of completion of peace negotiations in April 1783.

Despite the festivities, in the long term it seemed that the Revolutionary War had caused economic, political and religious difficulties that would need to be addressed. Three years after the peace was signed, an attempt was made to establish municipal government in New Castle that emphasized the need for order and sobriety because of the "licentiousness which originated from the idleness and relaxation of civil authority" during the Revolutionary War. The effort failed, further postponing the existence of municipal government. The only local government unit recognized by the assembly remained the customary New Castle Hundred. Furthermore, the trustees of New Castle's Common had no means of obtaining revenue from the potentially rich surrounding territory of the Common. Also, slaves and freedmen had tended to join the British, so that Delaware authorities were in no mood to abolish slavery—even gradually. Enlightenment ideas on the need for penal reform and education languished. The assembly had moved Delaware's government from New Castle, making it more sympathetic to the conservative viewpoint of the two southern counties. And then there was the problem of war veterans.

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Sheep from Robert Livingston's *Essay on Sheep*, 1810. The text was available from the New Castle Library Company, inspiring the breeding and cultivation of sheep, which were driven to market at either New Castle or Philadelphia. From 1780 to 1827, the number of sheep in New Castle Hundred increased, although most farmers had small herds. *Courtesy New Castle Historical Society.*

sheep in New Castle Hundred would increase, although most farmers had small herds, the largest numbering ninety-four. Here was a new means of diversifying agriculture.

LEASING THE COMMON

Despite the creation of the trustees in 1764, for the next twenty-five years, covering the entire Revolutionary War, it is assumed that they met but did very little business. The trustees complained that the Common remained uncultivated and that the inhabitants did not derive “any considerable advantages from it.” Since the land around it was productively cultivated, the Common must have been a great contrast to its neighbors. Had it continued in the traditional English manner, the trustees could not have developed income from rents, which ultimately could be used to create public improvements and cover taxes in New Castle. It would take another act to expand the trustees’ powers so that a portion of the Common could be leased to other parties.

On November 3, 1789, as Delaware was involved the effort to put the first United States Constitution into effect, the trustees approached the Penn family's agent, Edmund Physick, to expand their powers and permit them to rent out the land. Starting in 1791, minutes of the trustee meetings show that again the Penns agreed to the trustees' request. As of November 19, 1791, they approved the rental and productive use of Common land, allowing for growth in the income of the trustees. While the land could still not be sold, leasing was a popular alternative.

CONTROVERSY WITH THE STATE OF DELAWARE

Delaware politics, however, intervened from the new capital, Dover, where interests were rarely favorable to New Castle. The legal-minded trustees had completed the agreement in 1791 with the Penns that accepted the precedent that they owned the Common, regardless of the independence of the United States. Thomas McKean had been hired by the proprietors to act with their agent to settle questions of rent and ownership in all the Penns' Delaware lands. They offered the governor of Delaware as head of the state the first rights to purchase such lands. But this was not how the assembly viewed it, for it felt that the trustees' request had ignored the sovereignty of the state. The assembly claimed that the Penns had never held title to Delaware lands, that McKean and the Penns had no hold over them and that it was a criminal act to accept vacant land from anyone except the state. Later, the assembly would abrasively confiscate all the Penns' lands without offering the family any compensation as had been done by Pennsylvania's government.

In reaction to the high-handed Delaware Assembly in 1793, Thomas McKean published *A Calm Appeal to the People of Delaware*, which claimed that many people would prefer to deal with the Penns rather than with the State of Delaware in the leasing and selling of the Penn properties. It hinted that a new election was necessary to clean the house of the assembly in Dover. McKean, who was now chief justice of Pennsylvania's Supreme Court, claimed that the Delaware Assembly's actions violated the Peace of Paris and the Delaware and federal Constitutions. The Delaware Assembly was not about to take criticism from the former New Castle resident and Trustees of the Common, and their legislation stood. McKean's effort was meant to help the trustees, but he also alienated the assembly. What had begun as a simple effort to expand the trustees'

powers ended up as a legal duel over state's rights, as McKean accused the state of Delaware of using powers that belonged to the new federal government.

THE COMMON LEASES

Sentiments for agricultural improvement appeared among the Trustees of the Common when George Munro and Archibald Alexander helped draft the first rent requirements for the Common lands. They were out to force improvement, thus they compelled the tenants to invest in hedging and ditching their fields. The annual rent was due at the end of the first rental year. However, most potential tenants could not meet such rigid demands, and the requirements had to be modified. The annual rent obligation was eased in February 1794 to require it at the end of the fourth year. Two years later, leases were no longer heavy with improvement stipulations but were offered simply "upon the best terms that can be agreed upon."



Painting by Vernon Good of a farmhouse, lease no. 6, or the Penn Farm in the Common, 1950s. *Complete Tracts of the Common*

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By the early 1800s, the Common was divided into tenant farms, with a small portion still being reserved for New Castle's inhabitants. The farms were numbered: no. 1 became the Jefferson Farm, nos. 2 and 4 became the Stockton Farm, no. 3 became the Oglethorpe Farm, no. 5 became known as Centre Hall, nos. 6 and 7 became the Penn Farm and no. 8 became the Union Farm. The first tenant of 1797 was John Hair, who ran a tavern at "Hare's Corners" that was a meeting place for cattle drovers on their way to Philadelphia.

Trustee Dr. George Monro deserves further explanation because he was the most enlightened leader in New Castle County. His Scottish father had moved to New Castle, where George was born in 1760. As a young man, he gained a medical degree from the College of Philadelphia, and during the war, he served as medical officer to the Virginia Line. The high point of his education came after the war in 1783, when he went to the British Isles, studying medicine in London and taking another degree from the University of Edinburg, one the great centers of the Scottish Enlightenment. Upon his return in 1786, he married Jemma Haslet, the daughter of Colonel John, and they settled on a farm in St. George's Hundred and, later, on one in Christiana. In the next decades, until his death in 1819, Monro was involved in reform causes that many Delaware politicians avoided. Like most of the Founding Fathers, he became a deist, although late in life he turned Presbyterian. He supported Delaware's constitution of 1792 and was elected to the House under its broad franchise. He was active in an effort to found a college at Wilmington and finance secondary schools, unpopular causes because they involved raising taxes. His presence on a committee ensured that the Enlightenment was alive in New Castle County.

INCOME FROM THE COMMON

The first major trustee appropriation from the rental proceeds came in 1801 for the building of a school on a portion of the Green that a year later was named the New Castle Academy. The building had been erected two years before on the basis of private subscription, following a design of Philadelphia master builder Peter Crowding. In 1802, it was chartered to provide the first classical education for New Castle's sons, with many of its trustees being drawn from the Trustees of the Common. The Academy charged tuition,

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The Academy, 1799. It was built ultimately with funds from the Trustees of the Common, according to the design of Philadelphia master builder Peter Crowding. In 1802, it was chartered to provide the first classical education for New Castle's sons, with many of its trustees being drawn from the Trustees of the Common. The Academy charged tuition, serving as private school for the elite.



Portrait of Benjamin Henry Latrobe, circa 1804, by Charles Willson Peale. In 1804, the Trustees of the Common hired Benjamin Latrobe, President Jefferson's surveyor of public buildings, to do a survey of New Castle. Completed the next year, it became the basis for trustee improvements of the roads and infrastructure. *From Impressions Respecting New Orleans: Diary & Sketches, 1818-1820.*

serving as private school for the elite. It never became a college, and New Castle still lacked public schools.

Other trustee projects appeared as result of an 1805 survey completed by none other than President Jefferson's surveyor of public buildings, Benjamin Latrobe, which caused sidewalks to be placed and streets to be extended and

unpopular, but Thomas supported a special school tax that he promised would relieve people of the most intolerable of all burdens, immorality and ignorance. He asserted that the elective franchise and civil rights were useless if citizens were unable to read the tickets presented at the polls: "Such men may think themselves free, but in fact they are slaves...If education is confined to the rich." Again, however, the assembly refused to raise taxes for local education.

Thomas was also an advocate for penal reform. New Castle County's courthouse and jail seemed to be immune to the ideas of the Enlightenment, which asserted that punishment for a crime should reflect the degree of violence to society and that the state had a duty to reform a prisoner while in jail so that the person did not remain a criminal. Instead, justice in New Castle seemed to be based on the harshness of colonial punishment on the Green. An engraving of the combination whipping post and stocks still on the Green in 1882 was entitled by reporters from *Frank Leslie's Illustrated Newspaper* as *Relic of Barbarism*. It shows delinquents in the stocks suspended above the whipping post, where a hand-shackled black male is being flayed by a cat-o'-nine-tails. The crowd of families with children, both black and white, seems well entertained. The reporters claimed that the punishment was a state policy that was obstinately maintained.



Relic of Barbarism, 1882. It shows the combination whipping post and stocks still on the Green in 1882. Delinquents are in the stocks suspended above the whipping post, where a hand-shackled black male is being flayed by a cat-o'-nine-tails. The crowd of families with children, both black and white, seems well entertained. The reporters claimed that the punishment was a state policy that was obstinately maintained. From Frank Leslie's Illustrated Newspaper, August 26, 1882.

above the whipping post, where a hand-shackled black male is being flayed by a cat-o'-nine-tails. The crowd of families with children, both black and white, seems well entertained. The reporters claimed that the punishment was a state policy that was obstinately maintained.

Whether Thomas witnessed such punishment in New Castle is unclear, but he noted critically that "the penal laws of this State are much severer than those of any State in the Union." Arguing against imprisonment for debt, an article of faith of the Federalist creed, he claimed that "[a]n opinion seems to pervade the community that our poor houses...are rather nurseries for vice than asylums for the helpless." His request for penal reform received no response from the Federalist legislature.

After the war, New Castle's early leadership in the Independence movement was absorbed by a viable two-party system, rather than the dominance of a single party. New Castle not only led in the development of Democratic-Republicans, but it also had important Federalists. This was unique in Delaware because elsewhere in the state the Federalists usually held the reins of government.

THE TOWN HALL

When the New Castle Town Hall was built in 1826, the town's economy was again flagging. The construction of the civic building was meant to give the economy a badly needed boost. The Town Hall was underwritten by the Trustees of the Common in cooperation with the town commissioners. In July 1825, most of the trustees who approved the erection of the Town Hall were new, beyond the generation that had survived the Revolution. The only recognizable name is George Read Jr., who had sat with his father, George Sr., among the trustees of 1791. Now he was on his own, although his father never felt that his son matched his potential. For a start, he had joined the Democratic-Republicans, the party that branded his father as a neo-loyalist and persecutor of war veterans. He also failed to equal his father as an attorney and did not hold on to his appointed position as a town commissioner. Instead, he strove to be a socially prominent gentleman by erecting the community's largest and most elegant house. Completed in 1804 by Philadelphia craftsmen, who were rarely paid on time, this monument was so expensive that it put him in debt.

The money for the erection of the Town Hall was borrowed from New Castle's Farmer's Bank of Delaware against the rents that the trustees

REVOLUTIONARY NEW CASTLE



Above: Houses of George Read Sr. and Jr., 1805 survey, Benjamin Latrobe and assistants. George Sr.'s modest house stood in what is today the garden of the George Read Jr. House. George Jr. followed in his father's footsteps, but his father never felt that he matched his potential. The son strove to be socially prominent by erecting the community's largest Federal/Georgian-style house, dwarfing his father's house. *Courtesy Delaware Public Archives.*

Below: Contemporary view of Town Hall, 1826. It houses the offices of the Trustees of the Common and the meeting room of the city council.



The Struggle for Independence

were to receive from the Common. Such loans had first been necessary in 1801, when the trustees contributed to opening the academy building. The first loan for erecting the Town Hall was in September 1825 for \$1,000, and three others followed. All told, the building cost between \$6,000 and \$7,000. The structure was insured in September 1826 for \$3,000. The superintendent for the structure was Peter Delany, sheriff of New Castle County. Chief of Maintenance Thomas Turner was charged with airing, sweeping and cleaning the rooms, as well as attending trustee meetings to make reports. In December 1826, the United States government signed a lease for a room in the Town Hall. This is thought to have given it proximity to legal activities in the Courthouse. At last, the Five Commissioners and the Trustees of the Common had a home.

*Amplified
by*

Title Papers

OF THE

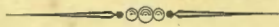
NEW CASTLE COMMON,

CHARTER AND ACT OF ASSEMBLY

INCORPORATING THE TRUSTEES,

AND

BY-LAWS OF THE CORPORATION.



PHILADELPHIA:

JOHN C. CLARK, PRINTER, 68 DOCK STREET.

1851.

Published for the information of the Citizens of New Castle, agreeably to a Resolution of the Board of Trustees of New Castle Common, adopted at their stated meeting, on Tuesday, the 4th day of March, 1851.

C. H. BLACK, }
A. C. GRAY, } *Committee.*
W. COUPER, }

New Castle, Del. April, 1851.

Title Papers,

&c.

WARRANT FROM WILLIAM PENN,

*For the Survey of One Thousand Acres of Land,
for a Common for the use of the Inhabitants of
the Town of New Castle. 1701.*

William Penn Proprietary and Govr. of
PENSILVANIA, *the Province of Pensilvania and Coun-*
[L. s.] *ties annexed.*

For the accommodation of the Inhabitants of the Town of New Castle These are to require thee forthwith to survey or cause to be surveyd to the only use and behoof of the said Inhabitants to lie in Common one thousand acres of the Land adjoyning or near to the said Town hitherto reputed and called New Castle Common in one convenient Tract, and if there prove more than the sd. number of Acres lay out the residue in one convenient piece to me and for my use and make returns thereof into my Secretaries office. Given under my hand and Seal at New Castle the 31st Day of 8ber. 1701.

WM. PENN.

To EDWARD PENINGTON,

Surveyor Generall of the Province of Pensilvania & Territories.

Recorded in the Recorder's Office at New Castle, in Book of "New Castle Warrants," page 293.

RETURN OF SURVEY,

By George Dakeyne. 1704.

By vertue of a War^t. to me directed, bearing date the twenty third Day of the tenth mnth. 1701, to Survey and lay out to the Inhabitants of New Castle, to lye in common for their accommodation and to their onely use and behoofe, one thousand acres of Land adjoining or near to the said Town of New Castle, Reputed always to be common, and to make Returns of the same into the Generall Surveyrs office att Philadelphia. This may certifie into the Genll. Surveyrs. office, att Philadelphia, that I have Resurveyd this Tract of Land (being formerly survey'd) this tenth Day of Aprill, 1704, begining att an old corner Black Oake of Joseph Wood's, standing by the Rode thatleades to Christina fferry and runing along the Rode towards New Castle, S. 9° Easterly 68 pch. to an old corner Black Oake of Robt. ffrench Land; then by his old line of marked Trees, S. 85° westerly 182 pch. to an old corner Black Oake of Robt. ffrench; then by an old — of marked Trees, S. 20° Westerly 109 pch. to another old corner Red Oake of Robt. ffrench; then along the criple N. 82 Westerly 18 pch. W. 16 pch. S. 70° Westerly 18 pch. S. 23° Westerly 55 pch. S. 68° Easterly 84 pch. to an old corner White Oake of Robt. ffrench; then along the criple S. 56° Westerly 44 pch. to a Black Oake, S. 5° Easterly 44 pch. to an old corner White Oake of William Houstons, standing near to the Smith Boom; then along the said Houstons line S. 39 Westerly 92 pch. to an old corner Spanish Oake of the said Houstons, standing by Maryland Rode; then by the severall courses of the said Rode N. 84° Westerly 87 pch. N. 75° Westerly 134 pch. over against Joseph Kents House; then by the severall courses of the Rode that Leads to Christina Bridge, N. 62° Westerly 75 pch. N. 64° Westerly 42 pch. W. 48 pch. N. 85° Westerly 30 pch. N. 76° Westerly 34 pch. S. 82° Westerly 62 pch. S. 58° Westerly 20 pch. S. 80° Westerly 64 pch. to a new corner Hickery by the said Rode; then by a line of marked Trees N. 36° Easterly 33 pch. to an old corner Tree of John Wilsons; then by the

line of Robt. Hutchinson and Garrett Garretson, N. E. 329 pch. to an old corner Hickery Sapling; then by an old line of marked Trees, S. E. 200 pch. to an old corner Red Oake, being a corner Tree of Robt. Dyers Land and Edward Blake; then along their line, N. E. 114 pch. to an old corner Red Oake of the afforesaid Dyers and Blakes, and still by their line, N. W. 144 pch. to an old corner Hickery of John Husseys Land; then with the said Husseys line, N. 68° Easterly 268 pch. to an old corner White Oake of the said Husseys, and continueing the same course 62 pch. to a new Corner Black Oake, standing in a line of Joseph Woods land, and running by his line S. 52 Easterly 28 pch. to an old corner Black Oak of the said Joseph Woods, and running by his line S. 80° Easterly 155 pch. to the begining, containing 1068 acres of Land.

Resurveyd the Day and Year above written.

Pr. G. DAKEYNE, *Surveyr.*

Recorded in the Recorder's Office at New Castle, in Book of "New Castle Surveys," page 400.

 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 our 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, con-

taining 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 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 forty-four perches, to an old corner white oak, formerly of William Houston, standing near to the Smith's room; 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-nine degrees westerly one hundred and thirty-four perches, west against the house formerly of Joseph Kent, thence 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 eighty degrees westerly sixty-four perches, to a new corner black oak, by the said road; then by a line of marked trees, south fifty-six degrees easterly thirty-three perches, to an old corner white oak, 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 notwithstanding the said warrant and survey, and the many benefits and advantages which our said honoured father intended the inhabitants 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 encroachment 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^cWilliam, David Finney, Thomas M^cKean, George Read and George Munro, Esquires, John Van Gezell, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M^cLonen 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^cWilliam, David Finney, Thomas M^cKean, George Read, George Munro, John Van Gezell, Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M^cLonen 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^cWilliam, David Finney, Thomas M^cKean, George Read, George Munro, John Van Gezell,

Zachariah Van Leuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M^cLonen 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. **Fielding and paying**, therefor, 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, ordi-

nances 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 put in force, revoke, alter and make new, as occasion shall require. *AND*, also, to impose and levy reasonable mulcts, fines and americiaments 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.*



DEED

From John Penn, of Stoke Pogis, and John Penn, of Dover Street, late Proprietaries, conveying all their Right and Title, in trust, for the use of the Inhabitants of the Town of New Castle. 1791.

This Indenture, made the seventh day of July, in the year of our Lord one thousand seven hundred and ninety-one, **BETWEEN** John Penn, of Stoke Pogis, in the County of Bucks, Esquire, and John Penn, late of Wimpole Street, in the Parish of Saint Marylebone, but now of Dover Street, in the County of Middlesex, Esquire, (late Proprietaries of the Province of Pennsylvania, in America,) of the one part, and Isaac Grantham, Esquire, The Reverend Robert Clay, clerk, and William Lees, merchant, all of the Hundred and County of New Castle, in the Delaware State, of the other part: **Whereas**, Thomas Penn and Richard Penn, Esquires, who, in their lives, were true and absolute Proprietaries and Governors in Chief of the Counties of New Castle, Kent and Sussex, upon Delaware, and Province of Pennsylvania, by a charter, bearing date the first day of October, in the year of our Lord one thousand seven hundred and sixty-four, did give, grant, release and confirm unto John Finney, Richard

M'William, David Finney, Thomas M'Kean, George Read, George Monro, John Vangezell, Zachariah Vanleuvenigh, Slator Clay, John Yeates, Nathaniel Silsbee, Daniel M'Lonen and Robert Morrison, **ALL** that tract or parcel of land adjoining or near the 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 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 forty-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; then 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 eighty 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 Garetson, 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; thence 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 those bounds one thousand and sixty-eight acres of land, be the same more or less, as and for a COMMON, for the use, behoof and accommodation of the inhabitants of the said Town of New Castle, which said tract of land and premises, in pursuance of a warrant from their late honoured father, William Penn, Esquire, was surveyed and laid out on the tenth day of April, one thousand seven hundred and four, for the use and purpose aforesaid. **And whereas**, the restrictive terms of the said grant do now prevent the Inhabitants of the said Town of New Castle from deriving all those benefits and advantages which would result from a free and absolute grant thereof, and the trustees of the said Common have solicited the said John Penn, of Stoke Pogis, and John Penn, of Dover Street, to grant the free and absolute property of, in and to the said premises, to them and their successors, to and for the use of the Inhabitants of the said Town of New Castle; and the said John Penn, of Stoke Pogis, and the said John Penn, of Dover Street, being willing to promote the prosperity of

the ancient Town of New Castle, and desirous to benefit the descendants of the inhabitants of the said town, for the regard, honour and respect always exhibited on the part of the predecessors of the said inhabitants, to the ancestors of the said John Penn, of Stoke Pogis, and John Penn, of Dover Street: **Now this Indenture witnesseth**, That the said John Penn, of Stoke Pogis, and John Penn, of Dover Street, for and in consideration of the love and regard which they have for the Inhabitants of the said Town of New Castle, and for and in consideration of the sum of five shillings to them in hand paid by the said Isaac Grantham, Robert Clay and William Lees, the receipt whereof they do hereby acknowledge, **HAVE** granted, bargained and sold, released and confirmed, and by these presents do grant, bargain and sell, release and confirm unto the said Isaac Grantham, Robert Clay and William Lees, and the survivors or survivor of them, **ALL** that the aforesaid tract or parcel of land adjoining or near the said Town of New Castle, with the appurtenances to the same belonging, or in any wise appertaining; **to have and to hold** the said tract or parcel of land and premises hereby granted, or intended so to be, with every the appurtenances, unto the said Isaac Grantham, Robert Clay and William Lees, and the survivors or survivor, and the heirs of the survivor of them, to and for the use and behoof of the said Isaac Grantham, Robert Clay and William Lees, and the survivors and survivor, and the heirs of the survivor of them forever, **IN TRUST**, **NEVERTHELESS**, to and for the use, benefit and behoof of the Inhabitants of the Town of New Castle, to be conveyed, transferred and set over by such assurance or assurances as counsel learned in the law may devise or advise, by the said Isaac Grantham, Robert Clay and William Lees, or the survivors or survivor, or heirs of the survivor, in trust, unto the present or future trustees of the said tract or parcel of land, and their successors, or unto such future trustees and their successors as may be chosen or appointed, in and by virtue of an act of incorporation, when the same may be passed by an act of the General Assembly of the Delaware State, to and for the use and behoof of the Inhabitants of the said Town of New Castle, **FOREVER**, to be appropriated in such manner as a

majority of trustees in their wisdom may direct: *Provided*, that nothing herein contained, or in the assurance or assurances so to be made as aforesaid, shall vest the trustees of the said Common with any power or authority to sell the same, or any part thereof; and the said parties of the first part, do nominate, constitute and appoint the Honourable Thomas M^cKean and Edmund Physick, Esquires, or either of them, to be their attorneys or attorney, to acknowledge and deliver these presents, as their act and deed, in any Court of Common Pleas to be held at New Castle, for the County of New Castle, after the date hereof. *In witness whereof*, the parties to these presents have hereunto set their hands and seals the day and year first above written.

JOHN PENN, [SEAL.]

JOHN PENN, [SEAL.]

Signed, sealed and delivered,
in the presence of
JOHN OSMON,
FRAN. GRICE.

To all to whom these presents shall come, I, John Boydell, Esquire, Lord Mayor of the City of London, do hereby certify, that on the day of the date hereof, personally came and appeared before me, Francis Grice, the deponent named in the affidavit hereunto annexed, being a person well known and worthy of good credit, and by solemn oath, which the said deponent then took before me, upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify and depose to be true the several matters and things mentioned and contained in the said annexed affidavit.

In faith and testimony whereof, I, the said Lord Mayor, have caused the seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed, and the indenture mentioned and referred to in and by the [SEAL.] said affidavit to be hereunto also annexed. Dated in London, the eighth day of July, in the year of our Lord one thousand seven hundred and ninety-one.

WINDALE,

Francis Grice, of the City of Philadelphia, master of the ship called Marquis De La Fayette, maketh oath that the indenture hereunto annexed, bearing date the seventh day of July, instant, was duly signed, sealed and delivered by John Penn, of Stoke Pogis, Esquire, and John Penn, of Dover Street, Esquire, therein named, as and for their acts and deeds, respectively, in the presence of John Osmon, of the City of Philadelphia, aforesaid, Captain of the ship called the Harmony, and of this deponent; and this deponent saith that the names of the said John Penn, of Stoke Pogis, and John Penn, of Dover Street aforesaid, as the same appear to be set and subscribed to the said indenture as the parties executing the same, and the names of the said John Osmon, and of this deponent, as the same appear to be set and subscribed thereunto, as witnesses attesting the execution of the said indenture, are of the proper hands writing of the said John Penn, of Stoke Pogis, John Penn, of Dover Street, John Osmon, and of this deponent, respectively.

FRANCIS GRICE.

Sworn this 9th day of July, 1791, at Guildhall, London,
before me, JOHN BOYDELL, Mayor.

New Castle County, ss.

Inrolled in the Rolls office of the said County,
at New Castle, in Book L. Vol. 2, Fol. 394, &c.

[SEAL.] Given under my hand and the seal of said office,
November 12th, Anno Domini 1791.

JAS. BUCHAN, Recorder.

ACT OF THE GENERAL ASSEMBLY

Enlarging the Corporate Powers of the Trustees.
1799.

An Act to enlarge the Corporate Powers of the Trustees of the New Castle Common.

Whereas, there is a tract of land situate near to the Town of New Castle, in the Hundred and County of New Castle, in

the Delaware State, commonly called and known by the name of the New Castle Common: 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 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 forty-four perches, to an old corner white oak formerly of William Huston, standing near to the Smiths' boom; thence along the said Huston's line, south thirty-nine degree westerly ninety-two perches, to an old corner Spanish oak of the said Huston 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 eighty 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 twen-

ty-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 line 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 said bounds one thousand and sixty-eight acres of land, be the same more or less. AND WHEREAS, the Inhabitants of the said Town of New Castle have heretofore been restrained in using or occupying the before described tract of land, in other manner or for other purpose than as and for a Common, which hath not been productive of benefit or advantage to the said town, equivalent to the disadvantage arising from so large a body of land lying in a waste and uncultivated state. AND WHEREAS, the trustees of the said Common, who are the organ of the said inhabitants in the disposition and management of the said tract of land, are vested with corporate powers merely adequate to the regulation and protection of the said inhabitants in the use and enjoyment of the said tract of land as a Common. AND WHEREAS, it hath been represented to the General Assembly by the said inhabitants, that the cultivation and improvement of the said tract of land, and appropriation thereof, to other purposes than as and for a Common, would redound much more to the benefit and advantage of the said inhabitants, and that in order to effect such purpose, it is essential the corporate capacity and powers of the said trustees be enlarged and extended:

Be it therefore enacted, by the General Assembly of Delaware, that those who are at the time of passing this act, and those who shall hereafter be and become trustees of the before described tract of land for the use of the Inhabitants of the Town of New Castle aforesaid, be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes, by the name, style and title of the Trustees of the New Castle Common. And that the said trustees, as a corporate body, in deed and in law, shall have perpetual succession; and that in case of a vacancy or vacancies that shall hereafter happen, or that heretofore have happened, in any event specified in the said charter of incorporation, the said vacancy or vacancies shall be supplied, and the perpetual succession aforesaid of the said trustees, kept up and preserved by the Inhabitants of the said Town of New Castle, by election or choice, in manner and form, according to the mode, and at the place prescribed by their existing charter of incorporation, and within such time as hath been or shall be fixed and determined by the ordinances of the said corporation. *Provided always*, that the electors of the said trustees shall have the like qualifications as are prescribed for electors of the Trustees of the New Castle Common, in and by the aforesaid charter of incorporation.

AND BE IT ENACTED, That in addition to the corporate powers vested in the trustees aforesaid, as Trustees of the New Castle Common, under their existing charter of incorporation, they are hereby declared and made able and capable, in law and equity, to have, purchase, take, accept, receive, possess, enjoy and retain, to them and their successors, all that the aforesaid tract or parcel of land, with the appurtenances, and the same, or any part thereof, to grant, demise and dispose of for the use and behoof of the Inhabitants of the said Town of New Castle, to be appropriated in such manner as a majority of the said trustees in their wisdom may direct. *Provided always*, that they reserve to themselves, and their successors, for the benefit and use of the inhabitants of the said town, an annual or other rent, as a reasonable equivalent for the leasing or disposing of the before described tract of land, or any part or parts thereof, and that neither the said trustees, nor their suc-

cessors, shall have power to sell the said tract of land, nor any part or parts thereof, absolutely, nor lease, nor otherwise dispose thereof for a longer term than thirty years from the commencement of the lease or other contract.

AND BE IT ENACTED, That not less than seven trustees shall constitute a board for the transaction of business, and the said trustees, on the first Tuesday of March, annually, and when intermediate vacancies may happen, shall and are hereby authorized to choose one of their number as president.

AND BE IT ENACTED, That the said corporation be, and hereafter shall be capable, in law, to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, or any other place whatsoever, and to do and execute all and singular other matters and things which bodies politic or corporate lawfully may do, and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure.

AND BE IT ENACTED, That the trustees of the said corporation shall be capable of exercising such powers, for the well governing and ordering the said corporation and the affairs and business thereof, and of holding such occasional meetings for that purpose, as have been or shall be fixed, described and determined by laws, regulations and ordinances of said corporation.

AND BE IT ENACTED, That the said corporation shall and may make, ordain and establish such laws, regulations and ordinances as to them shall seem necessary and convenient for the government of the said corporation. *Provided always, nevertheless*, that nothing herein contained shall be construed to authorize the said corporation to exercise any powers repugnant or contrary to the laws or constitution of this State.

Signed by order of the House of Assembly.

A. M'LANE, *Speaker*.

Signed by order of Council.

GEO. MITCHELL, *Speaker*.

Passed at Dover, January 25th, 1792.

Delaware, ss.

I do certify, that the above, and preceding four pages, are a true copy of the original act, whereof the same purports to be a copy. In testimony whereof, I [SEAL.] have hereunto set my hand and seal, this fifth day of February, one thousand seven hundred and ninety-four.

JAMES BOOTH,

Secretary of the State of Delaware.

DEED

From the Trustees of John Penn, of Stoke Pogis, and John Penn, of Dover Street, to the Trustees of New Castle Common. 1792.

This Indenture, made the thirtieth day of July, in the year of our Lord one thousand seven hundred and ninety-two, BETWEEN Isaac Grantham, Esquire, the Reverend Robert Clay, clerk, and William Lees, merchant, all of the Hundred and County of New Castle, in the Delaware State, of the one part, and David Finney, George Read, the elder, Gunning Bedford, James Booth, John Stockton, Archibald Alexander, Kensey Johns, James Riddle, George Read, the younger, Matthew Pearce, Joseph Tatlow, all of the Town of New Castle, in the Hundred and County of New Castle, in the Delaware State, Esquires, surviving Trustees of the New Castle Common, of the other part: **Whereas**, by an indenture of bargain and sale, bearing date the seventh day of July, in the year of our Lord one thousand seven hundred and ninety-one, and made or mentioned to be made by and between John Penn, of Stoke Pogis, in the County of Bucks, Esquire, and John Penn, late of Wimpole Street, in the Parish of Saint Marylebone, but now of Dover Street, in the County of Middlesex, Esquire, late Proprietaries of the Province of Pennsylvania, in America, of the one part, and the said Isaac Grantham, Robert Clay and William Lees, by the

names of Isaac Grantham, Esquire, The Reverend Robert Clay, clerk, and William Lees, merchant, all of the Hundred and County of New Castle, in the Delaware State, of the other part, reciting that Thomas Penn and Richard Penn, Esquires, who, in their lives, were true and absolute Proprietaries and Governors in Chief of the Counties of New Castle, Kent and Sussex, upon Delaware, and Province of Pennsylvania, by a charter, bearing date the first day of October, in the year of our Lord, one thousand seven hundred and sixty-four, did give, grant, release and confirm unto certain trustees therein named, a certain tract of land adjoining or near the 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 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 forty-four perches, to an old corner white oak formerly of William Houston, standing near 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 the Maryland road; then 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 eighty 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; thence 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 those bounds one thousand and sixty-eight acres of land, be the same more or less, as and for A COMMON, for the use, benefit and accommodation of the Inhabitants of the said Town of New Castle.

And whereas, the restrictive terms of the said grant do now prevent the inhabitants of the said town of New Castle from deriving all those benefits and advantages which would result from a free and absolute grant thereof, and the trustees of the said Common have solicited the said John Penn, of Stoke Pogis, and John Penn, of Dover street, to grant the free and absolute property of, in and to the same premises, to them and their successors, to and for the use of the inhabitants

of the said town of New Castle; and the said John Penn, of Stoke Pogis, and the said John Penn, of Dover street, being willing to promote the prosperity of the ancient town of New Castle, and desirous to benefit the descendants of the inhabitants of the said town, for the regard, honour and respect always exhibited on the part of the predecessors of the said inhabitants to the ancestors of the said John Penn, of Stoke Pogis, and John Penn, of Dover street, and for divers good causes and considerations therein expressed, did grant, bargain, sell and confirm unto the said Isaac Grantham, Robert Clay, and William Lees, and the survivors or survivor of them, all that the aforesaid tract of land, adjoining or near the said town of New Castle, with the appurtenances to the same belonging, or in any wise appertaining, TO HOLD the said tract of land and premises thereby granted or intended so to be, with every the appurtenances unto the said Isaac Grantham, Robert Clay, and William Lees, and the survivors or survivor, and the heirs of the survivor of them, to and for the use and behoof of them, the said Isaac Grantham, Robert Clay, and William Lees, and the survivors or survivor, and the heirs of the survivor of them forever, IN TRUST, NEVERTHELESS, to and for the use, benefit and behoof of the inhabitants of the town of New Castle, to be conveyed, transferred and set over by such assurance or assurances as counsel, learned in the law, may devise or advise, by the said Isaac Grantham, Robert Clay and William Lees, or the survivors or survivor, or heirs of the survivor, in trust, unto the present or future trustees of the said tract or parcel of land, and their successors, or unto such future trustees and their successors as may be chosen or appointed in and by virtue of an act of incorporation, when the same may be passed by an Act of the General Assembly of the Delaware State, to and for the use and behoof of the inhabitants of the said town of New Castle, forever, to be appropriated in such manner as a majority of trustees in their wisdom may direct: *Provided*, That nothing herein contained, or in the assurance or assurances so to be made, as aforesaid, shall vest the trustees of the said Common with any power or authority to sell the same or any part thereof.

Now this Indenture witnesseth, That the said Isaac

Grantham, Robert Clay and William Lees, as well in consideration of the sum of five shillings, to them in hand paid by the said trustees, as also in pursuance of the trust reposed in them by the said John Penn, of Stoke Pogis, Esquire, and John Penn, of Dover street, Esquire, and at and by their special request and direction, as testified by the indenture aforesaid, have granted, bargained, sold, released and confirmed, and by these presents do grant, bargain, sell, release and confirm unto the said David Finney and others, surviving trustees of the New Castle Common aforesaid, being particularly named, aforesaid, and their successors in said trust, all the beforementioned tract of land and premises, with the appurtenances, as the same is particularly described aforesaid.

To have and to hold, all and singular the said tract or parcel of land and premises, hereby granted, or intended so to be, with every the appurtenances, unto the said David Finney and others, trustees as aforesaid, and their successors, in said trust forever, **IN TRUST, NEVERTHELESS**, to and for the special uses, benefits, ends, intents and purposes, and under and subject to the several provisos contained, mentioned and declared, as well in the beforementioned indenture of conveyance from the said John Penn, of Stoke Pogis, and John Penn, of Dover street, as also in an Act of the General Assembly of the Delaware State, passed at Dover, the _____ day _____ in the year of our Lord one thousand seven hundred and ninety-two, entitled "An Act to enlarge the Corporate Powers of the Trustees of the New Castle Common." **AND** the said Isaac Grantham, Robert Clay and William Lees, do hereby freely and absolutely remise, release and surrender to the said David Finney and others, trustees, as aforesaid, and their successors in said trust, **ALL** the estate, right, title, interest, use, trust, benefit, privilege and demand, whatsoever, which they, the said Isaac Grantham, Robert Clay and William Lees have or may have, or claim of, in and to the said premises, or other matter or thing whatsoever, in the said indenture contained, mentioned and expressed, so that neither the said Isaac Grantham, Robert Clay and William Lees, or any of them, their heirs, executors or administrators, or either of them, or any of them, at any time hereafter, shall or

will ask, claim, challenge or demand any interest, use, benefit, trust, privilege or other thing, in any manner whatsoever, by reason or means of the said indenture aforesaid, but thereof and therefrom, and from all actions, suits and demands, shall be utterly excluded, and forever barred by these presents. **AND**, lastly, the said Isaac Grantham, Robert Clay and William Lees, do nominate, constitute and appoint James Bayard and Nicholas Vandike, Esquires, or either of them, to be their attorneys or attorney, to acknowledge and deliver these presents as their act and deed, in any Court of Common Pleas, to be held at New Castle, 'for the County of New Castle, after the date hereof. *In witness whereof*, the said Isaac Grantham, Robert Clay and William Lees have hereunto set their hands and seals, the day and year first above written.

ISAAC GRANTHAM, [SEAL.]

ROBERT CLAY, [SEAL.]

WM. LEES, [SEAL.]

*Signed, sealed and delivered,
in the presence of*

JOHN BIRD,

JNO. WILEY, Sen.

MARY GRANTHAM.

New Castle County, ss.

The execution of the within was proved by John Wiley, one of the subscribing witnesses thereto, in open Court of Common Pleas, held at New Castle, for the County of New Castle, of the December Term, A. D. 1803.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed the seal of the said Court.

ARCHD. ALEXANDER, *Proth'y.*

New Castle County, ss.

Recorded in the Rolls Office, at New Castle, in and for the County aforesaid, in Book A. Vol. 3, folio 480, &c.
[SEAL.] In testimony whereof, I have hereunto set my hand and affixed the seal of said office, July 24th, A. D. 1804.

DANL. BLANEY, *Recorder.*

BY-LAWS,

*Or Ordinances of the Corporation, adopted by the
Board of Trustees of New Castle Common.*

WHEREAS it is necessary for the preservation of good order and the despatch of business, that a member of the Board of Trustees should be selected to preside over and regulate the deliberations thereof,

I.

President,
how
chosen.

Be it therefore ordained by the Board of Trustees of the New Castle Common, That the said Trustees shall, at their next meeting, choose, by ballot, a member of their body, who shall preside at the assembly of the said Board, and be styled President of the Board of Trustees of the New Castle Common, and shall continue in office until the first Tuesday in March, seventeen hundred and ninety-three, and until another be chosen. And that the said Board of Trustees shall, on the same first Tuesday in March, aforesaid, or as soon after as conveniently may be, and annually thereafter, choose a President, as aforesaid. *Provided always*, and be it ordained, That the said Board of Trustees have power to choose a President, pro tempore, in case of the absence or other inability of the President elect to attend; and in case of the vacancy of the said office by death or removal, to supply the same by a new election of a President for the remainder of the year.

Vacancy,
how
supplied.

II.

And be it further ordained, That the President shall have power to preserve order in and regulate the deliberations of the Board of Trustees, so as to effectuate despatch of business; and, in case of an equal division, shall have an additional casting vote. He shall have power to convene the Board of Trustees at other times, besides the times appointed by law for that purpose. And it shall be his duty to convene the said Board of Trustees at the request

Powers
of the
President.

of any two members of the said Board: *Provided*, That three days' notice of the said meeting be given by advertisements, signed by the Secretary, and set up in public views in the said town of New Castle.

III.

And be it further ordained, That there shall be a Secretary, who shall be chosen by ballot, and continue in office during the pleasure of the Board of Trustees. That it shall be the duty of the said Secretary, faithfully to record all the acts and proceedings of the Corporation in regular books, to be provided for that purpose, and to do and perform every matter and thing appertaining to the office.

Secretary,
how
chosen.
Duties of.

IV.

And be it further ordained, That there shall be a Treasurer, who shall be chosen by ballot, and continue in office during the space of two years. That it shall be the duty of the Treasurer to receive and safe keep the moneys belonging to the Corporation. That the Treasurer shall not pay over any moneys, so received by him, to any person or persons, whatsoever, without a written order, signed by the President and countersigned by the Secretary, authorizing such payment, and which shall be his warrant for so doing: *Provided always*, That it shall be the duty of the Secretary to countersign all such orders as may be drawn by the President on the Treasurer, in pursuance of and conformably to any ordinance or ordinances of the Board of Trustees. And that the Treasurer shall become bound to the Trustees of the New Castle Common in an obligation in not less than five hundred pounds, lawful money of the State of Delaware, conditioned for the due and faithful performance of the office of Treasurer of the New Castle Common, or such other security as the said Trustees shall approve. And that it shall be the duty of the Treasurer to demand and receive the rents reserved to be paid by the respective tenants of the Corporation, when they shall grow due; and, in case of failure in the punctual discharge thereof, by distress, suit or entry, to compel the most speedy payment of the same rents. And that the Treasurer shall, in books to be provided for that purpose, make regular entries of the amount of the rent that may have been received by him, and for what year of lease, and when and from whom.

Treasurer,
how
chosen.

Duties of.

Security
to be
given.

Money, how to be drawn from the Treasury.

V.

And be it further ordained, that no order, as aforesaid, shall be given for drawing moneys out of the Treasury, unless authorized and directed by ordinances of the Board of Trustees, regularly recorded; the substance of which ordinances, tending to show the purpose of the appropriations, shall be contained in the said orders, which shall not be countersigned by the Secretary unless they be made conformably to this ordinance.

VI.

And be it further ordained, That the Secretary shall, in regular books to be provided for that purpose, make an entry of all orders, to be drawn as aforesaid, and countersigned by himself, expressing therein the date, the amount and purpose for which drawn, and make report thereof, annually, to the Board of Trustees.

VII.

Treasurer to keep Books and render annual account.

And be it further ordained, That the Treasurer shall keep in books, to be provided for that purpose, regular accounts, as well of all moneys that shall be received by him, and from whom and on what account, charging himself therewith, as of all moneys that shall be paid away by him, and to whom, for what purpose, and at what time, and regularly file all orders that shall be drawn, as aforesaid, requiring payment of moneys by him, and shall, and is hereby required to render an annual account of all receipts and payments of moneys, as aforesaid, to the Board of Trustees: *Provided always*, and it is hereby further ordained, That the books and accounts of the Treasurer, and the orders, so as aforesaid to be filed, shall, at all times, be open to the inspection and examination of such Committees as the Board of Trustees may, from time to time, appoint for that purpose.

VIII.

Times of meeting of the Board.

And be it further ordained, That the Board of Trustees shall meet quarter-yearly, from and after the first Tuesday in March, seventeen hundred and ninety-three, in each and every year thereafter, at such convenient place, in the town of New Castle, as may be determined on by the said Board, or where they last assembled, which it shall be the duty of the Secretary to advertise at least three days before the stated time of meeting.

IX.

And be it further ordained, That a general statement of the receipt and expenditure of moneys of the Corporation shall be regularly published, within three months after each twenty-fifth day of March, in every year after the twenty-fifth day of March, seventeen hundred and ninety-four, for the information of the inhabitants of the town of New Castle, by distributing among them, and setting up in public views, in the said town, a sufficient number of printed or written hand-bills, containing such account, which it shall be the duty of the Treasurer to make, procure, distribute and set up, as aforesaid.

Board to
publish
annual
statement
of
finances.

X.

And be it further ordained, That there shall be an Acting Committee, to consist of three members, who shall be chosen by ballot at the present meeting, and shall continue in the exercise of the duties assigned them until the first Tuesday in March next, and be chosen annually, thereafter, on the said first Tuesday in March: *Provided always*, That the Board of Trustees shall have power to supply, by a new election, any vacancy that may happen in the Committee by death, absence, removal or other disability to attend the duties thereof. That it be the duty of the Acting Committee to lease the lands belonging to the Corporation, under the direction of the Board of Trustees, to enter upon any of the lands leased, in case of forfeiture or determination of the lease by efflux of time. That the Committee shall have power to enter upon the several portions of the leased premises at least eight times in each year of lease, for the purpose of inspecting the situation of the leasehold and viewing the state of the improvements required to be made, and the general state of repair of the premises, and exacting a due observance of the covenants to be performed on the part of the tenants, in such manner as they may deem proper, and make report thereof at each quarterly assembly of the Board of Trustees. That the Committee shall have power to contract for the leasing of the lands of the Corporation on the most advantageous terms to be procured, conforming in all respects to the ordinances and directions of the Board of Trustees.

Acting
Committee
to be
chosen.

Duties of.

Acting
Committee.

XI.

And be it further ordained, That the members of the said Acting Committee, for the time being, shall be the attorneys of the

Corporation, who, or any two of whom, shall be vested with and exercise all the powers delegated to them as members of the Acting Committee, aforesaid, by any ordinances of the Corporation: *Provided*, That no act done by any two of the members of the said Acting Committee, without the privity of the third member, shall be good or available.

XII.

Secretary
to procure
seal.

And be it further ordained, That the Secretary shall, and he is hereby required to procure a common seal for the Corporation, which shall be a circular piece of brass of the size of a Spanish milled dollar with the following device, to wit: a husbandman holding a plough, drawn by two oxen, enclosed in a shield crested with a hand holding a sickle, and around the whole device shall be inscribed, in Roman characters, "Corporation Seal of New Castle Common." *Provided always*, that the common seal of the Secretary shall be the common seal of the Corporation, until a seal of the beforementioned description be procured.

XIII.

Yeas and
nays to be
called—
when.

And be it further ordained, That the yeas and nays of the members of the Board of Trustees, on any question, shall, at the desire of any two members of the Board, be entered by the Secretary among the records of the proceedings of the said Board, and the question, together with the yeas and nays thereon, so recorded, shall, at the desire of any two members, be forthwith published at their expense and made known by the Secretary, under his signature, to the inhabitants of the town of New Castle, by at least twelve handbills or written advertisements, to be set up at the court-house and public inns in the said town and in other public views therein: *Provided*, That if any other part of the proceedings of the said Board be necessarily connected with the part so requested to be published, the same shall, at the desire of any other two members, be communicated and made known by the Secretary in manner aforesaid, and on the same paper, or in the same publication. And any member shall, at all times, have liberty to enter among the proceedings of the Board, the reasons of his dissent on any question that may be therein decided.

Members
may make
publica-
tion—
when.