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RICHARD C. CAHN  
DANIEL K. CAHN

August 19, 2005

Ms. Marjorie S. McCoy  
Deputy Clerk  
Court of Appeals, State of New York  
Albany, NY 12207-1095

Re: Town of Montauk, Inc. v. Pataki, et al.

Dear Ms. McCoy:

The Town of East Hampton, erroneously designated in the above matter as "The Town Board Gov't of the Town of East Hampton," responds to your August 9, 2005 letter, in an effort to assist the Court in its *sua sponte* consideration of its subject matter jurisdiction and the standing of "Town of Montauk, Inc." with respect to the above appeal. There is no jurisdictional predicate for a direct appeal pursuant to CPLR 5601(b)(2), and the "Town of Montauk, Inc." lacks standing to prosecute this matter.

Subject Matter Jurisdiction

CPLR 5601(b)(2) permits direct appeals to the Court from a judgment of the court of original instance which determines an action "where the only question involved on the appeal is the validity of a statutory provision of the State or of the United States under the constitution of the State or of the United States." This case does not involve the validity of any such statutory provision. If it does, in some way, that question is not "the only question involved." The only statute cited by the Appellant as supporting the Court's jurisdiction is Chapter 2 of the Laws of 1691. That enactment was an act of the colonial legislature, and may not be the equivalent of a statute of the State. *See, Beers v. Hotchkiss*, 256 N.Y. 41, 175 N.E. 506 (1931). However, the Court need not detain its consideration of the jurisdictional issue by resolving that question, because this appeal does not involve the validity of the 1691 enactment, but at most, its interpretation. And that question does not qualify this case for direct appeal from Supreme Court. Karger, *The Powers of the New York Court of Appeals* (Third Edition), § 40(a) at 260; *Powers v. Porcelain Insulator Corp.*, 285 N.Y. 54, 57, 32 N.E.2d 790 (1941).

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An examination of the Appellant's papers (described as "nearly incomprehensible" by the IAS Justice in Supreme Court, Suffolk County), demonstrates that the 1691 colonial statute was adopted by the colonial legislature to quiet title to lands generally located in the State as to which the original title derived from a royal charter or patent given by a representative of the English sovereign.

The only royal patent relevant to this case is the 1686 Dongan Patent conveying title to lands in Montauk to the Trustees of the Freeholders and Commonalty of the Town of East Hampton ("the Trustees"), a body that was created by the same Patent.

Although colonial patents such as the Dongan Patent conferred certain regulatory powers over the early trustees, those powers are specific and limited in nature, involving such things as the issuance of shellfish permits and the grant of permission to sink pilings, bridges or moorings in underwater lands owned by the trustees. The language of the Dongan Patent itself does not confer taxing, zoning and land use, or other police powers upon the trustees, and we are unaware of any decision of the Court or of the lower courts in the State in the last two centuries that has interpreted the language of the Dongan Patent to include those powers.

The Amended Petition in this case, which was dismissed by the IAS Justice (which unaccountably is not included in the papers filed with the Court by the Appellant but which is annexed), sought, with respect to the Town of East Hampton, an order or judgment which would "update, modify and re-enter an order of Hon. Nathan B. Morse, Justice of the Supreme Court granted June 26, 1851," which resolved a dispute between four individuals and the Trustees; whatever the validity of such an unusual and unorthodox prayer for relief, consideration of such an issue also takes the case out of the ambit of Section 5601(b)(2).

The Appellant's claim that this Court recognized "the Town of Montauk, Inc." by allowing it to intervene in a case involving *People v. Vorpahl* on May 6, 2004, is plain wrong; the Court dismissed the application. If Appellant wishes to argue the effect of the Court's action in *Vorpahl*, that would be yet another question removing the case from the narrow class of cases covered by Section 5601(b)(2).

Whether the Appellant's request for judgment "compelling delivery into Court of all of Montauk's revenues, including taxes" is a viable, soundly-based prayer for relief, or not (as we believe), it, too, raises questions other than the constitutional validity of the 1691 enactment. The same can be said of the request for a declaration "that any and all claims of jurisdiction made by the State Legislature or the Town" were and are in violation of the Dongan Patent.

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Finally, the requests to deliver all real property in Montauk claimed by the Town of East Hampton to "MFOP/ Montauk Trustee Corporation," to identify property encumbered by the Indians proprietary rights and to prohibit all actions of the Town and other bodies politic that had some effect or apparent effect upon the territory claimed by the present "Town of Montauk" are clearly beyond the contemplation of Section 5601(b)(2).

Even if it could be argued that the Petition has adequately and clearly stated a claim with respect to the validity of the 1691 Colonial Legislative Act, it is clear from a mere recital of the other claims contained in the Petition that the judgment of Supreme Court, Suffolk County did not resolve the validity or invalidity of that colonial statute as "the only question involved" in the case. Thus, the jurisdictional predicate under CPLR 5601(b)(2) does not exist in this case for a direct appeal.

#### Standing of the Plaintiff

The Appellant, terming itself "Town of Montauk, Inc.," claims in its reply to the Town's Answer that it became incorporated on April 2, 1852 by Chapter 139 of the Laws of the State in that year. Chapter 139, which has been reproduced by the Appellant, purported to incorporate seven individuals as the "trustees of Montauk." A reading of Chapter 139 demonstrates that it conferred upon the newly designated trustees the power "to make such by-laws, rules and regulations for governing, using and improving" properties conveyed by the statute provided that "such by-laws and rules do not contravene those made by the [earlier] proprietors."

Although it will be argued that Chapter 139 conferred limited powers and in no way undercut the general government powers, including police powers, conferred upon the Town of East Hampton by the Laws of 1788, Chapter 64 (annexed hereto), the question of the interpretation of Chapter 139 and the further question of Appellant's entitlement to claim rights as the successor of the 1852 trustees, not only constitute an additional issue for 5601(b)(2) purposes, but also raise serious and independent questions going to the Appellant's standing. The Town would argue that, at best, Chapter 139 conferred property rights upon a group of individuals, but did not confer upon those individuals the governing powers that the Legislature, 64 years before, had conferred in incorporating the Town of East Hampton. The Appellant, for its standing, purports to rely upon a certificate of incorporation filed April 13, 1994 by the Montauk Friends of Olmstead Park/Montauk Trustee Corp., which organized itself as a not-for-profit organization on that date under Section 402 of the Not-For-Profit Corporation Law. The Not-For-Profit Corporation Law does not confer government powers upon a corporation formed thereunder and therefore that law does not provide a basis for standing.

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Finally, as noted above, Appellant relies upon this Court's decision in *People v. Vorpahl*, 2 N.Y. 3, 781, 812 N.E.2d 1255, 780 N.Y.S.2d 306 (2004), in which the Court dismissed an application for intervention by a party designating itself as "Town of Montauk, Inc." That determination cannot substitute for legislative recognition of a municipality as required by the State statute.

Conclusion

For all of these reasons, the appeal purportedly taken as of right to this Court should be dismissed, or, alternatively transferred to the Appellate Division, Second Department. N.Y. Const. Art. VI, § 5(b); *Merced v. Fisher*, 37 N.Y.2d 942, 380 N.Y.S.2d 649, 343 N.E.2d 288 (1975) and 38 N.Y.2d 557, 558, 381 N.Y.S.2d 817, 345 N.E.2d 288 (1976); *Fitzgerald v. Matthews*, 89 N.Y.2d 977, 656 N.Y.S.2d 735, 678 N.E.2d 135 (1997).

Respectfully,



Richard C. Cahn

RCC/pdm  
Enclosure

cc: All Counsel

Supreme Court of the State of New York  
Suffolk County

Town of Montauk, Inc.	Petitioner
- against -	
Hon. George E. Pataki, Esq., Governor of the State of New York The People of the State of New York, and The Town Board gov't of the Town of East Hampton, and The Trustees of the Freeholders and Commonalty of the Town of Easthampton, and The Suffolk County Water Authority, Inc., and The County of Suffolk, and The Brooklyn Historical Society, Inc., and 511 Equities, Inc., and The Nature Conservancy, Inc.	Respondents

Amended Petition  (CPLR §7803(2))  Index no. 04 - 27553  <b>Hon. Daniel J. Loughlin, J.S.C.</b>  Return date: April 29th, 2005
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The Montauk Friends of Olmsted Parks / Montauk Trustee Corporation (hereinafter "Montauk Trustee Corp.") on behalf of the Incorporated Township of Montauk does herewith petition the court for decisions, orders and relief that:

1. immediately update, modify and re-enter the attached order of Nathan B. Morse, J.S.C., dated June 27<sup>th</sup> thereby enjoining and restraining the town of East Hampton from all planning, permitting or use of lands at Montauk while maintaining essential services (police, etc.), while entering orders compelling respondents to show why orders should not be entered:

- a.) to formally recognize the Incorporated Township of Montauk upon the record and documents herein including those that were before the New York State Court of Appeals when it entered it's May 6th, 2004 decision in the matter of the People of the State of New York v. Stuart Bennett Vorpahl and the Town of Montauk, Inc. (see: 2004 Affidavit of Robert A. Ficalora in case record); and
- b.) to compel delivery into court of all of Montauk's revenues, including taxes, pursuant to CPLR 2701 and made available to Trustee Corporation for compensating attorneys and more fully and properly bringing this matter before it; and

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Amended Petition

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c.) why all claims of jurisdiction made pursuant to Acts by distant legislatures should not be held to be in violation of the 1686 colonial letters patent and corporate of the Town of Easthampton (" Dongan Patent", feudal tenure of the royal "Manor of East Greenwich" over which Parliament had no jurisdiction), Chapter 2 of the laws of 1691, and Article 1 Section 14 of the Constitution of the State of New York;

2. update and re-enter the September 6th, 1851, order of the Honorable Nathan B. Morse, J.S.C., to remove all claim by the Town of Easthampton to Montauk proprietors' (taxpayers') right to tax and to govern Montauk under the 1686 Dongan Patent, and determine liability in Respondents for damages accruing from eighty years of usurpation and mis-rule;

3. order monies from Montauk's town revenues (taxes, etc.) to be used by Montauk Trustee Corp. to retain and compensate attorneys and to hire and to maintain a professional staff as set forth in it's resolutions of October 11th, 2004 (see affidavit), to more fully and properly bring this matter before this court;

4. order all claims into or over real property in Montauk by the Town of Easthampton, Suffolk County and the State of New York delivered to the MFOP/Montauk Trustee Corporation with the proprietors' second and third houses to be immediately delivered for use as offices and for community education and organizing;

5. recognize the feudal tenure of a manor granted in the 1686 charter to be that of the lord of the fee to which all properties escheat for lack of heirs;

6. Identify the properties encumbered by Indian/Proprietor rights as determined by the July, 1878 judgement of Hon. J. O. Dykman, J.S.C. and the subsequent interlocutory judgement of Mr. Everett A. Carpenter, Esq., as Referee in the matter of Robert M. Grinnell and wife

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against Edward M. Baker, et. al. (Supreme Court, Suffolk, 1878) together with the determination that subsequent sales of lands by Arthur W. Benson in the 1880s encumbered the subject lands to be held "in stock" as appurtenances to at least the Montauk Association Corporation (1882), Robert W. De Forest (1883), John H. Prentice (1887) and Alfred M. Hoyt (1888) - proprietors of Montauk outside of the affected lands - as tenants in common;

7. order defendant The Nature Conservancy to show all contracts entered into, deeds filed, and all claims, in or over lands at Montauk and Napeague;

8. order defendant 511 Equities to show all contracts entered into, deeds filed, and all claims into or over real property in Montauk since first established as the Montauk Beach Development corporation by Carl G. Fisher;

9. compel, review and prohibit actions of bodies politic operating pursuant to statute using the court's prerogative powers consolidated under Article 78 of the CPLR, and then to convert this special proceeding into an action for declaratory judgment;

10. grant a jury trial upon compensation for damages sufficient to recover Montauk's revenues and lands unlawfully taken or injured, with damages.

As for the causes of action:

against Hon. George E. Pataki, Governor of New York, he has:

1. - Chapter 2 of the laws of 1691 (First Assembly) held in part that:

"Be it therefore enacted by the Governour, Councill and Representatives convened in General Assembly, And it is hereby enacted and declared by the Authority of the Same; That all Charters, Pattents, Grants, made, given and granted ... by their late and present Majestys the King of England ... unto the severall and respective Corporations of bodys politick of the Cittys, Towns and Mannors, and also the severall ffreeholders of this Province, are and shall forever be deemed, esteemed and reputed good and effectual, Charters, Patents and grants Authentick in the Law against their Majesties, their heirs and Successors forever..." (emphasis added)

2. - In bringing this proceeding for writs of mandamus and prohibition to enforce this law and our state Constitution, the honorable Governor must be made a party.

3. - We seek mandamus relief to compel the fullest exercise of the Governor's executive powers to remedy the grievances made herein.

4. - Furthermore, Governor Pataki was been involved in real property transactions with The Nature Conservancy corpotion including the "Shadmoor" purchase of the Estate of Alfred M. Hoyt, and possibly "The Sanctuary" both of which we believe may be the property of the Township of Montauk by reason of escheat.

5. - (The East Hampton Zoning maps of the area surrounding "The Sanctuary" parcel show some interesting anomalies. see: Ficalora 2004 Affidavit, **Att. Z.a**).

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As for the causes of action:

against Hon. George E. Pataki, Governor of New York, he has:

against the People of the State of New York assembled in their representatives, it has:

6. - since about 1924 enabled and supported an unconstitutional "town board government" of East Hampton operating under the pretense of the 1909 Town Law and General Municipal Law to usurp Montauk's freeholders' franchise to tax and to govern.

7. - enabled and supported Easthampton's claim to determine Montauk's land use in knowing violation of Montauk's 1686 and 1852 charters, Chapter 2 of the laws of 1691, our state and federal Constitutions, and the September 6th, 1851 decision and order of Hon. Nathan B. Morse, J.S.C. (Henry P. Hedges, et. al. (proprietors of Montauk) v. Trustees of the Freeholders and Commonalty of the Town of Easthampton, Supreme Court, Suffolk, 1851).

8. - enabled, allowed or supported the injury to, or taking of, Montauk proprietors' properties under the pretense of state law.

9. - knowingly established trespass upon private roads within the sub-division plans of Wompenanit and Hither Hills in violation of the real property covenants which established their private nature and use.

10. - taken title to, or claimed jurisdiction over, Montauk proprietors' commonwealth, jurisdictions and franchises, starting in 1909 with the Town Law and General Municipal Law and continuing with the taking of state parks in 1924 under the Conservation laws (see: Liber 1108 of deeds, p. 422, see: Ficalora 2004 Affidavit, Att. Q), all in violation of our Constitutions and the 1686 and 1852 charters.

11. - allowed the private development of lands over which it claims a state parkway right-of-way (but not title) adjoining the downtown area of Montauk.

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As for the causes of action:

against the People of the State of New York assembled in their representatives, it has:

12. - purported to repeal three sections of Article 1 of the Constitution of the State of New York (Art. 1 §10 - escheat, §13 - Indian contracts, §15 - Colonial Charters), while Montauk's rights were undergoing scrutiny at the Long Island Historical Society (now Brooklyn Historical Society), opening up a literal "free-for-all" taking of vast unclaimed proprietors' lands in Montauk.

13. - knowingly purchased or established at least one state park upon property claimed by the township of Montauk by reason of escheat for lack of heirs at the estate of Alfred M Hoyt (now Shadmoor State Park), while in possession of other lands claimed by the Township of Montauk.

against the Town Board gov't of East Hampton, it has:

14. - been taxing and to governing Montauk without legal or Constitutional authority since about 1924 and has continued to do so with knowledge since at least 1996 when it failed to answer freedom of information act requests.

15. - approved permits and development plans for lands known to be wholly encumbered as exclusive proprietors' property as tenants in common at the Hither End/Hither Woods, North Neck, and Indian Field areas of Montauk.

16. - proceeded since 1996 to capriciously crowd or develop Montauk proprietors' most valuable lands and landscapes, often in disregard of its own laws and state law.

17. - supported the connection of a fresh water pipeline from Easthampton to Montauk and issued permits for its use in approving new development in disregard of the October 25th,

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As for the causes of action:

against the Town Board gov't of East Hampton, it has:

1997, resolution of the Montauk Trustee Corp. (served November 6th, 1997, see: Ficalora 2004 affidavit, Att. X).

18. - issued development permits to build privately owned structures upon a state parkway right-of-way on lands not owned by them or the State of New York.

19. - issued permits to build upon Benson Reservation property with knowledge that it was doing so.

20. - conveyed lands within the bounds of the Montauk Association (map number 6 filed with the Suffolk County Clerk on April 28th, 1880) using an overlay subdivision map without privity of estate through the original grantor (ex: "trailer park") (See: Ficalora 2004 Affidavit, Atts. V & Z.a.).

against the Trustees of the Freeholders and Commonalty of the Town of Easthampton, it has:

21. - tacitly and overtly conspired in the usurpation of Montauk proprietors' franchise to tax and to govern while knowing itself to be the only lawful and constitutional government of Easthampton.

22. - promoted and supported fishing within Montauk's appurtenant waters.

23. - allowed government according to the Dongan Charter to be debased by let, hindrance or unconstitutional acts by political parties and the state legislature.

24. - maintains a claim to land at Napeague Harbor to which Montauk, may have a right.

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As for the causes of action:

against the Trustees of the Freeholders and Commonalty of the Town of Easthampton, it has:

against the Suffolk County Water Authority, Inc., it has:

25. - operated and extended a fresh water extraction and distribution system in Montauk without authorization or authority by the Montauk Trustee Corporation, and without any lawful jurisdiction or right.

26. - moved and allocated water in Montauk in conjunction with the town board government of Easthampton disregarding the October 25th, 1997 resolution served upon it by the Montauk Trustee Corporation (See: Ficalora 2004 Affidavit, Att. X).

27. - caused significant injury by enabling development upon lands without fresh water resource and which were, therefore, undevelopable. Much of the injury has occurred since 1996 in the contested Indian Field, North Neck, and Hither End/Hither Woods areas of Montauk.

against the Suffolk County Legislature, it has:

28. - allowed and participated in the conquest and usurpation of the sovereign jurisdiction of the Township of Montauk.

29. - it has aided and enabled the exacting of taxes and enforcement of laws without right.

30. - It has established a curious "Suffolk County Water Authority" corporation that has acted upon some pretense of authority to cause significant injury to Montauk.

31. - participated in a 1991 conspiracy to defraud Montauk proprietors' rights into and over the Benson Reservation properties (See: Ficalora 2004 Affidavit, Att. T).

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As for the causes of action:  
against the Suffolk County Legislature, it has:

32. - taken possession of Montauk proprietors' lands at the Indian Field and Hither Woods, and entered into contracts enabling, allowing or threatening their development by previously owning private parties.

33. - failed to protect important legal records of at least two important cases at law: the matters of Henry P. Hedges, et al. (proprietors of Montauk) v. the Trustees of the Freeholders and Commonalty of the Town of Easthampton (Supreme Court, Suffolk, 1851) and Robert M. Grinnell and his wife Sofie v. Edward M. Baker, et. al. (Supreme Court, Suffolk, 1878).  
against the Brooklyn Historical Society, it has:

34. - taken possession of and controlled Montauk proprietors' real property contracts and municipal records ordered released to them by the September 9th, 1851 order of Hon. Nathan B. Morse, J.S.C., and later turned over to Arthur W. Benson upon his purchase of Montauk in 1879 with an agreement that they be securely maintained in Montauk (See: Ficalora 2004 Affidavit, Att. Y).

35. - until proven otherwise, failed to protect Montauk's priceless real property records establishing its commonwealth through the 1686 Dongan Patent and contracts with the Montauk tribe of Indians.

36. - until proven otherwise, failed to protect the minutes and legal records of the Montauk Trustee Corporation.

against The Nature Conservancy, Inc., it has:

37. - acted as a major accessory to actions taken by public authorities to take and to injure proprietors' common (Township) lands in Montauk.

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As for the causes of action:  
against The Nature Conservancy, Inc., it has:

38. - attempted to broker a fraudulent "purchase" of the Hither Plain and Bathing Reservations in 1991 upon a hidden contract containing a "reverter clause" whereby the seller could repurchase and develop the land in the future (See: Ficalora 2004 Affidavit, **Att. T**).

39. - purchased and immediately re-sold, in 1988, seven hundred and seventy-seven (777) acres of un-allotted proprietors' commonage at the Hither Woods (1661 & 1703 contracts) to Suffolk County for \$17 million dollars. According to the then local Executive Director Sara Davidson, an unrecorded contract containing a "reverter clause" allowing the same seller (as later in 1991) to repurchase it.

40. - it oversaw and promoted the sale and development of proprietors' lands at North Neck (Culloden) adverse to notice delivered by the Montauk Trustee Corporation to the fee title holder 511 Equities Corp., the First American and Chicago/Ticor title companies, Suffolk County executive Robert J. Gaffney, Suffolk County legislator George Guldi, and which was publicized in the local press (See: Ficalora 2004 Affidavit, **Att. U**).

41. - it has also interjected itself to contribute moneys toward the \$17 million dollar purchase of the pristine undeveloped 97 acre estate of Alfred M. Hoyt after the Montauk Trustee Corporation noticed parties and made publicly known a claim by reason of escheat for lack of heirs (now Shadmoor State Park).

42. - it purchased lands with the town of Easthampton within the bounds of the filed map entitled "Topographical Map of THE GROUNDS of the Montauk Association" (filed as map no. 6 with the Suffolk County Clerk on April 28th, 1880), when controversy erupted after Mr. Ficalora consulted with Mr. Marshall Brickman, then an owner of one of the Association

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As for the causes of action:  
against The Nature Conservancy, Inc., it has:

Houses, and provided him the filed map and some title work (See: Ficalora 2004 Affidavit, Atts S & V).

43. - also claimed either questionable title to, or easements over, land at 1.) Napeague harbor; 2.) the hugely significant parcel no. 38 within the plan of Hither Hills ("Montauk Mountain", part of which has been recently subdivided and developed); and, to certain lands surrounding the Amsterdam Beach Reservation adjoining the estate of the late Andy Warhol.

44. - an apparent *modus operandi* whereby it intervenes to promote the sale and development of unclaimed or equitably burdened Montauk lands, while crowding and injuring the aesthetics or use of them with overbearing structures.

WHEREFORE, the undersigned respectfully prays that the demands set forth in this Petition be granted, and for such other and further relief as to the Court may seem just and proper.



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Stephen G. Court, Esq.    March 23, 2005  
Attorney for MFOP/Montauk Trustee Corp.  
50 Danes Street  
Patchogue, New York, 11772  
(631) 758-2352

**Town of Montauk, Inc. v. Pataki, et. al. Suffolk Index no 04-27553.**

As for the causes of action:  
against The Nature Conservancy, Inc., it has:

Clinton  
county  
courts.

And be it further enacted by the authority aforesaid, That there shall be held in and for the county of Clinton, a court of common pleas and a court of general sessions of the peace, at the town of Plattsburgh; and that there be in the said county of Clinton two terms in every year, to commence and end on the days following, to wit, the first term to commence on the fourth Tuesday of October, and to end on the Saturday following; the second term to commence on the third Tuesday in April, and to end on the Saturday following.

Provided, that in any of the terms aforesaid the court may adjourn previous the day assigned, if the business of the court will admit; and that the first court of common pleas and general sessions of the peace in the said county shall be held on the fourth Tuesday of October next ensuing.

## CHAP. 64.

AN ACT for dividing the counties of this State into towns.

PASSED the 7th of March, 1788.

Suffolk  
county  
Southold.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all that part of the county of Suffolk now called and known by the name of Southold, including Fisher's Island, Plumb Island, Robin's Island the Gull Islands and all that part of the manor of St. George on the north side of Peacock, extending westward to the east line of Brookhaven shall be and hereby is erected into a town by the name of Southold.

East  
Hampton.

And that all that part of the said county of Suffolk now called East Hampton, including Montauk and the Isle of Wight, now called Gardeners Island, shall be and hereby is erected into a town by the name of East Hampton.

South-  
hampton.

And that all that part of the said county of Suffolk, now called and known by the name of Southampton, including Bridge Hampton, heretofore called Saggaboneck and Mecoxe shall be and hereby is erected into a town by the name of Southampton.

Shelter  
Island.

And that all that island called Shelter Island in the county of Suffolk shall be and hereby is erected into a town by the name of Shelter Island.

Hunting-  
ton.

And that all that part of the said county of Suffolk called Huntington, including Eaton's Neck and Crab Meadow, shall be and hereby is erected into a town by the name of Huntington.

Islip.

And that all that part of the said county of Suffolk, bounded southerly by the Atlantic ocean, westerly by Huntington, northerly by Smith Town and Winecomie and easterly by the east bounds of the lands formerly belonging to William Nicoll near Blue-Point, shall be and hereby is erected into a town by the name of Islip.

Smithtown.

And that all that part of the said county of Suffolk, bounded southerly by Islip, westerly by Huntington, northerly by the sound and easterly by the patent of Brook-Haven, including Winne Commick, shall be and hereby is erected into a town by the name of Smith-Town.

Brook-  
haven.

And that all that part of the said county of Suffolk bounded westerly by Smith Town and Islip, northerly by the sound, easterly by South-Hold and South Hampton, and southerly by the Atlantic ocean, shall be and hereby is erected into a town by the name of Brookhaven.

And that all that part of Queens county, now called and known by the name of Oysterbay, including Lloyds neck or Queens Village and Hog Island, and extending on the south to the Atlantic ocean shall be and continue a town by the name of Oysterbay. Queens  
county:  
Oysterbay.

And that all that part of Queens county, bounded easterly by Oyster-  
bay, southerly by the Atlantic ocean aforesaid, westerly by Jamaica, and northerly by the country road, leading from Jamaica nearly through the middle of the great plains, commonly called Hempstead plains to the east part thereof, including the lands called the Gore between the patent of Hempstead and the patent of Oysterbay, shall be and continue a town by the name of South Hempstead. South  
Hemp-  
stead.

And that all that part of Queens county aforesaid, bounded easterly by Oysterbay, southerly by South Hempstead, westerly by Flushing and northerly by the sound, shall be and continue a town by the name of North Hempstead. North  
Hemp-  
stead.

And that all that part of Queens county aforesaid now called and known by the name of Flushing, shall be and continue a town by the name of Flushing. Flushing.

And that all that part of Queens county aforesaid, now called and known by the name of Jamaica, shall be and continue a town by the name of Jamaica. Jamaica.

And that all that part of Queens county aforesaid, now called and known by the name of New-Town, including all the islands in the sound opposite to the same and comprehended in Queens county, shall be and continue a town by the name of New-Town. Newtown.

And that all that part of Kings county, now called and known by the name of Brooklyn, shall be and continue a town by the name of Brooklyn. Kings  
county:  
Brooklyn.

And that all that part of Kings county aforesaid, now called and known by the name of Bushwick, shall be and continue a town by the name of Bushwick. Bushwick.

And that all that part of Kings county aforesaid, now called and known by the name of Flatlands or Amesford, shall be and continue a town by the name of Flatlands. Flatlands.

And that all that part of Kings county aforesaid, now called and known by the name of Flatbush, including the tract of land called New Lots, shall be and continue a town by the name of Flatbush. Flatbush.

And that all that part of Kings county aforesaid, now called and known by the name of Gravesend, including Coney Island, and all the islands south of the said town, shall be and continue a town by the name of Gravesend. Gravesend.

And that all that part of Kings county aforesaid, now called and known by the name of New-Utrecht, shall be and continue a town by the name of New-Utrecht. New  
Utrecht.

And that all that part of the county of Richmond, bounded northerly by Kill Van Cull, easterly by Hudsons river, southerly by the road leading from Van Duersons ferry, southward of the watering place, to Richmond town and westerly by a line beginning at the mouth of Dongan's mill creek, and running from thence along the line of the manor of Castle town, to the road at the rear of the patent of Corson and company, thence along the northerly side of the said road, westerly to the road leading to Haughwout's mill, and then southerly along the westerly side of the last mentioned road as it runs along by Richard Conner's, to the tavern called the Rose and Crown on the said road leading to Richmond town, shall be and hereby is erected into a town by the name of Castletown. Richmond  
county:  
Castletown.

**Southfield.** And that all that part of the said county of Richmond, bounded northerly by the north side of said road leading from Van Duerson's ferry to Richmond town, and the Fresh kill, easterly by Hudson's river, southerly by the bay, and westerly by a line beginning on the Fresh kill at the northwest corner of the land and meadow late of James Egberts, and running from thence southerly along the same to Egbert lane, and then along the same lane to the road called the New road, and then along the same new road westerly to the land of Henry Perine, and then southerly along his easterly bounds to the bay, shall be and hereby is erected into a town by the name of Southfield.

**Westfield.** And that all that part of the said county of Richmond, bounded northerly by the Fresh kill, easterly by Southfield, southerly by the bay, and westerly by the sound, shall be and hereby is erected into a town by the name of Westfield.

**Northfield.** And that all the residue of the said county of Richmond, shall be and hereby is erected into a town by the name of Northfield.

**Westchester county; Westchester.** And that all that part of the county of Westchester, bounded easterly by the sound, and the land granted to Thomas Pell, called the manor of Pelham, southerly by the sound, westerly by the county of New York, and northerly by the north bounds of the manor of Fordham; and the north bounds of the land called the borough town of Westchester, including the islands in the sound lying south thereof, and in the county of Westchester, excepting thereout that tract of land commonly called Morrissania, shall be and hereby is erected into a town, by the name of Westchester.

**Morrissania.** And that all that tract or the said county of West Chester, commonly called and known by the name of Morrissania, shall be and hereby is erected into a town, by the name of Morrissania.

**Yonkers.** And that all that part of the county of Westchester, bounded easterly by Bronx river, southerly by the town of Westchester, westerly by the county of New York and Hudsons river, and northerly, by the north bounds of a tract of land called the Yonkers, shall be and hereby is erected into a town by the name of Yonkers.

**Greenburgh.** And that all that part of the said county of Westchester, bounded easterly by Bronx river, southerly by Yonkers, westerly by Hudsons river, and northerly by a line beginning on the east side of Hudsons river, at the south west corner of the land lately conveyed by the commissioners of forfeitures for the southern district to Gerard G. Beekman, Junr, and running from thence along the southerly and easterly bounds thereof to the farm of William David, and then along the southerly and easterly bounds of the said farm of the said William David to the road leading to the White Plains, and then easterly along the same road to Bronx River, shall be and hereby is erected into a town, by the name of Greenburgh.

**Mount Pleasant.** And that all that part of the said county of Westchester, bounded southerly by Greenburgh, westerly by Hudsons river, and northerly and easterly by the north and east bounds of the manor of Philipsburgh, shall be and hereby is erected into a town, by the name of Mount Pleasant.

**Eastchester.** And that all that part of the said county of Westchester, bounded southerly by the town of Westchester, westerly by Bronx river, northerly by the manor of Scarsdale, and easterly by a brook that runs southerly into Eastchester creek, shall be, and hereby is erected into a town, by the name of Eastchester.

**Pelham.** And that all that part of the said county of Westchester, called and known by the name of Manor of Pelham, bounded southerly and east-

erly by the Sound, northerly by the north bounds of the Manor of Pelham, including the island called the New City island, Mart island, and Appleby's island, and westerly by the town of Eastchester, shall be and hereby is erected into a town, by the name of Pelham.

And that all that part of the said county of Westchester, called and known by the name of New Rochelle, bounded southerly by the town of Pelham, easterly by the Sound, northerly by Mamaroneck and the Manor of Scarsdale, and westerly by the Manor of Scarsdale and Eastchester, including the island called Rodmans island, shall be and hereby is erected into a town, by the name of New Rochelle.

And that all that part of the said county of Westchester, bounded westerly by Bronx river, southerly by the town of Eastchester and New Rochelle, easterly by the east bounds of the tract of land called the Manor of Scarsdale, and northerly by the north bounds of the said Manor of Scarsdale, shall be and hereby is erected into a town, by the name of Scarsdale.

And that all that part of the said county of Westchester, bounded southerly by New Rochelle, easterly by the Sound, northerly by Mamaroneck river, and westerly by the town of Scarsdale, shall be and hereby is erected into a town, by the name of Mamaroneck.

And that all that part of the said county of Westchester, bounded easterly by Mamaroneck river, northerly by North Castle, westerly by Bronx river, and southerly by the town of Scarsdale, shall be and hereby is erected into a town, by the name of White Plains.

And that all that part of the said county of Westchester called and known by the name of Harrison's Purchase, shall be and hereby is erected into a town, by the name of Harrison.

And that all that part of the said county of Westchester, bounded southerly by the Sound, easterly by Connecticut, and westerly by the town of Harrison and Mamaroneck river, including Captain's island, and all the islands in the Sound lying south of the said bounds, shall be and hereby is erected into a town by the name of Rye.

And that all that part of the said county of Westchester, bounded southerly by Mount Pleasant, the White Plains, the town of Harrison and Connecticut, easterly by Connecticut Pound Ridge and Bedford, northerly by the Manor of Cortlandt and Bedford, and westerly by Bronx river and Mount Pleasant, shall be and hereby is erected into a town by the name of North Castle.

And that all that part of the said county of Westchester, formerly called and known by the name of the town of Bedford, shall be and hereby is erected into a town by the name of Bedford.

And that all that part of the said county of Westchester, bounded southerly by the State of Connecticut, easterly and northerly by Salem, and westerly by Bedford and Mahanus river, shall be and hereby is erected into a town, by the name of Pound Ridge.

And that all that part of the said county of Westchester, bounded northerly by a line beginning at a monument, in a line between this State and Connecticut, east of the north Long pond, and running westerly by the north side of the said pond, and the south bounds of the land of Ezekiel Hawley, until it comes to the road leading over the mountain, and then crossing the same road and running northerly along the west side of the same road to the land of the said Ezekiel Hawley, and then westerly along the same to the west line of the oblong, then northerly along the said oblong line until it comes to the south line of the north lot number ten of the Manor of Cortlandt, and then westerly along the south bounds of the said north lot number ten, and the south

North Salem.

Cortlandt.

Yorktown.

Stephentown.

Dutchess county; Philips town.

Fredericks town.

South East

Fishkill.

Beekman.

bounds of the north lots number nine and eight, to Croton river, and then down the said river to Bedford, easterly and southerly by Connecticut, Pound Ridge, and Bedford, and westerly by Pound Ridge, Bedford and Croton river, shall be and hereby is erected into a town, by the name of Salem.

And that all that part of the said county of Westchester, bounded southerly by Salem, easterly by Connecticut, northerly by Dutchess county, and westerly by the middle of Croton river shall be and hereby is erected into a town, by the name of North Salem.

And that all that part of the said county of Westchester, bounded westerly by Hudson's river, northerly by the county of Dutchess, easterly by north lot number two and south lot number two of the manor of Cortlandt, and the same line continued to the south bounds of the manor of Cortlandt, and southerly by the south bounds of the manor of Cortlandt, shall be and hereby is erected into a town by the name of Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by the town of Cortlandt, northerly by the county of Dutchess, easterly by north lot number five and south lot number five of the said manor of Cortlandt, and the same line continued to the south bounds of the said manor of Cortlandt, and southerly by the south bounds of the said manor of Cortlandt, shall be and hereby is erected into a town, by the name of York Town.

And that all that part of the said county of Westchester, bounded westerly by York Town, northerly by the county of Dutchess, easterly by North Salem, Croton river and Bedford, and southerly by the south bounds of the manor of Cortlandt, shall be and hereby is erected into a town, by the name of Stephentown.

And that all that part of the county of Dutchess, bounded southerly by the county of Westchester, westerly by Hudson's river, northerly by the north bounds of the lands granted to Adolph Philipse Esquire, and easterly by the east bounds of the long lot number four, formerly belonging to Beverly Robinson, shall be and hereby is erected into a town by the name of Philips Town.

And that all that part of the said county of Dutchess, bounded southerly by the county of Westchester, westerly by Philips Town, northerly by the north bounds of the lands granted to Adolph Philipse, Esquire, and easterly by the east bounds of the same patent shall be and hereby is erected into a town, by the name of Fredericks Town.

And that all that part of the said county of Dutchess, bounded southerly by the county of Westchester, westerly by Fredericks Town, northerly by the northern line of Fredericks Town continued to Connecticut, and easterly by Connecticut, shall be and hereby is erected into a town by the name of South-East Town.

And that all that part of the said county of Dutchess, bounded southerly by Philips Town and Fredericks Town, westerly by Hudsons river, northerly by Wappingers kill or creek, and easterly by the east bounds of Rombouts patent, shall be and hereby is erected into a town, by the name of Fishkill.

And that all that part of the said county of Dutchess, bounded southerly by Fredericks Town, westerly by Fishkill, northerly by the north bounds of the lands granted to Colonel Henry Beekman, and easterly by a line beginning at the house now or late of Daries Talman, near the Nine Partners line, and running from thence to the house of William Clark, and from thence to the house of Nathaniel Lee, and from thence to the house of Caleb Lamb, and from thence south sixteen degrees west

to Frederick's Town, shall be and hereby is erected into a town by the name of Beekman.

And that all that part of the said county of Dutchess, bounded southerly by South East Town and Fredericks Town, westerly by Beekman, northerly by the north bounds of the patent granted to Colonel Henry Beekman continued to Connecticut, and easterly by Connecticut, shall be and hereby is erected into a town by the name of Pawling.

And that all that part of the said county of Dutchess, bounded easterly and southerly by Wappingers kill or creek, westerly by Hudsons river, and northerly by the tract of land called the Great or Lower Ninepartners, shall be and hereby is erected into a town, by the name of Poughkeepsie.

And that all that part of the said county of Dutchess, bounded southerly by Poughkeepsie, and Beekman, westerly by Hudsons river, northerly and easterly by a line beginning at the east bank of Hudsons river, at the northwest corner of the tract of land called Pawling's patent, and running along the north line of the same patent to Green Elbow kill, otherwise called Fish creek, thence up along the said creek to the line of the tract of land called the Little or Upper Ninepartners, thence easterly along the said line to the north east corner of lot number one, so known and distinguished in the first division of the said tract of land, called the Great or Lower Ninepartners, and then southerly, in the line of that tier of lots to the north bounds of Beekman aforesaid, shall be and hereby is erected into a town by the name of Clinton.

And that all that part of the said county of Dutchess, bounded southerly by Clinton, westerly by Hudsons river, northerly by the county of Columbia, and easterly by the Little or Upper Ninepartners, shall be and hereby is erected into a town, by the name of Rhyabeck.

And that all that part of the said county of Dutchess, bounded southerly by the town of Beekman, westerly by Poughkeepsie and Clinton, northerly by the north bounds of a tract of land called the Lower or Great Ninepartners, and easterly by the easternmost tier of lots laid out in the general division heretofore made of the said tract of land called the Lower or Great Ninepartners, shall be and hereby is erected into a town, by the name of Washington.

And that all that part of the said county of Dutchess, bounded southerly by the town of Pawling, westerly by the town of Washington, northerly by the north bounds of the said Lower or Great Ninepartners, and an east line from the northeast corner thereof to Connecticut, and easterly by Connecticut, shall be and hereby is erected into a town by the name of Amenia.

And that all that part of the said county of Dutchess, bounded westerly by Rhyabeck, northerly by the county of Columbia, easterly by Connecticut, and southerly by the towns of Washington and Amenia, shall be and hereby is erected into a town by the name of Northeast town.

And that all that part of the county of Orange, bounded easterly by Hudsons river, southerly by New Jersey, and westerly and northerly by a line beginning on Hudsons river at the northeast corner of the farm late belonging to Harman Talman, deceased, and running from thence westerly along the said farm to the tract of land formerly granted to Feunis D. Talman, and then southerly and westerly along the bounds of the same tract to Demarests kill, or Hackinsack river, and then down the stream thereof to the northeast corner of a tract of one thousand acres of land formerly sold for defraying the expences of dividing the patent of Kakiate, and then westerly along the same, to the northwest

corner thereof, and then northerly, westerly and southerly, along the land of Johannes Jos. Blauvelt to the northeast corner of the land of John M. Hogenkamp, and then westerly and southerly along the same to the northeast corner of the land of John P. Mabie, and then westerly along his land to New Jersey, shall be and hereby is erected into a town by the name of Orange Town.

And that all that part of the said county of Orange, bounded easterly by Orange Town and Hudson's river, southerly by Orange Town and New Jersey, and northerly by a line beginning at the mouth of Poplopens kill on Hudson's river and running from thence on a direct course to the southeastermost corner of the farm of Stephen Sloop, and then along the south bounds of his farm to the southwest corner thereof, and then on the same course to New Jersey, shall be and hereby is erected into a town, by the name of Haverstraw.

And that all that part of Orange county aforesaid, bounded northerly by Ulster county, easterly by Hudson's river and Haverstraw, southerly by New Jersey, and westerly by a line beginning at the border or verge of Ulster county near the new dwelling house which belonged to John Manno, in the year of our Lord one thousand seven hundred and sixty four, and running from thence on a course which will leave the house then and now belonging to Barnabas Horton, Junior, ten chains to the westward of the said course, and so to continue the same course to New Jersey, shall be and hereby is erected into a town, by the name of New Cornwall.

And that all that part of the county of Orange aforesaid, bounded easterly by New Cornwall, north by Ulster county, westerly by the Wallkill and southerly by the creek commonly called Quakers creek, from where it falls into the Wallkill on the southwesterly side of the great island in the drowned lands to the house of Timothy Clarke, thence along the southerly side of the road leading from Florida to Chester, to the house of Isaac Wynans, thence along the southerly side of the road running by the grist-mill of William Thompson Esquire, towards Sugar loaf mountain, to the northerly line of the plantation of Samuel Rafner, and thence along the said line easterly to the southwest corner of a large tract of land commonly called Rutgers's tract, and then easterly along the southerly bounds of the said tract to the foot of the said Sugar loaf mountain, and then an east course to the bounds of New Cornwall, shall be and hereby is erected into a town by the name of Goshen.

And that all that part of the county of Orange aforesaid, bounded easterly by New Cornwall, southerly by the State of New Jersey, westerly by the Wallkill, and northerly by Goshen, shall be and hereby is erected into a town, by the name of Warwick.

And that all that part of the said county of Orange, bounded easterly by the Wallkill, southerly by New Jersey, westerly by Delaware river, and north by the county of Ulster, shall be and hereby is erected into a town, by the name of Minisink.

And that all that part of the county of Ulster, bounded easterly by Hudson's river, southerly by the county of Orange, and westerly and northerly by a line beginning at the west side of Hudson's river at the mouth of Quasick creek, and running from thence along the south bounds of a tract of land commonly called the German patent, and the southerly bounds of a tract of land granted to Alexander Baird and company, to the east bounds of two thousand acres of land granted to Cadwallader Colden, and then across the same to the most northerly corner of the land granted to Patrick Hume, and then along the west-

erly bounds thereof, to the lands granted to Patrick McKnight, and then along the same southeasterly and southwesterly to the southerly corner thereof, and then continuing the last mentioned line to the county of Orange, so as to include the lands of Fletcher Matthews, shall be and hereby is erected into a town, by the name of New Windsor.

And that all that part of the said county of Ulster, bounded easterly by Hudson's river, southerly by New Windsor, westerly by the east bounds of the said tract of land granted to Cadwallader Colden, and the east bounds of one thousand acres of land granted to John Johnston, and the east bounds of three thousand acres of land granted to Henry Wileman, and the east bounds of three thousand five hundred acres of land granted to Rip Van Dam and others, and northerly by a line beginning on the west side of Hudson's river at the northeast corner of a tract of land granted to Francis Harrison and company, called the five thousand acre tract, and running from thence westerly along the north bounds of the same tract, and the north bounds of another tract granted to the said Francis Harrison, to the tract of land commonly called Wallace's tract, then along the lines of the same, northerly and westerly to the northeasterly bounds of a tract of land granted to Jacobus Kip, John Cruger and others, commonly called Kip and Cruger's tract, then westerly along the northeasterly and northerly bounds thereof to the northwest corner thereof, and then westerly to the northeast corner of the said tract of three thousand five hundred acres of land granted to Rip Van Dam and others, shall be and hereby is erected into a town, by the name of Newburgh.

And that all that part of the said county of Ulster, bounded easterly by Hudson's river, southerly by Newburgh, westerly by the east bounds of two thousand acres of land granted to Peter Barberie, and the east bounds of two thousand acres of land granted to William Huddleston, and the east bounds of two thousand acres of land granted to Thomas Garland, and northerly by a tract of land granted to Lewis Du Bois and partners, called the New Paltz patent, and a tract of land, granted to Noah Elting and Nathaniel la Fever, and a tract of land granted to Anne Mullender, commonly called Mullender's tract, and a tract of land granted to Hugh Frere, and the southerly line thereof, continued to the east bounds of the said two thousand acres of land granted to the said Thomas Garland, shall be and hereby is erected into a town by the name of Marlborough.

And that all that part of the said county of Ulster, bounded easterly by New Windsor, southerly by the county of Orange, westerly by Shawangunk kill, and northerly by the line commonly called the old northwest line, shall be and hereby is erected into a town by the name of Wallkill.

And that all that part of the said county of Ulster, bounded easterly by New Windsor and Newburgh, southerly by the said town of Wallkill, westerly by Shawangunk kill, and northerly by a line beginning at the northeast corner of a tract of three thousand acres of land granted to Henry Wileman, and running thence along the north bounds thereof to the Paltz river, commonly called the Wallkill, and then southerly up the same river to the southeast corner of a tract of four thousand acres of land granted to Gerardus Beekman, and others, and then westerly and northerly along the southerly and westerly bounds thereof to the northwest corner thereof, and then northwesterly along the north bounds of the lands granted to Jeremiah Schuyler and Company, to the Shawangunk kill as aforesaid, shall be and hereby is erected into a town by the name of Montgomery.

Shawangunk.

And that all that part of the said county of Ulster, bounded easterly by Newburgh and Marlborough, southerly by Montgomery and the Platte kill, westerly by Shawangunk mountains, and northerly by a line beginning at the northeast corner of a tract of two thousand acres of land granted to William Huddleston and running from thence along the north bounds thereof, and the north bounds of two thousand acres of land granted to Peter Mathews and others, to the mouth of Shawangunk kill, and then westerly along the north side of the same kill as it runs to the southwest corner of the land granted to Colonel Jacob Rutsen, and then along the westerly bounds thereof to the northwest corner thereof and then along the southerly bounds of a tract of land granted to Stephen Du Blois to the southwest corner thereof, and then northwest to Shawangunk mountains aforesaid, shall be and hereby is erected into a town, by the name of Shawangunk.

Kingston.

And that all that part of the said county of Ulster, called the township of Kingston and manor of Fox-Hall, and extending northward to the line of the county of Albany, and southward to the north bounds of a tract of land granted to Lewis Dubois and partners, called the New Paltz Patent, shall be and hereby is erected into a town, by the name of Kingston.

Hurley.

And that all that part of the said county of Ulster, called the township of Hurley, shall be and hereby is erected into a town by the name of Hurley.

Marbletown.

And that all that part of the said county of Ulster called Marbletown, shall be and hereby is erected into a town by the name of Marbletown.

New Paltz.

And that all that part of the said county of Ulster, bounded northerly by the north bounds of the patent granted to Lewis Dubois and partners, called the New Paltz Patent, easterly by Hudsons river, southerly by Marlborough and Shawangunk, and westerly by the west bounds of the said patent, continued southerly to the northwest corner of Shawangunk, shall be and hereby is erected into a town by the name of New Paltz.

Rochester.

And that all that part of the said county of Ulster called Rochester, and extending west to Delaware river, shall be, and hereby is erected into a town, by the name of Rochester.

Mamakating.

And that all that part of the said county of Ulster, bounded northerly by Rochester, easterly by the town of Shawangunk, Montgomery and Walkill, southerly by the county of Orange, and westerly by Delaware river, shall be and hereby is erected into a town, by the name of Mamakating.

Woodstock.

And that all that part of the said county of Ulster, bounded northerly by the county of Albany, easterly by Kingston, Hurley and Marbletown, southerly by Rochester, and westerly by Delaware river and the county of Montgomery, shall be and hereby is erected into a town, by the name of Woodstock.

Columbia county: Kinderhook.

And that all that part of the county of Columbia bounded westerly and northerly by the county of Albany, southerly by the north bounds of the city of Hudson, as far as to the first falls in Major Abrahams creek and from thence running east, and easterly by a line running from a place in the north line of the county of Columbia, ten miles distant from Hudsons river, due south until it strikes the said east line from the said falls, shall be and hereby is erected into a town by the name of Kinderhook.

Canaan.

And that all that part of the said county of Columbia, now called Kings district, bounded westerly by Kinderhook, northerly by the county

of Albany, easterly by the east bounds of this State, and southerly by the said east line from the first falls in Major Abraham's creek aforesaid, continued to the east bounds of this State, shall be and hereby is erected into a town, by the name of Canaan.

And that all that part of the said county of Columbia, bounded southerly by the manor of Livingston, westerly by the city of Hudson, northerly by Kinderhook, and easterly by a line beginning at the southeast corner of Kinderhook, and running thence south fourteen degrees west to the manor of Livingston, shall be and hereby is erected into a town, by the name of Claverack.

And that all that part of the said county of Columbia, bounded westerly by Claverack, northerly by Canaan, easterly by the east bounds of this State, and southerly by the manor of Livingston and the north line thereof, continued to the east bounds of this State, shall be and hereby is erected into a town, by the name of Hillsdale.

And that all that part of the said county of Columbia, beginning on the south side of the mouth of a certain river, commonly called Roeloff Jansew's kill, and running thence along the south side of the said river easterly until it comes to the tract of land heretofore granted to Derick Wessels, lying on both sides of the said river, thence along the westerly, northerly and easterly bounds of the said tract until it again comes to the said river, and then along the south side of the said river until it strikes the farm now in the occupation of Marcus Platner and Jacob Heermanse, and then along the westerly, northerly and easterly part of the same farm, to the south side of the said creek or river, and then along the southerly side thereof, to the south bend thereof where it meets with the north line of the county of Dutchess, and thence westerly, along the line of the county of Dutchess, to Hudson's river, and then northerly up along Hudsons river to the place of beginning shall be and hereby is erected into a town, by the name of Clermont; excepting thereout the tract of country called the German or East-Camp.

And that all that part of the said county of Columbia commonly called and known by the name of the German or East Camp, shall be and hereby is erected into a town by the name of German Town.

And that all the remaining part of the said county of Columbia, shall be and hereby is erected into a town by the name of Livingston.

And that all that part of the county of Albany, bounded southerly by the county of Columbia, westerly by Hudsons river, including such of the islands in the same river as are nearest the east side thereof, and northerly by the north bounds of the manor of Rensselaerwyck, and easterly by a line beginning in the same north bounds, at a place nine miles distant from Hudsons river, and running from thence southerly to the northeast corner of Kinderhook in the county of Columbia, shall be and hereby is erected into a town, by the name of Rensselaerwyck.

And that all that part of the said county of Albany, bounded easterly by the east bounds of this State, southerly by the county of Columbia, westerly by the said town of Rensselaerwyck, and northerly by the north bounds of the said manor of Rensselaerwyck, shall be and hereby is erected into a town, by the name of Stephen Town.

And that all that part of the said county of Albany, bounded southerly by the said town of Rensselaerwyck, westerly by Hudson's river, northerly by a line beginning at the mouth of Lewis's creek or kill, and running from thence south eighty four degrees east to Hosick river, and easterly and southeasterly by a line running from thence down along Hosick river, as it runs, to the place where Toll's bridge formerly stood, and then due south to the road leading from St. Hoick to Albany, and

then along the same road to the north bounds of Rensselaerwyck, shall be and hereby is erected into a town, by the name of Schactekoke.

Pittstown.

And that all that part of the said county of Albany, bounded southerly by Rensselaerwyck and Stephen Town, westerly by Schactekoke, northerly by Schactekoke and Cambridge, and easterly by a line beginning at the distance of ten miles east from Hudson's river, on the north line of Schactekoke continued east, and running from thence to a place in the north bounds of Stephen Town, at the distance of thirteen miles from Hudson's river, shall be and hereby is erected into a town by the name of Pitt's Town.

Hosick.

And that all that part of the said county of Albany, bounded easterly by the east bounds of this State, southerly by Stephen Town, westerly by Pitts Town and northerly by the north line of Schactekoke and Pitts Town continued to the east bounds of this State, shall be and hereby is erected into a town, by the name of Hosick.

Cambridge.

And that all that part of the said county of Albany, bounded northerly by the county of Washington, easterly by the east bounds of this State, southerly by Hosick, Pitts Town and Schactekoke, and westerly by the east bounds of Saraghtoga Patent, shall be and hereby is erected into a town, by the name of Cambridge.

Stillwater.

And that all that part of the said county of Albany, bounded easterly by Cambridge, southerly by Schactekoke and Anthonys Kill and a line from that part of the said Kill where it comes out of the Round lake to the south east corner of Balls Town, westerly by Balls Town and a north line from the north east corner thereof, and northerly on the west side of Hudson's river by the north bounds of lot number seventeen in Saraghtoga Patent, continued to the said north line from the north east corner of Balls Town, and on the east side of Hudson's river by a line beginning in the middle of lot number thirty eight in Saraghtoga Patent on Hudson's river, and running easterly parallel to the south bounds of the same lot to Cambridge, shall be and hereby is erected into a town by the name of Stillwater.

Saraghtoga.

And that all that part of the said county of Albany, bounded northerly by the county of Washington, easterly by Cambridge, southerly by Stillwater, and westerly by a north line from the north east corner of Ballstown, continued to the county of Washington, shall be and hereby is erected into a town by the name of Saraghtoga.

Balls Town.

And that all that part of the said county of Albany, bounded westerly by the county of Montgomery, northerly by the county of Washington, easterly by Saraghtoga and Stillwater, and southerly by the south bounds of Balls Town, and a line from the southwest corner thereof, continued west to the county of Montgomery, shall be and hereby is erected into a town, by the name of Balls Town.

Halfmoon.

And that all that part of the said county of Albany, bounded northerly by Stillwater and Balls Town, easterly by Schactekoke, southerly by the middle of the Mohawk river, and its most northerly branch, and westerly by the west bounds of the patent granted to William Apple, and the Long lake, shall be and hereby is erected into a town, by the name of Halfmoon.

Schenectady.

And that all that part of the said county of Albany, bounded northerly by Balls Town, easterly by Half Moon and Water Vliet, southerly by the north bounds of the manor of Rensselaerwyck, and westerly by the county of Montgomery, and a line running from that part of the Mohawk river where the line of the county of Montgomery comes to the said river, south to the manor of Rensselaerwyck, including all that tract of

land called Corey's Brook, shall be and hereby is erected into a town, by the name of Schenectady.

Water Vliet.

And that all that part of the said county of Albany, bounded easterly by Hudson's River, including the islands in the same lying nearest the west side thereof, northerly by Halfmoon and by a line from the southwest corner of Halfmoon, south, to the lands granted to John Schuyler, and then along the western bounds thereof, to the north bounds of the manor of Rensselaerwyck, and then to the northwest corner of the said manor westerly by the west bounds of the same manor and southerly by the north line of the county of Columbia, continued to the west bounds of the same manor, except the city of Albany, shall be and hereby is erected into a town by the name of Water Vliet.

Schoharie.

And that all that part of the said county of Albany bounded westerly and northerly by the county of Montgomery, easterly by Schenectady and Water Vliet, and southerly by a tract of land called the township of Blenheim, and a line running from the north east corner thereof, east to Water Vliet, shall be and hereby is erected into a town, by the name of Schoharie.

Coxsackie.

And that all that part of the said county of Albany, bounded westerly by the counties of Montgomery and Ulster, northerly by Schoharie and Water Vliet, easterly by the county of Columbia, and southerly by a line beginning at the south bank of the mouth of the Murderers Kill at Lunenburg, and running from thence north eighty degrees west to the county of Ulster, shall be and hereby is erected into a town, by the name of Coxsackie.

Catskill.

And that all that part of the said county of Albany, bounded northerly by Coxsackie, easterly by the county of Columbia, and southerly by the county of Ulster, shall be and hereby is erected into a town, by the name of Cats-Kill.

Washington county; Argyle.

And that all that part of the county of Washington, bounded southerly by the county of Albany, westerly by Hudson's river, northerly by a tract of land called Kingsbury, and a tract of land called the Provincial Patent, and easterly by the east bounds of a tract of land called the township of Argyle, shall be and hereby is erected into a town, by the name of Argyle.

Salem.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by the county of Albany, westerly by Argyle, and northerly by the north bounds of a tract of land called Turner's Patent, and a line running from the northeast corner thereof, east to the east bounds of the said county of Washington, shall be and hereby is erected into a town, by the name of Salem.

Hebron.

And that all that part of the said county of Washington bounded easterly by the east bounds of the said county of Washington, southerly by Salem aforesaid, westerly by Argyle and the said tract of land called the Provincial Patent, and northerly by an east and west line run from the southeast corner of a tract of land formerly granted to Lieutenant Byrn, shall be and hereby is erected into a town, by the name of Hebron.

Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by Hebron aforesaid, westerly by the said tract called the Provincial Patent and a tract of land called the artillery Patent, and northerly by a tract of land heretofore called Skeensborough, and a line running east from the southeast corner thereof to the east bounds of the said county of Washington, shall be and hereby is erected into a town, by the name of Granville.

**Hampton.** And that all that part of the said county of Washington, bounded easterly by the east bounds of the said county of Washington, southerly by Granville aforesaid, westerly by the said tract of land heretofore called Skeensborough, and a line running from the northeast corner thereof north east to the north bounds of the said county of Washington, and northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town, by the name of Hampton.

**Whitehall.** And that all that part of the said county of Washington, bounded easterly by Hampton, southerly by the south bounds of the tract of land heretofore called Skeensborough, westerly by the west bounds of the said tract, and the waters of South Bay, and northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town, by the name of Whitehall.

**Kingsbury.** And that all that part of the said county of Washington, bounded easterly by the said tract of land called the Provincial Patent, southerly by Argyle and Hudsons river, westerly by the west bounds of a tract of land called Kingsbury, and northerly by the north bounds of the said tract of land called Kingsbury, shall be and hereby is erected into a town, by the name of Kingsbury.

**Westfield.** And that all that part of the said county of Washington, bounded southerly by Kingsbury, easterly by Hebron, Granville and Whitehall, northerly by Whitehall and the north bounds of the said county of Washington, and easterly by Lake George, shall be and hereby is erected into a town, by the name of Westfield.

**Queensbury.** And that all that part of the said county of Washington, bounded easterly by West Field and Kingsbury, southerly by the county of Albany, westerly by the county of Montgomery, northerly by the north bounds of the said county of Washington, shall be and hereby is erected into a town, by the name of Queensbury.

**Clinton county; Crown Point.** And that all that part of the county of Clinton, bounded southerly by the south bounds of the said county of Clinton, northerly by the south line of Judd's patent continued westerly to the county of Montgomery and easterly to the east bounds of the county of Clinton; easterly by the east bounds of the county of Clinton, and westerly by the county of Montgomery, shall be and hereby is erected into a town, by the name of Crown Point.

**Willsborough.** And that all that part of the county of Clinton bounded on the south by the town of Crown Point on the north by the south line of a patent (which including the river a Sable at its mouth) continuing westward to the county of Montgomery and eastward to the east bounds of the county of Clinton; easterly by the east bounds of the county of Clinton and westerly by the county of Montgomery, shall be and hereby is erected into a town by the name of Willsborough.

**Plattsburgh.** And that all that part of the county of Clinton, bounded on the south by the town of Willsborough, on the north by the north line of a patent granted to William Beekman and others, continued westward to the county of Montgomery, and eastward to the east bounds of the county of Clinton; easterly by the east bounds of the county of Clinton, and westerly by the county of Montgomery, shall be and hereby is erected into a town, by the name of Plattsburgh.

**Champlain.** And that all that part of the county of Clinton, laying to the northward of the town of Plattsburgh, south of the north bounds of this State, west of the east bounds of the county of Clinton and east of the county of Montgomery, shall be and hereby is erected into a town, by the name of Champlain.

And that all that part of the county of Montgomery, bounded northerly by the north bounds of this State, easterly by the counties of Clinton, Washington and Albany, southerly by the Mohawk river, and westerly by a line running from the hill called Anthony's nose, north to the north bounds of this State, shall be and hereby is erected into a town by the name of Caughnawaga. Montgomery county; Caughnawaga.

And that all that part of the said county of Montgomery, bounded northerly by the north bounds of this State, easterly by Caughnawaga, southerly by the Mohawk river, and westerly by a line running from the little falls in the Mohawk river, north, to the north bounds of this State, shall be and hereby is erected into a town, by the name of Palatine. Palatine.

And that all that part of the said county of Montgomery, bounded northerly by the north bounds of this State, easterly by Palatine, southerly by the Mohawk river, and westerly by a north and south line running across the Mohawk river at the fording place near the house of William Cunningham, leaving the same house to the west of the same line, shall be and hereby is erected into a town, by the name of Herkimer. Herkimer.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk river, easterly and southerly by the county of Albany, and westerly by a line running from the hill called Anthony's nose, south, until it strikes the county of Albany, shall be and hereby is erected into a town, by the name of Mohawk. Mohawk.

And that all that part of the said county of Montgomery, between the Cookquago-Branch of Delaware river and the branch of the Susquehanna river called Adigitange, beginning at a rock maple tree marked on four sides with a blaze and three notches, and with the letters and figures A. C. 1768. standing on a high point of land at the south side of a small lake called by the Indians Utsayantho, from whence the said branches of the Delaware called by the Indians Cookquago issues, and running from thence, north thirty degrees west to the said Adigitange, and thence down the same, and the Susquehanna to the bounds of Pennsylvania, and east along the same to the river Delaware, and then up the same river to the place of beginning, shall be and hereby is erected into a town, by the name of Harpersfield. Harpersfield.

And that all that part of the said county of Montgomery, beginning at the head water of the lake Otsego in the patent commonly called the Otsego patent granted to George Croghan and others, and running from thence along the northerly bounds of the said patent to the northwest corner thereof, thence extending westerly to the river Tienaderha, so as to include the patent granted to William and Robert Edmiston, thence down the said river to its junction with the Susquehanna river, and then up the said river to the place of beginning, shall be and hereby is erected into a town, by the name of Otsego. Otsego.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk river, easterly by the town of Mohawk, and the county of Albany, southerly by Harpersfield, and westerly by the river Susquehanna and the lake Otsego, and a line from the head water thereof to the little falls in the Mohawk river, shall be, and hereby is erected into a town, by the name of Canajoharie. Canajoharie.

And that all that part of the said county of Montgomery, bounded northerly by the Mohawk river, easterly by Canajoharie, southerly by Otsego, and westerly by the western line of the town of Herkimer, continued south to the said town of Otsego, shall be and hereby is erected into a town, by the name of German Flatts. German Flatts.

And that all the remaining part of the said county of Montgomery, shall be and hereby is erected into a town, by the name of White's Town.

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Effect of act.

And be it further enacted by the authority aforesaid, That none of the bounds or lines by this act assigned for the limits of any or either of the said towns, shall be deemed to take away, abridge, destroy or affect, the right or title of any person or persons, bodies politic or corporate, in any manner or by any means whatsoever, nor be deemed, taken or construed as a confirmation of the bounds, or the rights of any patent or patents whatsoever.

Intersected farms.

And be it further enacted by the authority aforesaid, That where any line of any of the said towns shall intersect a farm, the possessor of such farm shall pay all his taxes for such farm in the town where his dwelling house shall be.

North and South Hempstead

And be it further enacted by the authority aforesaid, That the inhabitants of South Hempstead shall have and enjoy the right of oystering, fishing and clamming, in the creeks, bays, and harbours of North Hempstead; and the inhabitants of North Hempstead shall have and enjoy the like rights and privileges in the creeks bays and harbours of South Hempstead.

Poor in Goshen, etc.

And be it further enacted by the authority aforesaid, That the poor now belonging to the precinct of Goshen, and all persons now entitled to a settlement therein, and who shall become poor, shall be supported and maintained at the joint expence of the said towns of Goshen, Warwick and Minisink, in the same proportion as the necessary and contingent charges of the county, shall from time to time be laid upon the same towns respectively, and that all the bridges which are now by law directed to be made and maintained at the joint expence of the inhabitants of the precincts of Goshen and Cornwall, shall continue to be made, repaired and maintained by the inhabitants of the said towns of New Cornwall, Goshen, Warwick and Minisink, in the same manner as if this act had not been made.

Poor in Cortlandt, etc.

And be it further enacted by the authority aforesaid, That such poor persons as are now maintained by the inhabitants of the manor of Cortlandt and manor of Philipsburgh, shall be distributed within twenty days after this act shall take effect; those of the said manor of Cortlandt, to and among the towns of Cortlandt, York town, and Stephen-town; and those of Philipsburgh, to and among the towns of Greenburgh and Mountpleasant, in such equitable manner as Ebenezer Purdy, Jonathan G. Tompkins and Ebenezer Lockwood, or any two of them, shall, by writing under their hands, or the hands of any two of them, order and direct; and that after such distribution, the inhabitants of the said towns shall respectively maintain such of the said poor persons as shall be so as aforesaid to them respectively assigned; and that until such distribution shall be so as aforesaid made, the said poor persons shall be kept and maintained in the same manner, as if this act had never been made.

Town meetings.

And be it further enacted by the authority aforesaid, That the freeholders and inhabitants of each and every of the said towns, for the time being respectively, who are or shall be qualified by law to vote at town meetings, shall forever hereafter have full power and authority and they are hereby directed and required, to assemble together and hold town meetings in their respective towns, on the first Tuesday in April in every year, and then and there to elect and chuse one supervisor, one town clerk, not less than three, nor more than seven assessors, one or more collectors, each of whom shall be liable only for the monies which they are respectively directed to, collect in such parts of the town, as shall be assigned to them by the supervisor, two overseers of the poor, and three commissioners of highways, for the same town, each of whom

shall be a freeholder and inhabitant of the same town; and so many constables, overseers of the highways, fence viewers, and pound masters for the same town, being inhabitants of the same town, as to the freeholders and inhabitants of said town so met or the major part of them, shall seem necessary and convenient; which said several officers shall hold their respective offices for one year, and until others shall be chosen in their places: And in case any of the officers so chosen in any such town, shall refuse to serve, or die or remove out of the town, or become incapable of serving, before the next annual town meeting, then and in every such case it shall and may be lawful to and for the freeholders and inhabitants of such town, from time to time, when it shall be necessary, to elect and chuse another or others in the room of such of them so refusing to serve or dying, removing or becoming incapable of serving, and to assemble together and hold town meetings for that purpose: And the town clerk of each town respectively, upon notice of any such refusal, removal, incapacity or death, or in case of any vacancy of the office of town clerk, then any justice of the peace in the same county, upon notice thereof, and request to him, by any freeholder of the same town, is hereby required to give notice in the manner herein after mentioned, of a town meeting in the same town, for the purpose aforesaid.

And be it further enacted by the authority aforesaid, That the first town meeting in each of the said towns, after this act shall take effect, shall be held at the place in each respective town where such meeting in the same district ought to have been held, if this act had not been made; and where there is no such place, or more than one such place, in any town, then at such place as the justices of the peace residing in such town, or the major part of them, shall direct and appoint. And that all town meetings thereafter to be held in each respective town, shall be held at such place in each town respectively, as the freeholders and inhabitants of such town, at their town meeting shall from time to time direct and appoint.

And be it further enacted by the authority aforesaid, That the freeholders and inhabitants of the city of Albany, shall and may, and they are hereby required, yearly and every year, on the first Tuesday in May, to elect and chuse one supervisor, two assessors, one collector and one overseer of the poor, being freeholders and inhabitants of the said city, and two constables, being inhabitants of the same city, in each of the wards of the said city. And further, that the freemen of the city of Hudson, being inhabitants thereof, shall and may and they are hereby required, yearly and every year, at their annual election of officers within the said city of Hudson, to elect and chuse one supervisor and such number of assessors, collectors, constables and overseers of the poor, of the same city, as the common council for the same city, shall from time to time deem necessary, and direct to be chosen.

And be it further enacted by the authority aforesaid, That if any or either of the said cities, towns or places, shall neglect to chuse such officers as aforesaid, or any or either of them, or in case any or either of the officers so chosen, in and for any city, town or place aforesaid, shall refuse to serve, or die or remove out of the city, town or place, for which he shall be chosen, or become incapable of serving, before the next annual town meeting, or election, after he shall be chosen, and the city, town or place, for which he was chosen, shall not, within fifteen days next after such refusal, death, removal or incapacity happens, chuse another in the room of such person so refusing to serve, or dying, or removing or becoming incapable of serving, then and in every such case it shall and may be lawful, for any three of the justices of the peace in

Ward officers, Albany city.

Id.; Hudson city.

Vacancies.

the same county, residing in such city, or in or near to such town, and they are hereby required, to nominate and, by warrant under their hands and seals, to appoint, all and every such officers as aforesaid, as the freeholders and inhabitants of the same city, town or place, ought to have chosen as aforesaid; and each and every of the said officers so appointed, shall hold his office for so long time, and have the same powers, and be liable to the same penalties, as if he had been elected to the same office by the freeholders and inhabitants of such city, town or place.

Oaths of office.

And be it further enacted by the authority aforesaid, That each and every supervisor, town clerk, assessor, commissioner of highways, overseer of the poor, and constable, hereafter to be elected or appointed, shall, before he enters upon the execution of his office, and within eight days after such election, or appointment, take and subscribe an oath, before some justice of the peace, in the form herein after prescribed for such officers respectively to take, that is to say, every supervisor shall take and subscribe an oath in the following form, to wit "I do solemnly and sincerely promise and swear, that I will in all things, to the best of my knowledge and ability, faithfully and impartially execute and perform the trust reposed in me as supervisor of the (here insert the name of the place) in the county of (here insert the name of the county) and that I will not pass any account or any article thereof wherewith I shall think the said county is not justly chargeable, nor will I disallow any account or any article thereof, wherewith I shall think the said county is justly chargeable." And every town clerk shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear, that I will faithfully and honestly keep all the books, records, writings and papers, by virtue of my said office of town clerk committed, and which shall from time to time be committed, unto me; and in all things to the best of my knowledge and understanding, well and faithfully perform the duties of my said office of town clerk without favour or partiality." And every assessor shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear, that I will honestly and impartially assess the several persons and estates, within the (here insert the name of the place) in the county of (here insert the name of the county); and that in making such assessments, I will, to the best of my knowledge and judgment, observe the directions of the several laws of this State, directing and requiring such assessments to be made." And every commissioner of highways shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear, that I will in all things, to the best of my knowledge and understanding, well and faithfully execute the trust reposed in me as a commissioner of highways, for (here insert the name of the town and county) without favour or partiality." And every overseer of the poor, and constable, shall take and subscribe an oath in the following form, to wit, "I do solemnly and sincerely promise and swear, that I will in all things to the best of my knowledge and ability, well and faithfully execute and perform the trust reposed in me as an overseer of the poor, or constable, (as the case may be) of the (here insert the name of the place) in the county of (here insert the name of the county)." And further, that every justice of the peace, before whom such oath shall be taken and subscribed as aforesaid, shall, without fee or reward, certify under the same writing, the day and year when the same oath was taken, and subscribe his name thereto, and then deliver the same writing to the person taking the same oath, who shall,

within eight days thereafter, transmit or deliver the same to the clerk of the town for which such officer so taking such oath was elected or appointed. And if any supervisor, assessor, commissioner of highways, overseer of the poor or constable of any town, shall not take and subscribe such oath as aforesaid, and transmit, or deliver the same to the town clerk as aforesaid, within the time hereby limited, or if any collector or constable, shall not give such security as is by law required, within the time for that purpose limited, then and in every such case, such neglect shall be deemed a refusal to serve in such office; and the town in which such officer was chosen, may thereupon proceed to a new choice.

And be it further enacted by the authority aforesaid, That if any person hereafter chosen or appointed a supervisor, town clerk, assessor, collector, commissioner of highways, overseer of the poor or constable as aforesaid, shall refuse to take upon him, or to serve in such office, or if any such supervisor, town clerk, assessor, commissioner of highways or overseer of the poor, shall proceed in the execution of such office, before he shall have taken and subscribed such oath as aforesaid, or if any such collector or constable shall proceed in the execution of his office, before he shall have given such security, as is or shall be required by law, then and in every such case, every person so neglecting or refusing, or doing, shall forfeit to the people of this State, the sum of twenty five pounds, to be recovered, by action of debt, bill, plaint or information, in any court of record; and the attorney general of this State for the time being, is hereby directed and required to sue and prosecute for all such penalties and forfeitures, and to pay the same when recovered to the treasurer of this State, for the use of the people of this State. And in every such action, suit or information, it shall be sufficient to set forth, that the defendant, at a certain time and place became indebted to the people of the State of New York, in the sum of twenty five pounds as a forfeiture incurred, by reason that the defendant, having been elected or appointed (as the case may be) a supervisor, town clerk, assessor, collector, commissioner of highways, overseer of the poor, or constable, as the case may be, did refuse to take upon him and to serve in his said office, or did proceed in the execution of his said office, without taking and subscribing the oath by law required, or without giving the security by law required, as the case may be, contrary to the form of the "act for dividing the counties of this State into towns," to be paid to the people of the State of New York aforesaid, when he should be thereunto afterwards required; and to give the special matter in evidence.

Penalty for officer acting before taking oath or giving bond.

And be it further enacted by the authority aforesaid, That if any person hereafter chosen or appointed an overseer of the highways, fence viewer or pound master, shall neglect or refuse to take upon him the said office, then and in every such case, such person so neglecting or refusing, shall forfeit and pay the sum of five pounds, to be recovered, with costs, before any justice of the peace, by action of debt; the one moiety thereof to the use of the poor of the town for which such officer was chosen or appointed, and the other moiety thereof, with the costs of suit, to the use of any person who shall prosecute for the same to effect.

Penalty for refusal of certain officers.

And be it further enacted by the authority aforesaid, That upon the death or expiration of the office of the town clerk of any town, all the records, books, writings and papers, belonging to the same office, shall be delivered to the successor in office, upon the oath of the preceding town clerk, or in case of his death, upon the oath of his executors, or administrators; and if any such preceding town clerk or his

Town clerk's office, transfer of.

executors or administrators, shall refuse or neglect to deliver the same upon oath as aforesaid, being lawfully demanded, every such person shall forfeit to the people of this State, for every such refusal or neglect, the sum of one hundred pounds, to be recovered, by action of debt, bill, plaint or information, in any court of record; and the attorney general of this State for the time being, is hereby directed and required, to sue for such forfeiture, and to pay the same when recovered to the treasurer of this State, for the use of the people of this State. And in every such action, suit or information, it shall be sufficient to set forth, that the defendant, on the day such demand was made, became indebted to the people of the State of New York, in the sum of one hundred pounds, as a forfeiture, incurred by reason that the defendant did neglect and refuse to deliver to the succeeding town clerk, the records, books, writings and papers belonging to the same office, contrary to the form of the "Act for dividing the counties of this State into towns;" to be paid to the people of the State of New York, when he should be thereunto required; and to give the special matter in evidence.

Powers of town meetings.

And be it further enacted by the authority aforesaid: That the freeholders and inhabitants of each and every of the said towns, shall be, and are hereby authorized and empowered, at their respective annual town meetings, or any other town meeting, held for that purpose in their respective towns, from time to time, to make, establish constitute and ordain such prudential rules, orders and regulations, as the majority of the freeholders and inhabitants of such towns respectively, so assembled at their respective town meetings, and having a right to vote there, shall from time to time, judge necessary and convenient, for the better improving of their common lands in tillage, pasturage or any other reasonable way; and for making maintaining and amending, their partition and circular fences, for their lands, gardens, orchards and meadows; and for ascertaining and directing the use and management, and the times and manner of using their common lands and meadows, and other commons; and the times, places and manner of permitting or preventing, cattle, horses, sheep and swine, or any of them, to go at large; and for impounding all manner of cattle, and creatures whatsoever; and for ascertaining the sufficiency of all partition and other fences; and for making, and maintaining such and so many pounds, and at such places, as may be necessary and convenient; and for ascertaining and limiting the fees to be taken by the fence viewers respectively; and to impose such penalties on the offenders against such rules, orders and regulations, or any or either of them, as the majority of such freeholders and inhabitants, so assembled, shall, from time to time, deem proper, not exceeding five pounds for each offence, to be recovered with costs, of suit, by the supervisor, for the time being, of the town where the offence shall be committed, in the name of the supervisor of such town, for the use of the same town, by action of debt, before any justice of the peace, residing in any other town in the same county. And no such action shall be abated or discontinued by the death or expiration of the office of such supervisor, but may be continued and prosecuted to effect, by his successor in office. And all such penalties, when recovered, shall be applied and disposed of for the use of the town where such offence shall be committed, in such manner, and for such purposes, as the freeholders and inhabitants of the same town, where such offence shall be committed, at their town meetings, or the majority of them there assembled, from time to time, direct and appoint. And further, that all such rules, orders and regulations, so to be made

as aforesaid, in each town, shall be entered and recorded by the town clerk of the same town, in a book by him to be provided for that purpose, and shall remain and be in full force, until the same shall be revoked or altered, or new made, in the manner aforesaid: at some subsequent town meeting; all which alterations and new rules, orders and regulations, shall also from time to time be entered and recorded as aforesaid, and shall continue and be in force, until revoked, altered or new made as aforesaid.

And be it further enacted, by the authority aforesaid, That it shall and it may be lawful for the freeholders and inhabitants of each and every of the said towns, at their respective annual town meetings, or at any other town meeting held for that purpose, to make such provisions, and allow such rewards, for the destruction of wolves, wild cats, foxes, crows, black birds and other noxious wild animals and birds, and to direct such sum of money to be raised in such town for that purpose, and for prosecuting or defending the common rights of such town, as the major part of the said freeholders and inhabitants so assembled at any such town meeting shall deem necessary and proper; which money shall be raised and levied together with, and in the same manner, as the money raised in such town for the support of the poor, shall be raised and levied.

And be it further enacted by the authority aforesaid, That whenever it shall be necessary to hold a town meeting, in either of the said towns, for any of the purposes aforesaid; at any time between any of the said annual town meetings, due notice thereof shall be given, by the town clerk, in writing, under his hand, specifying the time, place and purposes, of such town meeting, and fixed up at four or more of the most public places in the same town; at least eight days before the time therein appointed for holding such town meeting. And the town clerk of each of the said towns, is hereby directed and required, to give such notice, whenever it shall be necessary to hold such town meeting, for electing any of the officers aforesaid in such town, or he shall be required to do so by any twelve or more freeholders of such town.

Special town meeting, horse-cult.

And be it further enacted by the authority aforesaid; That where the lands or meadow, of any two or more persons, shall join each other, each of them shall make and maintain a just proportion of the division or partition fence between them, except such persons as shall chuse to let their lands or meadows lay vacant and open; and in case any dispute shall arise concerning the part or proportion of the fence to be made and maintained by either party, the same shall be settled by the fence viewers of such place, where such lands or meadows shall be situated, or any two of them, whose decision shall be conclusive. And if any person shall neglect or refuse to make and maintain his or her part or proportion of such fence, or shall permit the same to be out of repair; every such person shall be liable to, and shall pay all and every such damages as shall accrue to his or her neighbour or neighbours thereby, to be appraised and ascertained by the fence viewers of the same place, or any two of them, not interested therein, being first sworn well and truly, and without any favour or partiality, to appraise and ascertain the true and real value of such damages, according to the best of their knowledge, skill and judgment; and to be recovered, with costs, in any court having cognizance of the same: And in case the party so neglecting or refusing, shall continue such neglect or refusal for the space of one month, after notice and request to make or repair such fence, then and in every such case, it shall be lawful for the party injured or aggrieved thereby, to make or repair all the said fence at the expence of

Division fences.

the party so neglecting or refusing, to be recovered with costs of suit, in any court having cognizance of the same. And in case any person or persons, who shall have made his, her or their proportion of any such fence, shall conclude or be disposed to throw up, his, her or their said lands or meadow, for common feeding, or to let the same lay open, he, she or they, shall give three months notice thereof, to the person or persons in possession of the lands or meadow adjoining; and if such fence shall be removed, without giving such notice, or before the expiration of the said three months, then and in every such case, the person or persons so removing, or causing such fence to be removed, shall be liable to make good all such damages, as the party injured and aggrieved by such removal, shall sustain thereby, to be recovered, as aforesaid with costs.

And whereas in some parts of this State, the fences inclosing meadow and low land, are frequently injured, destroyed or carried away, by floods or high tides, which generally happen in the spring of the year, and the owners of such meadow or low land lose a great part of the profits thereof for the whole year, unless the said fence be speedily repaired, or new made. Therefore,

Be it further enacted by the authority aforesaid, That in all cases where any such partition fence shall be so injured, destroyed or carried away, every person who ought by law to make or repair the same, shall make or repair the same, or his or her just proportion thereof, within ten days after he or she shall be thereunto required, by any person interested therein; and if any person shall refuse or neglect, to make or repair his or her proportion of such fence, for the space of ten days after such request as aforesaid, then and in every such case, it shall be lawful for the party injured or aggrieved thereby, to make or repair all the said fence, at the expence of the party so neglecting or refusing; and he or she shall and may recover the same, with costs, in any court having cognizance thereof.

And be it further enacted by the authority aforesaid, That when any distress shall be made of any beasts doing damage, the person distraining, shall, as soon as conveniently may be, and within twenty four hours thereafter, make application to the two nearest fence viewers in the same town, to appraise and ascertain the damage, who shall immediately thereupon go to the place where such damages shall be committed, and view the damage done, and appraise, ascertain and certify under their hands, the amount thereof, with their fees for the same, being first sworn well and truly, and without any favour or partiality, to appraise the true and real amount of such damage, according to the best of their knowledge, skill and judgment; and if any dispute shall arise concerning the sufficiency of the fence, it shall be determined by the same fence viewers, whose decision shall be conclusive; and the person making the distress, shall, as soon as he shall think proper, and within forty eight hours after making such distress, unless the damage shall be sooner paid, cause the beasts so distrained to be put in the nearest pound in the same county, where they shall remain until the sum so certified by the fence viewers, with the fees of the pound master, shall be paid, or the beasts so impounded be replevied.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for the common council for the time being, of the respective cities of New York, Albany and Hudson, to make such orders rules and regulations, for the making amending and maintaining the fences in the said cities respectively, as well partition fences as others, as they shall from time to time judge most proper and convenient.

Distress of trespassing beasts.

Fences in cities.

And be it further enacted by the authority aforesaid, That there shall be made and kept one good and sufficient pound in each city and town of this State, and that it shall and may be lawful for the common council of the respective cities of New York, Albany and Hudson, from time to time to appoint keepers of the pounds in their respective cities, who shall respectively hold their offices during the pleasure of the said common council; and that the said respective keepers of the said pounds, and the respective pound masters in each respective town, shall and may have, receive and take, for all beasts that shall be put into the pound of which he is keeper or master, the following fees, to wit, for taking in and discharging every horse, gelding, mare or colt, and all neat cattle, one shilling each; and for every sheep or lamb three pence; and for every hog, shoat or pig six pence; which fees shall be paid to the said keeper or pound master, by the owner or owners of the beasts impounded, or some person or persons for him, her or them, before the said beasts shall be released or discharged from such pound, unless the keeper or master of such pound shall otherwise agree concerning the same. And if the owner of any beasts, impounded for doing damage, shall not pay the damage, and the fees of the keeper or master of the pound, with reasonable charges for keeping and feeding them, not exceeding three pence for each beast, for every twenty four hours, each such beast shall be impounded, or replevy the same beasts, then it shall and may be lawful for every such keeper or master of such pound, to sell such beasts, at public vendue, giving at least forty eight hours previous notice of such sale, by advertisement to be set up at the said pound, and at the nearest public place to the said pound; and out of the monies arising from such sale, to pay the said damage, and retain in his hands his fees and charges of feeding and keeping the same beasts, and of such sale; and return the overplus to the owner of the same beasts. And if no such owner shall appear and claim such overplus, within six calendar months after such sale, the same shall be paid to the overseers of the poor of the city or town, where such beasts were impounded, for the use of the poor of such city or town.

And be it further enacted by the authority aforesaid, That this act shall take effect and be in force from and after the first day of April in the year of our Lord one thousand seven hundred and eighty nine, except with respect to the county of West Chester; and that with respect to the said county it shall take effect within twenty days after the passing thereof.

When act to take effect.

## CHAP. 65.

AN ACT for defraying the public and necessary charge in the respective counties of this State.

PASSED the 7th of March, 1788.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the assessors of each respective city, town and place in every county of this State, shall yearly and every year, as soon as conveniently may be after they are chosen and qualified, proceed to enquire into the value of the real and personal estate of every freeholder and inhabitant within the city town or place, whereof they are assessors, and shall make

Assessments, how made.