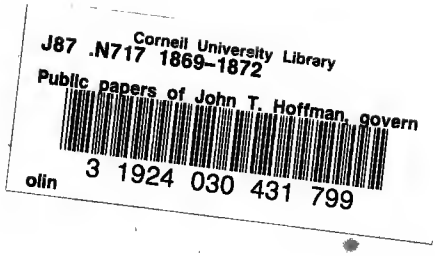
J
87
M717
1865-
1875


Cornell University Library
J87 .N717 1869-1872
Public papers of John T. Hoffman, govern
olin
3 1924 030 431 799

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.

http://www.archive.org/details/cu31924030431799

Very truly yours
John N. Hoffman

PUBLIC PAPERS

OF

JOHN T. HOFFMAN,

GOVERNOR OF NEW YORK.

1869-70-71-72.

ALBANY, N. Y.:
J MUNSELL, 82 STATE STREET.
1872.

MESSAGES

OF

GOVERNOR HOFFMAN.

1869-72.

ANNUAL MESSAGE.

EXECUTIVE CHAMBER,
ALBANY, *January* 5, 1869.

TO THE LEGISLATURE:

Having been elected to the highest office in the gift of the people of the State, I have taken the oath required by the Constitution, impressed with a due sense of my responsibilities, yet indulging the confident hope that by the blessing and favor of Almighty God, who disposes all things, I shall be able so to discharge my duties as to command the approval of my constituents and to promote the welfare of the State. I am not unaware of the embarrassments which surround me. I am here to administer and to execute important public trusts; to reconcile and adjust conflicting interests as great as they are varied; to overcome or moderate sectional prejudices and jealousies which may exist within our own territory; to preserve public order; to protect the public works; to endeavor to reduce expenditures, taxation and debt; and to assert and maintain the rights of the State and defend the interests of its citizens.

The fact that neither branch of the Legislature is in political sympathy with the Executive may seem to be an obstacle in the way of the accomplishment of these ends. Relying, however, upon your intelligence and patriotism, trusting that you will rise, as I shall strive to do, above all party prejudices and differences, I am ready, with all the ability and energy I possess, to unite with you, as I trust you will unite with me, in every effort to secure to those whose re-

presentatives we are, the blessings of an economical, a prudent and a wise government. We cannot be unmindful of the greatness of our State, and the magnitude, variety and importance of its interests and resources. Containing, as it does, more than four millions of people, among whom are represented every nation and every creed; extending, as it does, from the ocean to the great inland lakes, over an area of more than fifty thousand square miles; it constitutes an empire in extent and population, which can not be well governed except by the exercise of the greatest moderation, wisdom and firmness on the part of the Legislature and the Executive.

The magnificent harbor which lies at our very gates invites to the metropolis of the State and of the whole country the trade and commerce of all foreign lands; while the great lakes upon our borders, and the canals and railroads which connect them with the ocean, bear onward to the same metropolis the vast and increasing products of our own western and northwestern States. Hence the unparalleled growth and progress of our great city, which including what may be properly called its suburbs, numbers more than one-third of the population, and pays more than one-half of the taxes of the State. How such a city can be best governed, how the apparently conflicting interests between it and other portions of the State can be justly harmonized, how the differences of sentiment and thought, political and social, between it and other sections can be adjusted, are problems of serious import. These and other grave questions, growing out of conflicting ideas, will continually present themselves. You are to determine what legislation shall be had with reference to our canals and railroads, our moneyed corporations, our schools and colleges, our asylums, prisons and charities, our great debt and heavy taxes, and to our varied population, differing not only in religious faith, but in views of moral and social obligations, customs and duties. The very magnitude of our territory and of the population within its limits admonishes us that upon these and other kindred subjects it is a necessity that we entertain none but broad and comprehensive ideas. Whatever may be our individual opinions to-day, the great majority of thoughtful men will sooner or later be forced to acknowledge that this great metropolitan State cannot be governed upon any merely provincial theories, or by the enforcement of any narrow-minded, sectional or illiberal policy; and that the masses of the people, while they will demand of their representatives economy in administration, perfect preservation of law and order, and certain protection to life and property, will also insist that in everything which relates to social, domestic and religious life

and the pursuit of personal welfare and enjoyment, there shall be no undue or unnecessary legislative or official interference. We must so act as to promote contentment, reconciliation and harmony, rather than to encourage dissension, alienation and division.

We must not favor legislation which creates, in the minds of a large number of law-abiding citizens, dissatisfaction with law and law-makers. All enactments should be, as far as possible, general in their application. All legislation should be for the whole people. It should be our aim so to conduct public affairs as to avoid those sectional jealousies from which have sprung suggestions that a division of the State might be desirable. State pride and State interests alike forbid such division. New York stands to-day the Empire State of the Union, and, if governed by wisdom, it has before it a career of ever-increasing greatness and prosperity.

There is no real conflict of interest between city and country. Agriculture and commerce together make our State great and prosperous. The merchant and the agriculturist are mutually dependent upon and interested in each other's welfare.

During the past year the agricultural interests of the State have been greatly favored by Providence. Our fields have yielded large harvests, for which the farmer has found a ready market and abundantly compensating prices. He does not feel at present the full weight of the burdens of taxation, and he rejoices in his prosperity. He knows, however, that these burdens must in the end be borne by country and city alike; that he cannot escape his share of them; and that at some time a season of disappointment and trial will come. He therefore unites in an admonition to all in authority that public resources must be husbanded; that no unjust or unnecessary taxes shall be imposed; and that, while in all public affairs a reasonable liberality is to be encouraged, extravagance and waste will be condemned. A large amount of invested capital has been declared by Congress exempt from the taxation which now oppresses nearly every interest in the country; those who bear no portion of the public burdens will never be active in opposing their increase. Some will be always ready to favor projects involving great outlays of public money in enterprises of real or supposed merit, but the great body of the people will not sanction any expenditures or appropriations, the necessity of which is not clearly apparent.

By the Constitution, the Executive is required "to communicate, by message to the Legislature, at every session, the condition of the State, and to recommend such matters to them as he shall judge expedient." I proceed to discharge this duty.

The following is a condensed statement in relation to the finances and indebtedness of the State.

RECEIPTS AND PAYMENTS.

General Fund.

Deficiency in the revenue on the 30th of September, 1867, two million eight hundred and sixty thousand five hundred and eighty-six dollars and thirty-eight cents,.....	$2,860,586 38
Payments of the year, ten million two hundred and eight thousand one hundred and ninety-eight dollars and forty-six cents,.....	10,208,198 46
	$13,068,784 84
Receipts, ten million one hundred and twelve thousand three hundred and thirty-one dollars and thirty cents, ...	10,112,331 30
Deficiency of the revenue on the 30th of September, 1868, two million nine hundred and fifty-six thousand four hundred and fifty-three dollars and fifty-four cents, ...	$2,956,453 54

NOTE—There was due at the close of the fiscal year from the City of New York, four million five hundred and thirty thousand and fourteen dollars and seventeen cents ($3,530,014 17), of which four million dollars ($4,000,000) has since been paid; making up the above deficiency, and leaving a large surplus.

GENERAL AND OTHER FUNDS.

Receipts of the year on account of all the funds, except the Canal and Free School Fund, sixteen million three thousand one hundred and seventy-eight dollars and fifty-three cents..		$16,003,178 53
Balance due the treasury on the 30th of September, 1867, three hundred and fifty thousand and nine dollars and fifty-eight cents,.....	$350,009 58	
Payments of the year, fourteen million nine hundred and four thousand six hundred and forty-seven dollars and fifty-four cents,	14,904,647 54	
		15,254,657 12
Balance in treasury on the 30th of September, 1868, seven hundred and forty-eight thousand five hundred and twenty-one dollars and forty-one cents, ...		$748,521 41

TAXES.

The State tax levied in 1868, was $5\frac{4}{5}$ mills, for the following purposes: For schools, $1\frac{1}{4}$ mill; for general purposes, $1\frac{1}{4}$ mill; for canals, $1\frac{11}{19\,5}$ mill; for Bounty Debt, $2\frac{1}{8}$ mills, and for the Whitehall and Plattsburgh Railroad, $\frac{1}{13}$ mill — total, ten million two hundred and forty-three thousand three hundred and seventeen dollars and one cent ($10,243,317.01). The State tax levied in 1867, amounted to twelve million six hundred and forty-seven thousand two hundred and eighteen dollars and seventy-one cents ($12,647,218.71).

STATE DEBT.

On the 30th September, 1867, the total funded debt was forty-eight million three hundred and sixty-seven thousand six hundred and eighty-two dollars and twenty-two cents ($48,367,682.22), classified as follows:

General Fund debt, five million six hundred and forty-two thousand six hundred and twenty-two dollars and twenty-two cents,	$5,642,622 22
Contingent, one hundred and thirty thousand dollars,	130,000 00
Canal, fifteen million seven hundred and thirty-three thousand and sixty dollars,	15,733,060 00
Bounty, twenty-six million eight hundred and sixty-two thousand dollars,	26,862,000 00
	$48,366,682 22

On the 30th September, 1868, the total funded debt was forty-four million nine hundred and sixty-eight thousand seven hundred and eighty-six dollars and forty cents ($44,968,786,40), classified as follows:

General Fund debt, four million seven hundred and seven thousand eight hundred and twenty-six dollars and forty cents,	$4,707,826 40
Contingent, sixty-eight thousand dollars,	68,000 00
Canal, fourteen million two hundred and forty-nine thousand nine hundred and sixty dollars	14,249,960 00
Bounty, twenty-five million nine hundred and forty-three thousand dollars,	25,943,000 00
	$44,968,786 40

The following statement shows the amount of the State debt on the 30th of September, 1868, after deducting the unapplied balances of the Sinking Funds at that date:

	Debt on the 30th September, 1868.	Balances of the Sinking Funds, Sept. 30, 1868.	Balance of debt after applying Sinking Funds.
General Fund,.....	$4,707,826 40	*$153,178 54	$4,554,647 86
Contingent,.....	68,000 00	15,517 82	52,482 18
Canal,...	14,249,960 00	4,017,232 43	10,232,727 57
Bounty, ...	25,943,000 00	†1,918,408 87	24,024,591 13
	$44,968,786 40	$6,104,337 66	$38,864,448 74

It appears from this statement that over six millions of dollars ($6,000,000), balances of Sinking Funds, have accumulated, applicable to the redemption of the debt, and that the net amount of the State's indebtedness at the end of the fiscal year was only thirty-eight million eight hundred and sixty-four thousand four hundred and forty-eight dollars and seventy-four cents ($38,864,448,74). The Sinking Funds, which there is no reason to suppose will be diminished, will, at their present rate of application, extinguish the whole debt within nine years.

CANALS.

The following statement will show the condition of the Canal Fund for the fiscal year.

Canal Fund.

Balance in the treasury and invested October 1, 1867, three million eight hundred and forty thousand nine hundred and thirty-five dollars and sixty-six cents,.....	$3,840,935 66
Received during the year ending 30th September, 1868, five million six hundred and eighty-one thousand two hundred and twenty-six dollars and eleven cents,.....	5,681,226 11
	$9,522,161 77
Paid during the year, four million eight hundred and twenty-three thousand two hundred and thirty-nine dollars and thirty-three cents,.....	4,823,239 33
Carried Forward,.....	$4,698,922 44

* Includes $350,000 due October 1, 1868, and since paid.

† Deducting interest accrued to October 1, 1868, payable January 1, 1869.

Leaving a balance 30th September, 1868, of four million six hundred and ninety-eight thousand nine hundred and twenty-two dollars and forty-four cents,	$4.698,922 44

Revenues and Expenditures for the Fiscal Year.

Statement of the revenues of the State canals, and the expenses of collection and ordinary repairs during the fiscal year ending 30th September, 1868:

Receipts.

Tolls, four million four hundred and seventeen thousand five hundred and fifty-nine dollars and fifty cents,	$4,417,559 50
Rent of surplus water, seven hundred and fifty dollars,	750 00
Interest on current revenues, thirty-two thousand seven hundred and ninety-one dollars and sixty-nine cents,	32,791 69
Miscellaneous receipts, twenty-six thousand four hundred and forty-four dollars and ninety-eight cents,	26,444 98
	$4,477,546 17

Payments

To Canal Commissioners for ordinary repairs, two hundred and forty-one thousand six hundred and forty-seven dollars and eighteen cents,	$241,647 18	
To contractors, for repairs, seven hundred and seventy-five thousand one hundred and eighteen dollars and seventy-four cents,	775,118 74	
To superintendents, for repairs, two hundred and ninety-one dollars and two cents,	291 02	
To collectors, for salaries, clerk hire, pay of inspectors and expenses of collectors' offices, seventy-six thousand sevenhundred and sixty-one dollars and eleven cents,	76,761 11	
Carried forward,	$1,093,818 05	$4,477,546 17

Brought forward,.....	$1,093,818 05	$4,477,546 17
To weighmasters, thirteen thousand three hundred and forty-seven dollars and seventy cents,	13,347 70	
For salaries chargeable to annual revenues, refunding tolls, printing and other miscellaneous payments, seventy-seven thousand and seventy-nine dollars and twenty-nine cents,.....	77,079 29	
		1,184,245 04
"Surplus revenues," three million two hundred and ninety-three thousand three hundred and one dollars and thirteen cents.....		$3,293,301 13

AMOUNTS SET APART BY ARTICLE VII OF THE CONSTITUTION, VIZ:

To Sinking Fund under section 1, one million seven hundred thousand dollars, ...	$1,700,000 00
To Sinking Fund under section 2, three hundred and fifty thousand dollars,.....	350,000 00
To Sinking Fund under section 3, one million one hundred and sixteen thousand two hundred and forty-two dollars and sixty-six cents,.....	1,116,242 66
For the support of Government under section 3, one hundred and twenty-seven thousand and fifty-eight dollars and forty-seven cents,.....	127,058 47
	$3,293,301 13

CANAL DEBT PAYING INTEREST 30TH SEPTEMBER, 1868.

	Principal.	Annual interest of.
Under article 7, section 1 of the Constitution, ...	$2,230,700 00	$111,535 00
Under article 7, section 3, of the Constitution, ...	10,324,100 00	619,196 00
Under article 7, section 12, of the Constitution,.....	1,685,000 00	101,100 00
	$14,239,800 00	$831,831 00

There are also ten thousand one hundred and sixty dollars ($10,160) of Canal debt, which sum is past due and does not now bear interest; this is included in my previous statement of Canal debt.

The aggregate balance of all the Sinking Funds applicable to the Canal debt in the treasury, and temporarily invested on the 30th of September, was four million and seventeen thousand two hundred and thirty-two dollars and forty-three cents ($4,017,232.43.) These Sinking funds are pledged for the payment of the interest and the redemption of the principal of the several debts and loans incurred under sections one, three and twelve, of article seven of the Constitution in the construction and enlargement of the canals. The application of the above balance to the several debts, for the payment of which these funds have been provided and set apart, would reduce the above outstanding indebtedness to the sum of ten million three hundred and seven thousand nine hundred and twenty-one dollars and twenty-four cents ($10,307,921.24), as will more fully appear from the following statement:

	Debt 30th September, 1868.	Bal'ce of Sinking Fund, 30th Sept. 1868, including temporary investments.	Balance of debt after applying Sink'g Funds.
Under art. 7, sec. 1, of the Constitution.	$2,240,860 00	$2,316,053 67	
Under art. 7, sec. 3, of the Constitution,	10,324,100 00	1,122,520 12	$9,201,579 88
Under art. 7, sec. 12, of the Constitution.	1,685,000 00	578,658 64	1,106,341 36
	$14,249,960 00	$4,017,232 43	$10,307,921 24

It will be seen from the last statement, which is made up by the Canal Department, that the total amount of Canal debt is seventy-five thousand one hundred and ninety-three dollars and sixty-seven cents ($75,193.67) in excess of the amount previously stated by me. The first statement is from the Comptroller's books. The explanation of this discrepancy is as follows:

The Canal debt, under section 1 of article 7 of the Constitution, is two million two hundred and forty thousand eight hundred and sixty dollars,.....	$2,240,860 00
The Sinking Fund is two million three hundred and sixteen thousand and fifty-three dollars and sixty-seven cents,.....	2,316,053 67
Excess of Sinking Fund over debt, seventy-five thousand one hundred and ninety-three dollars and sixty-seven cents, ...	$75,193 67

which the Comptroller has included in the Sinking Fund applicable to the payment of the residue of the Canal debt, and which the Auditor does not include.

The amount carried to the Sinking Fund under section one, is fully sufficient to pay the balance due on the debt originally incurred for the construction of the canals, and known as the Canal debt of 1846. The extinguishment of this debt makes a further annual appropriation of one million seven hundred thousand dollars (1,700,000) no longer necessary, and enables the Legislature to apply the surplus revenues to the immediate payment of the General Fund Debt and enlargement loans, in accordance with the provisions of sections two and three, of article seven of the Constitution.

The Auditor of the Canal Department reports, that the balance due on the General Fund debt for the payment of which the canal revenues are chargeable, is four million five hundred and fifty-four thousand six hundred and forty-seven dollars and eighty-six cents ($4,554,647 86). The annual appropriation of one million five hundred thousand dollars ($1,500,000) hereafter required by said section two, will be sufficient to pay the principal and accruing interest of this debt in less than four years. The debt contracted by virtue of the provisions of said section three, for the enlargement and completion of the canals, amounting, on the thirtieth of September last, to ten million three hundred and twenty-four thousand one hundred dollars ($10,324,100), matures on an average in less than six years. To supply the Sinking Fund with the means to pay the interest and redeem the principal of this debt as it falls due, will require an annual appropriation of two million three hundred and forty thousand dollars ($2,340,000). Funds have been provided for the payment of all outstanding claims and liabilities against the State, except such as may have arisen during the last year for awards made by the Canal Appraisers for lands appropriated or occupied

for public purposes. The amount of business transacted upon the canals, their general condition, management and supervision, compare favorably with any previous season. Their revenues have been nearly half a million in excess of those of 1867, while their current expenses, for care, superintendence, and ordinary repairs, have been over two hundred thousand dollars less than the annual average for the four preceding years.

It affords me great pleasure to congratulate the Legislature and the people of the State upon the fact that the surplus revenues of the canals for the past fiscal year have been sufficient to pay the balance of the canal debt of 1846, satisfy the other requirements of the Constitution, and contribute over a hundred thousand dollars "to defray the necessary expenses of the government."

The Erie canal, by its geographical position and its physical characteristics, has a special and an important relation to the commerce and business not only of our own State, but of the populous and rapidly growing communities of the great northwest. Connecting the Hudson with the lakes it is an indispensable link in a chain of water communication, which continues to be of great power and value notwithstanding the improvements in the methods of land transportation which are characteristic of our times. This work is a trust for the people of this State, whose enterprise and capital have created it; but it is to be administered in a spirit of liberality toward those great populations whose growth has been fostered by it, and whose welfare it continues to affect. To maintain it in a condition of efficiency, and to improve it in a practical manner, as the necessities of business from time to time demand, is our interest as proprietors, and our policy with reference to the commerce of the State and country. To protect it from embarrassment, arising out of improvident expenditures, ill-considered changes in its structure, or charges upon its revenues, growing out of other undertakings, is an obligation clearly resting upon us. The general plan of its construction and its adaptation to the business for which it was intended, provide a convenient, easy, and an economical means of transportation. The complaints that have arisen, some of which have been made the occasion of demands for fundamental changes in the work, have been provoked mainly by failures in the administration.

The most unnecessary, as well as the most mischievous, of these failures has been the allowing of the water-way of the canal to become narrow at the bottom, and shallow, by neglect to remove the gradual accumulations of earth incident to the use of the work and the lapse of time. The consequences have been that the flow

of water has been obstructed, its supply lessened, especially on the short levels, the movement of the boats retarded, the time of transits lengthened, and the cost of transportation increased. Frequent complaints, of a serious character, have also arisen from the failure to make provision for prompt repairs, for keeping the locks in efficient working order, and for doubling them when necessary. All persons doing business on the canals will agree that these evils have been much less during the navigation season of 1868 than before. During and for some time prior to the season of 1867, they were so serious as to greatly impair the efficiency of the canals and to create very extensive dissatisfaction among all persons engaged in the business of transportation. I do not propose now to speak at length in regard to the specific improvements to the making of which such surplus revenues as the State may have at its command should be applied. Upon this subject I respectfully refer you to the able report of the State Engineer, of which I ask your careful consideration. Besides such general improvements as experience suggests, and the demands of commerce require, it is a constant duty, as well as the best economy, to keep the canals at all times in thorough repair, and in the best and most efficient working condition. It is especially important, that the water-way be restored to its full dimensions, and even be incidentally and progressively enlarged. The considerations which I have submitted are applicable to all the canals in proportion to the extent of their business.

With regard to the present contract system for repairs to the canals, I beg leave to call your attention specially to the following extract from the report of the State Engineer: "The present system of repairs has proved a great disappointment to its early advocates, and as an experiment, has wholly failed in protecting the interests of the State, and in preserving and maintaining our public works. It has proved to be anything but economical to the State, or beneficial to navigation, and its repeal is earnestly desired by all directly interested in the navigation of the canals, and strongly recommended by all the present and retiring canal officials." These views of the State Engineer meet with my full approval, and I unite in his recommendation. In concluding these remarks, I desire to enter my earnest protest against the proposition, which in some quarters has met with favor, that it is the duty of the general government to interest itself in our canals, and ultimately to acquire control of them. Our State has a just pride in its public works, and is quite competent to take care of them. To foster and protect them, to adapt them fully to the public necessities and to the growing demands of the internal

commerce of the country, should be the duty of the Legislative and Executive departments.

SALT SPRINGS.

The Superintendent of the Onondaga Salt Springs reports the quantity of salt inspected during the last fiscal year at eight million seven hundred and ninety-three thousand five hundred and fourteen bushels (8,793,514), being an increase of production over that of the previous fiscal year of two million sixteen thousand four hundred and fifty-four bushels (2,016,454). The amount of revenue received from all sources was eighty-eight thousand and forty-nine dollars and forty-seven cents, ($88,049,47); total expenditures connected with the superintendency of the springs was forty-nine thousand two hundred and thirty-eight dollars ($49,238); the amount of net revenue received by the State being thirty-eight thousand eight hundred and eleven dollars and forty-seven cents ($38,811.47).

STATE PRISONS.

The following facts in regard to the receipts and expenditures of the State prisons are furnished me by the Comptroller:

Earnings.

Sing Sing,	$135,363 78
Auburn,	125,334 89
Clinton,	238,428 55
	$499,127 22

Payments.

Sing Sing,	$303,364 36
Auburn,	208,839 53
Clinton,	420,008 31
	$932,212 20

For the number of inmates of the several prisons and other details, I respectfully refer you to the reports of the Inspectors, which will be duly presented.

Our prisons have not been for many years self-supporting institutions. I am satisfied they can be better managed, as well in respect to finances as discipline. The prison system of this State abounds in evils and errors. Many of these are, doubtless, due to the fact

that the persons appointed to discharge the duties of agents, wardens and keepers, are too often selected from political considerations only, without reference to their capacity and qualifications. The present contract system for the employment of the labor of the prisoners is an unwise one. It affects very unfavorably the discipline of the institutions, and does not produce satisfactory pecuniary results. The labor of the convicts should be directed and employed entirely by the Prison Superintendents, and the products of such labor should be sold by them for the benefit of the State. This system would remove many existing causes of complaint in regard to convict labor, and result in material advantage to the public.

The law passed some years ago, allowing to convicts, for good behavior, a certain number of days' deduction from their terms of imprisonment, by way of commutation of sentences, has been beneficial in its operation; and if, under a system by which the Superintendent should directly employ the labor of the prisoners, provision should be made that a small portion of their earnings be laid aside for their benefit, to be paid to them on the expiration of their sentence, the effect upon their present conduct and future lives would, I think, be useful alike to them and to society. I cannot in this message enter into detailed statements and suggestions of all that is necessary for prison reform. I commend to your consideration the report of the Prison Association, which, under a resolution of the last Legislature, was directed to investigate the financial administration of the State prisons and the reformatory agencies employed in them.

It is time that the great State of New York, throughout which extends such a grand and liberal system of education and charity, should give to this subject of prison management and reform the attention which its importance demands, and which, hitherto, it has failed to receive.

I commend to your favorable consideration the various houses of refuge and other institutions for the reformation of juvenile delinquents. It is wise economy to aid them, and to provide for their increase and extension.

I respectfully call your attention to the present practice of detaining witnesses in criminal cases, when unable to give security for their appearance at the trial of the accused. They are generally poor, sometimes strangers temporarily visiting the State and made the victims of crime, often have families dependent upon them, and are kept in prison upon the claim that public necessity requires their actual presence at the trial. It frequently happens that while

the unfortunate witness is in prison, the alleged criminal is at large, on bail. The unnecessary detention of the innocent to convict the guilty is a cruel wrong. I submit whether it cannot be remedied by proper legislation.

INSURANCE.

Inasmuch as the report of the Insurance Department is not due until after the assembling of the Legislature, I am unable to communicate any information in regard to its workings during the past year. I refer you to the report when presented.

BANKS.

The number of financial institutions having relations, more or less intimate with the Banking Department, on September 30, 1868, was four hundred and eighty-eight (488).

Of these, two hundred and forty-eight (248) were banks that had voluntarily taken the final steps to close their banking business under the laws of this State, by providing for the redemption of their circulation within six (6) years.

Three (3) others are insolvent, but their circulating notes are amply secured. Forty-eight (48) banking institutions, not above enumerated, have been converted into national banks or are otherwise changing their condition, but have not availed themselves of the provisions of the law for finally closing their circulation account.

One (1) trust company and one (1) savings bank are voluntarily winding up their affairs, and one (1) savings bank, the Niagara County, is closing its business in consequence of insolvency, with liabilities, however, supposed to be less than four thousand dollars ($4,000).

Forty-seven (47) incorporated banks, whose charters have expired, still have notes outstanding, for the redemption of which they have not made any final deposit.

One hundred and one (101) savings banks, with an aggregate of deposits exceeding one hundred and fifty millions of dollars ($150,000,000); forty-five (45) banks of discount and deposit, including some of the oldest and most substantial and popular institutions in our State; and four (4) trust companies, with large capital and extensive business, still retain relations with this Department, unaffected by the financial changes of the last few years. On foe these, The Mechanics' and Farmers' Bank of Albany, has evinced its confidence in the free banking system of the State of New York

by returning to it from the national system under the provisions of the enabling act of 1867.

One (1) banking association, one (1) trust company, and two (2) or more savings banks, have been organized during the year, and other banking associations have filed certificates, but have not taken the final steps to organization precedent to the transaction of business.

The whole amount of circulating notes of all banks in this State, outstanding and charged to their accounts, on the 1st day of October last, was two million nine hundred and fifty-four thousand three hundred and ninety-one dollars ($2,954,391); of this one million six hundred and sixty-five thousand eight hundred and fifty-five dollars ($1,665,855), were issues of free banks, one million two hundred and eighty-eight thousand five hundred and thirty-six dollars ($1,288,536) were issues of Safety Fund and Incorporated Banks. The amount for which securities were held by the Superintendent of the Banking Department was two million and twelve thousand seven hundred and sixty-eight dollars ($2,012,768), leaving unsecured nine hundred and forty-one thousand six hundred and twenty-three dollars ($941,623). But this consists, for the most part, of notes of very old banks, and is represented by their account of supposed lost circulation, or of banks that through some form of organization still redeem their notes dollar for dollar, and, in some instances, in gold.

The amount of circulating notes returned to the Bank Department and destroyed during the last fiscal year, was nine hundred and ninety-one thousand two hundred and seventy-three dollars ($991,273).

MILITIA.

The Adjutant-General reports that the National Guard of the State is, in its organization and discipline, in a sound and prosperous condition; that it numbers between twenty-five thousand (25,000) and thirty thousand (30,000) men and consists of—

Fifty regiments of infantry.
Three battalions of infantry.
One regiment of artillery.
Three battalions of artillery.
Three batteries of artillery.
Three regiments of cavalry.
Two battalions of cavalry.
One squadron of cavalry.

The Legislature of 1868 authorized a reduction of the maximum force from fifty thousand (50,000) to thirty thousand (30,000), and during the year forty-nine (49) regiments of infantry and two (2) battalions of artillery have been disbanded.

It will be my aim to reduce, as far as possible, the military expenses of the State, without impairing the efficiency of the State National Guard.

EDUCATION.

The condition of the colleges and academies of the State will appear from the annual report of the Board of Regents of the University. The opening of the Cornell University, at Ithaca, in October last, was an event of marked interest. The widely extended influence of the academies in the State entitle them to liberal consideration. A suggestion has been made that the annuity given, more than thirty years ago, from the United States Deposit Fund, might now, with propriety, be increased. The State Library and the State Cabinet of Natural History, both under the control of the Regents of the University, are in a satisfactory condition. The additions to the library, during the past year, have been larger than usual. The collections of the State Cabinet have been greatly increased. I recommend the usual appropriations for both.

I submit the following statement in relation to the common schools, for the year ending September 30, 1868:

FINANCIAL.

Receipts.

Amount reported on hand, Oct. 1, 1867,.....	$1,197,924 70
Apportioned to districts, ...	2,315,166 80
Proceeds of Gospel and School lands,.....	22,843 46
Raised by local taxation,.....	6,311,186 12
From all other sources,.....	633,346 58
	$10,480,467 66

Expenditures.

For teachers' wages,.....	$5,586,546 42	
For libraries,.....	26,926 48	
For apparatus, ...	234,382 34	
For colored schools,.....	64,765 58	
Amount carried forward,.....	$5,912,620 82	

Amount brought forward,.....	$5,912,620 82	
For school houses, sites, repairs, furniture, etc.,.....	2,166,566 22	
For all other incidental expenses,	930,640 61	
Amount reported on hand Oct. 1, 1868,.....	1,470,640 01	
		$10,480,467 66

STATISTICAL.

Number of children of school age,.....	1,464,424
Number of children attending school some portion of the year,.....	971,512
Number of teachers employed in common schools for 28 weeks or more, ...	16,580
Number of male teachers, ...	5,883
Number of female teachers,.....	21,870
Number of school districts, ...	11,731
Number of school houses, ...	11,673
Number of volumes in district libraries,.....	1,064,229
Amount of public money to be apportioned during current fiscal year,.....	$2.520,000

Since the school-tax was increased from ¾ of a mill to 1¼ mills, and the schools opened to all of proper age without charge, the number of children attending has greatly increased. Four Normal Schools for the training of teachers are in full operation. Two others will be opened early in the present year, and two more early in the year 1870.

It is not necessary for me to urge upon you the importance of doing whatever may be necessary to foster the educational interests of the State.

CHARITIES AND ASYLUMS.

In relation to the operation of the several public charities and asylums in the State, I respectfully refer you to the official report, which will be transmitted.

The commission of Public Charities was organized under an act of the Legislature of 1867. During the past year nearly all the charitable institutions of the State, both public and private, and also the poor-houses have been visited under the authority of the Board. Until the creation of this commission, notwithstanding the large annual contributions of the State to charitable institutions, no

provision existed for any systematic supervision or examination of them. The report which will soon be submitted, will, I doubt not, present many interesting facts, and valuable suggestions. I commend all the great charities of the State to the favorable consideration of the Legislature, and recommend such additional legislation as may be necessary to increase the efficiency of the commission.

The title to the Inebriate Asylum at Binghamton, is, under the operation of the law passed in 1867, vested in the State. No provision was made by that law for the government of the institution, and its management is still in the hands of the trustees under the charter. I submit to the Legislature whether any changes should be made in its administration.

THE NEW CAPITOL.

The Commissioners of the New Capitol, in pursuance of an act of the Legislature, have caused the additional land, deemed requisite for the building, to be taken by appraisement. The jury of appraisal, selected under the proceedings in the Supreme Court, was composed of citizens of the highest respectability, and their awards are unquestioned. Plans for the building have been adopted, and contracts for part of the material for its foundation have been authorized. The site of the building has been fixed upon. I trust there will be no delay in the progress of this work, and recommend such legislation, with reference to it, as may be necessary.

QUARANTINE AND PUBLIC HEALTH.

The past year has been one of more than ordinary exemption from imported disease. This has arisen rather from natural causes than from any increase of our facilities for warding off its approach. The State has long rested under the charge of having enacted stringent laws for the protection of her citizens from the introduction of pestilence through her chief commercial port, without having provided proper means for their execution. With a commerce which extends to almost every clime, and with a tide of immigration which yearly adds hundreds of thousands to our population, we are constantly exposed to the introduction of infectious diseases. The Legislature early appreciated the necessity of guarding against this danger, but the mode by which it could be accomplished was surrounded with difficulties which checked, and for a while defeated, appropriate legislation. It is believed, however, that when the measures authorized by existing laws shall have been perfected, the

State will no longer rest under the reproach of imposing duties upon its officers which it has left them, in a measure, powerless to execute.

At the session of 1866 an act was passed constituting the Commissioners of Quarantine and the Mayors of the cities of New York and Brooklyn a Board of Commissioners to perform certain duties, among which was the erection of a structure on West Bank, in the lower bay of New York, to be used for a quarantine hospital. Pursuant thereto, the Board, in the month of August of that year, awarded the contract for the erection of the structure; but they were delayed by an injunction from executing the contract until the 11th of September following. Owing to this delay, it was not until the 14th of January, 1867, that the first crib-work, which was to constitute the foundation of the structure, was sunk in its proper position. The inclemency of the weather soon after compelled the emporary suspension of the work, but it was resumed, and from time o time prosecuted as the elements permitted, until the foundation was completed. It is now considered to be in proper condition for the erection of the buildings thereon, and it is probable that these will be finished during the present season.

The erection of this structure was regarded as a very doubtful experiment by many who believe that the first attempt would demonstrate its impracticability at so exposed a point in the waters of the bay. But I am advised by competent judges that its success can no longer be considered problematical.

In performing the duties enjoined upon them, the Board found themselves embarrassed by the restrictions of the act by which they were created. It authorized them to enter into a contract for the erection of the structure, but, in terms, gave them no power to modify it or to guard against emergencies or to make alterations which might prove to be necessary in the progress of the work. A recent and severe storm has tested the strenght of the structure more thoroughly than it had before been tried. It stood the test; nevertheless, I would suggest that an addition to the rip-rap should be made for still further security.

In view of doubts existing as to the powers of the Board, I recommend such legislation as may be necessary to enable them to accomplish their work.

By an act passed at the session of 1868, the same Board was authorized to erect another structure on West Bank, to be used for a boarding station for quarantine purposes. Pursuant to that act they have entered into a contract and I am advised that the work

is now in successful progress. Only fifty thousand dollars ($50,000) was appropriated by the act, but it was generally supposed that a sum of fifty thousand dollars ($50,000) which had been appropriated in the Supply Bill of 1867, for the erection of a place for the temporary detention of passengers under quarantine, could be applied to this purpose. A doubt, however, has been suggested, whether the act of 1867 is not, in this respect, wholly superseded by a subsequent enactment. I respectfully recommend whatever legislation may be necessary to complete this work, so essential to the due administration of our quarantine system.

The report of the Commissioners, which will be laid before you, will contain the statistics in reference to diseases treated under quarantine during the past year.

CATTLE DISEASE

During the past summer a contagious disease, known as the Texas cattle disease, made its appearance in the Western States, and measures were immediately adopted by the Commissioners appointed for the purpose to prevent its introduction into our State. These measures, I am happy to say, proved so successful that but few animals died of the disease, and in every instance it was confined to the farms on which it originally appeared. A full report will be presented to the Legislature at an early day. It is estimated that within this State there are twelve hundred thousand (1,200,000) cattle, the annual value of their products being upward of twenty-four million of dollars ($24,000,000). The protection of this source of wealth is a matter of so much importance to our agricultural population, as to merit the continued attention of the Legislature. I am informed that the act for the prevention of infectious diseases among cattle, passed April 20, 1866, needs amendment in order to enable the Commissioners to act with the efficiency necessary to secure the objects of the law. I recommend the subject to the careful consideration of the Legislature.

IMMIGRATION.

During the past year the number of alien immigrants landed at port of New York, was 213, 708, showing a decrease from 1867, of 29,023. This decrease may be attributed to the still unsettled condition of political affairs, and the competition of other States, which, in order to attract immigration to themselves, have established direct steam communication with European countries. The Com-

missioners of Emigration during the past year have improved the lands and buildings and the facilities for caring for the sick and destitute on Ward's Island. They have also established a labor exchange in connection with the landing depots at Castle Garden, by means of which they have been enabled to supply the demand for labor from various parts of the country, and to secure immediate employment for many immigrants. Over thirty thousand orders for male and female immigrant labor have been filled from this bureau of the department. For more detailed accounts of the workings of the Emigrant Commission, you are respectfully referred to their annual report, which will shortly be communicated to you.

For information in regard to the various other commissions in the Metropolitan district, and other district commissions and boards in the State, I respectfully refer you to the several reports, which will be duly transmitted.

CIVIL AND CRIMINAL CODES, &C.

The codes prepared by the two commissions organized under the Constitution have heretofore been presented to the Legislature. The Practice Commission, created pursuant to the twenty-fourth section of the sixth article, has reported codes of civil and criminal procedure; and the Code Commission, created pursuant to the seventeenth section of the first article, has reported civil, penal and political codes. A book of forms has also been prepared, adapted to the code of civil procedure. These volumes were designed to lay before the people, in a concise and systematic form, the whole body of the law, common and statutory, with formulas for general use. Much labor has been expended by the Commissioners upon their work, which has commanded considerable public attention. The code of civil procedure has been, to a great extent, adopted by sixteen states and territories; the code of criminal procedure by ten of them, and the civil and penal code, the last reported, has been adopted by two of the territories. In view of the great importance attached to the subjects embraced in these various reports, I commend them to your early consideration.

If they do not command the approval of the Legislature, I respectfully suggest the propriety of prompt action to secure a new revision of the statutes of the State, as well as an immediate reform in our criminal laws.

I particularly recommend that provision be made by statute that in all cases of murder, where the degree of premeditation or the

circumstances attending the homicide do not, in the opinion of the jury, justify punishment by death, they may render a verdict of murder of a less degree, to be punished by imprisonment for a term of years, the maximum of which shall be fixed by law.

METROPOLITAN DISTRICTS AND COMMISSIONS.

The Constitution of the State, in terms, recognizes for the purposes of local government, counties, cities, towns and villages, and no other territorial divisions. It directs that all officers, whose appointment is not provided for by it, shall be elected by the electors or appointed by the authorities of the locality within which their powers are to be exercised, distinctly recognizing the right of electors in local communities to chose their own officers, and, as they bear their own burdens, to administer their own affairs. The plain spirit of the Constitution has been clearly violated in the creation by the Legislature of other geographical divisions than those fixed and established by the organic law. It is true the highest court of the State, by a bare majority vote, held this legislation valid; but it has, nevertheless, been very generally admitted to have been a partisan contrivance for power, and if not an open violation, at least an evasion of the Constitution. One of these districts, called the Metropolitan District, embraces the counties of New York, Kings, Westchester and Richmond. The people of these counties and of the cities of New York and Brooklyn, have thus been deprived of the right of managing their own local affairs in many important particulars, especially with reference to matters of health, police, and excise; and these interests have been committed to officers appointed by State authority, who do not represent the majority of the inhabitants of the respective counties.

The effect has been, virtually, to give to the political minority in these districts the power of governing the majority. This never was contemplated by the framers of the Constitution, whose manifest intention was that power and responsibility should go together. I unhesitatingly recommend the repeal of all laws creating these district commissions, and the restoration to the people of every county and city in the State of the constitutional power to regulate and manage their own local affairs. Whatever theory may have been advanced originally in regard to the necessity of these commissions, the fact is indisputable that they have been established only over localities and communities which were not in political sympathy with the dominant party in the Legislature. I recommend the

repeal, not only because the legislation to which I object is a usurpation of power and an evasion of the Constitution, but also because the commissions themselves have been to a great extent partisan in their character and conduct, and because the majority of the people in the respective districts have had no effective representation in them: and these commissions being controlled by authority foreign to the communities in which they exist, and owing no responsibility to the people governed, have been administered without regard to popular rights.

MUNICIPAL GOVERNMENT.

Questions relating to municipal government in our great cities have immediate connection with the subject to which I have just referred. It is a favorite theory with some that the people of such cities cannot safely be intrusted with the management of their own affairs, and that the State at large is so directly interested in their good government that it should assume entire control over them. No man can assent to this without admitting that our republican form of government is a failure. About one-half of the population of the State reside within the limits of cities; and this theory, if true, would necessarily lead to the conclusion that one-half of our people are unfit to exercise the duties and enjoy the privileges which pertain to the citizens of a free government.

In the city of New York, which may properly be selected as an illustration of my views, the advocates of this false doctrine have, for many years, had an opportunity to try their experiment. They are themselves to-day forced to admit that it has resulted in a failure. The Mayor of the city, its chief magistrate, to whom the people naturally look for a redress of grievances, is deprived of nearly all the powers which properly belong to the executive. There is no department in the city government which is not independent of him and which does not dispense more patronage and exercise more power than he. The Departments of Police, Health, Excise, Public Charities, and Fire, are controlled and directed by separate and distinct commissions, acting independently of each other and of the Mayor. He has no voice in any of these. He can issue no order to any of them. He can call none of them to account. There is no connection between them and the common council of the city, nor between them and the departments proper of the municipal government, although the local authorities are compelled to raise money for their support and maintenance. The result is, as must

always be expected in any government so made up and to which there is practically no executive head, confusion, clashing interests, want of harmony, absence of responsibility, extravagance, waste, and general inefficiency. I no not intend to be understood as saying that there are not many things well done; but I affirm that this system, or rather want of system, and this conflict of authority and responsibility, have failed to produce good local government. Among the various commissions the one which has, perhaps, accomplished the most satisfactory results, is the Commission of Public Charities and Corrections, the members of which are appointed by local authority. It has always remained since its creation entirely non-partisan. Its administration has commanded general approval. These facts of themselves afford abundant proof that there is not now, and never was, any necessity or justification for the interference by the Legislature with the plain constitutional right of the people of the city to regulate and manage their own local affairs.

About one-half the amount raised by tax within the city is disbursed by the independent commissions referred to, whose expenditures are subject to no adequate supervision, and who have practically no responsibility. One of the most certain means of correcting misgovernment is direct responsibility to the people, who, through the ballot-box, have summary power of redress. It is the right of the people of that city, as it is the right of the people of all other parts of the State, that they should not be taxed without representation, as well as that the officials placed over them should recognize their direct accountability to the popular judgment. When officers placed over the people, by legislative action, expend money or incur responsibility, they do not consider the constituency who pay the bills. They regard themselves as invested with authority by partisan influences from other parts of the State, to secure political ends, and, whether they are faithful or inefficient, prudent or reckless and corrupt in expenditures, just or arbitrary and oppressive, they are apt to believe their party will sustain them as a matter of party necessity.

Experience proves that such officials, imposed, for partisan objects, to usurp power for the minority, consider that a harsh and imperious disregard of the rights of the majority is likely to commend them to those in other parts of the State to whom alone they owe allegiance. This feeling on the part of the superior officers soon infuses itself among the subordinates. The result is that the government becomes an inconsiderate tyranny rather than a temperate and responsible ex-

ercise of authority. If this were otherwise, and the people were not taxed and governed without any right of redress, every dollar paid for taxation would draw with it direct responsibility, and every officer would feel himself at all times on trial for his public acts. No party could long maintain local ascendency which did not nominate the best men for office; and did not, by economy and good government, make their control of affairs consistent with the interests of the people.

These considerations are applicable, not alone to the cities of New York and Brooklyn, but to all other cities in the State, which have been brought under the operation of laws establishing district commissions.

I deem it my duty in this, my first annual message, to give decided expression to my opinion that no good government can be secured to any great city unless it shall have one responsible head, in whom shall be vested all executive power, and to whom, as the elected representative of the people, all departments, charged with executive duties, shall be directly and summarily responsible and accountable.

If, with this as the fundamental idea, a plan shall be devised which will give to the political minority within a city a just representation in its councils, we shall, doubtless, secure better results in municipal government than have ever before been attained.

I respectfully call the attention of the Legislature to another subject in which the people of the city of New York have and feel a deep interest. The commercial needs of the metropolis demand that there should be some speedy and wise legislation with reference to its wharves and piers. They should be constructed after the very best plan for making them convenient, adequate, and enduring. The work should be commenced as soon as possible.

The question of probable cost is of but little importance. The city can well afford to pay whatever may be necessary to perfect the work; when completed it would, by the aid of proper legislation in relation to wharfage, yield a revenue sufficient to pay the interest on the expenditure, and to create a sinking fund for the speedy extinguishment of the debt incurred in the construction. It is not necessary that I should commit myself to any particular form of legislation for the accomplishment of this result, but I would respectfully recommend, by way of suggestion, that if it should be deemed impossible to mature a plan during the present session, the Mayor of the city of New York be authorized to appoint a board, with authority to examine the whole subject, and to report to the next Legislature, for its consideration, a plan of the proposed work, with an estimate of

its probable cost, and such suggestions, with reference thereto, as they may deem proper.

THE EXCISE LAW IN THE METROPOLITAN DISTRICT.

The excise law which is in force throughout the Metropolitan district, excepting only in the county of Westchester (which was, for some reason, exempted by the Legislature from its operation), violates principles involving rights of individuals and communities. It confers upon the Excise Board created by the Legislature, and deriving none of its authority from the people in the district, extraordinary and arbitary powers; and contains, in my judgment, many harsh and unwise provisions. If the objects of its enactment were to diminish the amount of intemperance, and to lessen the consumption of intoxicating liquors, these objects have not been attained. At the same time, this law has been executed and enforced in an arbitrary, despotic and intemperate manner, and in a spirit which has created great dissatisfaction even among many who were its original supporters; while large numbers of sober, temperate, industrious and law abiding citizens feel that they are oppressed by its onerous exactions and requirements. No one deplores more than I do the evils of intemperance; but they are not local, are not confined to any section or district, and if they can be checked or modified by legislation, the remedy can only be secured by the operation of general laws. There is no reason, in my judgment, why the whole, or any portion of the Metropolitan district, should be subjected to an excise law different from that applied to other parts of the State. All such laws should be universal in application, and should have for their object, not the enforcement of extreme and arbitrary views, but the encouragement of good habits and the preservation of public order. The present law needlessly violates private rights. It provokes hostility because it does so, and because it is administered harshly by partisan officers. I therefore recommend its repeal, so that we may have but one law for the whole State, to be administered, whether in counties or in cities, by the legally constituted local authorities thereof, or by officers to be appointed by them. Such a law would command universal respect and general obedience.

PURITY OF ELECTIONS.

Every means should be adopted by which the electors may have secured to them freedom from intimidation or corrupt influences in the exercise of the elective franchise — the highest privilege of a

citizen. It cannot be denied that wealth, by its lavish expenditure to control elections, is fast becoming more influential than abilities and public service, to obtain political power and official station. It is not unusual to hear the claims of public men asserted in proportion to the pecuniary contributions which they make to party funds in amounts which obviously cannot be required or used for the legitimate purposes of an election. It is one of the startling evils of the times, that nominations to important offices are sought by and given to men of vast wealth, not because of their capacity and qualifications, but in order that their money may be used to accomplish success. The dangers arising and to be apprehended from this condition of things are manifold. Officials are taught that money, however acquired, is the passport to office and authority; electors are corrupted, and a power is built up, founded on the possession of riches and their corrupt use, tending to the subversion of the rights and liberties of the people, and the destruction of the principles of our government. As one result of this growing tendency of moneyed influences to assert an exclusiveness of class, and a superior domination, sectional and class legislation has been adopted of late years to control, even in regard to suffrage, large communities by special laws not applicable to other parts of the State Before the law all men are equal, and never more so than when in the performance of their right and duty of voting to sustain principles, and to elect their representatives. Laws to provide regulations and restrictions in regard to elections should apply to all citizens and to all sections alike. The laws to preserve the purity of the ballot-box and to prevent the corrupt use of money in elections should be general, stringent and rigorously enforced. In my judgment there should be one registry law for the whole State, imposing equal conditions and restrictions everywhere, and it should be the aim thereof to secure to every citizen his right of suffrage, free from intimidation, corruption, or onerous exactions; while the corrupt use of money in elections should be severely punished, and every guaranty established by which illegal voting may be prevented.

FEDERAL CENTRALIZATION.

In this connection it may not be improper to allude to the fact that there is a manifest disposition in some quarters to encourage a movement to vest in Congress the control and regulation of suffrage in all the States. This is another step in the direction of centralized power in the General Government — a power to control elec-

tions — which would enable dangerous and unscrupulous men, who might obtain possession of the National administration, to hold it indefinitely, even against the real will of the people. It is very certain that purity of elections in States cannot be secured by transferring the direction or control of them to the authorities at Washington. There can be no purity in the General Government unless it exists first in the States and in the people. The founders of our Government never contemplated the interference of Congress in this matter. They expressly guarded against it.

By the Federal Constitution "the times, places and manner" of holding elections for Senators and Representatives are required to be prescribed in each State by the Legislature thereof; but it is provided that Congress may at any time make or alter such regulations except as to the places of choosing Senators. This authority to prescribe regulations as to "the time, places and manner" of holding elections, was contested at the adoption of the Constitution as vesting in Congress too great a power, which might be exercised so as to defeat the just rights of the States to representation — but it was argued that it was a power which never was intended to be, and probably never would be employed, except when the States might attempt to break up the government by not sending representatives, and then only for national self-preservation. But the question of suffrage was wisely put beyond the control of Congress, and it was provided that "the electors in each State shall have the qualification requisite for electors of the most numerous branch of the State Legislature." This settlement of the right of suffrage was regarded "as a fundamental article of republican government." The question of suffrage is thus withdrawn from the capricious or more dangerous interference of Congress. It is not left to Legislative discretion in the States, but is fixed by the State Constitutions, and here, I think, every reflecting mind will conclude that it may be wisely and safely left.

NATURALIZATION AND CITIZENSHIP.

There is also a disposition manifested to place obstacles in the way of the naturalization of citizens. While in the southern States the right of free and unrestricted suffrage has been suddenly conferred upon large masses of men, who have never before exercised it, or discharged any other of the duties of citizen, it is now suggested that new restrictions be imposed upon the enjoyment of this high privilege by immigrants who seek to be clothed with the rights

of American citizenship. Movements have been already made for depriving the State courts of the power of naturalization, and to confer this power exclusively upon the courts of the United States, and upon commissioners to be appointed by Congress. It would be impossible for the judges of the United States courts, by reason of the pressure of their judicial duties and the few places in the country at which the sessions of their courts are held, to extend the necessary facilities to those entitled to become citizens. The whole business would necessarily devolve upon the partisan commissioners created by Congress, holding no responsible official relation to the judiciary of the country or of the States. Thus naturalization would become more a matter of favor than of right. The power is now exercised by judges in the different States representing all shades of political faith, and if there be any abuses now they can be remedied under the existing jurisdiction, and they are far less than those which would result from the transfer of this power to any body of officials not chosen for their judicial qualifications, not exercising judicial functions in other matters, and created by one central authority representing necessarily a political party. These movements indicate a tendency on the part of their supporters to obstruct and hinder naturalization, and thus to discourage the renunciation, by men from other countries, of their allegiance to foreign governments in order to become faithful citizens of our own. Can this policy be a wise one? All good citizens will certainly favor such legislation as may be necessary to check or to punish frauds in naturalization. But the interests of our State and country, peopled from their origin by and owing so much of their greatness to men of foreign birth, and to which the tide of immigration so incessantly and rapidly flows, demand that additional rather than diminished facilities should be extended to all those of good moral character and of undoubted devotion to our institutions, who, having chosen their homes among us, desire to assume the duties and responsibilities of citizens.

We must not forget that during the late war, when our country needed them to fight the battles of the Union, we extended to them the privileges of citizenship after one year's service and an honorable discharge, as one of the rewards for their fidelity to the government. Now, in the time of peace, their services are quite as valuable in developing the resources of our new territories and of the Southern States, and in assisting, by their industry and toil, to work out a practical solution of the great problem of reconstruction; and every inducement should be extended to them.

CONCLUSION.

Few questions of principle or policy will be presented for your consideration, towards the decision of which precedent or experience will not furnish you an accurate guide, or at least effective aid. We need only, to the discharge of our trusts in our respective departments, grave, responsible and numerous as they are, an earnest spirit, a constant and vigilant regard for the public interests, and an unceasing watchfulness in maintaining the integrity, honor and dignity of the State. With these we can not fail to meet the just expectations of the people.

But beyond the limits of our jurisdiction, there are questions and principles of far wider significance than those which engage our official consideration; which appeal to us as citizens of a common country; which press upon the people in the form of unequal responsibilities; and in which we all have a deep and abiding interest. I allude to the national issues which await solution. I do not intend to refer to them in a partisan spirit, or to discuss them at length. These issues have presented new and difficult questions of government, of finance and taxation, resulting from the rebellion, and we are without guides in previous history, to lead us to their determination. Nearly four years have elapsed since the close of the rebellion, and the Federal authorities have had unrestricted power to re-establish civil government in the States rescued from sedition, and restore to their people peace and the motives to industry; and yet how little has been done towards these ends!

Had they been attained, the South would now be enabled to bear its share of the taxation entailed by the war, and the North relieved of its unequal responsibility, while the whole country, resuming its former commercial relations, would he so far advanced in prosperity and power that in a few years our financial troubles would cease to be the subject of anxiety. Instead of securing these results, Congress has directed its efforts to the suppression of representation, and the subversion of republican government in States, prolonging the subserviency of the civil to the military power, and postponing the return of peace. The people, at the late election, have chosen by their suffrage the Chief Magistrate, to whose guidance they are willing to commit the destinies of the country, and the settlement of the issues which disturb it. These questions do not belong to party, but to the whole country; and it

should be our earnest prayer that he who has been thus chosen shall prove equal to the great trust with which he is charged.

Party organization must be kept up as the means of preserving great principles and maintaining the integrity of the government and the liberties of the people. The majority of the citizens of this State who opposed the policy of the present dominant party in the country and the election of its candidate for the presidency, adhere firmly to their views of public policy, the adoption of which they believe will afford the earliest and best settlement of the great questions which now distract us. They will, however, lay aside all merely partisan considerations, and join in a common spirit of magnanimity and patriotism in sustaining any administration of the Federal government in every earnest effort which it shall make to restore its credit, to maintain the public faith, to re-establish the authority of the Constitution, to unite all our people in amity and concord, to give peace and prosperity to all sections of the Union, and to assert, among nations, the honor of our flag and the rights of those who claim its protection.

There is a spirit of party intolerance growing up which not only arrays men in bitter political hostility, but which creates personal hatred through mere differences of opinion. It follows the elected representatives of the people with detraction and misrepresentation, and impairs their usefulness in the discharge of important trusts involving the public welfare. I consider this a dangerous evil. Public officers, both Federal and State, should be judged by and held responsible for their acts, and not prejudged by clamor and party intolerance; nor should they be intimidated by either. My duty is defined by the oath I have taken to execute the laws of this State and to support its Constitution and the Constitution of the United States. I shall endeavor to do it faithfully; and while I shall uphold and maintain the political doctrines and principles to which I am devoted, and assert and defend the rights of the State and of the people whose representative I am, I will, as the Executive of this State, support the Executive of the United States in every exercise of rightful authority, and in every patriotic effort for the welfare of our common country. The people will approve. War no longer claims offerings of lives and treasures; peace now demands the sacrifice of predjudices and passion.

JOHN T. HOFFMAN.

SPECIAL MESSAGES.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 7, 1869.

TO THE LEGISLATURE:

I respectfully call your attention to the necessity of some legislation, during the present session, with a view to providing, as soon and as far as possible, a remedy for the evils which arise from the over-crowded condition of our State Prisons.

The number of convicts in the State, it is said, has more than doubled since the year 1850. Since the close of the war there has been a great increase of prison commitments, and to day all our prisons are more than full.

The population of the State is rapidly increasing, and no argument is required to show that the necessities of the State will demand, and that very soon, increased prison accommodations. These accommodations can only be furnished by an enlargement of the prisons already built, or by the erection of a new one.

Experience has shown clearly, that the crowding of large numbers of convicts in any one prison, is prejudicial, alike to the discipline of the institution, and the pecuniary interests of the State.

In my judgment, the existing prisons should not be enlarged; but speedy provision should be made for the proper selection of a prison site, and the erection of a new prison thereon. I need not enter into an argument in support of this recommendation. I respectfully refer you to the report of the special committee appointed by the Legislature during the last session, and to the suggestions of the Prison Association.

In my annual message, I called attention to the evils and errors which exist in our prison system. I trust that in any new prison which shall be erected, important changes may be inaugurated; I would suggest the propriety of making it a State penitentiary rather than a State prison, with a view to its being a place for reformation as well as for punishment; and one to which the least hardened of condemned men might be consigned.

The demand for greater prison accomodation, and better prison management, is growing and must be met. The fact that the prisons which we have now, are great pecuniary burdens upon the State, will not excuse us from providing new ones. With increased pop-

ulation we must expect an increased number of criminals, and prisons must be made for them.

Without further enlarging upon these suggestions, I strongly recommend now the appointment of a commission, either by the Legislature or by the executive, to select a site for a new prison, subject to the approval of the Legislature; which commission shall also report a plan for the construction of the building, with estimates of the cost, and shall make such suggestions as to the character and management of the prison, when built, as they may deem wise.

As the action of the commission will be subject to future legislative approval, and as the expenses incident to it will be nominal, I think there can be no objection to the passing of a law to carry out the suggestions here made.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER.
ALBANY, APRIL 13, 1869.

TO THE LEGISLATURE.

I respectfully call the attention of the Legislature to the necessity and propriety of making the proper appropriation for the support of the Soldiers' Home, located in Albany.

It has been in existence for several years, and affords a retreat for those sick and disabled soldiers of the recent war who belonged to the State of New York, and are now unable to provide for themselves.

The number of inmates varies at different seasons. There are now more than three hundred, all more or less disabled by wounds or suffering from disease contracted when in the army. More than one hundred are now treated as hospital cases, some of them being too feeble to be removed.

The National Asylum for "disabled volunteer soldiers," has now established three permanent Homes — one in Wisconsin, one in Ohio and one in Maine, and notice has been given that this Asylum is ready to receive, at any of those places, every disabled soldier now at the Albany Home, who has any claims because of "total disability." I do not understand the notice to include those who are only temporarily prostrated by wounds or disease. I learn, however, that the fact that the notice has been given, has created some doubt and hesitation in the minds of some of the members of the Legislature about continuing the appropriation for the support of our own Home.

I feel it my duty to state the facts, and to suggest that it would be well for as many of the members of the Legislature as may find it convenient, to visit and inspect the Albany Home, with the view of determining what answer shall be made to the following questions which I respectfully submit for consideration :

First : Shall the home at Albany be suddenly closed, and the disabled New York soldiers be turned away and compelled to seek a retreat in Maine, Ohio or Wisconsin ?

Second : If it is to be closed, what shall be done with those who are too feeble to be removed to those distant points, and what appropriation shall be made to pay for the transportation of those who are willing and able to go ?

The responsibility of answering these questions rests with the Legislature ; but I respectfully recommend, that the necessary appropriation for the support of the Home for the current year may be made, so that it shall not be abruptly broken up. The necessity for its continuance will gradually diminish.

Every year will show a diminution in the number of disabled men who will ask our aid, but it should be given while it is needed.

New York owes it to the soldiers she sent to the war, that they should not be compelled, in their distress, to seek a refuge beyond her own borders.

JOHN T. HOFFMAN.

VETO MESSAGES OF GOVERNOR HOFFMAN, IN THE YEAR 1869.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *February* 11, 1869.

TO THE ASSEMBLY:

I return, without my signature, an act entitled "An act to authorize the Trustees of the First Presbyterian Church and Society of the Town of Perry to convey certain real estate," which was passed in the Assembly January 14, 1869, and in the Senate February 8, 1869.

No special legislation is necessary to attain the object of the bill. The Legislature, long ago, very wisely provided by a general law for such cases. It will be seen, by reference to that portion of our Revised Statutes which relates to religious corporations, that the Supreme Court may, upon application, make an order for the sale of any real estate belonging to such corporations, and direct the application of the moneys arising therefrom to such uses as the court may deem to be proper and for the interests of the society.

The wisdom of the Legislature in placing this power, by a general enactment, in the Supreme Court, has never been doubted and need not now be discussed. It may be convenient, in some instances, to obtain authority directly from the Legislature for the sale of the property of a church; but it is always safer to refer the applicants to the court, the rules and regulations of which provide for proper and necessary inquiries into the merits of such application.

I am sorry to be compelled to interpose my veto in the case of a bill of so little apparent importance; but I have long deplored the fact that so many applications are made for special legislation in cases which are or should be covered by general laws. These applications press heavily upon the valuable time of public men, and add largely to the public expenses. They should be discountenanced and discouraged. General laws should be passed to meet, as far as possible, the requirements and wants of the people, and special legislation should always be refused in cases which are already covered by general enactments.

JOHN T. HOFFMAN.

ALBANY, *February* 17, 1869.

TO THE ASSEMBLY:

I return, without my signature, an act entitled "An act to amend section one of chapter 404 of the Laws of 1868, relative to building a bridge at Fort Covington."

The original act authorized the commissioners of highways of the town to borrow three thousand dollars to be expended in rebuilding a bridge across the Salmon river. The present bill increases the amount to four thousand dollars.

By a general act passed April 3, 1849, entitled "An act to vest in the board of supervisors certain legislative powers," &c., it was provided among other things, that such boards in the several counties of the State (except New York) might authorize any town in their respective counties to borrow any sum, not exceeding four thousand dollars in one year, to build or repair any roads or bridges in such town, and prescribe the time for the payment of the same, which time shall be within ten years and for assessing the principal and interest thereof upon such town.

This general law renders any special legislation in regard to the bridge at Fort Covington wholly unnecessary. The subject properly belonged to the board of supervisors, which for such and certain other purposes is the county legislature.

In a message which I communicated to the assembly on the 11th inst., in returning a bill without my signature, I called attention to the fact that applications for special legislation in cases covered by general laws pressed heavily upon the valuable time of public men, and increased largely the public expenses, and I suggested that special legislation should always be refused in cases covered by general enactments.

I feel it to be my duty to take every proper opportunity to urge these views upon the consideration of the Legislature, and to do all in my power to check an evil which has grown to be one of great magnitude.

JOHN T. HOFFMAN.

ALBANY, *February* 23, 1869.

TO THE ASSEMBLY:

I return, without my signature, a bill entitled "An act to provide for raising moneys for the payment of the improvements necessary

to be made on the roads and bridges in the town of Ellicott, in the county of Chautauqua."

The first section of this bill is identical in language with section 4, article 1, title 1, chapter 16, part 1 of the Revised Statutes, which is the general law defining the amount of money that the commissioners of highways in the several towns of the State may call upon the supervisors to cause to be levied in any one year for roads and bridges, except that by the general law the amount is limited to two hundred and fifty dollars, while by this bill it is increased to one thousand dollars in the town of Ellicott. It is simply a change in this one point of the general law, limiting the benefit of the change, if any, to one town in the State.

If this bill sought to provide for a temporary need of the town of Ellicott it would be unnecessary, because, under the provisions of another general law, viz., chapter 615 of the Laws of 1857, commissioners of highways may now cause to be raised seven hundred and fifty dollars in addition to the two hundred and fifty dollars above mentioned, if they obtain the consent of the town meeting to such increase.

The second section of the bill now under consideration provides that chapter 615 of the Laws of 1857 shall still be in force as to the town of Ellicott, so that the result of the bill, if it becomes a law, will be that the commissioners of highways in the town of Ellicott will hereafter exercise greater powers than those conferred on the same class of officers in other towns.

I have little doubt that, with the growing desire and need for improvements in our roads and bridges throughout the State, and especially in view of the large increase in the prices of labor and material which has taken place, the sums provided to be raised by the general laws referred to are, or soon will be, insufficient for the average ordinary expenditures of commissioners of highways in many towns in the State.

But I submit respectfully to the consideration of the Legislature, that the remedy is not to be found in special laws, relieving first one town and then another from the inconvenience, but in an amendment to the existing general laws, so that any town in the State can take advantage of it when necessary. This amendment may be made (if in the judgment of the Legistature it is needed), either to the section of the Revised Statutes to which I have referred, or to chapter 615 of the Laws of 1857. In either case it would meet the object sought to be attained by this particular bill, and would also relieve the Legislature from the consideration of many special applications

hereafter. I have already, in two instances, expressed to the Assembly my views in opposition to unnecessary special legislation, and I need not repeat them. I regret the necessity which compels me to make this communication, but I feel confident it will receive your approval.

JOHN T. HOFFMAN.

ALBANY, *March* 8, 1869.

TO THE SENATE:

I return, without my signature, a bill entitled "An act to provide for filling vacancies in the office of Justice of the Peace in Lowville, Lewis County," which was passed by the Senate February 16, 1869, and in the Assembly February 24, 1869.

There are general laws (see Revised Statutes and chapter 476 of the Laws of 1859) providing for filling vacancies in the office of justice of the peace throughout the State.

If the general laws are defective the public interest demands that they be amended. The time of the Legislature should not be occupied, nor should the statute books be incumbered, with special acts providing for filling such vacancies in particular towns.

Again: this bill devolves the power of appointment, in case of vacancy, not upon any officers definitely described, but simply upon "the board, as now provided by law." The general laws prescribe that these vacancies shall be filled by warrant, under the hands and seals of certain town officers, or of a majority of them; but these officers are not constituted a "board," nor recognized as a "board" for such purpose. I call the attention of the Senate to this inaccuracy in the terms of the bill, because it affords an illustration of the evils of special legislation. Careful examination is not given to such bills, and the result is the frequent enactment of laws not only unnecessary but ill-considered.

The bill also declares, among other things, that after wilful refusal or neglect of duty, for the space of thirty days, by a justice of the peace in Lowville, his office "shall be deemed vacant." It seems to contemplate no trial or investigation. The Constitution provides (article 6, section 17) that a justice can be removed from office only after due notice, and an opportunity of being heard in his defence, by such county, city, or State courts as may be designated by law, for causes to be assigned in the order of removal. Until this legal proceeding be consummated the office cannot, it appears to me, be deemed vacant.

I object to the bill, therefore, not only because it proposes unnecessary special legislation, but because it is, in my judgment, unconstitutional.

JOHN T. HOFFMAN.

ALBANY, *March* 17, 1869.

TO THE SENATE:

I return, without my signature, a bill entitled "An act to authorize the appointment of a President *pro tempore* of the Board of Metropolitan Police," which was passed in the Senate March 9, 1869, and in the Assembly March 12, 1869.

By the laws relating to the Metropolitan Police Board, certain specified acts can be performed only by the President of the Board. He has, I am informed, been unable for several months to discharge his duties, and is now absent from the State. To meet the difficulty caused by his sickness and absence, it is necessary that a new President, or a President *pro tempore*, should be appointed, and to that end this bill has been passed.

There are three commissioners besides the absent President, and it will be perceived, by a reference to the phraseology of the bill, that it requires the unanimous vote of the three, not only for the adoption of a resolution appointing a President *pro tempore*, but of any resolution whatever.

This is not right. When all the commissioners are present a majority may adopt any resolution. When three only are capable of attending to their duties, the power to defeat a resolution for the appointment of a President *pro tempore*, or for any other purpose, should not be given to one of them.

The Board can act only by resolution. If this bill becomes a law any one of the three commissioners can prevent any order being made affecting the acts and duties of the superintendent, the transfer or detailment of patrolmen, the appointment of officers when vacancies occur, or the dismissal of members of the force for neglect of duty or misconduct.

The bill does not, therefore, meet the difficulty occasioned by the absence of the President of the Board, by merely providing, as its title indicates, for the appointment of a President *pro tempore;* but it adds to the embarrassments already existing by placing it in the power of one commissioner to overrule his two associates on

every question, and, in effect, to control and direct (with the aid of the superintendent) the whole machinery and business of the Metropolitan Police Department.

JOHN T. HOFFMAN.

ALBANY, *March* 23, 1869.

TO THE ASSEMBLY:

I return, without my signature, a bill entitled an "Act to authorize the supervisor of the town of Addison, in the county of Steuben, to borrow money to rebuild bridges in said town, and to pledge the credit of the town for the repayment of the same."

This bill authorizes the supervisors of the town to borrow (without the sanction of the town meeting or the board of supervisors, as is required by the general laws where a less amount is to be borrowed) a sum not to exceed six thousand dollars, for the purpose of building two bridges in said town, and to issue bonds therefor bearing seven per cent. interest.

It directs the board of supervisors to levy the amount necessary to pay the principal and interest of said bonds upon the taxable inhabitants and property of the town.

It seems to have been passed upon the petition of a number of the residents of the town, who represent that the bridges must be rebuilt the ensuing year, and that the expense will be at least five thousand dollars.

It is true that the amount provided for by this bill cannot be raised by a loan in any one year and charged upon the town, under the provisions of any existing general law. It is equally true, however, that a very simple amendment to these general laws would enable the board of supervisors, either with or without the conjoint action of the town meeting, to do precisely what this bill authorizes and directs; or would, in case of a pressing emergency, as hereinafter suggested, enable the town authorities to do the same thing.

The bill, therefore, clearly belongs to that class of special laws to which I have already, on several occasions, interposed my objections, and to which I feel constrained to continue my unyielding opposition. My objections in this case may subject the people of Addison to temporary inconvenience, but it is only under the pressure of such inconvenience that we are likely to secure those amendments to general laws which are demanded by the necessities of the people all over the State.

The policy of the State has been for a long time to leave the whole subject of repairing and building bridges (as well as other local improvements) in the hands of the electors and officers of the towns and supervisors of the counties. This became established policy because of the numerous pressing applications upon the Legislature for special laws. The statute books were filled with these special enactments. General laws were passed to cure the evil, but the wants of the people of the towns having outgrown the provisions of the general statutes, the pressure for special legislation was commenced anew and now continues. The interests of the State require now that all necessary amendments shall be made at once to these general laws, and that special legislation shall be refused (except in very extraordinary cases), however great may be the temporary inconvenience arising from such refusal.

The boards of supervisors are now authorized (see chapter 314 of the Laws of 1838) to cause to be levied whatever sum may be necessary to repair or construct bridges, and to apportion the amount among the several towns of the county, as shall seem to them to be equitable and just. Under this act they probably cannot charge the entire amount (as this special bill proposes) upon a single town.

The boards of supervisors are also permitted (see chapter 194) Laws of 1848) to authorize any town, by a vote of the town meeting, to borrow money not to exceed $4,000 in any one year, for the purpose of building or repairing buildings.

I respectfully call the attention of the Legislature to the fact that an amendment to either of these laws, giving to the boards of supervisors greater discretionary powers, would accomplish for every town in the State, when necessary, all that is sought for the town of Addison by the special bill herewith returned (which is merely to raise by a loan $6,000, instead of $4,000), and all that is attempted to be secured by the great number of special bills introduced at every session of the Legislature.

If it be alleged that there is a pressing necessity for the immediate rebuilding of these bridges, by reason of injuries sustained since the annual town meeting, and since the adjournment of the board of supervisors, I call attention to the fact that provision has been made by another general law for just such emergencies (see chapter 103, Laws of 1858, entitled "An act to provide for the speedy construction of roads and bridges where the same have been damaged or destroyed)." Under this general law the authorities in the town of Addison can rebuild these bridges, and the expense thereof can be levied upon the town. True, the money necessary for the

purpose cannot be raised by loan, as is provided by this special bill. If, however, the Legislature deem it wise to authorize town officers to raise money by loan for a term of years upon the bonds of the town, to meet such emergencies, then it is better, at once, to amend this general law of 1858, so that all the towns of the State may have the benefit of the amendment.

My desire is that the duty and power of taking care of roads and bridges, and other local improvements, shall rest with the people and officers of the towns, and with the boards of supervisors. They know their wants and the merits of the local measures better than the Legislature can possibly know them, and the town officers and supervisors are the best and most inteliigent representatives of local interests.

It is only by leaving these matters entirely in the hands of the local authorities that the dangers of special legislation can be avoided. In no other way can the Legislature be relieved from the pressure of special applications, which interferes with the due consideration of measures affecting the great general interests of the State at large.

JOHN T. HOFFMAN.

ALBANY, *March* 25, 1869.

TO THE SENATE:

I return, without my signature, a bill entitled "An act to incorporate the Excelsior Temple of Honor No. 23, of the city of Albany."

There is no necessity for this special bill. The provisions of the general law of the State for the incorporation of benevolent and charitable societies (see chapter 319 of the Laws of 1848, and amendments thereto) are ample and sufficient for the purpose contemplated.

The originators of this bill, I am informed, were under an impression that by one clause in the general law, secret societies were excluded from its operation; but it will be seen, by reference to an amendment made in 1861 (see chapter 239, Laws of 1861), that this clause has been stricken from the law.

The number of Temples of Honor is increasing in this State, and several special bills are already before the Legislature for their incorporation. I therefore promptly return this one, in order to call attention to the general laws under which these societies can be readily organized.

JOHN T. HOFFMAN

ALBANY, *April* 6, 1869.

TO THE ASSEMBLY:

I return, without my signature, a bill entitled "An act to incorporate the Rescue Hook and Ladder Company No. 1, in the village of Bath," being Assembly bill No. 110.

The statute books contain, every year, a large number of special acts for the incorporation of fire, hook and ladder, and hose companies in incorporated villages.

This special legislation is unnecessary; chapter 151 of the Laws of 1847, entitled "An act in relation to firemen in incorporated villages," being a general law applicable to the whole State, makes full provision for the organization of fire and hook and ladder companies in all villages by the trustees thereof.

Public policy demands that these companies should be formed under general laws, and be a part of or connected with the organized government of the village and not independent of it.

JOHN T. HOFFMAN.

ALBANY, *April* 6, 1869.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 47, entitled "An act to incorporate Ours Hose Company No. 4, of the city of Elmira, in the county of Chemung."

Public policy demands that fire and hook and ladder and hose companies in cities and villages should be connected with, and not be independent of, the organized local government.

Special bills, like the one herewith returned, have been very frequent in past years, and should be no longer encouraged. If the Legislature deem it judicious to organize in cities, fire companies, to be independent of the local governments, it will be better to provide therefor by amendments, if necessary, to existing general laws.

The charter of the city of Elmira makes ample provision for the organization within the limits of the city, of fire, hook and ladder, hose and axe companies, and this special law is, therefore, wholly unnecessary.

JOHN T. HOFFMAN.

ALBANY, *April* 8, 1869.

TO THE ASSEMBLY:

I return, without my signature, Assembly Bill No. 236, entitled "An act to authorize the annual town elections of the town of Sodus, in the county of Wayne, to be held by election districts."

A bill, with similar provisions, affecting certain other towns, was passed early in the session and received my signature. Under the impression that, in that instance, extraordinary circumstances, known to the Legislature, made it difficult for all the people in the towns named, to assemble in town meeting at one place in their respective towns, I signed the bill with, probably, less consideration than was due to it.

Applications for this privilege of voting for town officers in separate election districts are becoming frequent. It is evident that they are not confined to cases where it is inconvenient for some portion of the people to reach the common place of meeting, but that in many instances, this privilege is asked for where the old method of all voting at one general town meeting is both practicable and reasonably convenient.

The frequency of these applications brings up, it seems to me, the question whether we are ready to give up the system of town meetings as now established, for the sake of convenience, real or supposed, of voting for town officers in separate districts.

Local governments of the same class should be, as far as possible, uniform in character throughout the State. If the Legislature continues to grant these special applications, this desirable uniformity will be lost, and we may soon have the town meeting, as of old established, abandoned in many portions of the State and retained in others; for the town meeting is practically abandoned when the town officers are elected at many polls instead of one. The polls being opened at other places, the interest of the people in the proceedings of their town meeting will be greatly diminished, although it may still be convened for certain purposes.

The most purely democratic of all our governments is the town meeting. There the whole body of the people meet to deliberate upon matters of common interest; public questions of a local character are discussed, every voter having the right to take a direct part in the discussion; local regulations of a public nature are adopted; money is appropriated; taxes and sometimes borrowing of money upon the credit of the community are sanctioned or re-

fused; all this not through representatives, but by direct act of the people at large there assembled. The town meeting is the legislature of the town. It is, of course, not intended, by this bill, to do away entirely with the town meeting; this will still be assembled, for certain purposes other than the election of town officers. The division of the people into separate polling districts for the election of town officers will tend to distract them from the general meeting, at which a large popular attendance is desirable, in view of the important local questions which are often there determined. There will be danger of matters of grave consequence being decided by a very small proportion of the people interested.

If it be deemed wise to change the system of town meetings, now established as a part of our machinery of self-government, I submit that it should be done by a general law affecting all the towns alike. A proposition to do this would excite general attention, and the Legislature and the Executive would be aided in coming to a decision of the question by the discussion of it among the people. A special law, like this one, fails to excite such general attention.

It must be remembered, also, that if any town embraces within its limits so much territory as to make its government by a general meeting inconvenient, power now resides in the board of supervisors to divide towns, to alter their boundaries, and to erect new towns.

I respectfully call attention also to the fact that this bill provides for other matters which are not referred to in the title thereof, and that, therefore, being a local bill, it violates section 16 of article 3 of the Constitution.

JOHN T. HOFFMAN.

ALBANY, *April* 14, 1869.

TO THE SENATE:

I return, without my signature, Senate bill No. 138, entitled "An act to authorize the construction of a railroad in One Hundred and Twenty-fifth street, and in certain other streets and avenues in the city of New York."

This bill grants to ninety-six persons named in it, residents of various parts of the State, the privilege and franchise of constructing, operating, and maintaining the railroad mentioned in its title, without any limitation as to time, and without any consideration for the grant, except that the grantees shall pay into the city treasury the

same license fees as are now paid by other city railroad companies in the city of New York.

Only a portion of the city railway companies pay or are required to pay a license fee. Some have been declared by the Court of Appeals exempt from any such liability under the provisions of their charters. Some pay fifty dollars a year for each car, and others less. The requirement, therefore, of this bill to pay the same fees as are paid by other companies may not impose any condition, or mean any thing as an obligation. But, however this may be, the license fee is only a nominal charge, or nearly so, upon each car, as a matter of police regulation, and it cannot be regarded as a compensation in any sense for the value of the privileges granted. The bill, therefore, as it comes before me, is a legislative grant to certain preferred individuals of a special license, privilege, and property, to be enjoyed and used by them in the public streets of the city of New York, without any compensation to the people of the State or city for its value. I cannot concur in or give my sanction to any such act of legislation.

The argument has been presented to me that the streets in and through which it is proposed to lay and operate this railroad are not very important — that the travel thereon, other than that upon the railroad, will not be great, and, therefore, that an exception should or might be made to the rule which I have always advocated as reasonable and just, that compensation for the privileges granted should be required. I have also been referred to the example of my immediate predecessor, Governor Fenton, who, while he refused to approve certain railroad grants, signed one last year (similar in character to that now proposed), known as the "Avenue C Railroad Bill," which provided for the payment of the nominal sum of one thousand dollars per annum, by the company, into the treasury of the city of New York.

I have also been referred to the example of Governor Morgan, who, in the year 1861, approved of what is known as the "Ninth Avenue Railroad Bill," while vetoing other bills of a like character.

I cannot, however, allow this argument or these precedents to control my action in regard to the bill now under consideration.

One Hundred and Twenty-fifth street is the chief thorough-fare of the large and growing district, known as Harlem, in the northern portion of New York island. If this railroad is required for the convenience of the people of that section, the privileges granted by the bill will constitute property of great and annually-increasing value. If it is not required, the grant should not be made. The questions which relate to the merits of all city railroad grants, and

the terms and conditions upon which they should be made, are as distinctly raised by this bill, therefore, as if its provisions applied to the more densely populated sections of the city, and embraced a larger number of more important and greatly travelled streets and avenues.

I shall, therefore, as briefly as possible, present my views upon the whole subject.

The precedents cited, established by my predecessors, can have no weight with me, because the principles which I hold as controlling, in regard to all these railroad grants, are not in their nature changeable, to be applied, relaxed, or compromised on personal or any other grounds. They are necessarily fixed and immutable.

I hold that these grants belong to the people; that their value should be paid into the treasury of the State or of the city of New York; and that the Legislature has not the right, in morals or justice, to give them away to any individuals who may be selected for such benefaction.

If the grant made by this bill, or by any one like it, is worth ten thousand dollars per annum, the effect of the bill is to give that sum annually to the grantees, for all future time, without consideration. It seems to me that the simple statement of the proposition is sufficient to show the unjustifiable character of the act.

All legislation should be founded on public reasons and be for public benefit. Legislation is a "public trust," and not a mere right to be exercised for private benefit or emolument. It should be as impartially administered and executed as any judicial or other power of government.

Our Constitution and our form of government recognize no distinction between classes of the community, and give no right to the representatives of the people to distinguish any individuals, by grants or gifts of public property which are withheld from others. Legislation is in the name of the people, by the people, and should be for the people.

Where is the authority from the people for the enactment of a law making to individuals the gift here proposed to be made?

In my judgment, equity demands that the value of these railroad grants should be paid into the treasury of the city of New York rather than into that of the State, and should be applied either to the reduction of the debt of that city or of the annual taxes levied on its citizens. These railroads are to be operated wholly within the city, and by a special use of its streets. The streets have either been dedicated to public use by the owners of adjacent lands or paid

for by assessment on such property. They are paved and repaved, lighted and cleaned, at the expense of the tax-payers, who also pay far maintaining police and sanitary regulations, and the general expenses of the municipal government. If any revenue can be derived from the use of such streets, it seems to me equitable and just that it should be applied to the payment of these expenses.

Ten or more railroads have already been established in the city of New York by virtue of special grants made by the Legislature. None of these railroads have been required to make any payment for the value of the privileges granted, except a mere nominal license fee, or (as in the case to which I have above referred) a nominal annual payment. All of these grants were valuable when made, and some of them were and are of great and increasing pecuniary value. The capital stock of the roads and their profits have been greatly disproportioned to their actual outlay and expenditures. Two of them (and only two), viz., the Sixth avenue and Eighth avenue railroads, are required to make monthly returns of their receipts. The receipts of these two companies, during the last year, were as follows:

Sixth avenue	$618,570 51
Eighth avenue	783,288 79

From this statement of receipts (which in each case are about double what they were ten years ago), some idea may be formed of the great and increasing value of railroad grants in the city. If all the companies had been required to pay to the city an adequate sum for the value of the privileges granted to them, the debt of the city would have been largely decreased; or if they had been required to pay a yearly compensation in proportion to the yearly increasing value of their grants, the annual taxes levied would have been materially reduced each year, and the people would have been so far relieved from the heavy burdens of taxation.

In my judgment, the Legislature had no more right, in morals, to give away these privileges, and deprive the tax-payers of that city of their just rights in respect to them, than they had to impose a direct tax, of the same pecuniary extent, for the benefit of the persons named in the bill.

I am not opposed to the construction of railroads in the streets of the city of New York. I am aware that additional facilities for

travel are required. The improvements being made in the upper portion of the city, occupied for residences, at points remote from the business sections, and the distance to be travelled from the ferries and railway depots to the commercial centre create a great and growing demand and necessity for more city railroads. I will gladly give my sanction to any just plan calculated to meet this requirement. But, however urgent and pressing may be the inconvenience from the present deficiency in the means of public travel, I cannot consent to give my approval to any measure which, while it may add to the public convenience, violates important public rights or principles, or the true policy of government.

I respectfully submit to the Senate that the just mode of providing additional railroad facilities for the city of New York would be to authorize the construction of such roads on suitable routes, with careful regulations for the protection of public and private interests; the grant or grants for such roads to be disposed of by the proper authorities of such city, at public auction, to the parties who will agree, with sufficient security, to pay to the city the largest sum in gross, or the largest sum annually, for the privileges granted; or if not at public auction, then in such other way as may be best calculated to make certain a fair and honest disposition of the grants, upon terms which will secure to the city treasury their just and reasonable value.

An act containing such provisions, or framed upon such principles, at the same time providing safeguards for the general public convenience, and for the protection of private rights, would be free from any imputation of favoritism and improvidence, and would secure to the tax-payers a just return for the use of the public property granted.

I respectfully ask, therefore, a re-consideration of the bill herewith returned.

JOHN T. HOFFMAN.

ALBANY, *April* 16, 1869.

TO THE SENATE:

I return, without my signature, Senate bill No. 121, entitled "An act to aid in the completion of the Whitehall and Plattsburgh rail-

road, and to amend chapter 103 of the Laws of 1867, and to renew the appropriation made thereby."

In my annual message, in referring to the condition of the State, the burdens resting upon the people, and what they would expect and demand of their representatives, I thought it proper to say as follows:

"While in all public affairs a reasonable liberality is to be encouraged, extravagance and waste will be condemned. A large amount of invested capital has been declared by Congress exempt from the taxation which now oppresses nearly every interest in the country. Those who bear no portion of the public burdens will never be active in opposing their increase. Some will be always ready to favor projects involving great outlays of public moneys in enterprises of real or supposed merit, but the great body of the people will not sanction any expenditures or appropriations, the necessity of which is not clearly apparent."

In considering any bill which appropriates money from the State Treasury to aid private capital in constructing new railroads, my duty to the people at large requires that I should not overlook the facts that we are in the midst of a period of great speculation; that we are under the influence, to some extent, of a depreciated or inflated currency, one of the invariable effects of which is to create an activity more or less feverish, under the stimulus of which men are not likely to discriminate carefully between legitimate enterprises and speculative projects. When this is over, and we return to a sound currency and a more healthy condition, we will estimate more justly the heavy burdens of taxation resting upon us, and will witness a diminution of the profits which some undertakings now earn, and of the promise of profit in others.

I fully comprehend what great benefits may be realized from wisely projected and economically constructed railroads, as well by the State at large as by the localities through which they pass. I would be glad to see their construction pushed forward with energy whenever there is need of them. I should rejoice in seeing the people of the State assist all such enterprises whenever it was apparent that the general interests of the State would be promoted by their success or injuriously affected by their failure. There are, I know, some portions of our territory full of undeveloped riches, and yet so sparsely settled that individual energy and home capital are wholly inadequate of themselves to open avenues of transit and communication to and through them, or even to contribute so much

towards local improvements as to inspire capitalists elsewhere with that confidence which would lead them to come to their aid. To open such regions to active traffic, to bring them into nearer connection with our great markets, to give to them facilities for communication and transportation which other more favored portions of the State enjoy, may often be so important to the whole State, and be so well calculated to add largely to its material and general prosperity, as to justify at times, and under proper restrictions, the granting of some aid from the Treasury of the State. While, however, it may be wise sometimes to grant this aid to enterprises simply because of their great merit and their great need, the money of the people should never be used to foster and encourage a spirit of speculation, or enterprises which may possibly have their origin in it. Even in cases of great merit, there is one difficulty which suggests hesitation, and that is that a contribution from the State Treasury, in one instance, becomes a precedent for many others. Meritorious projects and those purely speculative become linked together, and alike appeal to this precedent, with equal confidence, and too often, in the present condition of financial affairs and legislative temper, with equal chances of success. Every new railroad corporation thinks it has a right to some portion of the public money, and sends its friends to the Legislature, intent on securing means from the public treasury, which receives its supply from the contributions of the heavy-burdened tax-payers of the State.

As a general rule, the sagacity of private capital will be quick to see where railroads are needed, where they can be made to pay, and where they will add to the public wealth. It is hardly possible for the Legislature or an Executive to decide these points so well as can be done by the keen sagacity, the willing enterprise, and the careful scrutiny of private capitalists.

General laws have been passed for the incorporation of railroad companies. Liberal facilities are already extended (whether always wisely or not I need not here discuss) to the people in cities, villages, and towns, by the issue of their corporate bonds, to associate their corporate responsibility with individual capital, to construct their railroads. Under these circumstances, it seems to me that almost any meritorious enterprise can succeed without State aid, and that such aid should only be granted, if at all, when the necessity is clearly apparent, and when the well-being of the State at large demands it.

The aggregate appropriations proposed to be made from the State Treasury to railroad corporations, by bills introduced at the present

session, is over four and a quarter millions of dollars, as will appear by the following statement:

Whitehall and Plattsburgh	Senate bill		121	$365,000
Albany and Susquehanna	Ass'y	"	26	100,000
Ithaca and Tonawanda	"	"	665	150,000
Port Jervis and Monticello	"	"	666	100,000
Buffalo and Washington	"	"	667	250,000
Buffalo, Corning, and Pittsburgh	"	"	668	250,000
Northern Air Line	"	"	669	175,000
New York Northern	"	"	670	600,000
Gloversville, Mayfield, and Northville	"	"	672	150,000
Lake Shore	"	"	673	700,000
Southern Central	"	"	674	400,000
New York and Oswego	"	"	975	600,000
Fonda, Johnstown, and Gloversville	"	"	676	75,000
Erie Valley and Genesee	"	"	742	125,000
Wallkill Valley	"	"	744	128,000
Rondout and Oswego	"	"	747	150,000
				$4,315,000

Most of these bills have progressed so far as to indicate clearly that the friends of one rely, for success, upon the aid and coöperation of the friends of the others.

The whole amount of taxes levied by the State for schools, canals, bounty debts, railroads, and general purposes in 1868, was $10,343,317.01, being five and four-fifth mills upon the assessed valuation of property. The amount of State aid proposed by the bills above referred to, viz., $4,315.000. is more than two fifths of the whole State tax of 1868. If a tax were imposed in any single year to provide for this aggregate of State aid, it would make the State tax eight and one-fifth mills, instead of five and four fifths, as in 1868. This bill provides for extending the tax over two succeeding years, which same provision will no doubt be adopted in the other bills. In such case the tax would be increased to seven mills for two successive years.

These figures may well excite alarm. If this bill be successful, it will be likely to be regarded as a precedent and to lead to the success of most, if not all, of the others, and thus to subject the Treasury to an expenditure of nearly $4,000,000 more, distributed

among enterprises of similar character, whatever may be their respective degrees of merit.

It is a fact as apparent as it is deplorable, that whenever heavy demands are made upon the public Treasury for other than the ordinary expenditures of the State Government, influences are at work in and around the Capitol, to secure their success, which are not calculated to premote an impartial exercise of the legislative power; and it may be predicted with almost absolute certainty, if these present applications are successful, that at some future day, and that not far distant, a portion of the very money now drawn from the Treasury of the State will be used as means to secure renewed and increased appropriations for like purposes.

It is confidently alleged that the people of the State will and do approve of these enormous appropriations, and are willing to have imposed upon them these new burdens for the sake of aiding enterprises, the direct profits of which will inure to the benefit of private capitalists. I do not believe it. But even if it were so, I am confident that hereafter, when the feverish period of speculation shall have passed away, and a sounder public sentiment shall prevail, they would, if I sanctioned the legislation to which I now object, hold me accountable and responsible for failing to protect them against great expenditures, in regard to which the probability of waste and extravagance is much greater than the possibility of prudence and discrimination.

It must be remembered that, under the Constitution, it is in the power of the Legislature to submit to the people of the State the question whether they are willing to aid these enterprises by the creation of a State debt. Such a mode of coming to their relief would admit of a large grant of money and a more systematic and equitable application of it to the different sections of the State. The taxation required to meet the outlay could be extended over a period of eighteen years, instead of being forced upon one or two. The fact that no such measure has been brought forward during the time the State aid policy has been pressed, is strong evidence that the advocates of that policy believe that the people at large would not approve of it. If this be so, the people would certainly resent a proposition to collect at once, and without asking their approval, the large sum now proposed to be levied upon them.

For the reasons, therefore, that it is not easy to discriminate so clearly between this measure and those of a similar character, now pending and perhaps awaiting the decision of this one, as to make

this an exception; that it presents a question of general policy in granting money from the State Treasury to aid in the construction of local railroads, when the burdens of taxation are too great to admit of the heavy addition which the adoption of the policy would entail; that the Constitution provides a wise and just method by by which the people of the State can take upon themselves the decision of the question, under which the tax can be graduated according to the magnitude of the improvement to which aid is given; that the measure may be deferred without prejudice to its future consideration at a period when the affairs of the State and country will be in a more permanent condition, when taxation will only be required for current necessities, and when it is hoped a settled prosperity shall be established; I am constrained, without expressing any opinion upon the merits of the Whitehall and Plattsburgh railroad, except to admit most freely that the region through which the road will run has very strong claims upon the consideration and sympathy of the whole State, and that the construction of a railroad through it would contribute very greatly to the general wealth and prosperity, to return the bill without my signature.

JOHN T. HOFFMAN.

ALBANY, *April* 20, 1869.

TO THE SENATE:

I return, without my signature, Senate bill No. 205, entitled "An act to authorize the Avenue C Railroad Company of the city of New York to extend their railroad tracks through certain streets and avenues in said city."

The company was chartered by act of the Legislature on the 6th of May, 1868. Up to this time it has built no portion of its railroad. The bill now before me, amending the charter, gives the company the privilege of laying its tracks in streets and avenues not covered by the original grant; and it does not provide for compensation to be paid therefor into the treasury of the city or that of the State.

It comes within the objections stated by me in a message sent to the Senate on the 14th inst., in relation to the bill authorizing the construction of a railroad in One Hundred and Twenty-fifth street and other streets of the city of New York. I therefore return the bill, and respectfully ask its reconsideration.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1869.

TO THE SENATE:

I return, without my signature, Senate bill No. 70, entitled "An act to amend an act entitled 'An act to supply vacancies in the offices of justices of the peace in the several towns of this State,' passed April 18, 1859."

The bill consists of two sections.

The first section provides that whenever a vacancy shall occur in the office of justice of the peace in any town of this State after the annual town meeting in any year, and before the next annual town meeting in such town, certain town officers, or a majority of them, may appoint a person to fill the vacancy, "and the person so appointed shall hold said office until five days after the then next annual town meeting in said town."

By reference to article 6, section 17 of the Constitution, it will be seen that justices of the peace are elective officers.

The 5th section of article 10 of the Constitution reads thus: "The Legislature shall provide for filling vacancies in office, and, in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy."

It is obvious that in case of a vacancy occurring after an annual town meeting, and before the annual election of the same year, this section would provide that the person appointed to fill the vacancy should continue to hold office after the next succeeding first of January, which would be "the commencement of the political year next succeeding the first annual election after the happening of the vacancy." Such provision of law is forbidden by the Constitution.

The second section of the bill provides that when a vacancy shall exist and a justice of the peace shall have been elected in the town, whose term of office does not commence until the first of January following, "the person so elected shall be appointed to fill such vacancy."

Article 10, section 2 of the Constitution prescibed that "all city, town, and village officers whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns, and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose."

It is plain that the person pointed out by this act as the one who shall fill the vacancy in the case described in this second section would hold office, while filling the vacancy, neither by election of the electors of the town, or of any portion of them, nor by appointment of the local authorities. The power of appointment, that is, the selection of the person who shall fill the vacancy, is, according to the Constitution, to be conferred absolutely, if conferred at all, upon the local authorities. The Legislature cannot designate in advance what person they shall appoint.

Both sections of the bill are in conflict with the Constitution.

JOHN T. HOFFMAN.

ALBANY *April* 27, 1869.

TO THE ASSEMBLY:

I return without my signature, a bill entitled "An act to incorporate the village of Chateaugay, in the county of Franklin," which passed the Assembly on the 17th of April, and the Senate on the 26th of April.

The bill provides that no person shall be entitled to vote "for the elective officers of the village" unless he be a freeholder, or shall, within a year preceding, have paid a tax upon property taxable in the village.

It thus seeks to establish a property qualification for those who are to vote for officers elective by the people, and is, therefore, in conflict with the Constitution, which declares, in article 2, section 1, that "every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of the State for one year next preceding an election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are, or hereafter may be, elected by the people." And in article 10, section 2, that "all city, town, and village officers, whose election or appointment are not provided for by this Constitution, shall be elected by the electors of such cities, towns, and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose."

The bill is returned thus promptly that it may be amended, if the Legislature see fit, so as to remove the objection.

JOHN T. HOFFMAN.

ALBANY, *April* 27, 1869.

TO THE ASSEMBLY:

I return, without my signature, a bill entitled "An act to declare John street in the village of Gouverneur a public highway."

The forty-first section of chapter 448 of the Laws of 1868, entitled "An act to incorporate the village of Gouverneur, in the county of St. Lawrence, and to repeal its present charter," provides that the trustees "shall have power to lay out, open, make, straighten, widen, extend, alter, and discontinue any streets, highways, alleys, lanes, side and crosswalks, drains, and sewers in said village, and may lay the same through any lands or inclosure, and take and appropriate the lands necessary for such improvements."

It is manifest that the subject-matter of the bill comes within the existing powers of the local authorities. The bill is, therefore, open to the objections already stated by me to the Assembly in previous messages, to unnecessary special legislation.

JOHN T. HOFFMAN.

ALBANY, *April* 29, 1869.

TO THE ASSEMBLY:

I return, without my signature, the bill entitled "An act to provide for the construction and maintenance of a bridge over the Tioughnioga river, in the town of Cuyler, Cortland county."

The main purpose of this bill (although there is nothing in the title to indicate it) is to charge upon the town of Truxton one half of the expense of building and maintaining the bridge, which is wholly within the town of Cuyler.

There has been for several years a dispute between the two towns in reference to this subject, and in the month of March, 1866, in a proceeding instituted by the commissioners of highways of the town of Truxton, the Supreme Court desided that the town of Truxton was not liable, as an adjoining town, to unite with Cuyler in building the bridge.

I submit that, in view of this decision of the Supreme Court, this bill, against which all the town officers of Truxton remonstrate, should not become a law, and I respectfully ask its reconsideration.

JOHN T. HOFFMAN.

ALBANY, *April* 29, 1869.

TO THE ASSEMBLY:

I return, without my signature, the bill entitled "An act to authorize the village of Adams to issue bonds for the purpose of aiding in the rebuilding of the Hungerford Collegiate Institute, and to levy a tax for the payment of the same."

The bill authorizes and requires the president of the board of trustees of the village of Adams, if a majority of the taxable inhabitants of said village shall, at a special meeting, give their consent, to issue its corporate bonds to the amount of $15,000.

These bonds are to be delivered to the Hungerford Collegiate Institute as a gift, the payment of the principal and interest of the bonds being required by the bill to be provided for by a general tax upon the property of the village.

A remonstrance, extensively signed, has been forwarded to the Legislature protesting against this (so far as the unwilling among the tax-payers are concerned) compulsory gift to a private institution; the advantages of which, it is said, can be enjoyed only by the few more wealthy of the people, while the tax is levied in equal proportion upon the homes of those who can afford for their children only the education of the common schools.

It is not, in my judgment, a case in which the Legislature should interpose to authorize a tax to be levied upon the property of the people of a town or village.

Whatever may be said as to the propriety of permitting a town or village, upon the consent of a majority of the taxable inhabitants, to issue its bonds and lend its credit in aid of any public improvement, it does not appear to be just that the creation of a debt should be authorized for the purpose contemplated by this bill and a tax levied upon the property of the people, when a large number of them remonstrate against it.

JOHN T. HOFFMAN.

ALBANY, *April* 30, 1869.

TO THE ASSEMBLY:

I return, without my signature, the bill entitled "An act to amend the act entitled 'An act to amend the several acts incorporating the village of Owego, in the county of Tioga,' passed April 7, 1851.

Section 7 of the bill provides that the village of Owego shall hereafter elect five Supervisors, all of them to be members of the Board of Supervisors of the county, each one exercising the same power as the Supervisor of a town. The village is already entitled, by an amendment to its charter made in 1854, to a Supervisor in addition to the one elected by the town of which it is a part. By the bill now before me the village would elect five, and the town at large one; making six for the town of Owego.

It is well known that Supervisors are not apportioned among the towns of a county with reference to population; but that, as a rule, every town is entitled to one representative in the County Board. It is urged upon me, in favor of this bill, that the town of Owego, including the village, so far exceeds in population the other towns of the county that it ought to have a larger representation in the Board.

Even upon the principle of proportion to population, this bill would give to Owego more than its share The population of the county of Tioga is, by the census, 28,163; that of the town of Owego 8,865. Owego would, therefore, if population were the basis of representation in Boards of Supervisors, be entitled to about one third of the County Board. This bill gives it six Supervisors, and there are eight other towns, each of which elects one. The entire Board would thus consist of fourteen, out of which number Owego would have six, or nearly one half.

Again: if population is to be regarded as the basis of representation, there are other towns in Tioga county which have equal claims with Owego to relief. Barton and Candor have each a population of over four thousand; the remaining towns ranging in their numbers from one thousand to three thousand.

It is obvious that this bill would fail to give the county a Board representing the people according to numbers. If Owego, with a population of 8,800, be entitled to six Supervisors, then Barton and Candor, with populations of 4,000, have almost equal claims each to three.

If the principle is to be recognized that towns should be represented according to numbers, then it should be made general in its application throughout the county, and not confined to Owego. There is, however, an objection to the bill, independent of these details, which, in my judgment, is insuperable. It is this: The title of the bill does not, as the Constitution requires, indicate its full purpose or object. While, by its title, it purports simply to amend the charter of the village of Owego, the bill would work a material

change in the government of the county. In any such change the people of the other towns have an interest; yet the title of this bill has afforded them no notice that its provisions were of any moment to others than the inhabitants of the village of Owego.

JOHN T. HOFFMAN.

ALBANY, *May* 1, 1869.

TO THE ASSEMBLY:

I return, not approved, the bill entitled "An act relating to the Jordan Academy and free school district No. 4, in the town of Elbridge, in the county of Onondaga."

By a special act (chapter 43 of the Laws of 1867) the Jordan Academy was "constituted an academical department in free school district No. 4 in the town of Elbridge," "in the manner provided by section 24, title 9 of chapter 555 of the Laws of 1864;" which latter is the general law passed that year to revise and consolidate the acts relating to public instruction. The Jordan Academy ceased to be an independent institution and passed into the charge of the board of education of the district. It was, among other things, provided by this special act of 1867, that the board of education of the district might fix the terms of tuition in said academical department, within certain limits.

But by the subsequent passage of an act (chap. 406, Laws of 1867) to amend the acts relating to public instruction, and commonly known as the free school law, the privilege of requiring payment from the pupils was taken from all departments (academical included) of the public schools. Section 26 of the last-named act reads: "Hereafter all moneys now authorized by any special acts to be collected by rate bill for the payment of teachers' wages, shall be collected by tax and not by rate bill."

From the operation of this general provision the Jordan Academy, so called, but in fact the school district to which it belongs, seeks now to be exempted. It would remain in full connection with the general public school system, get its share of the public school moneys annually distributed, retain the power of local taxation for the support of its academical department, and yet be at liberty to require payment for tuition from some of its pupils. The teachers employed in and the pupils attending this academical department of free school No. 4 of Elbridge, are reported by the board of edu-

cation of the district to the department of public instruction as common school teachers and pupils, and are consequently counted towards the pro rata share of public money to that district.

The bill is without precedent, and would establish a bad one.

JOHN T. HOFFMAN.

ALBANY, *May* 4, 1869.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act to amend an act in relation to a certain highway and highway taxes in the county of Hamilton," passed April 22, 1867, as amended by chapter 722 of the Laws of 1868.

I find that the act which this bill proposes to amend directed the Comptroller to pay over certain moneys to the special commissioners named in the act. Out of these moneys the commissioners were authorized to retain certain sums as compensation for their services, their accounts "to be first audited, allowed, and certified by said Comptroller, upon a detailed statement of such services, duly verified by the commissioner, claiming such compensation, and upon such other evidence as the Comptroller may require."

It appears that in 1867 the commissioners then in office filed with the Comptroller their report of moneys received and of their charges and alleged disbursements. The Comptroller refused, and still refuses, to allow the accounts so rendered. This bill, without making any provision for investigation or reëxamination, directs the Comptroller to pay these claims in the form and to the amount presented, and at the same time strikes out the provision in the original act for the future auditing of similar accounts.

I trust the Legislature will agree with me that it is not wise policy to take from the Comptroller the power to audit and adjust these accounts. In cases of this kind it is right that the money should be expended under a sense of responsibility on the part of the commissioners to some supervising authority, and the Comptroller seems to be the proper officer to exert control in such matters.

The bill, in one of the new sections proposed, viz., section 8, confers extraordinary powers on the special commissioners. It provides for a tax upon certain towns, for a road which runs wholly through other towns. It requires the commissioners of highways in several towns (through some of which the road does not pass) to assess all

the highway tax upon lands owned by non-residents in their respective towns for the benefit of this road. It requires them to deliver the warrants for the collection of these taxes to the special commissioners, who are, by the bill, made overseers of highways for the purpose. The section further provides that, if the ordinary commissioners of highways in the several towns do not, within a certain period, deliver such warrant, then the special commissioners of highways may assess the non-resident tax in the several towns, and, as overseers of highways, collect it. If the commissioners of highways do deliver an assessment-roll and warrant, and these special commissioners deem it defective, they are authorized, as said commissioners, to revise and correct it at discretion.

By another new section, proposed as section 9, the special commissioners are authorized to borrow three thousand dollars on the credit of these highway taxes, and provision is made for the payment by the Comptroller of bonds issued by them. It is intended, no doubt, that the money so borrowed shall be used for the purposes of this road, but the bill contains no explicit directions on that point.

The special commissioners seem, by the bill, to be invested with power to claim all the non-resident taxes in the several towns so named for a period of years to come; to act as commissioners of highways in all these towns with unlimited power to levy a tax on non-resident lands; to act, also, as overseers of highways in the several towns, and to collect the tax they themselves have laid; "as overseers of highways," to overlook and correct the assessment-rolls of the regular commissioners of highways of the several towns, which is for a subordinate to revise and correct the acts of his superior; and at the same time the commissioners themselves are made responsible to no one.

In view of these extraordinary, and, it seems to me, unnecessary provisions, I return the bill, and respectfully ask its reconsideration.

JOHN T. HOFFMAN.

ALBANY, *May*, 5, 1869.

TO THE SENATE:

I return, without my approval, Senate bill No. 207, entitled "An act to incorporate the Oswego Pier and Dock Company."

The bill incorporates twelve persons, named therein, and such others as may join them, as the Oswego Dock and Pier Company:

the twelve corporaters named in the bill to be directors of the company until January, 1871.

It gives to this corporation power to "take any and all lands upon the shore, within fifty feet of high-water mark, not now improved or occupied, and all under water adjoining the said shore that may be included within the breakwater built in the lake, or along the shore," at an approved value, in the same way that the land might be taken for railroad purposes. This land so taken may be improved by "filling in, making slips, wharves, piers, warehouses, railroad tracks, or such other improvements for commercial or manufacturing purposes as may be desired by the said company."

The territory within which the company is to operate is defined as "lands on the shore and under the waters of Lake Ontario, within the limits of said city of Oswego, outside the Government piers, which now protect and form the harbor of said city."

The entire water front of the city (except the limited portion between the present piers) is thus given up to the exclusive ownership of a private corporation, and apparently for its exclusive use. The extent of shore thus transferred from the present owners to this corporation is said to be at least two miles.

The purpose and object for which the company is created are nowhere expressly defined, nor in exchange for the great privileges conferred on it, are any duties to the public enjoined upon it. The bill speaks of a "harbor hereby authorized," but it nowhere imposes upon the company the duty of constructing an artificial harbor, nor, in fact, any other duty.

The company, under the bill, may do almost anything; but it is not required to do anything. It may take lands on shore and under water, fill up, build piers, docks, wharves, warehouses, lay railroad tracks, or make such other improvements for commercial or manufacturing purposes as may by desired by the said company;" but it is not required to give the use or benefit of these piers, wharves, docks, slips, or other improvements to the public on any terms. Upon this point the bill is silent.

The authorities of the city of Oswego are given no power nor control over the changes proposed in its water front; except that, when the improvements of the company come to be connected with the present harbor of Oswego, the connection is to be made, "in such manner as the directors of the company shall determine best calculated to promote their interests, subject, however, to the approval of the same by the authorities of the city of Oswego."

If the real purpose of the company be the improvement of the harbor of Oswego for public use, that is a matter in which the city authorities or some public agent should have a controlling voice. If the object of the company be simply its own private gain, then the proposed transfer of the lands along the shore and under water from their present owners, without such owners' consent, to this company, would, according to judicial decisions, be taking private property, and not for public uses.

The charter granted to the company is perpetual, and is not subject to modification, amendment, and repeal by the Legislature.

The bill would create a corporation clothed with extraordinary powers, no corresponding obligations being imposed on it, and subject to no future control by the Legislature.

JOHN T. HOFFMAN.

ALBANY, *May* 5, 1869.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act to consolidate the several school districts and parts of districts within the corporate limits of the village of Johnstown, and to establish a union graded school therein."

The bill proposes to consolidate the several school districts and parts of school districts within the corporate limits of the village of Johnstown, the consolidated district to be under the control of nine "commissioners," who are constituted a body corporate under the name of the "Board of Education of the village of Johnstown," and who are to have power, among other things, to hire the Johntown academy for an academical department of the schools of said village, and to accept a transfer of said academy whenever the trustees thereof shall, as authorized by the bill, see fit to make it.

These purposes can be accomplished under existing provisions of law, and this special law is therefore unnecessary.

Sections 4, 5, and 6 of title 9 of the general school law, passed in 1864, make ample provision for the establishment and organization of such a union school district, under the control of a similar board of education, by a vote of the people in the territory to be affected.

Section 24 of the same title and act provides for the adoption of any existing academy within the limits of the district, by such board of education, with the consent of a majority of the voters of the districts, and of the trustees of the academy.

All the main features of this bill are embodied in existing statutes, general in their nature, and equally applicable to the village of Johnstown as to other localities whose schools are organized under them. In the few details in which it differs from the general act, the bill is open to these objections:

1. The proposed district is not to be distinguished by a number, as school districts usually are, and as it is important they should be, but is to be known only by name as the Johnstown Union School.

2. The persons comprising the board of education are to be styled "commissioners" instead of trustees, by which latter title they are known in other districts throughout the State. The law already knows one class of officers as School Commissioners, and it seems to be undesirable to create another body of men with other and different duties and powers, to be known by the same name.

3. That officer of the board of education designated in the school law as the clerk, in this bill is named "secretary." His duties being, in the main, identical with those of clerks in other union districts, his official title should be the same.

4. Section 21 of the proposed act authorizes the school commissioner of Fulton county, "whenever he shall deem it for the interest, of the parties concerned," to annex to said union district any lands, premises, and territory which, at the time of the passage of the bill, formed a part of any of the districts consolidated by the bill.

Under this provision, the school commissioner might, at any time, without consulting the inhabitants who are to be transferred or the officers of the district, transfer such inhabitants and their property to said union district.

The restrictions in title 6 of the general school law upon the alteration of school districts are thus entirely taken away, so far as the territory in question is concerned. Acting under the restrictions of the general law, the commissioner is obliged either to obtain the consent of the trustees of all the districts to be affected by his order, or, if they refuse to consent, the supervisor and town clerk of the town in which such districts are situated may be associated with him in the determination of the matter. There appears to be no good reason why the inhabitants of the territory affected by the proposed act should be denied the safeguard of these restrictions.

If the citizens of the village of Johnstown are opposed to the contemplated consolidation, it should not be forced upon them. If they favor it, they can effect it without the aid of this bill, under existing general laws.

JOHN T. HOFFMAN.

ALBANY, *May* 10, 1869.

TO THE ASSEMBLY:

I return, not approved, the bill entitled "An act in relation to assessment-rolls in the town of Oswegatchie, in the county of St. Lawrence."

The bill provides that the assessors of the town of Oswegatchie shall hereafter, in all assessments for the purposes of taxation, make a roll for each of the wards in the city of Ogdensburgh, and another for that portion of the town not included within the corporate limits of said city, and shall deliver one of said rolls to the supervisor of each ward; and yet, that the warrants issued for the collection of the taxes shall be addressed and delivered to the collector of the town.

The bill is, in my judgment, a needless interference with the details of the duties of town assessors and town supervisors, which are regulated, and no doubt wisely regulated, by the general laws.

The city of Ogdensburgh is a part of the town of Oswegatchie, and its citizens have their share in electing the supervisor of the town, whose jurisdiction as a town officer extends over the city as well as over the rest of the town for all town purposes. So long as the city continues to be a part of the town, it is not right that any of his duties and powers should be devolved upon the ward supervisors, whose jurisdiction is much more limited.

If there be sufficient reason for making the proposed change, then it should be made by a general law, applicable to all cities and towns similarly situated.

JOHN T. HOFFMAN.

MEMORANDA OF OBJECTIONS

Endorsed on Sundry Bills returned, after Adjournment of the Legislature, by the Governor to the Secretary of State, unsigned.

An Act "to increase the rate of commutation of sentence to be earned by convicts under the provisions of section 2, chapter 417, of the laws of 1862, and the laws amendatory thereof."

NOT APPROVED — The present law is sufficiently liberal and works well. It gives assurance to convicts that patience in well-doing will ensure moderate rewards, and that is enough. Frequent changes in it are not to be encouraged.

Moreover, the commutation law places, to a certain extent, the power of liberating a prisoner, before his sentence has expired, practically, in the hands of the wardens. The Governor has no means of checking their returns of good conduct, which are not made periodically, but only as (by commutation) the sentence is about to expire. The present law leaves quite enough power of this nature in their hands.

An Act "to incorporate the Bethlehem Mutual Insurance Association, and to ratify its proceedings."

NOT APPROVED — If this Company desires to have enlarged powers it should reorganize under existing general laws. Such power should not be conferred by reference (as in this bill) to an act which has been repealed.

An Act "to amend the charter and to confer additional powers upon the trustees of the village of Jamaica."

NOT APPROVED — The amendments, among other things, provide for the assessment of damages in cases of taking private lands for public uses by commissioners to be appointed by the village trustees.

This is clearly unconstitutional. See article 1, section 7, Constitution of New York.

An Act "to incorporate the Harlem Yacht Club."

NOT APPROVED — Because the objects sought can be attained under existing general laws.

An Act "to facilitate the extension of the Schoharie Valley Railroad."

NOT APPROVED — First section defective in allowing "name of any person written by his or her order," &c., to be proof of consent to bonding, without requiring any evidence of genuineness of signature or knowledge of contents.

Moreover, the bill, the title of which relates to Schoharie Valley Railroad only, makes provision for subscription of bonds not only for that, but for another road called the Gallupsville Railroad.

An Act to amend an act entitled "An act to incorporate the New York and Long Island Bridge Company, for the purpose of constructing and maintaining a bridge over the East river, between the city of New York and Queens county," passed April 16, 1867.

NOT APPROVED — The third section gives unlimited power to the Common Council of New York to subscribe for capital stock, or to guaranty the entire principal and interest of the bonds of the company, which is a private corporation.

An Act "to incorporate the Staten Island Bridge Company."

NOT APPROVED — The title of the bill does not indicate its real character or objects. The bill in fact incorporates a Ferry and Warehousing Company with extraordinary and almost unlimited powers, and with authority to erect such structures as it pleases on the shoals or shallows in the Bay of New York, from Ellis Island past Robins Island, and to appropriate the structures so erected to "any uses to which they may be adapted."

An Act "to fix the bail of the overseer of highways of the town of Hamburgh, in the county of Erie."

NOT APPROVED — No good reason is assigned for making this town, by special act, an exception to other towns in the State.

An Act "authorizing and requiring the town of Olean, in the county of Cattaraugus, to purchase and acquire title in said town for Buffalo and Washington Railroad Company."

NOT APPROVED — Bill makes it the duty of certain town officers to purchase right of way for the Company, and the Supervisors are required to levy tax to pay the same. The Company is to deliver its stock to the town in payment. No provision is made for obtaining

consent of majority of tax-payers, as is required in cases where towns are bonded for railroad purposes.

An Act "to restrain dogs from running at large in the county of Rockland."

NOT APPROVED—Because it is improper legislation. The county judge should not have such duties devolved on him.

An Act "to amend an act passed April 13, 1819, entitled 'An Act to incorporate the members of the Genesee Annual Conference.'"

NOT APPROVED—Because it is the same as Senate bill No. 1, passed March 11, 1869 (see chapter 38, laws of 1869).

An Act "to extend the time for taking avail of certain provisions of chapter eight hundred and four of the laws of eighteen hundred and sixty-eight, entitled 'An Act for the disposition of the surplus money arising from sales, pursuant to part three, chapter eight, title fifteen of the Revised Statutes, entitled "Of the foreclosure of mortgages by advertisement.'"

NOT APPROVED—The reference to "the provisions of the second section of chapter 804, of the laws of 1868," made in the second section of this bill, is evidently erroneous.

An Act "to widen and improve North Second street, in the city of Brooklyn, and to regulate, grade, and pave the same."

NOT APPROVED—Because the bill sent to me is the original Senate bill. It passed the Assembly with an important amendment, of which amendment the Senate appears to have had no notice.

An act to amend chapter six hundred and twenty-four of the laws of eighteen hundred and sixty-six, entitled "An act to authorize the towns of Wilna, Champlain, Rutland, Watertown, Hounsefield, Philadelphia, Theresa, Clayton, Alexandria, Orleans, Brownville, Antwerp, Pamelia, and Le Ray, in the county of Jefferson, and the towns of Greig, Watson, New Bremen, and Croghan, in the county of Lewis, to issue bonds, and subscribe and take, for said towns, capital stock in the Utica and Black River Railroad Company."

NOT APPROVED—Because, in effect, it dispenses with proof of consent of tax-payers, required by the original act.

An Act to provide for widening West Street, in the city of New York, on the westerly side thereof, from Battery place to Hammond street.

NOT APPROVED—1st. Large number of property-holders remonstrate.

2. The municipal authorities have power, under existing laws, to order the work to be done and the expense to be assessed on property benefited. No special legislation necessary.

3d. I am opposed to the clause in this bill which puts three fourths of the expense on the city at large.

An Act to open and construct a road from Stony Creek, in the county of Warren, to Wellstown, in the county of Hamilton.

NOT APPROVED — Bill defective: 1. In not defining the power of commissioners. 2. In not defining the lands the taxes upon which are to be applied. These lots are all known in the Comptroller's office by numbers, and there is no way of determining where the three-mile line would divide the taxes. The provisions of the bill can not be executed.

An Act to provide for the erection of a Public Market in the Twenty-first Ward of the City of New York.

NOT APPROVED — All new markets in New York should be built by associations of market men, or by other private persons with private capital.

The public market system has not worked well, and should not be extended.

If there be sufficient demand for a market in the Twenty-first Ward, abundant private capital will come forward and construct it.

An Act to alter the map of the "Commissioners of the Central Park," so far as it establishes a road or public drive running westerly of the Eleventh avenue from One Hundred and Fifty-sixth street north, to the junction of said drive with the old military road, on the property of the Institution for the Blind.

NOT APPROVED — A personal inspection of the route of the Boulevard, as laid out and as proposed to be changed, satisfies me that the change is not desirable. But, beyond that, so long as a competent commission is charged with the duty of laying out the Boulevard, special legislation effecting changes should not be had at the instance of interested parties, unless the benefit to be derived therefrom is clear beyond all question.

An Act to repair the State works on the West Branch of the Oswegatchie river to improve the navigation thereof, and the hydraulic power connected therewith.

NOT APPROVED — The works referred to are not State works, although the State has contributed towards their erection. If the State is to spend any more money upon them the State Engineer

should have superintendence of them. Except that report is to be made to the Comptroller, no State officer has any connection with the work.

Moreover, it seems to me better that the necessary expense of the improvement should be raised by assessments, as provided in the case of the Great Chazy river, chapter 289, Laws of 1868.

An Act to amend chapter 628 of the laws of 1857, entitled "An act to suppress intemperance and to regulate the sale of intoxicating liquors."

NOT APPROVED — The amendment substitutes "a majority of Excise commissioners," in place of "County Court of Sessions," to revoke licenses. If the Court of Sessions is to be superseded at all in this matter, it should be by the Board of Excise, not by a majority of it.

An Act to authorize the inhabitants of the town of Homer to issue bonds for the completion and endowment of the Cortland Academy at Homer.

NOT APPROVED — This bill does not differ sufficiently from Assembly bill No. 472, authorizing a tax on the village of Adams for the Hungerford Institute, to take it out from the operation of the principle I laid down in my veto message of April 29, upon the last-named bill. However meritorious may be the object sought by the bill (and I believe it to be a meritorious one) I cannot recognize the right of a majority to tax the minority for the purpose of a gift of money to a private school, academy, &c. The admission of free scholars from Homer does not make it a public school.

An Act to provide for the correction of errors in the equalization of the assessments in the county of Columbia as made by a board of supervisors.

NOT APPROVED — If the policy declared by this law is a good one it should be made general, and not applied to a single county.

I cannot, however, admit the propriety of the appointment of a commission which, in the matter referred to in the bill, shall have power to overrule the board of supervisors.

An Act to prevent nuisances near public schools.

NOT APPROVED — This bill may injuriously and unnecessarily affect legitimate business now established near public schools, as, for instance, "livery stables or private stables," not *per se* nuisances. The bill not merely forbids the future erection of such buildings

but the future *use* of them. It might, therefore, prevent the free and lawful use of property by the owners thereof.

An Act to incorporate Clyde Water Works Company.

NOT APPROVED — Section 5 authorizes "the corporation hereby created," "to take, hold, and sell the bonds and securities of said village or of any other corporation;" it was obviously not the intention of the Legislature to confer such broad powers upon a water works company.

An Act to facilitate the construction of railroads in the counties of Allegany, Cattaraugus, Monroe, and Wyoming, and to authorize the towns therein to subscribe to the capital stock thereof.

NOT APPROVED — On May 18, 1869, I signed the general law providing for the Bonding of Towns, &c., for Railroad Purposes, which is carefully drawn and well guarded.

The objects of this bill can be attained under the General Law. Special acts for such purposes are no longer necessary.

An Act to authorize Smith and Parmelee Gold Company to issue a preferred stock.

NOT APPROVED — The bill provides for the conversion of the whole or any portion of the stock of the company into a preferred stock, upon the consent of a majority of its stockholders. It does not protect the rights of the minority, as no stockholder can convert his stock unless he elects within twenty days after service of a notice personally or by mail.

No stockholder should be deprived of rights or property, by the mere depositing in the post-office of a notice directed to him.

An Act to restore the channel of the Oswego river, at the city of Oswego, to its capacity before the enlargement of the Oswego canal.

NOT APPROVED — No obligation exists on the part of the State to do the work contemplated by the bill, and the State Engineer reports, after examination, that it would involve a large expenditure for which the State would receive no benefit.

An Act to raise money to build a bridge in the town of Carrol, Chatauqua county, N. Y.

NOT APPROVED — The bill fixes not only the maximum but the minimum expenditures of the Highway Commissioners.

The object of the bill can now be attained under General Law of 1869, enlarging powers of Boards of Supervisors.

AN ACT to amend "An act to confer additional power upon the Metropolitan Police, relating to the inspection of steam boilers," passed April 9, 1862.

NOT APPROVED — Policemen who are relieved from patrol duty are detailed for the special work referred to in this bill. It is much easier than patrol duty, and, like all detailed positions, much sought after on that account. The Commissioners have not suggested extra compensation, and there is nothing to justify it.

AN ACT prohibiting the Board of Commissioners of Excise, in the counties of Allegany and Cattaraugus, from granting licenses to sell strong and spirituous liquors and wines upon the Allegany and Cattaraugus Indian reservations, in this State.

NOT APPROVED — The selling or giving of liquor to an Indian is now forbidden by law (chap. 420, Laws of 1849). To the white people within the district, the same laws should be applied as in other parts of the State.

AN ACT to authorize the Mill Brook Log Company to improve Mill Brook, in the county of Warren, leading from Lake Pharaoh to Schroon lake, by the erection of dams and otherwise, and to provide for appointing appraisers to appraise the damages that may accrue to land-owners along said stream, on account of the use of and running of logs by said company.

NOT APPROVED — Mode of appointing commissioners for assessing and determining damages unconstitutional.

AN ACT to incorporate the Fifth Avenue Savings Bank of New York.

NOT APPROVED — Section 3 omits to define the number of trustees who shall constitute a quorum; the omission is in the printed bill also, and it must have passed in that shape.

AN ACT to amend chapter 350 of the Laws of 1862, being an act entitled "An act authorizing the Supervisor of the town of Hempstead, in Queens county, to call a special town meeting, to determine by ballot whether the public lands of said town, called the Hempstead Plains, shall be sold or not," passed April 19, 1862.

NOT APPROVED — There are several thousand acres of Hempstead Plains which the amended bill declares shall be sold in "one parcel." I do not believe the amendment is calculated to secure a fair sale. The reverse is pretty certain.

An Act to authorize the commissioners of highways to construct bridges in the town of Ellisburgh, county of Jefferson, and to levy tax for that purpose.

NOT APPROVED — Provided for by general laws. Town meeting may levy $1,250 for the purpose in any year. Board of supervisors may authorize any town to borrow $4,000 for same purpose. If the sum required be larger than this, the commissioners should not be authorized to borrow without consent of superior authorities, nor the supervisors directed to levy what the commissioners choose to borrow, as this bill provides. No limit is imposed by the bill.

An Act to authorize the New York River Road Company to construct certain railroads in the city and county of New York and across the Harlem River.

NOT APPROVED — Amendments to this bill were made in the Senate, and it was sent to the Assembly for their concurrence therein Some members of the House inform me that the Assembly did not thereafter act on it. The Clerk thinks it did not. The Assembly journal, nevertheless, shows concurrence; after which the bill should have been sent to the Senate to be signed by the President thereof. The usual message in such cases from the Assembly to the Senate is not found with the bill, and the Senate journal does not show that the bill was returned to it. In case of its return, the bill would have been sent by the Senate Clerk to the President of the Senate to be signed, whereas the Journal Clerk of the Assembly admits that he took it directly to the President of the Senate and obtained his signature; he must have done so by managing to place it among the bills then regularly before him from the Senate. This was irregular and contrary to positive orders from the Lieutenant-Governor and the Clerk of the Senate.

The Assembly Journal Clerk could have had no motive for carrying the bill himself to the President of the Senate, if, by regular action of the two houses, it had been properly on its way to that officer. The Senate's journal is, no doubt, correct. The bill was not returned, as it should have been, to the Senate, and I decline to sign it.

JOHN T. HOFFMAN.

ANNUAL MESSAGE.

EXECUTIVE CHAMBER,
ALBANY, *January* 4, 1870.

TO THE LEGISLATURE:

By the Constitution, the Governor is required "to communicate, by message, to the Legislature, at every session, the condition of the State, and recommend such matters to them as he shall judge expedient." I proceed to discharge this duty.

STATE DEBT.

The total net amount of the State debt was, on the 30th of September, 1868, thirty-eight millions, eight hundred and sixty-four thousand, four hundred and forty-eight dollars and seventy-four cents	$38,864,448 74
It was, on the 30th of September, 1869, thirty-four millions, eight hundred and forty-eight thousand, thirty-five dollars and seventy-three cents	34,848,035 73
Reduction during the year, four millions, sixteen thousand, four hundred and thirtcen dollars and one cent	$4,016,413 01
Of this debt, there was in existence before the late war, twelve millions, seven hundred and twenty-five thousand, two hundred and ten dollars and ninety-six cents	$12,725,210 96
The residue is the unpaid portion of the bounty debt incurred during the war, twenty-two millions, one hundred and twenty-two thousand, eight hundred and twenty-four dollars and seventy-seven cents	22,122,824 77

The Sinking Funds, at their present rate of application, will extinguish the entire State indebtedness within eight years.

INTEREST ON THE STATE DEBT.

I recommend that provision be made for the payment in coin, or its equivalent, of the interest on that portion of the State debt which was incurred before the late war, and of the principal thereof as it matures. It was contracted in specie, and the honor and good faith of the State forbid that either interest or principal should be paid in a depreciated currency. Failure to pay this interest in gold occurred first in 1863, and has continued to this time. This failure was bad faith and bad policy. The State has for seven years been repudiating a portion of its obligations, and I trust you will take prompt measures to save it from further dishonor.

The Bounty Fund Debt was contracted in our present currency, and the holders of the bonds claim nothing more than payment in the same.

RECEIPTS AND PAYMENTS OF THE STATE TREASURY, DURING THE LAST FISCAL YEAR, ON ACCOUNT OF ALL THE FUNDS, EXCEPT THE CANAL AND FREE SCHOOL FUNDS.

Balance in treasury on the 30th of September, 1868, seven hundred and forty-eight thousand five hundred and twenty-one dollars and forty-one cents	$748,521 41
Receipts of the year, seventeen millions forty-five thousand eight hundred and twenty-six dollars and forty-four cents	17,045,826 44
	$17,794,347 85
Payments of the year, seventeen millions, five hundred and thirty-two thousand, four hundred and thirty-five dollars and sixty-eight cents	17,532,435 68
Balance in the treasury on the 30th of September, 1869, two hundred and sixty-one thousand nine hundred and twelve dollars and seventeen cents	$261,912 17

TAXES.

The State tax levied in 1869 was five and five-eighths mills, for the following purposes:

For schools	1¼ mills.
canals	⅞ mill.
general purposes	1¼ mills.
bounty debt	2¼ mills.

The whole amount of State tax levied was ten millions, four hundred and sixty-three thousand, one hundred and seventy-nine dollars and thirty-three cents ($10,463,179.33).

CANALS.

The following statement shows the condition of the Canal Fund in the last fiscal year:

Balance in treasury and invested on the 1st October, 1868, four millions six hundred and ninety-eight thousand nine hundred and twenty-two dollars and forty-four cents	$4,698,922 44
Received up to 30th September, 1869, six millions one hundred and nineteen thousand nine hundred and eighty-five dollars and seventy cents	6,119,985 70
	$10,818,908 14
Paid during the year ending 30th of September, 1869, six millions nine hundred and sixty-three thousand nine hundred and sixty-three dollars and fifty-five cents	6,963,963 55
Balance now on hand, three millions, eight hundred and fifty-four thousand, nine hundred and forty-four dollars and fifty-nine cents	$3,854,944 59

REVENUES OF AND EXPENDITURES FOR THE CANALS DURING THE LAST FISCAL YEAR.

Receipts from tolls, rents, interest on current revenues and miscellaneous, four millionsone hundred and sixty-one thousand two hundred and eighty dollars and ten cents.....	$4,161,280 10
Payments for all expenses one million two hundred and seventy-eight thousand five hundred and seven dollars and fifty-two cents.....	1,278,507 52
Leaving a surplus revenue of two millions eight hundred and eighty-two thousand seven hundred and seventy-two dollars and fifty-eight cents.....	$2,882,772 58

Which has been applied, in conformity with article seven of the Constitution, as follows:

Sinking Fund under section 3, one million five hundred thousand dollars,.....	$1,500,000 00
Sinking Fund under section 3, one million three hundred and eighty-two thousand seven hundred and seventy-two dollars and fifty-eight cents,.....	1,382,772 58
	$2,882,772 58

For the details of the State debt and expenditures, the business of the canals, their revenues, expenses and condition, I respectively refer you to the official reports of the Comptroller, State Engineer, and Canal Auditor.

I need not repeat my general suggestions of last year in reference to our canals, and the special and important relations which they bear to the commerce and business, not only of our own State, but of the great northwest. It is the duty, as it is the manifest interest of the State to foster and protect them; more so now, even, than before the construction of the lines of railway which connect the western and northwestern States with the seaboard. These canals, built before the days of railroads, to facilitate internal commerce, to furnish a cheap and easy avenue of transportation for the products

of our own and other States through the interior to the Hudson river, still form, as I have said in a former message, an indispensable link in the chain of water communication which continues to be of great power and value, notwithstanding the improvements in the method of land transportation. Properly managed, they will not only serve the original purpose of their construction, but will act as a check upon exorbitant charges of railroad corporations, and thus keep down the price of transportation for the various articles moving eastward and westward, to the mutual benefit of producer and consumer.

The necessity and value of water communication is as well recognized everywhere now as heretofore. Within a few days I have been applied to for information upon the subject for the guidance of public men in Europe, who have in view a system of canals on a very large scale, which shall connect Berlin and Dresden, and Berlin and Frankfort-on-the-Main, and other important points. At the request of the Governor of Iowa, also, I appointed, last autumn, delegates to a convention held for the purpose of promoting improvement in the navigation of the Wisconsin river; a work in which the people of this State have a deep interest, as it will make, in connection with our canals, water communication complete from the Mississippi river to the city of New York. Canals do not as some say, belong to a past age, nor are they superseded and rendered useless by the construction of railroads. Both canals and railroads are essential to the full and rapid development not only of our own State, but of our great northwestern neighbors, whose interests and prosperity are so firmly interwoven with our own.

To the great grain-producing States of the west cheap transportation to the seaboard is a necessity, and especially so now when the prices of their products are low. It is no less necessary to the people of New York to have cheap transportation from the west; for our own agriculture no longer furnishes us with all the articles of food we require. Other States can compete with us for the great trade to and from the west by means of railroads; but they cannot in the traffic by canals, for they have not our advantages in the natural level of surface.

In affording water transportation at low rates through the length of our State we are contributing at once to our own prosperity and that of others. The business relations between New York and the States referred to have always been close; it is our interest as well as theirs that these relations should be maintained and extended. For their sake as well as our own every barrier to a full and free

interchange of the products of their industry and ours should, if possible, be removed. Our canals were not constructed with the narrow view of levying a tax upon commerce, that the State might, thereby, make money; they were built for the purpose of affording facilities to the internal trade of the country. The tolls should, therefore, be put at low rates, and the canals be made free as far and as fast as is practicable.

In the administration of the canals, there should be a wise and prudent economy; but in regard to this great interest the State cannot afford to be parsimonious. The problem for solution is not merely what is cheapest for the time, but what is the best system for managing the canals so that the State and the people everywhere may realize, to the fullest extent, now and hereafter, the great advantages they were designed to secure. Experience has shown that they cannot, under existing laws, be so managed as to ensure the best results for the State or for those who are engaged and interested in the business of transportation. The contract system for repairs has proved a failure, and I renew my recommendation of last year that it be abolished.

Various objections have been and may continue to be interposed to other methods, and it may be difficult to secure an agreement in the Legislature upon any specific plan of management.

In view of this possibility and as the Constitution provides that the canals shall remain the property of the State and be under its management forever, I respectfully recommend that discretionary powers, to the fullest extent permitted by the Constitution, over the canals and everything connected with the working of them, be conferred upon the Canal Board, to the end that they may adopt the best practical plan or combination of plans. They are a constitutional body which it seems to me may be properly charged with such responsibility and duty. In their hands the State might be enabled to realize all the benefits of both the contract and superintendent systems, and be saved from the evils incident to either alone. They could establish and enforce such police regulations as would protect those engaged in navigation against the obstructions and delays to which they are now often needlessly subjected. They could contract for repairs when, in their judgment, it was most advisable, and they could have work done under superintendents when they considered the interests of the State would be thereby subserved. They could use what is good and reject what is bad in any system; and, knowing, as they are bound to know, the whole work

and its necessities, could, through the proper offices, secure the best practical results, with the lowest possible expenditure.

It seems very certain that important reductions may be made in canal tolls. Every interest demands that such reductions should be made. I am informed that the Canal Board will recommend lower rates, and I ask the prompt concurrence of the Legislature.

The State Engineer will, in his report, recommend certain specific improvements. I ask for his recommendations your most favorable consideration.

EDUCATION.

I submit the following statement in relation to common schools, for the year ending September 30, 1869:

Total receipts from all sources, including balance on hand at the commencement of the fiscal year	$11,310,852 22
Total expenditures.....	9,884,828 36

More than six millions was paid for teachers' wages, and nearly two and a half millions for school-houses, sites, repairs, and furniture. The exact figures will appear by the report of the Superintendent of Education.

There are in the state nearly one million and a half of children of school age, about a million of whom attended the public schools during some portion of the year; while one hundred and twenty-six thousand were attending private schools.

Six normal schools are also in full operation; the attendance on which, in the aggregate, amounts to four thousand two hundred.

The total number of public school houses is eleven thousand six hundred and ninety-eight; and the estimated value of these, with their sites, is more than eighteen millions of dollars.

These facts show the great proportions to which our common school system has grown. There may be defects in it, but taken as a whole, it commands and receives the hearty commendation and the cordial support of the great body of the people. Under our form of government, in which the voice of the people is so potential, the State has a direct interest in so educating the masses that they may intelligently understand their duties as citizens; and no tax should be paid more cheerfully than that which enables all, without reference to station or condition, to acquire the rudiments of a good English education. The Legislature should do all in its power to sustain and perfect a system which aims to accomplish this result.

The condition of the oolleges and academies of the State will appear from the annual report of the Regents of the University.

STATE PRISONS.

The report of the Comptroller will show, in detail, the expenses and earnings of the several State prisons during the past year, and give the necessary explanations thereof.

There have been, during the year, mutinous disturbances among the convicts, and the expenses of the prisons continue to be largely in excess of the earnings. I renew the objections made in my last annual message to the contract system for the employment of the prisoners' labor. It is a vicious one and should be abandoned.

The discipline of the prisons has been seriously affected by legislation which has deprived their officers of nearly all discretion in regard to punishment. I think the chief officer of each prison should be clothed with the fullest discretionary powers in relation to the character and amount of punishment, subject to the restriction that it shall be inflicted only in his presence.

I submit to the Legislature that the subject of prison management has become one of very great consequence and demands earnest attention. More concentrated responsibility is needed, as well as protection against frequent changes of administrative officers. It is doubtful whether such results can be attained without an amendment of the Constitution making an entire change in the system.

The commissioners appointed by me, pursuant to chapter 408 of the Laws of 1869, to select a site and submit plans for the construction and management of a State Penitentiary will, I am informed, make their report to the Legislature at an early day.

I have visited, during the year, all the State prisons, and given personal hearing to a large number of convicts who desired to present applications for executive clemency. The total number of applications for pardon and commutation of punishment, presented personally or in writing, and examined by me, is about six hundred. Eighty-six pardons, and twenty commutations have been granted. A full statement of the names, and of the reasons in each case, will be transmitted to you hereafter.

SALT SPRINGS.

The quantity of salt inspected from the Onondaga salt springs, during the last fiscal year, was eight millions five hundred and

thirty-four thousand six hundred and sixty-one bushels, a decrease of production, compared with the previous year, of two hundred and fifty-eight thousand eight hundred and fifty-three bushels. The revenue for the year, from all sources, was eighty-five thousand five hundred and thirty-one dollars and sixty-one cents; the expenses, forty-six thousand three hundred and eleven dollars and fifty-nine cents; the net revenue received by the State being thirty-nine thousand two hundred and twenty dollars and two cents.

INSURANCE.

The number of insurance companies subject to the supervision of the Insurance Department was, on the 1st of December, 1869, two hundred and sixty-two.

Of these, many are incorporations created by other States or by foreign countries, doing business within this State.

The total amount of stocks and mortgages held by the department for the protection of policy holders of life and casualty insurance companies of this State, and of foreign companies doing business within it, is six millions seven hundred and thirty-six thousand and ninety-two dollars. Of these, the value of four millions sixty-one thousand one hundred and forty-two dollars in securities is held for the protection generally of policy holders in life insurance companies of this State. For the protection of registered policy holders, exclusively, there are on hand securities to the amount of nine hundred and thirty-seven thousand dollars.

BANKS.

During the last fiscal year there have been returned, destroyed and canceled, by the Bank Department, $315,316 of the circulating notes of the banks of this State; of which amount $46,364 were the notes of incorporated banks, and $268,952 were the notes of banks organized under the general banking law. The amount of State bank circulation outstanding on the 30th of September last was $2,639,059, of which $1,396,903 were notes of banking associations and individual bankers, organized under the general banking law, and $1,242,156 were notes of incorporated banks. The whole of the former and $372,072 of the latter are secured by bonds and mortgages, Government or State stocks, and cash deposited with the Superintendent of the Bank Department, leaving but $870,084

of unsecured circulation outstanding, a large portion of which, it is presumed, has been destroyed, and the remainder is always redeemed on presentation by the representatives of the banks which issued the same.

The total amount of securities held by the Superintendent of the Bank Department at the close of the fiscal year was $3,058,156.94, of which $2,138,517.23 were held for banking associations and individual bankers, $394,260.73 for incorporated banks, and $525,378.98 for incorporated trust companies. A detailed statement of these securities will be found in the annual report of the Superintendent of the Bank Department.

Fifty-seven banks are now doing business under the laws of this State, but, of course, issue no circulating notes. Of these six have returned to the State system from the national, under the provisions of the enabling act of 1867. Several other national banks are reported as having in contemplation a similar change of organization.

One hundred and twenty-eight savings banks are now organized and doing business in this State, with an aggregate of assets exceeding $180,000,000. The magnitude and the importance of this interest seem to demand a more intimate guardianship and more careful supervision than is now afforded. An amendment to existing laws requiring or at least authorizing a personal examination of these institutions, under the direction of the Superintendent of the Bank Department, would, in my judgment, worthily supplement what has already been done in the direction of securing safety and efficiency in their management, and in full disclosure of their real condition for the information and greater security of their depositors. The subject is respectfully submitted to your favorable consideration.

MILITARY AFFAIRS.

The uniformed militia, designated by law "The National Guard of the State of New York," numbers 25,085 officers, non-commissioned officers and privates, and consists of

Three Regiments of Cavalry,
One Battalion of Cavalry,
Four Troops of Cavalry,
Three Battalions of Artillery,
Eight Batteries of Artillery,
Forty-seven Regiments of Infantry,
Three Battalions of Infantry.

The Legislature of 1869 authorized a reduction of the maximum force to 20,000. Three regiments have already been mustered out, and further disbandments are now in progress.

The report of the Adjutant-General, which will be transmitted to you at an early day, contains many valuable suggestions, to which I ask your favorable attention. He recommends, among other things, a transfer to county authorities of arsenals not necessary for State purposes; the substitution of breech loaders of the kind adopted by the War Department, in place of arms now in use, and a codification of military laws containing important amendments.

The State Military agencies have, during the year, collected from the United States for back pay, bounties and pensions, and paid over to the several claimants, (14,829.22) fourteen thousand, eight hundred and twenty-nine dollars and twenty-two cents.

Fifty thousand dollars was appropriated by the Legislature last year to redeem certain certificates issued to the soldiers of the war of 1812. Twenty-six hundred and thirty-one of these certificates, exhausting the whole appropriation, have been examined and audited. There are, I have reason to believe, many families of these old soldiers, whose claims are yet unprovided for. They deserve your favorable attention.

The first division of the National Guard, in the city of New York, which numbers ten thousand men, feels seriously the want of a proper parade ground. It has been suggested that the Central Park Commissioners might be authorized to take lands in the vicinity of the park for the purpose; and it is believed by many that the additional taxable value conferred on adjoining property will compensate for the cost. I recommend this matter to your consideration.

CHARITIES AND ASYLUMS.

I refer you to the official report of the Commissioners of Charities, which will be duly transmitted to you, for information in detail of the operation of our several State charities. I recommend to your favorable consideration the claims of the unfortunate classes to whose relief the State asylums and other institutions are devoted.

I earnestly call your attention to the necessity of additional legislation for the benefit of the insane poor throughout the State. Their condition in the county poor-houses is deplorable. None are so helpless; none, for the most part, so friendless. They are often abandoned by their relatives, who, whatever their inclination, have not the means of giving them the care they need. No provision

suitable to their condition and their wants can be made on a small scale. They require, generally, the discipline and the treatment which can be had only in large, well organized institutions, under the charge of men who have made this painful form of disease a special study. It is impracticable for each county to provide properly for the few sufferers of this class who are found within its limits. Their presence in the county poor houses is, from the inadequate care that can there be bestowed upon them, and from the cruel restraint which is often of necessity resorted to, demoralizing to the neighborhood. Interest, duty and charity demand that further provision be made at once for this unfortunate class. The State should provide asylums, with room for the poor thus afflicted who cannot be taken care of otherwise, and the authorities of each county should be required to send to them its insane poor, and to pay such sum for their support while in the State institutions as may be proper. The Willard Asylum, now in process of construction and in partial operation, will have accommodations for two hundred and fifty of this class, and the Hudson River Asylum, and the one to be erected in the Eighth Judicial District, will also, when completed, accommodate a limited number; but it is estimated that there are now more than fifteen hundred of insane poor in the State outside of the counties of New York and Kings.

It is probable, that many of those who are classed among the insane poor are so harmless or so manageable, that families and friends could take care of them if pecuniary aid were contributed toward their support. In such cases, the superintendents of the poor should be authorized and required to pay to those who would assume their care such weekly or monthly stipend as should be necessary and proper. This would prevent the overcrowding of the State institutions, yet add nothing to the county charges.

In connection with the subject of insanity, I respectfully suggest that you will give favorable consideration to the application which will be made on behalf of the State asylum at Utica, for authority to appoint a special pathologist for the duty of making such investigations as seem to be now demanded by medical science. The reasons for this will be fully stated in the report of the superintendent of that institution, which will be transmitted to the Legislature.

THE NEW CAPITOL.

The money thus far expended on the new Capitol, according to a statement furnished me by the Comptroller, is one million three

hundred and sixty-three thousand five hundred and forty dollars and fifty cents ($1,363,540 50), of which sum about one-half has been paid for land.

The appropriation made last year was expended before the autumn of 1869. It seemed to be clearly the interest of the State that the work should not be interrupted, so long as the condition of the weather permitted its continuance. An arrangement was made, therefore, with the consent of the Executive and the Comptroller, by which three hundred thousand dollars were advanced to the commissioners, and deposited with the Comptroller, to be drawn out on proper vouchers. I recommend that provision be made for the repayment of this advance, and for carrying on this work during the coming year.

QUARANTINE.

The hospital on West Bank, in the lower bay of New York, has been finished. The structure to be used as a boarding station is near completion.

The report of the commissioners will furnish more detailed information, and also the statistics in reference to diseases which are subjected to quarantine.

The commissioners deem some further appropriation of money necessary, in order to enable them still further to strengthen the works under their charge. I recommend their suggestions to favorable and careful consideration.

IMMIGRATION.

During the past year the number of immigrants landed at the port of New York, was 260,000; showing an increase, as compared with the year 1868, of 46,314.

For more detailed information, I respectfully refer you to the report of the Commissioners of Emmigration, which will be transmitted to you at an early day.

GENERAL AND SPECIAL LAWS.

At its last session I was obliged to dissent frequently from the Legislature in reference to bills limited in their application to localities or affording relief in special cases, when, as it appeared to me, the proper course would have been to amend the general laws per-

taining to the subject or to pass new general laws. The Legislature, on the reconsideration which the Constitution in such cases imposes upon it, in every instance concurred in and sustained my views. Nevertheless, the Statute book of 1869 contains 920 acts, and is almost as bulky a volume as that of any previous year. This multiplying of laws is a serious evil, and, in my judgment, unnecessary.

I recommend to you the careful examination of all existing general laws, with a view to ascertain what amendments are necessary in order to lessen the number of applications made at every session for special legislation.

An important amendment to the general laws was passed at the last session enlarging the powers of the boards of supervisors over roads and bridges and other matters, in relation to which the Legislature has heretofore been called upon to pass many special acts. I submit, for your consideration, whether the legislative powers of the boards of supervisors over these and other subjects of strictly local interest may not, advantageously, be still further enlarged.

The rapidly increasing population of Westchester and county parts of Long Island, in the immediate vicinity of New York and Brooklyn, renders necessary the laying out of roads and avenues of a character which could not well be provided for in the general laws applicable to other portions of the State. Hence, there are frequent demands upon the Legislature to create special commissions to take charge of such work. I recommend that a law be passed covering all such cases in these localities, which will render future applications to the Legislature unnecessary.

I recommend the enactment of a general law providing for the appraisal and payment of claims or damages arising or resulting from matters connected with the canals.

I recommend, also, the examination of the general law passed at the last session concerning savings banks, to the end that, if necessary, it may be amended so that special charters for these institutions shall not hereafter be requisite; and that no special bills for savings banks be passed at this session, unless the parties applying shall have complied with the general law of last session.

Also, that the general law for the organization of fire companies in towns be amended; it makes no provision for hook and ladder and hose companies;

Also, for your consideration, that the limit now imposed upon the amount of property permitted to be held by literary, musical and other societies be enlarged;

Also, some provision, by general law, under which churches and societies may alter their names, without coming to the Legislature for authority to do so in every special instance.

I also recommend the careful examination of the general laws for the incorporation of villages, to the end that a form of charter may be provided under which the needs of every municipality of that grade may be met, and that applications for special village charters, and for amendments to charters, may no longer be necessary. I also recommend that all existing village charters be, by the provisions of the act suggested, made to conform to the general model of the proposed perfected law. The charter of the village of Owego is to be found complete only by reference to fourteen separate acts of the Legislature, passed at as many separate sessions. A fifteenth amended charter was proposed last session, but failed to obtain the executive approval. There seems to me to be no reason why village charters should not be, like our town governments, uniform in character.

I recommend that all laws which have been passed, conflicting with the principle of uniformity in town governments, such as those which, in special instances, permit the votes for town officers to be taken by election districts, instead of in town meeting, be repealed.

There is a defect in the law providing for two justices of the peace to sit as justices of the sessions and of the court of Oyer and Terminer. Section 40 of chap. 280 of the Laws of 1847, provides that in case of absence of any justice of the sessions from any sitting of the court, or in case the office of any of the two justices of the peace who have been chosen justices of the sessions shall be vacant, the county judge may designate some other justice of the peace to act. Section 35 of chap. 470 of the Laws of 1847, so amends the first named section as to leave no provision for appointment in the case of a vacancy. In a recent instance, by reason of this omission, the court of sessions could not be organized. I recommend the immediate passage of an act to remedy the defect.

I deem it unnecessary to present arguments in support of these several recommendations, believing that the mere statement of the propositions will secure for them the approval of the Legislature.

CONSPIRACY LAWS.

A statute of this State declares it to be a misdemeanor for "two or more persons to conspire to commit any act injurious to trade or commerce." Such a conspiracy, if it assumes a magnitude which

seriously threatens or affects the public welfare, deserves and should receive its proper punishment. This statute, however, has for the most part, since its adoption, more than forty years ago, been of little practical value. I cannot find, after a careful examination, that its provisions have ever been successfully invoked against capitalists or others for combining to raise the prices of grain, coal and other articles necessary for the comfort of the whole people, or to reduce the rate of wages. It has however been evoked on several occasions against and been by the courts construed to apply to journeymen and others for combining to raise the rate of wages, or to make and enforce regulations which they deemed necessary for their mutual welfare. Cases have recently occurred in Westchester county where the law has been enforced against persons engaged in the last named combinations. I do not believe that the existence of a statute which can be so construed as to make such acts criminal is productive of any public benefit. I do believe it to be productive rather of public evil. Like all other laws which from their nature are likely to be executed unequally, it operates, when it operates at all, oppressively.

I recommend, therefore, a repeal of this conspiracy law, or such a modification of it as, while it forbids a conspiracy to injure the general trade and commerce of the State or country, will do away with that judicial construction which makes it equally criminal for citizens to combine for the purpose of securing an increase of the wages of labor, or of establishing and maintaining prudential regulations for their mutual interest and protection.

INJUNCTIONS AND RECEIVERS.

I recommend also the passage of a law forbidding the granting of injunctions or the appointing of receivers in cases affecting moneyed and other corporations on *ex-parte* applications. I think it would be far better even that the writ of injunction should be abolished altogether than that it should continue to be the cause of the unseemly collisions between judges which have been frequent for some years past.

APPRENTICE LAWS.

I am informed that application will be made to the Legislature for a revision of the laws relating to apprentices. One of the complaints against the existing statutes is that, while they impose severe penalties upon apprentices for violation of the provisions of their

indentures, they do not afford sufficient protection to the apprentices themselves. It is claimed, and with justice, that the employer should not only be bound to thoroughly instruct his apprentice in all the mysteries of his business and calling, but that proper penalties should be imposed upon him for violation of this duty. The State should make due provision for the enforcement of all contracts affecting persons under age; and it is the interest of the community to secure the greatest amount of skilled labor in all mechanical occupations. I recommend the whole subject of revising the apprentice laws to your prompt and careful consideration.

REVISION OF STATUTES.

I again invite your attention to the importance of a revision of the statutes of this State. During the first forty-eight years of our history, the Legislature provided for four different revisions. The last act for that purpose was passed on the 21st of April, 1825, and the last revision was completed in 1828. Since that time a new Constitution has been put in force; the State courts have been reorganized; a new system of practice has been adopted, and many acts have been passed, materially affecting the provisions of previous laws. These changes, so numerous and important, and extending, as they now do, through at least fifty volumes, create great difficulty, and sometimes uncertainty, in ascertaining the exact state of the law.

A new revision, by which all laws of a general nature shall be collected together and the various acts relating to the same subject arranged and consolidated, is greatly needed.

NEW JUDICIARY.

The amended Constitution proposed by the Convention which closed its sessions February 28, 1868, was submitted to the electors at the last general election, pursuant to chapter 318 of the Laws of 1869, and that portion known as the Judiciary Article was adopted.

It will be the duty of the Legislature to pass the necessary laws to carry into full working operation this article, which becomes the sixth article of the Constitution of the State, and I recommend that it be done as early in the session as may be practicable.

REGISTRY AND ELECTION LAWS.

I respectfully call the attention of the Legislature to the want of uniformity in the registry and election laws of the State. All laws

relating to elections should be uniform in their principles, and general in their application.

The open and corrupt use of money at the polls and elsewhere to control elections is a great evil and demands your earnest attention. The laws which aim to secure the people in their right of speaking through the ballot-box should be stringent and rigorously enforced. They should not embarrass the electors, yet they should guard, with the greatest care, against frauds at the polls or in the canvass. The Legislature should spare no efforts in this direction. It is to be feared, however, that no laws, though carefully and skillfully devised, can protect the purity of the ballot-box, unless your legislation can reach what is the fundamental evil: the corrupt use of money in elections.

In considering this subject, it must not be overlooked that grave doubts are expressed by very intelligent men, whether our present registry laws, while they oftentimes embarrass honest voters, are, in any material degree, effective for the prevention of frauds; and there are many who believe, after a fair and full trial of them, that far better results would be attained by providing everywhere for the establishment of smaller polling-districts and the full and free exercise of the privilege of challenge on the day of election. The subject is of the greatest importance and demands your earnest consideration; for the whole system of our government depends upon maintaining and preserving the purity of elections.

CRIMINAL LAW.

There are frequent cases of murder, as the crime is now defined, in which the jury are unwilling to convict, because of so little deliberation in the act, that they think it does not deserve the punishment of death. They acquit or find a verdict of manslaughter in some inferior degree; or they convict of murder with a recommendation to mercy, and so throw upon the Executive the responsibility of deciding whether the death penalty shall be enforced. A simple change in the statute would, in my judgment, secure a far better administration of criminal law and a more certain punishment of crime than is now attained. I earnestly renew the recommendation made last year, that express provision be made by statute, that in all cases of murder, where the degree of premeditation or the circumstances attending the homicide do not, in the opinion of the jury, justify punishment by death, they may render a verdict of

murder in a less degree, to be punished by imprisonment for life or for a term of years, in the discretion of the court.

By existing provisions of law, courts of sessions have the power, in cases of conviction by them, to grant new trials upon the merits, or for irregularity, or on the ground of newly discovered evidence. I recommend that the same power be conferred upon the Oyer and Terminer or upon the Supreme Court in cases of conviction by the Oyer and Terminer.

I also suggest, for your consideration, whether it would not be well to abolish, as has been done in England and in some of the States, the common law rule which forbids the trial of an accessory to a felony until after the conviction of the principal offender. It often operates to screen guilty men from punishment, and so to defeat the ends of justice.

EXCISE LAWS.

In my last annual message I recommended the repeal of the Metropolitan District Excise Law for the reason, among others, that it was local and not general, that its provisions were unnecessarily harsh, needlessly violated private rights, and unduly interfered with the social customs of large numbers of sober, temperate, law-abiding citizens, whose enjoyment of such customs did not prejudice general morals or public order. This law also authorizes arrest without warrant; and under its operation a system of espionage has grown up as degrading to the police who are compelled to carry it out, as it is to the people who suffer from it. For these reasons I again recommend its repeal.

Excise laws should be uniform in principle, and general in their appplication throughout the State, regulating the sale of intoxicating liquors under due restrictions as to time and place, aiming to secure order and decorum on every day of the week, fully recognizing the general sentiment prevailing in favor of a proper observance of Sunday (as has always been done in the statutes of the State from the earliest period of its history), yet free from the intolerant provisions which characterize the present Metropolitan District Law, and which are wholly unnecessary to the attainment of these ends.

Boards of excise should consist of, or be appointed by some local authority. I recommend the abolition of the county boards as now organized throughout the State, and the substitution of local boards, to be composed of the supervisors and justices of the peace of the several towns. This was the old system under the Revised Statutes,

and it has not, in my judgment, been improved upon by the subsequent legislation. In villages, the board might properly consist of the president and board of trustees, and in cities be appointed by the mayor.

COMMISSIONS AND CITY GOVERNMENTS.

The Constitution of 1846, recognized, for the purposes of local governments, counties, cities, towns and villages, and no other territorial divisions, and provided that the officers thereof should be elected by the electors of such counties, cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature should designate. This provision was intended to secure the right of self-government in local affairs against any possible encroachment or violation. For the purpose of evading it, the Legislature created new districts (so-called), made up of two or more adjoining counties, and established within their limits various independent boards and commissions, in which all powers relating to police, fire, excise and health, or some of these subjects, are vested, and the members of which commissions are not elected by the people of the localities or appointed by the authorities thereof. The constitutionality of this legislation was affirmed by the Court of Appeals; although it is hardly denied that it is an evasion of the spirit of the Constitution. The effect was, in every instance, practically, to give to the political minority in the districts the power, through the central authority at the Capital, of governing the majority.

It cannot be denied that there were evils in municipal governments existing at the time, which were seized upon as a pretext for this extraordinary legislation. The intelligent sentiment of the community to-day declares that such legislation was unwise, and that the true remedy for the evils complained of was not in laws of the character mentioned, but in a thorough reorganization of municipal governments upon sound principles. I have always been opposed to the laws referred to, and have recommended, and do now recommend, their repeal, and a thorough revision of the charters of the cities embraced in any of these districts, in order to insure an early return to the system of local self-government as guarantied by the Constitution. Existing charters are radically defective, inasmuch as there is an almost entire absence of executive power in the mayor; and, as I said in my last annual message, no good government can be secured to any great city unless it shall have a responsible head, in whom shall be vested all executive power, and to whom, as the elected representative of the people, all departments charged with

administrative duties shall be directly and summarily responsible and accountable I believe this to be the very foundation stone of a good structure of municipal government.

This subject is one in which the people of the whole State feel a deep interest, and in regard to which they will expect prompt and judicious legislative action.

EARLY LEGISLATION.

It is the practice to submit the annual tax levies of the city and county of New York to the Legislature for approval. For many years past, the consideration of these and of the several appropriation bills for the State government has been delayed until a late period of the session. The Executive is, by this delay, practically deprived of the opportunity to present objections, if any he has, to the provisions of these important bills, to the end that, if his objections, upon reconsideration by the Legislature, be deemed valid, the bills may be amended. Not only these but many other bills of great importance were, last year, presented to me at the very end of the session, so that no alternative was left to me but to approve, notwithstanding some objectionable details, or disapprove the bills and let them fail to become laws, at great public inconvenience. For these reasons, I recommend that the city and county tax levies, as well as all bills appropriating moneys for the support of the State government, be taken up early in the session; and also that the consideration of other bills of great general importance be postponed no longer than the State of public business makes necessary.

I have now, as far as it seems to me necessary, presented to you facts and suggestions connected with the condition of our own State.

Our especial duty is to promote the public good, by laboring to secure a more prudent, honest and economical home government.

Recognizing the goodness of God, grateful to Him for all His mercies, acknowledging our dependence upon Him, looking to Him for wisdom and guidance, trusting Him to lead us through all the dangers which beset us, let us all, in our respective spheres, labor to secure to the State and to the country substantial prosperity and real and enduring peace.

FEDERAL AFFAIRS.

The people of this State are deeply concerned in a wise administration of Federal affairs. As representing them, I believe it to

be my duty, before closing this message, to call attention to, and to protest against, whatever, in the policy of the general government, strikes at their commercial and agricultural interests, or is, in any way, prejudicial to their welfare.

I protest against the revolutionary course of Congress with reference to amendments of the Constitution of the United States; by which, among their other efforts at centralization, they seek the absolute control of elections in the States. Powerless themselves to amend it by direct act, and unable to procure the voluntary consent of three-fourths of the States, they force the consent of the Southern States as a condition to representation, and thus override and nullify the will of others, whose proper relations to the Federal Government have never been interrupted, and whom they cannot constrain.

I protest against the action of both Congress and the President of the United States in subjecting the people of Georgia anew to military power, their State government being in full operation, and the restoration of their constitutional relations with the Federal Government having been recognized by the Federal authorities as complete.

I protest against the longer exclusion, from representation, of any of the States; if any one be excluded, the rights of all are unsettled, and the harmony of our government is destroyed.

TARIFF.

I protest against the favoritism of our present tariff laws, which have, virtually, destroyed American shipping and which bear oppressively upon the masses of the people and especially upon the great agricultural States, between whom and our own State the relations are close and intimate, and upon whose prosperity and freedom from unjust exactions depend largely the welfare of the whole country, and its ability to defend its honor and pay its debts. I protest against postponing, as has been suggested by the President of the United States, the revision of these laws. The evils connected with them are already of long continuance, and immediate relief is required.

Our taxation for the accumulated responsibilities and present cost of the Federal government is heavy; its weight will be felt the more severely now that low prices for our agricultural and other products are likely to prevail. The people submit cheerfully to all taxes

necessary for the support of the government and of its credit. They have a right to demand, however, that the burden of a very heavy taxation shall be fairly and equally adjusted, and so adjusted as to interfere as little as possible with their daily comfort. It is the direct interest of the people at large that they shall be able to buy cheaply whatever they have to buy. Our present tariff of duties on imports compels the many to pay high prices for the benefit of a few. Although enacted during the great need of the government, it was, nevertheless, framed, not for the one great end of giving the Federal treasury the largest income, but with the view of favoring certain special private interests. No government has a right to tax, except to obtain its necessary revenue. To impose taxes upon articles of daily need for the mere purpose, by increasing their price, of favoring the capitalists engaged in their manufacture or production is an abuse of the taxing power. So long as laws are enacted upon this principle, powerful combinations will be formed among those whose special interests are to be beneficially affected by them, to push through schemes which favor their private business, regardless of the interests alike of the people and of the Federal treasury.

Laws of this nature tend to the building up of moneyed monopolies, to the aggregation of capital in few hands, and to the creation and strengthening of an illegitimate influence to which Congress becomes more and more subject. In enforcing duties intended to be prohibitory, an extraordinary and very costly body of officials is made necessary, the temptation to smuggling and fraud is increased, and official delinquency is made common; evils which would be avoided while the revenue would not be decreased, by a return to the simple duty of government, and to moderate imposts.

To make a just tariff of duties the principle of favoritism should be abandoned altogether. If the principle be admitted, no limit can be placed on the abuses under it.

GENERAL FINANCES.

I protest against the continuance of a financial policy which fails either to strengthen the public credit, or to diminish the people's burdens; which keeps values uncertain and unsettled; which baffles business foresight; which, while permitting the sale of government gold, leaves the country subject to all the evils of an irredeemable paper currency; which threatens to withdraw from the people what is now in use as money before providing a substitute; which, un-

defined in character and variable in action, exposes the business of the country constantly to the chances of disastrous panics; which seeks to exert a fluctuating control over the gold market, instead of making steady progress towards permanent soundness in financial condition; which can suggest no method of meeting the legal tender promises, except to get them back from the people by a process of contraction both painful and dangerous; which neglects to redeem the legal tender notes held everywhere among the people, yet, with the proceeds of excessive taxation, purchases, at a premium, bonds that the government is under no obligation to pay for nearly fifteen years; which saves a few millions annually in interest on the bonds thus purchased, when, by raising the credit of the country to its proper level, many millions more could be saved by the negotiation of a new loan at a lower rate of interest; which assumes that the rate of interest on our bonds can be lowered at the sole will of the borrower, or that capitalists who now hold bonds paying six per cent interest in gold, can be persuaded to exchange them voluntarily for bonds bearing only four and a half per cent; which, failing to devise a permanent financial system to which the business of the country could, without undue sacrifices, conform, substitutes a series of experiments that entail losses upon individuals, without contributing to the general good; which suggests no remedy for the fluctuating value of the legal tender notes, except that the government shall redeem these promises at a price fixed by itself, which is to be less than their face, or, in other words, repudiate so much of its obligations; and which, by failing to secure the confidence of the capitalists of the world, keeps the government securities below par in gold everywhere, when in view of the vast resources of the country they should, even at five per cent. interest, command a premium.

We are enduring great evils from our irredeemable currency. The financial panic, which occurred in New York in September last, threatened, for a time, widespread disaster. A very little increase of the then prevailing distrust might have thrown the whole business of the country into confusion. That panic would not have been possible but for our having in use as money something which, lacking the intrinsic worth of the precious metals, must depend, for its current estimated value, upon the caprices of opinion.

Money of shifting value is a curse to the great body of the people. It renders the rate of wages delusive, counteracts and defeats the economy of the household, and makes the savings of labor, laid up at the cost of much self-denial, of uncertain and variable value. If we would avoid discouraging regular industry, and festering, in

its stead, a spirit of speculation, the money which we use to denote the value of what we have to buy and sell every day, and in which we fix the rate of wages, must be constant in its own value, and not liable to capricious fluctuations.

It is a misfortune that we ever departed from the use of the money of the Constitution. Sooner or later we shall be obliged to go back to it. We have before us the alternatives of returning to a sound condition by wise and prudent efforts of our own, or of awaiting the possible advent of a financial panic of greater intensity than any we have yet witnessed, and a return to specie payments, at the cost of great and protracted suffering, by the operation of self-enforcing laws which are above our control.

I do not believe that any contraction of the legal tender currency is necessary in order to reach specie payments. The amount of such paper is limited, and it is not seriously depreciated. We have not, as some other countries have done, issued paper money without limit and to an unmanageable extent, making the depreciation of it so great as to render it almost worthless and its restoration to par hopeless. The whole sum of the legal tender notes, scarcely exceeds the amount of coin received in two years at our custom houses. The amount of legal tender notes afloat on the 1st of December last, was, including fractional currency, $395,000,000. The present annual gold income of the treasury, from import duties, is $180,000,000. With the abundant resources of the Federal treasury it ought to be, and it is possible, to leave this currency at its present quantity, and yet put it, at no very distant period, at par; and thus to give settled prosperity to the people and save them the distress which will attend contraction.

After the peace of 1815, England returned to specie payments by contracting the volume of her paper money. She had no other means of reaching the result. She was not, as we are, a gold producing country; and was obliged, therefore, to curtail her paper currency so as to force gold to flow in to her from abroad. In consequence of this policy, the trade and business of her people were crippled, general distress ensued, and immense numbers of those who lived by wages were deprived of their proper employment and condemned to idleness and want. The ten years from 1815 to 1825 was a period of fearful suffering in England and of repeated and most disastrous financial convulsions. We should take warning from her experience. We have no occasion to force gold into this country from abroad. We produce it largely at home, and all we need to do is to retain enough of our own product to effect our purpose.

The government is as much bound to pay its legal tender notes as its bonds. I am for paying both in full, and against the repudiation of any portion of either.

The legal tender notes are promises of the government to pay money, that is, gold coin, on demand. They are in the pockets of the laborer and the farmer, in the tills of tradesmen, in the vaults of the banks as a part of and as security for the deposits of the people, which deposits constitute available capital essential to daily business.

The Federal treasury, in the hour of its need, forced this irredeemable paper on the people; it is a matter of simple duty, now, in the time of its abundant resources, to redeem it. This paper displaced the coin which was before in use. The business of the country has adapted itself to the existing quantity of our present lawful money, and the people rely upon this legal tender paper wherewith to pay all ordinary debts; it is the substance, too, in which bank notes are redeemed, and in which all that vast aggregate of indebtedness, known as bank deposits, is payable. On this paper, therefore, the whole structure of our internal business now rests; and upon its soundness is dependent the substantial prosperity of the people. It is bad faith to the people to lessen its quantity, or to take from it its legal tender quality, until it is paid.

When coin occupied the same place in our money system which is now held by the legal tender notes, any serious withdrawal, from whatever cause, of the gold then in use from the general circulation, invariably produced financial trouble. The withdrawal of legal tender notes now must be followed by like trouble. The theory of those who advocate contraction, is that so soon as the legal tender notes shall have been reduced to $250,000,000, or some other theoretical sum, the government will be able to make this reduced quantity redeemable in coin, and so put the notes at par with gold. If it will be possible to put the lesser quantity at par by making it redeemable, it is obvious that, with a little more effort, the present quantity can be made redeemable and put at par; and this effort is due from the government to the people.

The Federal government is bound to restore coin to the place which it formerly occupied in the business of the country, and from which the treasury, for its own convenience, displaced it. It should be ready to substitute coin in the general circulation before it undertakes to withdraw legal tender notes; otherwise the withdrawal of the paper amounts to an absolute destruction of so much of our stock of lawful money, and, practically, of so much of the people's capital

in the form of ready money. Such withdrawal would lessen everywhere the resources of paying debts, make all debts less secure, diminish confidence and render disastrous panics probable.

Two kinds of money of unequal value will not circulate together. The government, therefore, cannot make coin take the place, in general circulation, of any portion of the notes which may be withdrawn, until the notes are first rendered equivalent to coin. This can only be done by making them redeemable in coin on demand. And it must be borne in mind that this is all that is necessary to be done to restore general specie payments. The banks are not in a state of suspension; they redeem their notes and pay their other debts in the lawful money of the country; if that lawful money were to-day equivalent to coin, they would find themselves and all their customers paying specie without any effort on their part and without any distress. It is the government, and the government only, which has suspended payment; the legal tender notes alone which are irredeemable. When the Federal treasury is ready to redeem its legal tender promises in gold, as fast as the public are likely to present them, specie payments are thereby resumed, all over the country, without further effort on the part of any one and without inconvenience to the people. Then, and not now, will be the proper time for taking in the paper; for such contraction can do no mischief. It will in fact be no contraction. The treasury may then cancel every note so soon as it is paid; for, gold and the notes being at par, the coin paid out of the treasury will enter into the general circulation in place of the notes redeemed; and no diminution of the stock of lawful money in use will be forced on the people.

The essential evil of our present lawful money is to be found not in its quantity, but in the fact that it is not redeemable; it is, for that reason, depreciated. A less quantity would as certainly be depreciated, if that less quantity continued to be irredeemable. Even a single note, issued by the government, or by any other debtor, without provision made for its payment, would become depreciated.

The remedy which wisdom suggests is to make the notes redeemable, without pausing to discuss the question of how much money the people ought to have in use. In looking back, we see that when our money was good in quality, no apprehensions were felt that too much of it would be used. The government passed through its mint all the gold the people chose to have coined. Political economists and statesmen may speculate, as they do, as to how much money is necessary and proper for the business of a country; but this is a question beyond their wisdom. If the government will take care

that the money it issues is good, the people will regulate the quantity to be used, by their needs.

It is the special duty of the Federal treasury, the issue of whose irredeemable paper has brought us to our present condition, to see to it that there is an ample supply of coin retained in the country so as to make the transition from our present currency to gold both easy and permanent. It seems obvious that this supply of gold should be in the Federal treasury, which is responsible for the only irredeemable paper now afloat, so that the coin may be ready, when the proper time comes, to flow promptly out of the treasury into general circulation in exchange for the notes redeemed.

The first great duty of the government is to make its legal tender promises as good as gold. Having thus established its credit, it will find no difficulty in negotiating loans at lower interest, and in managing its bonded debt. It cannot, any more than a private debtor, hope for high credit, while paying some debts and ignoring others.

It is a delusion to suppose that the payment of a few of our bonds before they are due, materially helps the public credit; the treasury is not bankrupt as to its bonds; it is paying the interest according to contract, and the principal is not yet due; this is not the point where the public credit needs to be helped. The treasury is bankrupt on its legal tender notes; for a failure to pay a promise when it is due is bankruptcy. No debtor improves his credit by anticipating the payment of some of his obligations which are not due while he neglects to pay those which are due. Nor does the payment of the bonds before maturity tend materially to lessen the burdens of the people. Were we to cancel $100,000,000 of bonds in any year there would result an annual saving of interest of $6,000,000. If, on the other hand, we could reduce the rate of interest on our loans by only one per cent, we should, thereby, effect, at once, a saving of over $20,000,000 a year for the whole time the debt may run. Moreover, this payment of the bonds before maturity can be made only out of surplus revenue; that is to say, by keeping up taxation to a point far beyond the actual needs of the government.

We must not forget that financial laws are self-created, out of the circumstances existing at the period; they cannot be constrained by legislation. We shall be most likely to avoid trouble by seeking the natural solution of our present difficulty; which natural solution is, as it seems to me, that the power which issued the irredeemable paper, under which we now suffer, should get ready to redeem it.

Spasmodic sales of gold from the treasury impart no additional worth to the legal tender notes. Confidence in ability to meet obli-

gations is the only source of solid credit as well for the treasury as for other debtors. Increasing public confidence in the growing ability of the treasury to meet the notes in coin would operate not merely to affect, from day to day, as these sales do, the speculative price of gold, but towards the recognition of a greater intrinsic value in the legal tender note, and so to make the possible range of gold speculations narrower.

It is obvious that sales of gold out of the treasury cannot have the effect of bringing legal tender notes actually and permanently nearer to the value of gold; for it would be absurd to maintain that the treasury, any more than any other debtor, can, by parting with coin make its promises to pay coin more valuable. The treasury sales of gold have simply the effect which is always produced by throwing upon any market a supply of an article for which there is, in that market, a limited demand. All debts, with rare exceptions, being now payable in legal tender notes, the need of gold for use in business is not general, and therefore the demand for it is confined to a few, and is a very limited one. In a market so situated, a very temporary and small over-supply may depress it much below its true and correct value as compared with legal tender notes; which depends, obviously, on the prospect of the notes being paid in coin. Derangement of business is as certain to follow the artificial depression of gold below this true value as its elevation above it. Such a depression cannot be relied upon as lasting; nor does it afford any guaranty against great subsequent fluctuations. These treasury sales, while they do not improve permanently the value of the government paper, confound the most prudent calculations of business men.

I must not be understood as favoring any expansion of the legal tender currency. The government cannot at present pay the notes of this kind already issued. It would be utterly unjustifiable to put out any more of them.

The Federal treasury is not warranted in taxing the people to keep up its present enormous surplus of revenues. If the country can be kept in a prosperous condition, every year of its growth will make the payment of the principal of the debt come easier. A moderate surplus beyond the interest on the debt and the expenses of government is all that is desirable or necessary to enable it to devote itself sufficiently to the great, imperative duty of making its paper money good.

The moment the people see that the government is getting ready to redeem its paper by providing itself with the only means of doing

it, the appreciation in the actual value of the legal tender notes will commence. It will continue and the progress towards a return of specie payments will be gradual, steady and certain. The very fact that the government is under a fixed and stable, and not an experimental and variable policy, preparing to redeem its paper, and will some day announce its readiness to do so, would narrow the range within which speculation in gold would be possible. The current value of the notes in the open market will indicate when the proper time has come for redemption; the government need not declare it in advance.

The most severe, cruel and ruinous method of contraction would be one that should put the value of these notes by regular gradation at a higher and higher rate from day to day or week to week, as is suggested by the President of the United States; or any method by which they should be converted or exchanged into interest bearing securities; for this would act rigidly and rapidly to take them out of circulation. Such a form of contraction would, I fear, not only inflict unparalleled distress upon the people, but endanger the credit of the government itself.

It is not necessary to discuss the propriety of the original measures, of which our present financial condition is the result. I simply consider the practical questions which present themselves, taking things as they are. It needs no great financial wisdom to see that the way to high credit is for the treasury to prepare itself to pay all its debts, as well its legal tender promises as its bonds; that high credit is the condition precedent to a lower rate of interest on government loans; that lowering the rate of interest on the loans will afford great relief to the people; and that no relief either to treasury or people can be expected from what tends to derangement or stagnation in the business of the country.

The earliest practicable return to the hard money of the Constitution is, therefore, desirable, as being, in every way, for the interest of the people; but this return should be made wisely, by a process which will not cost needless suffering, under a declared and fixed policy, intelligible to the whole country, and which will insure that the change, when it comes, shall be permanent. A rash attempt would, by its failure, make our condition worse than it is now. But no time should be lost in adopting measures which shall lead by prudent steps to the attainment, at no very distant day, of a result to which sooner or later we must come.

If the Federal government does not try to accomplish an early return to the use of gold and silver, without spreading ruin among the people, it fails in its duty; if, with its abundant revenue, it cannot devise a method of doing so, it fails in wisdom.

JOHN T. HOFFMAN.

SPECIAL MESSAGES.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March*, 8, 1870.

TO THE LEGISLATURE:

I have already signed, this session, a bill amending a village charter, which was thoroughly revised and made complete, as was then supposed, only three years ago.

There appear to be many bills of this kind now pending. In the last three years, notwithstanding there is a general law to be found in the statute book, one hundred and fifty-two acts have been passed granting or amending village charters. About sixty such special acts were passed at the last session. I suggested in my message to you at the beginning of the session, the propriety, in view of the defective character of the existing general law, of enacting a new general law for the incorporation of villages, so comprehensive as to do away with the necessity for special charters, and for the application to amend charters, now so frequent. It is not unusual for a village to apply for amendments to its charter in the first year of its existence, and sometimes such applications are renewed every year. I beg leave to call your attention, respectfully, to a bill for the incorporation of villages which has been presented to the Senate by the senator from the first district, and is now in the hands of the appropriate committee of that body.

It is known to me, that during the preparation of this bill, the existing law for the incorporation of villages, now so seldom used, because so defective, and the numerous charters of villages incorporated by special acts, have been carefully studied, and it is my impression that the bill will be found to provide for all the wants of municipalities of this class. It is for you, however, to determine whether it is sufficient for its purpose, and to make all amendments which, in your judgment, it may require.

I recommend the bill to your prompt consideration, believing that, if it be passed, with such amendments as the wisdom of the Legislature may suggest, you will be relieved from the consideration of all the special bills relative to village charters now pending before you, and that, in future, applications to the Legislature for village char-

ters or for amendments to such charters will be unnecessary. The bill contains a section enabling any existing village, by a vote of its electors, to adopt the provisions of the general act for its government, in lieu of its present charter.

If, in the consideration of this whole subject, you give the preference, in order of time, to this general bill over the special village bills now before you, great care will be taken, on the part of those who are advocating the special bills, that the general bill shall afford the remedies which are sought, respectively, by the several special bills. In this way, the general bill will be made more perfect by having attracted to it a closer and more general attention than is likely to be given to bills applicable, each one to a single village.

I trust, this communication will not be considered out of place by the Legislature. It is prompted by a desire not only to save the valuable time of the Legislature, but also to promote the public convenience by the passage of some comprehensive general law which will enable the people in any part of the State to organize, when necessary, a village government, without being subjected to the trouble and delay of applying to the Legislature for a special charter.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 21, 1870.

TO THE SENATE:

I respectfully call your attention to a subject of great importance, on which I trust you will act, before adjourning.

In my annual message I called upon the Legislature to put an end to the policy of practical repudiation, under which, for seven years past, the State has paid, in depreciated paper, the interest upon its coin debt. The contract with our creditors, as to all debts incurred prior to the bounty loan, plainly calls for gold.

A resolution was introduced in the Assembly early in the session, action on which was delayed until after the recent decision of the Supreme Court of the United States, that payment of private debts, incurred before the passage of the legal tender act, must be made in coin. A preamble was then prefixed to the resolution, reciting that the reason for our State returning to the honest payment of her debts, was simply that she might comply with this decision. This preamble is wrong; but the resolution itself, directing all future

payments of interest or principal of the State debt (except the bounty loan which was negotiated for depreciated paper) to be made in coin, is right. It is of secondary consequence, however, what reasons may be assigned in the preamble, but it is of great and primary consequence, not only that the State shall pay this portion of her debt in coin, as the Comptroller is already doing, but also that her public record on this point should at once be made right by authoritative declaration of the Legislature. This is especially important, now that great and unprecedented efforts are making to induce the Supreme Court to reverse its solemn and deliberate judgment.

I plead the importance of your action upon this subject to the honor and good name of this the great State of the Union, as my excuse for making to you this special communication.

I recommend that the resolution on this subject, which has already passed the Assembly, be also promptly passed by your body.

JOHN T. HOFFMAN.

VETO MESSAGES OF 1870.

EXECUTIVE CHAMBER,
ALBANY, *February* 24, 1870.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill entitled "An act authorizing the appointment of an assistant district attorney for Washington county."

The bill authorizes the district attorney of Washington county to appoint an assistant, who shall receive an annual salary, to be fixed by the board of supervisors, not exceeding five hundred dollars.

It seems to me that this is a matter which ought to be left to the county authorities, who are the proper, as they are the best judges of the necessity, if any, which exists for this additional office.

There is no pressing emergency which calls for this special enactment. Under existing laws, there can be no difficulty in providing for necessary assistance to the district attorney.

By the Revised Statutes (part 1, title 4, section 3) the Supervisors are authorized to audit the bills of the district attorney for any expenses necessarily incurred by him in criminal cases. It can hardly be doubted that a proper sum for clerical or other assistance could be thus made a county charge.

For a temporary emergency, requiring the services of an additional prosecuting officer, the general laws also provide. Under the Revised Statutes (part 1, title 1, article 7, section 90) "whenever any district attorney shall fail to attend" any court of Oyer and Terminer or General Sessions, the court may appoint a person to discharge his duties during the sitting of the court; and for compensation to the person so appointed, due provision is made.

The supervisors of every county have authority, under the general laws (chapter 304 of the Laws of 1852), to fix the salary of the district attorney, at such sum as they may think proper, except that the salary as fixed at the time of the election of any district attorney, cannot afterwards be increased during his term of office. If the necessity for an extra force in the district attorney's office in Washington county, was apparent at the beginning of the term of the present incumbent, it is to be presumed the supervisors would have

put the salary at a sum sufficient to enable him to pay out of it for the services of an assistant. If the necessity has only become apparent since the present incumbent came into office, it cannot be a very pressing one.

It is not claimed, so far as I can learn, that any great increase of criminal business has occurred within the county in that short period.

If an additional prosecuting officer be necessary in Washington county, it is probable that many other counties have the same need.

It is true there are several laws on the statute books like this one, each law applicable to only one county. They are comparatively unimportant, perhaps, but they all belong to a class of special laws, which, in my judgment, ought to be discouraged and discontinued.

The boards of supervisors are the safest judges of what the public business, in their respective counties, require in this respect. If any thing needs to be done by the Legislature to attain the object sought by this bill, it should be done by a general law authorizing every district attorney to appoint an assistant whenever the supervisors of his county deem it proper to sanction the appointment by providing the necessary salary.

The Legislature would thus be relieved from the consideration of special bills of this class.

JOHN T. HOFFMAN.

ALBANY, *March*, 22, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 61, entitled "An act for the protection of the bridge over the Oswego river at Phœnix, between the town of Lysander, in the county of Onondaga, and the town of Schroeppel, in the county of Oswego."

The bill provides that it shall not be lawful for "any person to ride or drive faster than a walk in crossing the bridge" above named, and that the penalty for riding or driving at a faster pace shall be twenty-five dollars for each offence, to be sued for in the name of the commissioners of highways, one-third of the penalty to go to the informer.

There is a general law on this subject (Revised Statutes, part 1, chapter 16, title 1, article 6, sections 122 and 123), which provides that the commissioners of highways "may put up at each end of any bridge maintained at the public charge, and the length of whose

chord is not less than twenty-five feet," a notice "that there is one dollar fine for riding or driving on this bridge faster than a walk," and that whoever shall ride or drive upon any such bridge at a faster pace shall forfeit one dollar for each offence.

The fine imposed by this law is, no doubt, too small; but, if it be too small to deter persons from injuring the bridge named in this bill, it is also too small to serve the purpose of protecting the other public bridges in the State. Considering how often and how easily this offence of immoderate driving upon a bridge may be committed in the rural portions of the State, without the chance of detection or with impunity, because no one will take the trouble to inform, it may be well to make the penalty larger, with the view of impressing the public with the magnitude of the offence, and so large that sufficient compensation can be afforded out of it to the informer.

The bridge, for the protection of which this special act is asked, is no doubt a valuable one; but there must be many other bridges quite as valuable which need the same degree of protection; and, in fact, all the bridges of the State, whether more or less valuable, are entitled equally to protection from injury. The application for this special act should, in my judgment, suggest the propriety of at once amending the general law, so as to save the necessity of future demands for special acts in other instances.

Whether the penalty of twenty-five dollars, named in this bill, be in proper proportion to the offence, is a question which I do not consider; but it seems very plain to me that to protect one bridge by a penalty of twenty-five dollars and all the others by an almost nominal fine of one dollar is to make a very partial and injustifiable discrimination in extending the care of the State over this kind of public property. The offence is the same whether committed to the injury of one bridge or another. If under the present laws, persons are not deterred from injuring bridges by fast driving, because the penalty now affixed to the offence is too light, the obvious and comprehensive remedy is, it seems to me, not to provide for one case out of thousands, but to amend the general law by increasing the penalties in it provided, so that the good effects of the amendment may be felt in every part of the State.

If the Legislature should think proper to amend the general law, I respectfully suggest that the matter may wisely be devolved upon the local authorities within certain limits; that is to say, that empowering either boards of supervisors or commissioners of highways in their respective counties and towns to impose and sue for such fines for this offence as they may think fit, not exceeding a

maximum sum, and empowering them to give to the informer a share of the fine, would meet all the needs of the present case, and at the same time provide for others that may hereafter occur.

I regret to differ from the Legislature, with regard to a bill of so little apparent importance; but I am satisfied that the sentiment of the people is wisely and overwhelmingly in favor of diminishing the tendency to a multiplicity of laws, which results in a great measure from just such bills as the one now before me, in which a defect in the general law is sought to be cured for the benefit of one limited locality, and not, as should be done, for the benefit of the whole State.

It is my plain duty, to do what I can toward remedying this great evil of needlessly multiplying laws.

JOHN T. HOFFMAN.

ALBANY, *March* 22, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 55, entitled "An act to provide for the preservation of bridges in the city of Binghamton."

The bill provides that "any person who shall ride or drive a horse, team, or mule faster than at a walk upon any of the river bridges of the city of Binghamton, shall, upon conviction, be adjudged to pay a fine of not to exceed twenty-five dollars for each offence."

The charter of the city of Binghamton (chapter 291 of the Laws of 1867) gives the common council power (title 4, section 4) to make ordinances "to suppress and restrain immoderate driving" in the city, and (section 7, title 4) provides that a violation of any ordinance may be punished by fine or imprisonment, or both, as shall be prescribed in such ordinance.

It would seem, therefore, that the local authorities of the city already have power to impose and enforce such penalties as they may deem proper and necessary for restraining and regulating the rate of speed at which persons may drive in any part of the city.

The bridges to which the bill applies are those across the Susquehanna and Chenango rivers. Special authority has been given to the common council in relation to those across the Susquehanna by

chapter 200 of the Laws of 1869; section 5 of which act confers on them power to "establish such police regulations, in relation to said bridges," and to "establish and sue for such penalties for fast driving, as they may deem advisable."

Again, chapter 203 of the laws of 1865, being "An act for constructing and maintaining free bridges across the Chenango river," provides that, whenever the bridges contemplated in the act shall be completed, the commissioners of highways shall have charge of them, and may impose a penalty of ten dollars for each offence of driving upon said bridges faster than at a walk. By the charter of the city of Binghamton (section 10 of title 4) the mayor and common council are made commissioners of highways in and for the city.

By their charter, therefore, the city authorities have power to suppress, by such penalties as they choose to impose, immoderate driving anywhere in the city, and, of course, to define the offence of immoderate driving. Special provision is moreover made for the bridges to be affected by the bill under consideration.

If doubt has arisen in the mind of any one about the power of the common council, under existing laws, it is probably due to there being already too many laws applicable to the subject.

It is true if the power of the common council over travel upon the bridges is to be found only in the two special acts already referred to, then, while twenty-five dollars or more may be fixed by them for the Susquehanna bridges, no penalty exceeding ten dollars can be imposed so far as the Chenango river bridges are concerned. A penalty of ten dollars for each offence, persistently enforced (as can easily be done in a city), would seem to be quite large enough to deter persons from fast driving. The higher penalty of twenty-five dollars, proposed by this act, will not, by its mere enactment, put down the practice. The general laws of this State provide a fine of only one dollar for this offence of fast driving upon a bridge (Revised Statutes, part 1, chapter 16, title 1, article 6, sections 122 and 123), and a larger penalty, if needed at all, is more necessary for the protection of the bridges in the rural districts, where the offence may often be committed without detection, whereas in cities detection can be prompt and sure.

It being very clear, therefore, that no necessity exists for this special act, I deem it my duty to withhold my approval.

JOHN T. HOFFMAN

ALBANY, *March* 22, 1870.

TO THE SENATE:

I respectfully return, without my approval, Senate bill No. 82, entitled "An act to except the counties of Oneida and Schoharie from the operation of the act in relation to fees of county treasurer, passed May 11, 1846."

The law, from the operation of which the bill proposes to except these two counties, provides that the several county treasurers "shall receive such compensation as shall be fixed by the boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum."

The counties of New York and Kings, consisting chiefly of very large cities, were, in this original act, excepted; and the suggestions in this communication will be considered as not having reference to them.

Since the year 1860, eleven acts have been passed similar to the one now before me, applicable, in every instance but one, to a single county, and in that one to only two counties; which acts either enlarge the limit imposed by the act of 1846, or take it off altogether.

It is evident, from the frequent applications to be relieved from them, that the existing restrictions upon the power of the boards of supervisors to provide compensation for the county treasurer are found to be, in many of the counties, inconvenient. An altered condition of things has made the maximum compensation of five hundred dollars, in the judgment of the people of some of the more populous counties, and of their local authorities, inadequate to the services and responsibilities of the office.

It seems to me that the true remedy is not to be found in special bills, for the benefit of one or two counties at a time, but in an amendment to the general law, which shall either enlarge the limit now imposed upon the compensation to be paid county treasurers, or remove all restrictions upon the discretion of the boards of supervisors in this matter, as the Legislature may deem wise.

The supervisors are, in my judgment, quite competent to decide such a question, and are not likely to be wanting in fidelity to the interests of their respective counties.

If there are any special reasons why Oneida and Schoharie counties should be exempted from the operation of the general law now in force, I doubt if they can be known to many members of the

Legislature, other than the representatives of the two counties whereas, if the question was brought before the supervisors, it would be freely discussed and thoroughly understood by every one of them, and acted upon by all under a sense of direct responsibility to the people of their respective counties.

If the general law be amended, the Legislature will be spared the necessity of considering applications which will certainly be made hereafter from other counties, for special exemption from the restrictions now imposed, and needless encumbering of the statute book will be avoided.

JOHN T. HOFFMAN.

ALBANY, *March* 22, 1870.

TO THE ASSEMBLY:

I return, without my approval, the bill entitled "An act to amend an act to authorize the formation of town insurance companies, passed April 17, 1857, as to its operation on the Fire Insurance Company of the towns of North and East Greenbush."

My objection to the bill is simply that it proposes unnecessary and, in my opinion, entirely unjustifiable special legislation. The act of April 17, 1857, is a general act, providing for the formation of town insurance companies anywhere in the State; and the fourth section limits the risk in any one policy to two thousand dollars.

The bill, now returned, amends this fourth section, by providing that, in the towns of North and East Greenbush, the limit shall be three thousand dollars instead of two thousand dollars.

I think it will be very difficult to assign a good reason for having a rule for these two towns, different from the one applicable to all the other towns in the State. If the limit of two thousand dollars, in the general law, is too small, it is better to enlarge it, so that it may have universal application.

I notice, by the published proceedings of the Legislature, the introduction of a very large number of special bills, the objects of which can be attained under existing general laws or by slight amendments to them.

It imposes a great labor upon the Executive to examine and return, with objections, such bills when they are passed; and I respectfully, but earnestly ask such legislative scrutiny as will prevent their passage, and, to some extent, at least, check the admitted evils of unnecessary special legislation.

JOHN T. HOFFMAN.

ALBANY, *March* 25, 1870.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act to authorize the Canal Commissioners to construct a farm bridge over the Champlain canal, on the farm of Miles Johnson, in the town of Whitehall, in the county of Washington."

The bill authorizes and requires the Canal Commissioners, upon the recommendation of the Commissioner in charge, to be entered upon the minutes of the Canal Board, to construct and maintain, at the expense of the State, a farm bridge over the Champlain canal, on the farm of Miles Johnson, the expense thereof not to exceed one thousand dollars, and appropriates that sum.

Chapter 207 of the Laws of 1839, confers on the Canal Commissioners, power to construct farm bridges over the Erie canal in all places where the same, in their opinion, are reasonably required. Section 4 of the same law authorizes them to commute with persons claiming to have a bridge built, by paying such sum as they and the claimant may agree upon.

Chapter 372 of the Laws of 1840, extends the provisions of the last-cited section to the several canals of the State, including, of course, the canal over which the bridge referred to in this bill is to be constructed.

Chapter 332 of the Laws of 1854, section 7, extends all the provisions of chapter 207 of the Laws of 1839, and all other existing laws in relation to bridges over the Erie canal, to bridges over the Oswego, Cayuga, and Seneca canals.

It is obvious that the Canal Commissioners now have power to commute with persons claiming to have bridges built over the several canals of the State (chapter 372, Laws of 1840), that is to say, they may allow a bridge to be built, and, on the part of the State, agree to pay the cost thereof.

It seems equally obvious that the omission in the law of 1854 to name the Champlain canal as one of those over which all the provisions of chapter 207 of the Laws of 1838 were to be extended, was an oversight. There is no reason why the power to construct bridges should be given to the Commissioners as to the Erie and the other canals named, and withheld as to the Champlain canal.

They have, therefore, express power by law now to commute with claimants for bridges on all canals, which is almost equivalent to the power to construct. Express power can be given them to construct by the simple amendment of inserting one word, to wit, "Cham-

plain," in the law of 1854. This amendment would make the power of the Commissioners on the Champlain canal precisely the same, in terms, as on the Erie canal; they would thus be enabled not only to give the relief asked for in this case, in the form proposed by the bill, but also to grant relief in the same form upon all future like cases upon the Champlain canal. I recommend such an amendment of the general law. Meantime, the party who applies for this bill need suffer no inconvenience. Substantially, the Commissioners can, under existing laws, give him all the relief he seeks, by permitting the bridge to be built, and paying for it.

The bill is, therefore, unnecessary legislation. It will be noticed, also, that it not only authorizes but requires the Commissioners to build the bridge, thus taking away from them the discretion with which it has been the policy of all our general laws on this subject to invest them, and with which it is wise to invest them, because no one can judge so intelligently as they, of the propriety of claims made for the erection of bridges.

JOHN T. HOFFMAN.

ALBANY, *March* 25, 1870.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act to authorize Julian Carter, George E. Daker, Clement Warner, E. Robertson, Peter Hogeboom, James Robertson, William Foster, John Von Hoesen, and Peter Vandenberg, to erect and maintain a dock in Oneida lake, in the county of Oswego, and to prevent obstructions to the passage thereto."

The bill authorizes the parties named in it, to build docks and wharves on Oneida lake, adjacent to their lands, and to excavate the mud from about the docks and wharves so erected.

The laws of this State (Rev. Stat. part 1, chapter 9, title 5, art. 4, section 67) authorize the Commissioners of the Land Office to grant so much of the lands under the waters of navigable rivers or lakes as they shall deem necessary to promote the commerce of this State; but no such grant shall be made to any person other than the proprietor of the adjacent lands, and every such grant that shall be made to any other person shall be void.

It is obvious that application for the privileges asked for in this instance, should have been made to the Commissioners of the

Land offices, and not to the Legislature, and that no new law is necessary to secure to the parties named in it, all that the bill proposes to give them.

JOHN T. HOFFMAN.

ALBANY, *March* 31, 1870.

TO THE SENATE:

I return, without approval, Senate bill No. 44, entitled "An act to release and convey the interest of the people of the State of New York in certain lands heretofore patented to Georgiana Bashford."

The purport of the bill is expressed in its title. It enacts that the title of the people of the State in and to certain lands heretofore patented to Georgiana Bashford by the Commissioners of the Land Office, is "released and conveyed to the said Georgiana Bashford, and the same is hereby confirmed unto her in fee, and the said patent is hereby ratified and confirmed for ever."

The Laws of the State (chapter 283 of the Laws of 1850) authorize the Commissioners of the Land Office to grant, of lands under water, to the owners of adjacent lands, "so much as they shall deem necessary to promote the commerce of the State, or proper for the purpose of beneficial enjoyment of the same by the adjacent owner."

In this instance a patent has been issued by the Commissioners of the Land Office, which conveys the interest of the State for both of the purposes contemplated by the law, as is seen by the record in the office of the Secretary of State.

All that the authorities of the State can properly convey has already been granted; and it is not alleged that there is any irregularity or defect of form in the patent, so as to make its ratification or confirmation, by the Legislature, necessary.

The bill before me, if its intent is to convey simply what has already been granted, is unnecessary; if it seeks to accomplish any thing else, it is, in my judgment, improper legislation.

JOHN T. HOFFMAN.

ALBANY, *March* 31, 1870.

TO THE SENATE:

I return, without approval, Senate bill No. 45, entitled "An act to release and convey the interest of the people of the State of New

York in certain lands heretofore patented to William Chamberlain and four others."

The facts are the same, and the terms of the bill the same, as in the case of Senate bill No. 44, returned without approval at the same time with this bill.

My objections being the same in both instances, I respectfully refer the Senate, for my reasons, to the message transmitted with bill No. 44.

JOHN T. HOFFMAN.

ALBANY, *April* 6, 1870.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill entitled "An act to amend an act entitled "An Act to anthorize the towns of Westchester and West Farms to construct a highway in said towns, to be known as the Fordham and Pelham avenues,' passed April 28, 1869."

The bill amends the second section of the original act of last year, which provided that the avenue should be one hundred feet wide for its length, while the proposed amendment reduces the width, for a portion of the road, to sixty-six feet. Under the decision of the Supreme Court (see 4th Barbour, p. 70, *People* v. *Supervisors of Westchester County*) the owners of the land, to whom damages have already been awarded, have now a vested right in sums so awarded them, of which they cannot be divested by subsequent legislative action. The result will be, if this bill go into effect, that the owners of the land adjoining that portion of the avenue which is to be reduced to the width of sixty-six feet will receive the damages already awarded for a road one hundred feet wide, and yet will regain possession of part of their land, for the public use of which damages have been or must be paid to them.

The town of Westchester has already paid, in good faith, for the right of way through that town with the expectation that the whole avenue is to be one hundred feet wide; and it is represented to me that the portion which it is now proposed to reduce in width is that part of the avenue on which there will be the most travel, to wit, the last mile, leading direct to the railroad station at Fordham.

This proposed amendment appears to me to be improper, because, under the law as given in the case above cited, the public would have to pay for what they would not get, and because it would work

inequitably among the parties owning lands adjoining the road, and who all have an interest in the whole undertaking. The protests which some of them have filed with me against the bill, I am not, therefore, justified in disregarding.

Protests, also, have been sent to me against any change in the commission in charge of the work, as is proposed by another amendment in this bill provided; but I do not deem it necessary to consider this point.

JOHN T. HOFFMAN.

ALBANY, *April* 12, 1870.

TO THE ASSEMBLY:

I return, without approval, the Assembly bill entitled "An act to prevent encroachments upon the highways at railroad crossings, in the town of Great Valley, in the County of Cattaraugus."

The bill makes it a misdemeanor to place or leave timber, logs, railroad ties, or any other obstructions or impediments, in the bounds of highways within one hundred feet of any railroad crossing east of Great Valley station, in the town of Great Valley.

If it be necessary for the protection of the public to make such acts misdemeanors at the few railroad crossings referred to in this bill, it must be, it seems to me, quite as necessary in many other parts of the State.

The proposed law, if passed at all, should be made general in its application, so that the public everywhere may get the benefit of its provisions.

To declare an act a misdemeanor in one town which is not recognized as a criminal act elsewhere in the State, tends to making the the laws under which the people live, complicated and uncertain, and to creating confusion in the administration of criminal justice. The ordinances of municipal authorities may, within certain limits, be permitted to make local regulations which shall be of force only in the locality; but the statutes of the State Legislature, when defining offences, should be, in their operation, co-extensive with the territory of the State.

JOHN T. HOFFMAN.

ALBANY, *April* 12, 1870.

TO THE SENATE:

I return, without approval, Senate bill No. 47, entitled "An act for the relief of John Fitzpatrick, assignee of Bernardus Swartwout."

The bill not only "authorizes" but it "directs the Canal Board to ascertain the value of embankments and lining, and of brush and stone and other materials, for which no estimate was made by the engineer in charge, furnished and constructed by John Fitzpatrick" on a certain section of the canals, "and to award the said Fitzpatrick the amount so ascertained, in addition to such sum as has heretofore been awarded him."

It then, by section two, directs the Treasurer to pay the amount so awarded, if any, to said claimant, out of any moneys appropriated or to be appropriated for the extraordinary repairs of the canals.

My objections are these: The bill does not refer the claim to the Canal Board for examination, but assumes the fact to be that the claim, in the form recited in the bill, exists. It may and probably would be construed as requiring the Board, whatever may be the facts of the case other than those recited, and which might constitute a perfect answer to the claim, to ascertain the value of the several things spoken of, and to award to the claimant the amount thereof when ascertained. In this it differs from the form now usually adopted in referring claims to the Canal Appraisers.

The second section is objectionable because it appropriates money in advance of the award, out of the sum that may by law be appropriated for extraordinary repairs of the canals. It is obvious that if appropriations for claims are thus to be made by separate bills, out of the fund provided for the repairs of the canals, it will be impossible for the financial officers of the State to make proper estimates of what will be required, and that the taking of moneys out of the Repair Fund for purposes like that contemplated in the bill, may be so extensive, as seriously to interfere with the work necessary to be done on the canals.

JOHN T. HOFFMAN.

ALBANY, *April* 16, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 153, entitled "An act to extend the charter of the White's Corners and Buffalo Plank Road Company."

This company was organized, as is recited in the bill, under chapter 210 of the Laws of 1847. That law limits the duration of all companies formed under it to thirty years. The bill now before me proposes to extend the charter of the company for a further period of thirty years. Sections 4, 5, 6, and 7 of act of 1847, require that a company, proposing to construct a road, shall first obtain the consent of the Board of Supervisors of the county. Such consent having been given in this, as in all other instances, for a limited period of time, it is obviously proper that a like consent should be required for any extension of the time.

The privileges proposed to be given by this bill are equivalent to a new charter for another thirty years. The same preliminary steps should be taken as were required for the original grant.

JOHN T. HOFFMAN.

ALBANY, *April* 16, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 154, entitled "An act to extend the charter of the East Hamburgh Turnpike Road Company."

The provisions of this bill being similar to those of Senate bill No. 153, returned, without approval, at the same time with this, and my objections to both bills being the same, I respectfully refer you to the message accompanying bill No. 153.

JOHN T. HOFFMAN.

ALBANY, *April* 16, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 294, entitled "An act to provide for the erection of a soldiers' monument in the county of St. Lawrence."

The bill empowers the board of Supervisors of St. Lawrence county to borrow, on the credit of the county, twenty-five thousand dollars, for the purpose of erecting a soldiers' monument, and to provide for payment thereof by tax.

The purposes proposed to be accomplished by this bill are already provided for in a general law, extending the powers of the board of supervisors.

Section 4 of chapter 855 of the Laws of 1869, makes it competent for any county, if a majority of its legal voters so authorize, to expend any sum of money for the purpose of a public monument, "provided that no debt shall be created, nor shall any tax be imposed, for such purpose, unless such expenditure be approved by a vote of two-thirds of the board of supervisors."

The bill proposes unnecessary legislation.

JOHN T. HOFFMAN.

ALBANY, *April* 16, 1870.

TO THE SENATE:

I return, without my approval, Senate bill No. 122, entitled "An act to enable incorporated rural cemeteries, in Jefferson and Cayuga counties, to acquire title to lands where the owner or owners are unwilling to sell, or when the cemetery association and the owners cannot agree upon the value thereof."

The title of the bill explains the purport of its provisions. I have grave doubts of the propriety of giving to the associations named in the bill, power to acquire lands for burial purposes without the consent of the owners. But if it were wise to do so, the provisions of the bill should not be limited, as they are, to two counties; all these rural cemeteries being organized under general laws, applicable to the whole State.

JOHN T. HOFFMAN.

ALBANY, *April* 19, 1870.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act relating to the supervisors of the county of Albany, their terms of office and salary."

The bill provides that supervisors to be hereafter elected in the several towns and wards of cities in the county of Albany, shall be elected for a term of two years, and that they shall receive a salary of $300 each.

It is, in my judgment, a sufficient objection to this bill that it would, if enacted into law, destroy the uniformity of town governments. In all the towns of the State, supervisors are now elected annually. If this bill affected only the city of Albany, and the

boundaries of the city and county were the same, it would be less objectionable, the terms of office of the aldermen being now two years. But a large proportion of the supervisors of the county of Albany are elected from rural towns, and there can be no good reason for providing that these towns shall choose their supervisors for two years, while all the other towns in the State, in accordance with the general and long established policy of the State, elect their supervisors every year.

JOHN T. HOFFMAN.

ALBANY, *April* 19, 1870.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act extending the charter of the Webster Plank Road Association."

The company was organized under chapter 482 of the Laws of 1857, and chapter 780 of the Laws of 1866. These acts provide that parties purchasing a plank road or a turnpike road at a sale made under an execution or a foreclosure of a mortgage, may form a corporation for the purpose of owning and continuing to operate such plank road or turnpike road, and the number of years the same shall continue shall not exceed the unexpired term of the original incorporation.

The articles of association were filed with the Secretary of State October 1st, 1869; they provide for a corporate existence of ten years seven months and ten days, which, no doubt, was the then unexpired term of the incorporation, whose ownership of the road had been transferred to the parties composing the new association, by virtue of a sale under either an execution or a foreclosure of mortgage.

The original corporation was the Troy and Poestenkill Plank road Company, which was organized under chapter 210 of the Laws of 1847, its articles of association having been filed on the 20th of April, 1850. The term of corporate existence named therein was thirty years, which was the limit fixed by the act. The present charter, therefore, will not expire until 1880.

The Webster Plank Road Company stands in all respects in the place of the original corporation. The act of 1847, under which that original association was organized, requires that any company proposing to construct a plank road or turnpike road shall first obtain the consent of the board of supervisors of the county. Such consent

having been made by the law necessary to the enjoyment of the privilege of the company in the first instance, and the consent having been given, in this as in all other cases, for the period of thirty years, as prescribed by the act, it is obviously proper that a like consent from the supervisors of the country should be required as a condition to any extension of the time during which the company shall enjoy its privileges.

The bill before me proposes to extend the corporate privileges of the company for ten years after the expiration of the present charter which has ten years yet to run, and to do this unconditionally, without reference to the board of supervisors of the county; legislation which seems to me to be objectionable.

Whatever the facts of the case may be, there is no necessity for providing for a renewal of the charter now, ten years before it expires.

JOHN T. HOFFMAN.

ALBANY, *April* 19, 1870.

TO THE ASSEMBLY:

I return, without approval, the bill entitled "An act to amend chapter 340 of the Laws of 1869, entitled 'An act to authorize the town of Greenwich, in the county of Washington, to issue bonds and take stock in the Union Village and Johnsonville Railroad Company.'"

The original act authorizes the town of Greenwich only, and not the town of Eaton, to issue bonds; the proceeds to be used in aid of the construction of the railroad above named.

This bill provides that all taxes, except school and road taxes, collected for the next thirty years in the village of Greenwich, or in the towns of Greenwich or Eaton, on the assessed valuation of said railroad, shall be paid over to the county treasurer, to be held by him as a sinking fund for the redemption of bonds issued or to be issued not by either of the towns named, but by the railroad company.

I am at a loss to see why any portion of the taxes of these towns, which, when raised, are a part of their assets, should be applied to the payment, not of their own debts, but of the debts of a railroad corporation. The bill, if enacted into a law, would, in effect, exempt the property of the railroad company from local taxation, for it applies the taxes collected from the company to the payment of the

company's debts. It is noticeable, however, that this purpose does not appear from the title, nor is it plainly stated on the face of the bill.

JOHN. T. HOFFMAN.

ALBANY, *April* 25, 1870.

TO THE SENATE:

I return, without approval, Senate bill No. 272, entitled, "An act for the relief of the Hopkinton Manufacturing Company."

The bill provides for an extension of the time in which the company may make and record the certificate required by law, and then declares the company to be "a body politic and corporate" under the "Act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes." It declares further that "all acts heretofore done by or in the name of said corporation are hereby confirmed and ratified, and shall be of the same force and effect as if said corporation had in all respects complied with the provisions of law."

The language of the bill is too sweeping. It attempts to cure all neglects or violations of the provisions of the general law of which this company may have been guilty. It does not recite the defects in its past proceedings which require a remedy. It makes the company a corporation, although it may have complied with no one of the provisions of the law under which it was authorized to organize.

There is, moreover, no provision in the bill that it shall not affect suits pending or rights already acquired by reason of any acts done or omitted to be done on the part of the corporation.

A general law has already passed, this session, enabling corporations to correct any informalities connected with their original certificate. If the objects of this bill be to cure an informality it is unneccessary; if it has some other purpose not clearly stated on its face, it ought not to pass into a law.

JOHN T. HOFFMAN.

ALBANY, *April* 25, 1870.

TO THE SENATE:

I return, without approval, Senate bill No. 316, entitled "An act incorporating the United States Mutual Benefit Company of New York."

The bill provides that certain persons already incorporated under the general law "for the incorporation of benevolent, charitable, scientific and missionary societies," are "hereby constituted and made a body politic and corporate under their present constitution and by-laws, with power to make such other rules and regulations and to repeal the same at pleasure as they shall deem expedient;" provided always, that such by-laws, rules and regulations be not inconsistent with the laws of the State or the United States."

It then declares that the company may provide for the pecuniary relief of its members in cases of physical incapacity by sickness, casualty or old age, or in the event of the death of a member for his or her family or heirs; and that it may issue certificates stating the particulars of the contract between the holder thereof and the company, and the assessment to be paid for the benefit of a member.

The Constitution provides that "corporations may be formed under general laws, but shall not be created by special act except for municipal purposes and in cases where, in the judgment of the Legislature, the object of the corporation cannot be attained under general laws."

The restrictions of the Constitution in this respect are, it seems to me, needlessly disregarded of late years. Nevertheless, the Legislature has carried out the purpose of that instrument so far as to enact general laws under which societies for benevolent and charitable purposes, naming expressly among them benefit societies, may incorporate themselves, and other general laws under which life and health insurance companies may be organized with corporate privileges.

This company associated itself under the general law for charitable and benevolent societies, and now seeks to be made a corporation by special act for business similar to that of life and health insurance companies. It seems to me that it would be a proper conformity with the established policy of the State that they should reorganize under the act for the incorporation of life and health insurance companies, which is sufficiently liberal to allow of their adopting any form of affording compensation or regulating the rate of compensation in case of death or sickness.

It is true the general law does not allow companies to combine both branches of this business, that is to say, a company cannot be at the same time a life insurance company, and a health insurance company. Under the bill before me, both branches of the business are contemplated to be done by one association. If the policy of the State is to be changed in this respect, the change should not be

limited to a few special instances; but the general law should be amended. So, also, if the company is more properly to be classed among benevolent and charitable societies and the general act for their incorporation is now too restricted in its provisions, that act should be amended instead of relief being afforded in one or two cases.

If, on the other hand, it is to act as a life insurance company, it should, like other corporations of that nature, come in under the general law, and so be subject to the supervision of the Insurance Department, and to the provision requiring the deposit of securities with that department.

JOHN T. HOFFMAN.

ALBANY, *April* 25, 1870.

TO THE ASSEMBLY:

I return, without my approval, the Assembly bill No. 372, entitled "An act incorporating the Peabody Mutual Benefit Company of the city of New York."

The bill is objectionable because it does not state definitely the object of the Company. All it says on this point, is that the purpose is mutual protection and benefit in case of death. The proposed incorporation is authorized to hold, purchase and sell real and personal property of any kind to the amount of $300,000. It may issue certificates of membership, "which certificates shall state the agreement with the member receiving the same." While, therefore, the bill authorizes a general business to the extent of the company's capital, in buying and selling real and personal property, it is also an unavoidable inference, from the terms of the bill, that life insurance is to be a part of the business of the corporation.

The general laws of the State having imposed on all life insurance companies certain restrictions and rules, and subjected them to the supervision of the Insurance Department, and required of them a deposit of securities with that department, I do not feel that I should be justified in approving a bill creating a corporation with power to do business in life insurance, unless the provisions of these general laws are to apply to it as to all others engaged in like business.

JOHN T. HOFFMAN.

ALBANY, *April* 25, 1870.

TO THE ASSEMBLY:

I return, without approval, the Assembly bill entitled an "An act to incorporate the National Mutual Benefit Association of the city of Buffalo."

The character and apparent purposes of the bill being similar to those of Assembly bill No. 272, also returned, not approved, herewith, and my objections being the same in both instances, I respectfully refer you to the message accompanying that bill.

JOHN T. HOFFMAN.

ALBANY, *April* 25, 1870.

TO THE ASSEMBLY:

I return, without approval, the Assembly bill entitled "An act in relation to coroners in the county of Erie."

The bill provides that the county shall be divided, for the purposes of the proposed act, into three districts; that four coroners shall be elected by the electors of the whole county, two of whom shall be chosen from the city of Buffalo, which is made one district, and one from each of the two other districts. It then provides that such coroners shall reside and keep their offices in their respective separate districts, and exercise their office only within the bounds of the districts in which they reside.

If it were legitimate for the Legislature to enact such a law, it would be manifestly unjust to permit such of the people of the county as reside outside of any one of the proposed districts, to vote for a coroner who was to exercise his power only in that district.

But it is not legitimate. A coroner is a county officer under the Constitution, and the Legislature is not competent, in my judgment, to restrict his jurisdiction to any smaller territorial limits.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill No. 600, entitled "An act to facilitate the construction of the railroad of the Adiron-

dack Company, and its extension to the waters of the St. Lawrence River at the city of Ogdensburg."

The bill proposes to grant out of the State treasury about one million seven hundred thousand dollars in aid of the construction of the railroad of the Adirondack Company, a road which, when completed, will extend from Saratoga Springs to Ogdensburg; the sum so granted to be levied by tax upon the people of the State at large.

The projected road would pass through a part of the State which is sparsely inhabited, and which is, in fact, almost in the condition of the primitive wilderness. It cannot hope, therefore, to receive from towns and other municipalities pecuniary aid, in the manner provided by the general town bonding act, under which many enterprises of this kind have been and are being materially assisted. The road would render accessible a section of the State known to be rich in mineral wealth and to abound in valuable timber. For want of ability to reach our great markets, this region fails to contribute to the general wealth in proportion to its abundant, though undeveloped resources. The advocates of the enterprise can well urge that the people of the State at large are interested in and would be benefited by any public work which would induce the settlement of an industrious population in this now unproductive region. The same reason was adduced last year, and will be again adduced now in favor of granting aid to the Whitehall and Plattsburgh road from the State treasury. In fact, this argument may be made, with varying force, in favor of all the roads which are applying for grants of money from the treasury.

There are seven bills of this nature now in my hands, to-wit: This one, in which the whole sum appropriated is not definitely stated, being at the rate of ten thousand dollars per mile, but in which the tax authorized for the purposes of the road amounts to about one million seven hundred thousand dollars; one granting one million five million five hundred thousand dollars to the New York and Oswego Midland railroad; one granting five hundred thousand dollars for tunneling Pine Hill; one granting three hundred thousand dollars to the Whitehall and Plattsburgh railroad; one granting three hundred thousand dollars to the Buffalo and Washington railway; one granting one hundred and fifty thousand dollars to the Carthage, Watertown and Sackett's Harbor railroad company; and one granting five thousand dollars per mile to the Cattaraugus railway, which, on twenty-five miles length of road, at which it is reported to me, will amount to one hundred and twenty-five thousand dollars.

It will be seen that these direct gifts from the Treasury would amount, in the aggregate, to about four million six hundred thousand dollars, nearly half as much as the entire tax levied last year for the purposes of the State government, including our schools, charities, &c.

These several bills have passed the Legislature with about the same proportion of votes in favor of each one. It will not be denied that they have not been passed, each exclusively upon its own merits, but that the friends of the several projects combined their influence and their votes towards obtaining, for all of them, the sanction of the two Houses of the Legislature, and that, without this coalition of interests, no one of them would, probably, have passed. They are, each and every one of them, private and local bills; so that if their proposed enactments were all to be found in one bill, the act would be void under the provisions of the Constitution. I think I am justified however, in regarding them, passed, as they have been, almost simultaneously by a combined effort of their friends, as being practically one measure. This scheme of linked legislation does not embrace quite all the measures of this kind presented to the Legislature. One other, at least, is still pending.

It must be regretted that such combined action of the friends of many separate projects, of various degrees of merit, should be deemed necessary to their sanction by the Legislature, or should have been taken to secure that sanction; for it conflicts with the spirit of the Constitution.

It is true that the friends of each of these projects, in advocating it before me, invariably insist that their enterprise is entitled to favor above all the others, because of its superior and peculiar merits. None of the friends of any one of the bills have been urgent to have me approve of the others. Expecting that I could not consent to this great draft on the public treasury, in the aggregate, they separately urge that it is my duty to discriminate in favor of one among the several claims, that one being, of course, in each case, their own; and thus the practical application of their arguments for discrimination would seem to lead to the rejection of all.

The reasons that can be adduced in favor of the road for which this bill provides I have already mentioned; the friends of the New York and Oswego Midland bill can urge that their road passes through a well-settled and cultivated region, which has hitherto been shut out from direct connection with the great markets, the residents in which have already contributed largely by taxing themselves, through their town governments, towards the completion of

the work, and that, notwithstanding these contributions and those of capitalists, there is danger that the progress of the work will be checked, unless further aid is afforded; those who support the bill for the Buffalo and Washington road can claim that, as the road will afford means of transportation from extensive coal regions, it will contribute, in a large degree, to increased commerce upon our canals; the advocates of the Whitehall and Plattsburgh bill have heretofore urged and do now urge that their road will connect with the State property and works, and that the facilities for travel in and through the important region which the road will traverse are so meagre that in winter one of our public institutions cannot be reached except by way of Vermont; those who ask for the appropriation for the Pine Hill tunnel, point to the fact that they were led by a resolution, on the part of one House, at least, of the Legislature, passed some years ago, to expect the aid they now ask when they should reach that point in the construction of their work at which they have now arrived; the Cattaraugus Railway Company argue that they will make an important connection with the Buffalo and Washington road, so that their claim and that of the latter road rest upon precisely the same grounds. The friends of the remaining bill, of the seven now before me, urge like considerations.

The Legislature has made no discrimination among these several measures. The votes given in favor of them severally have been about the same in number. They pronounce them all alike meritorious.

Under these circumstances, I am asked, when urged to discriminate among them, to legislate, by my own action, a certain sum of money out of the treasury for some one of these enterprises; to decide in favor of one and against others, not upon any constitutional grounds or general principle, but simply according to my views of the relative merits and needs of each. I am not willing to take upon myself this task of selection, from which the Legislature has shrunk; and I could not justify myself for undertaking it.

The Legislature having presented these bills to me, practically, as one entire measure, so far as constitutional restrictions would permit them to do so, I respectfully decline to give them my approval.

It is no time to deal carelessly or lightly with the question of adding to the burdens of the people by new taxes. Prices of agricultural products are shrinking, business is generally inactive, and many whose industry, last year and the year before, yielded them a surplus, now find that after paying the cost of subsisting their

families, the heavy taxes of the times, which have not diminished and are not diminishing, exhaust all that is left. Whatever may be the merits of any of the projects proposed to be aided by these bills, however it may be argued that the enterprises, when completed, will contribute more to the general prosperity of the people of the State than the amount the Legislature proposes to give to them now out of the public treasury, it is necessary for us first to consider whether the present condition of things is such that the people can, with comfort, endure any further draft upon their resources. In my own judgment, our people cannot afford and will not sanction any heavy addition to their taxes, which can be avoided or postponed.

If this be so, that the present outlay of public money, proposed by these bills, would operate oppressively upon the people, it is not wise for us to listen only to the promises held out of great future returns, to be enjoyed when these various works shall be completed. In public affairs as well as in private business, there are times when it is, above all things, a matter of primary duty to be cautious about either spending money or incurring debt. In the present condition of the business of the country, and especially of its agricultural industry, on which all other branches of industry depend, it is the duty of those who have charge of the public purse to be careful how they make new drafts upon it.

I have not entered into the question of the propriety of granting aid from the State treasury, without express consent of the people, to any enterprise whatever, which, although it may be of great service to the general good, is still a private undertaking, no part of the profits from which, when realized, are to go into the treasury of the State. Whether it is right to do so in any case, whether it is not in opposition to the spirit of the Constitution, are questions about which a wide difference of opinion may be found to exist. It is not necessary to enter into this discussion now. The experience of the friends of the several enterprises of this kind now on foot, taken for several years past, has shown very clearly that no one of them can secure a legislative appropriation except in combination with others and that, with the progress of time, the necessity for and the magnitude of these combinations greatly increase. No railroad can secure a legislative donation of State aid of a million of dollars or less, except on condition of the donation of many millions to others.

The most practical and just way to secure contributions from the State treasury in aid of an enterprise like this, upon its own merits, and the way which is in harmony with the Constitution and with the rights of the people at large, is to submit the question to the

people for their decision. In a message to the Senate last year, accompanying a bill returned without approval, which was like this one, and which proposed to grant aid to the Whitehall and Plattsburgh Railroad, I called attention to this point and said, in substance, that if it were desirable for the State to extend aid to undertakings of the nature of those now under consideration, it would be much fairer to the people, and probably much more for the benefit of the enterprises themselves, that the proposition should be submitted to a vote of the whole people of the State, whether they would incur a debt for the purpose.

The Constitution forbids the lending of the credit of the State to, or in aid of any association or incorporation; but it also provides that a debt may be authorized by law for any work or object to be specified therein, the principal thereof to be paid within eighteen years, such law to be submitted to and approved of by the people. If this course should be pursued, the taxes for the amount contributed by the State could then be spread over a long period, instead of being levied, as these bills propose, almost immediately.

In all cases where towns are authorized by law to contribute money or to lend their credit to railroad companies, the consent of a majority of the tax payers of the town is required to be first obtained. Is it not proper that, when money is to be given from the State Treasury for similar purposes, a like consent should be obtained from a majority of the people of the State?

I cannot approve of these bills as a whole, and I decline, for the reasons given, to discriminate among them.

It has been suggested to me to retain these bills until after the adjournment of the Legislature; but I feel it to be my duty, in view of the principles involved, and of the magnitude of the enterprises, to return them with my objections.

I therefore return this bill, as I shall all the others, with my objections.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE ASSEMBLY:

I return, without approval, Assembly Bill No. 598, entitled "An Act to facilitate the construction of the Buffalo and Washington Rail-

way." My reasons are given in a message accompanying Assembly Bill No. 600, also returned without approval, to which I respectfully refer you.

JOHN T. HOFFMAN.

April 26, 1870.

TO THE ASSEMBLY:

I return, without approval, Assembly Bill No. 479, entitled "An Act to aid in the completion of the Whitehall and Plattsburgh railroad, &c., &c." My reasons are given in a message accompanying Assembly Bill No. 600, also returned without approval, to which I respectfully refer you.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE ASSEMBLY:

I return, without approval, Assembly Bill No. 271, entitled "An Act making an appropriation from the State Treasury to tunnel Pine Hill." My reasons are given in a message accompanying Assembly Bill No. 600, also returned without approval, to which I respectfully refer you.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE ASSEMBLY:

I return, without approval, Assembly Bill No. 477, entitled "An act to facilitate the construction of the New York and Oswego Midland railroad." My reasons are stated in a message accompanying Assembly Bill No. 600, also returned without approval, to which I respectfully refer you.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE SENATE:

I return, without approval, Senate Bill No. 485, entitled "An Act to aid in the construction of the Carthage, Watertown and Sackett's Harbor Railroad."

My reasons being given at length in a message to the Assembly of this date, accompanying a bill originating in that House of like purpose with this one, in relation to the Adirondack Company's Railroad, I respectfully refer the Senate to a copy thereof appended hereto.

JOHN T. HOFFMAN.

ALBANY, *April* 26, 1870.

TO THE SENATE:

I return, without approval, Senate Bill No. 474, entitled "An Act to facilitate the construction of the Cattaraugus Railway," for the reasons to be found appended to my message accompanying Senate Bill No. 485, also returned without approval, and to which message I respectfully refer you.

JOHN T. HOFFMAN.

MEMORANDA OF OBJECTIONS

Endorsed on Sundry Bills filed, after adjournment of the Legislature, by the Governor with the Secretary of State, not signed.

An Act to repeal the second section of chapter five hundred and sixty-four of the laws of eighteen hundred and sixty-nine, entitled "An act authorizing additional tolls to be collected on plank roads in the county of Albany."

NOT APPROVED — The second section of the act of May 4, 1869, which the bill seeks to repeal, places the plank road of the Great Western Turnpike Company on an equality, as to rates of toll, with other plank roads of Albany county. This equality should not be disturbed by this special enactment. There is no good reason why the toll rates on all plank roads should not be the same.

An Act to provide for the erection of a public market in the Thirteenth Ward of the city of New York.

NOT APPROVED — I refused my sanction to a bill of like nature, last year, for the reason that markets built at the public expense have not proved satisfactory, and that the system should not be extended. Private capital will do all that is necessary in this direction.

An Act to amend an act entitled "An act for the better protection of minors," passed April twenty-nine, eighteen hundred and sixty-nine.

NOT APPROVED — The bill contained some excellent provisions, but there are others which would seriously and unnecessarily inconvenience charitable institutions having charge of minors, and at the same time operate to the prejudice of the minors themselves.

An Act to increase the compensation of the Assessors of the town and village of Malone.

NOT APPROVED — The provisions of the bill, if proper, should be extended to all the towns and villages of the State.

An Act releasing lands under water to the present owners of the adjoining lands, between the northern boundary of Madison avenue and the northern boundary of South Ferry street in the city of Albany.

NOT APPROVED — Commissioners of Land Office have full power in the matter.

The Governor sends to the Secretary of State, without his signature, the following bills; all such claims being provided for in the general law conferring power on the Canal Appraisers, Chapter 321, Laws of 1870:

Relief of Charles C. Smith.

Relief of Guy Davis.

For the appraisal and payment of damages, Stillman Cutler, Tonawanda Creek.

For appraisal and payment of damages to Benjamin Benson.

Relief of Peter W. Anthony and others.

Relief of John D. Blood and others.

Relief of Charles E. Fraser and others.

Relief of Esther Backer.

Relief of James Carney and others.

Relief of Valentine Reynolds and others.

Relief of Joseph D. Loveland and others.

Relief of George Becker.

Relief of Aaron White.

Relief of Charles Smith and others.

Relief of Erskine G. Clark and others.

To authorize Canal Appraisers to hear and determine claim of Thomas McGuire.

Relief of Charles H. Green and others.

Relief of Edwin B. Bissell.

Relief of George Williams and others.

Relief of Noble Jackson and others.

Relief of the city of Syracuse.

Relief of George Hendricks and others.

Relief of Roswell S. Burrows.

Relief of Daniel Cotter.

Relief of Jeremiah Flood.

Relief of Henry J. Seymour.

Relief of Michael Storen and others.

Relief of Luther Wright and William O. Hubbard.

Relief of the "Christian Church" of the village of Tonawanda.

An Act to establish a Stock Exchange in the city of New York, and for the government and regulation of the same.

NOT APPROVED — The bill confers extraordinary and unusual powers, and among other things exempts the proposed corporation from the operation of the usury laws and the statute of frauds. It is open in other particulars also to very serious objections.

An Act relating to the care, maintenance, and medical treatment of insane persons, and of their removal from the State Lunatic Asylum at Utica or elsewhere to the County Poor-House in the county of Saratoga.

NOT APPROVED — The bill is special legislation for only one county, and the policy of sending insane persons to the county poor-houses not a wise one.

An Act to amend an act entitled "An act to consolidate the several school districts and parts of districts within the corporation limits of the village of Saratoga Springs, and to establish a Free Union School or schools therein," passed April twelfth, eighteen hundred and sixty-seven.

NOT APPROVED — The bill takes away from the village authorities the power they now possess to levy taxes for all the ordinary expenses of schools; and requires a vote of a majority of the taxable property to authorize expenditure in any year beyond a certain specified sum. It would work injuriously to the schools, possibly, and is, at all events, special legislation for one village only.

An Act to authorize the Commissioner or Commissioners of Highways of the town of Florence, Oneida county, to locate and establish the routes and bounds of the highways in the said town.

NOT APPROVED — The Commissioners of Highways of the several towns of the State already have power, under the Revised Statutes (part 1, chapter 16, title 1, act 4, sec. 100), over the subject matter of the bill.

An Act to provide the Flatbush Fire Company with funds for the purchase of hose and keeping its property in order.

NOT APPROVED — Bill provides that the fire company shall borrow money for its special use, and the repayment of the loan shall be a town charge, to be levied by tax; the loan, if necessary, should be negotiated by the town officers and the fund be controlled by them.

An Act for the relief of Clark Snook.

NOT APPROVED — The bill is defective. It authorizes the Canal Board to determine the claim, and then the appraisers are to award "upon the evidence," the damages, &c.

An Act to consolidate the several school districts, and parts of school districts, within the corporate limits of the village of White Plains, in the County of Westchester.

NOT APPROVED — Most that the bill proposes can be accomplished by the people of the village under the General Laws (chap. 555, laws of 1864, title 9). The provision exempting school property from taxation is superfluous, and others are objectionable; such as that which authorizes the Board of Education to mortgage the school property.

An Act to incorporate the village of New Hartford.

NOT APPROVED — The bill provides for organization by a first election on the first Tuesday of May of this year. As that day is already past, the signing of this charter would not afford the people so early an organization as they can obtain under the general Village Act, passed at the last session (chap. 291, Laws of 1870); the powers they ask for are all conferred by that act, and I learn the promoters of this bill prefer now to organize under the general law.

An Act to authorize the Trustees of the "Evans Mills Cemetery Association" to raise money to fence the said cemetery ground.

NOT APPROVED — The bill authorizes a private corporation to levy and enforce a tax upon its members in the same manner as a public tax for educational purposes could be enforced, including, of course, distress of personal effects. Provision should have been made by its own rules for all necessary and proper contributions from its members.

An Act for the determination and settlement of the claims of the heirs-at-law of Christine Shenandoah.

NOT APPROVED — This is a claim for improvements on lands ceded to the State by the Oneida Indians, by treaty in 1824. It appears by papers in the Comptroller's office that the improvements on lot 31, named in this bill, were appraised then as belonging to the Widow Honyoust, the principal claimant named in the bill, and that she was paid in June, 1825, the sum so appraised, and that in 1828 she was paid for improvements on other lots, at which time she executed a second receipt and a quit-claim for *all* improvements.

The State afterwards, under a special act of the Legislature, per-

mitted this lot to remain in possession of the Indians, for a parsonage, for ten years; and when this use ceased and the State sold the ground, the value of the improvements was given up in the settlement with the purchaser, who was the same person who had occupied it at the request of the Indians. So that the State has dealt liberally in the matter throughout, and no claim can exist.

An Act to amend an act entitled "An act to incorporate the Buffalo and Williamsville McAdam Road Company," passed May 3, 1836.

NOT APPROVED — The bill provides for the removal of a toll-gate upon the application of either the company or the Common Council of Buffalo, by order of the County Court or the Supreme Court of the city; and also that a certain portion of the road shall cease, thereafter, to belong to the company.

The original charter of the company (chap. 240 of Laws of 1836) says, "it shall be lawful for the judges of the County Court of the county of Erie to order" any toll-gate "to be removed," and thenceforth "it shall not be lawful" for the company "to collect tolls" until the gate shall have been removed to the place directed in the order of the court.

This bill is unnecessary, therefore, to the removal of the toll-gate, and the company will, of course, be glad to abandon so much of the road when the tolls can no longer be collected on that part of it.

An Act for the relief of Richard Calrow, Jr.

NOT APPROVED — Aside from some of the provisions of the bill itself, which are extraordinary and improper, there are good reasons why this claim should not be further investigated.

Claims of Mr. Calrow, under his contract for construction of New York Arsenal, were, by chapter 273, Laws of 1859, submitted to and passed upon by a Referee.

By chapter 327, Laws of 1862, the Lieutenant-Governor, Comptroller, and Secretary of State were authorized to examine further his claim for work and materials, under the contract "or otherwise," for which the State was legally or equitably bound.

December 30, 1862, they reported unanimously "that there is nothing due, and that no work has been done or materials furnished, under the contract or otherwise, for which the State is legally or equitably liable beyond what has already been paid." To authorize a re-examination and award, after a lapse of eight years, no new facts being developed or evidence discovered (as is now admitted to be the case), would establish a precedent indefensible and dangerous.

An Act to incorporate the Mutual Loan and Depositors' Institution of the city of New York.

NOT APPROVED — The bill authorizes the company, among other things, to do a pawnbroker's business, as well as to loan money upon general personal securities. Under its provisions, the company would claim to the rights charge upon all loans the rates of interest allowed to licensed pawnbrokers in cities.

An Act to amend an act entitled "An act in relation to the opening, widening, and extending of streets, avenues, and public places in the city of New York."

NOT APPROVED — The amendment provides that three-quarters of the whole cost of opening and grading any street running northerly, north-easterly, or north-westerly (north of One Hundred and Fifty-fifth street), and of any park or place north of One Hundred and Fifty-fifth street, shall be assessed upon the city at large, and only one-quarter on the "property benefited." There is no justice in such an arbitrary rule of assessment.

An Act "to incorporate the Nassau Savings Bank of the city of Brooklyn.

NOT APPROVED — The bill authorizes the trustees to assign their places; and the available fund, so-called, which is to be loaned at discretion, is not limited.

An Act to alter the map or plan of the city of New York.

NOT APPROVED — The counsel to the corporation of New York, to whom I have submitted it, suggests objections to the bill, in which I concur. Among other things, the bill directs the Comptroller of the city to refund certain assessments which may have been paid for opening that part of the street now proposed to be discontinued. The Comptroller cannot do this without an appropriation, so that injustice may be done by discontinuing work for benefit from which parties have already paid their assessments.

An Act to incorporate the Chemung and Tioga Bridge Company.

NOT APPROVED — The general laws provide (see chap. 259 Laws of 1848, chap. 372 Laws of 1852, and chap. 120 Laws of 1854) for incorporation of bridge companies, and for construction of bridges by them, with the consent of the Board of Supervisors, who are also authorized to fix the rates of toll.

An Act to confirm the proceedings taken by the Common Council of the city of Buffalo to lay out and extend Genesee street from

its termination at Best street through to intersect the Buffalo and Batavia plank road.

NOT APPROVED — The Common Council have full power in this matter, and cannot need a confirmation of their acts unless they have done something or omitted something contrary to the regulations of law. By new proceedings in conformity with law, they can themselves remedy any existing defects.

An Act to incorporate the Security Bank of the city of Brooklyn.

NOT APPROVED — Bill submitted to Superintendent of Banking Department, and he makes objection to it, as not conforming to the laws of the State in reference to banks.

An Act to provide for the erection of a public hall in the Village of Newark.

NOT APPROVED — The bill designates five persons as commissioners, with power to purchase or lease a site for, and to erect a public hall at an expense of twenty thousand dollars; for which the commissioners may issue bonds on the credit of the village, and the bonds "shall be signed by the president and clerk of the village, at the request and direction of the commissioners;" the bonds to be paid by tax.

The village authorities are ignored and no consent of the people to the tax is required in the bill.

An Act to amend chapter 454 of the Laws of 1868, entitled "An act authorizing the construction of a rail road from the end of the Long Wharf on the Hudson River, in the town of Fishkill, Dutchess County, to Matteawan in said town," passed April 29, 1868.

NOT APPROVED — on account of remonstrance from some of the original incorporators and a large number of residents and property owners at Matteawan.

An Act to incorporate the Oneida River Road, in the town of Schoeppel, in the county of Oswego.

NOT APPROVED — The bill appoints three persons as special commissioners to improve a certain road at an expense of three thousand dollars. The Supervisors have power now (chap. 855 of the Laws of 1869) "to provide for the improvement of any public highway laid out in pursuance of law."

It may be that they must entrust such work to the regularly elected Commissioner or Commissioners of Highways of the town, which is proper. They may authorize the borrowing of money for the purpose by the town, and make the money so borrowed payable

a year hence, and so to be a part of the next tax levy. For so ordinary a work it does not seem to me to be proper to supersede the Commissioners of Highways by legislative act.

An Act to incorporate the Fifth Avenue Savings Bank of New York.

NOT APPROVED — Section sixth authorizes investments in bonds of cities and counties of other States.

An Act to incorporate the Farmers' and Mechanics' Savings Bank of the county of Schenectady.

NOT APPROVED — The bill was passed without compliance with the general law of 1869. I have, notwithstanding, submitted it to the Superintendent of the Banking Department for examination. He reports that some of its provisions are very objectionable, and, on examination, I concur with him, and decline to give it approval.

An Act to amend an act entitled "An act to amend an act entitled 'An act to authorize the formation of railroad corporations, and to regulate the same,'" passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads," passed May 18, 1869.

NOT APPROVED — This bill passed in the closing hours of the session. One amendment subjects the counties of Albany, Erie, Greene, Seneca, Yates, Onondaga, and Niagara (heretofore excepted) to the operation of the General Town-bonding act. The Senator representing Albany and many tax-payers protest against its becoming a law; the bill having been, so far as Albany is concerned, and, perhaps, as to other counties, a surprise, and having passed hastily and without discussion. The papers before me show that the printed bill proposed no amendment affecting the counties named, in which respect it differs from the bill as engrossed; nor is there anything among these papers to show how or when the amendment was made.

An Act to incorporate the Frontier Gas Light Company of the city of Watertown.

NOT APPROVED — Watertown has a population of ten thousand or less; it has one gas company already in operation, and there is scarcely any need for this special organization; there are general laws for organizing gas companies.

An Act for the relief of John M. Humphrey.

NOT APPROVED — The bill provides for reimbursement of money paid for land sold by the State, the title to which proved not to be

in the State. The Commissioners of the Land Office have full power in such matters now — see Revised Statutes, part 1, chap. 9, title 5. act 1, sec. 6.

An Act to fix the valuation of lots 19, 20 and 21, in block 45, in the Third Ward of the city of Oswego.

NOT APPROVED — The bill provides that certain real estate shall continue on the Assessors' books at the same valuation as that of 1870, for purposes of all taxation, for twenty years to come, provided the buildings thereon shall be used for a hotel. The property is now unimproved, and the object of the bill is to exempt from taxation of any kind, State or local, for a period of twenty years, the improvements that are to be made. To state the provisions of the bill is sufficient to explain why it should not be approved.

An Act to extend the operation and effect of the act passed February 17, 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes."

NOT APPROVED — Section 3 extends, indefinitely, the time within which the capital stock may be paid in; whereas the original act prescribed a definite period for such payment. There can be no good reason for the change.

An Act to incorporate Protection Hose Company No 3, of the city of Binghampton.

NOT APPROVED — The charter of the city of Binghamton (chapter 291, laws of 1667) gives power to the city authorities to organize and regulate a fire department, fire companies, &c.

An Act to authorize the construction of gas-works and the manufacture and sale of gas for the purpose of lighting a portion of the city of New York, and the streets, avenues, squares, and buildings therein, and to lay pipes for that purpose.

NOT APPROVED — The bill authorizes the association to lay pipes in the Central Park, without requiring the consent or supervision of the Commissioners of the Park. Gas companies may, moreover, be formed under general laws.

An Act to provide for paying the debts and fitting up and improving the show-grounds of the Saratoga Agricultural Society.

NOT APPROVED — This bill directs the Supervisors to levy a tax for the benefit of a private corporation. The Supervisors, moreover,

are not only deprived of all discretion upon the question of the propriety of the tax, but they are not even empowered to direct or supervise the expenditure; nor is the object one which comes properly under the taxing power, for reasons which are stated in my objection to the bill for a machine-shop at Hornellsville.

An Act to authorize the town or village of Hornellsville to raise or appropriate money, to be used in constructing, or procuring the location or construction, within the village of Hornellsville, of a building or buildings for a machine-shop, or for manufacturing or repairing purposes, and for the purchase or lease of lands therefore, if necessary.

NOT APPROVED—The bill provides that, with consent of those representing a majority of the taxable property of the town of Hornellsville, commissioners, appointed by the county judge, may issue bonds on the credit of the town to the amount of thirty thousand dollars, principal and interest thereof to be paid by tax. The proceeds of said bonds, when sold, are to be used for the purchase of a site for and the construction of a building in the village of Hornellsville, "to be used for a certain specified machine-shop, or for manufacturing and repairing purposes." The Commissioners are authorized to lease the building on such terms as they think proper; but it does not appear, by the bill, how the rent is to be applied, nor whether the building is to be town property.

It is evident the building is not to be used for public purposes, but for private business. No remonstrance has been sent up against the bill; on the contrary, the many letters received by me from well-known parties leave little room to doubt that the desire is very general, if not universal, among the people of the neighborhood, that they should be permitted to tax themselves for this purpose. If this desire was really unanimous among them, there would be no need of the bill, for every one would then voluntarily contribute his share.

Whatever may be said in favor of permitting municipalities to levy taxes to aid in constructing railroads passing through them, which afford them valuable highways, the argument will not apply to taxes for such purposes as those of this bill. If a town may tax its people to build a factory, it may do the same for any other purpose of private business; it may do so to build a hotel, or a place of public amusement, or a church for some one denomination, or any other structure not connected, in any degree, with governmental or public purposes, which a majority may deem conducive to the pecuniary interests or general prosperity of the neighborhood. It may be that the build-

ing of the proposed factory would confer immediate benefit upon all the people of Hornellsville; but the time may come when they will be glad to find protection in the principle that there is a limit beyond which the taxing power should not be exerted, and that the precedent of overstepping that proper limit was not set in this instance, urgently as they now desire it.

Even if I could be assured that every taxpayer and every voter in Hornellsville wished the bill to become a law, I ought not to give it my official sanction.

An Act to incorporate the Corn Exchange Warehouse Company.

NOT APPROVED — The bill, in substance, and in fact, in express terms, authorizes the taking of more than the legal rate of interest for advances of money.

An Act to amend an act, entitled "An act to establish the Pawlings and Beekman Turnpike Company," passed April 3, 1818, by authorizing the partial surrender of a portion of said turnpike.

NOT APPROVED — The general law (chapter 87, Laws of 1854) authorizes turnpike companies to surrender portions of their roads, provided the portions be at either end, or at both ends of the road, and the surrender have the assent of two-thirds of the stockholders.

An Act authorizing the Otisville and Wurtsboro Turnpike Road Company to establish rates of toll.

NOT APPROVED — The Board of Supervisors have the power (under chap. 855, Laws of 1869) to increase the rates of toll upon turnpike roads, upon application of the directors. This company was established under the general act (chap. 210, Laws of 1847) which prescribes the rates of toll to be taken by the companies organized under it. The present bill is not one to establish, but to increase rates already established, which may be done by the Supervisors.

An Act making an appropriation and authorizing a loan on the credit of the county of Wayne, and the levying a tax for paying the same, for the purpose of building a bridge across Great Sodus Bay, in the county of Wayne.

NOT APPROVED — The bill needs a two-thirds vote, making, as it does, an appropriation for local purposes. It was passed by only a majority vote.

An Act to authorize the Commissioners of Highways of the town of Goshen, in Orange county, to lay out and open a highway through certain lands in said town.

NOT APPROVED — By chapter 230 of Laws of 1866, the village of Goshen was taken out of the jurisdiction of the Town Commissioners of Highways, and all the powers of a Highway Commissioner were devolved on the Street Commissioner, to be appointed by the village. This bill restores the powers of the Town Commissioners for this one case only, and is, therefore, objectionable as special legislation. Remonstrances are on file against it by parties through whose lands the proposed road would pass.

An Act to incorporate the Eighth Ward Savings Bank, to be located in the city of New York.

NOT APPROVED — Senate bill No. 452 was submitted to the Superintendent of the Bank Department, in conformity with the law of 1869, and being approved by him, was reported to the Senate by its committee; but on its being recommitted, with power to report complete, this bill was substituted by the committee in place of the original bill. I decline to approve.

An Act to provide for the appraisal and payment of the claim of Patrick Grattan, John Riley, and the heirs-at-law of Edward Murray, deceased, for the construction of three locks upon the Champlain Canal, at Fort Ann, in Washington county.

NOT APPROVED — This claim should have been referred, not to the appraisers, but to the Canal Board.

An Act to repeal an act, entitled "An act to amend an act to secure the payment of mechanics, laborers, and persons furnishing materials toward the erection, alteration, or repairing of buildings in the city of New York, passed May 5, 1863," passed April 21, 1866.

NOT APPROVED — Bill repeals act of 1866, which gives mechanics and others a lien upon houses to the extent of the right and interest of the owner therein at the time of filing notice of lien. The mover of the bill thinks it is in the interest and for the protection of mechanics to repeal law of 1866. He mistakes, I think, the effect. The law is now well understood, and it is better for all concerned that it should remain undisturbed.

An Act to amend an act entitled "An act to amend an act entitled 'An act to continue in force an act entitled an act to construct certain roads from the settlements in Lewis county to Brown's Tract, in Herkimer county.'"

NOT APPROVED — The bill revives two acts which have already expired without anything having been done under them, and it does not indicate what is to be done, except by reference to two previous

laws. This is an objectionable form of legislation. It would have been as easy and certainly more proper to have re-enacted such provisions of the former acts as were necessary, so that every one could readily comprehend what the new law authorized.

An Act to protect the citizens of the State of New York from empiricism, and elevate the standing of the medical profession.

NOT APPROVED — The provisions of the bill are needlessly restrictive, and would oftentimes operate disadvantageously and harshly, nor are they necessary to elevate the standing of the medical profession.

An Act authorizing a loan to the county of Warren, and for levying a tax to repay the same, and providing for the application thereof.

NOT APPROVED — The bill authorizes the Comptroller to loan $43,500 to the county of Warren, to be repaid hereafter by proceeds of taxes to be levied; $17,500 is to go into the hands of certain railroad commissioners of the town of Queensbury, to be applied on account of certain bonds issued by that town for railroad purposes. The validity of these bonds and the legal liability of the town therefor are disputed by some of the tax-payers, and, I learn, very generally so. In view of the dispute and of the decision of the Supreme Court in a case involving similar questions (51 Barb., 312), the Comptroller assures me he would not feel justified in making the loan authorized by the bill, and I decline to approve it.

An Act to authorize the election of Railroad Commissioners in the town of Paris, in the County of Oneida.

NOT APPROVED — The bill would exempt this one town from the provisions of the General Town-bonding Act, which requires that railroad commissioners shall be appointed by the County Judge, and is therefore, objectionable as special legislation.

An Act to encourage the construction of sidewalks in the village of Unadilla, Otsego County, and to repeal chapter 342, Laws of 1860, and chapter 420, Laws of 1869, and all acts heretofore passed in reference thereto.

NOT APPROVED — This matter should be regulated at home. This is, at least, the fourth bill relating to these sidewalks since 1860. The width was at first limited to four and a half feet — this bill extends them to six feet. The amount of exemption from highway tax is changed also, from time to time, by the several bills, and it is impossible to know whether injustice is not done by such exemption, be it more or less.

An Act to amend the charter of the village of Palatine Bridge.

NOT APPROVED — The bill permits non-residents of the village to vote at charter elections.

An Act to incorporate Ione Yacht Club.

This company should be incorporated under the general law.

An Act to amend an act, entitled "An act to improve the west part of the road formerly known as the Buffalo plank-road, in the County of Erie," passed April 21, 1865.

NOT APPROVED — Special legislation detracting from the proper powers of the Commissioners and Overseers of Highways as to highway labor.

An Act to legalize the acts and proceedings of the Board of Trustees of the village of Cohoes and the assessors of said village in relation to the construction of Canal street sewer, and raising funds to pay for the same.

NOT APPROVED — It is admitted, on the argument before me, that the assessors have not merely neglected formalities, but have levied assessments in direct violation of law, and which they had no right to levy. It is not right that this bill, which seeks to confirm illegal acts and not merely to cure errors of formality, should become a law.

An Act to incorporate the Association of the Bar of the city of New York.

NOT APPROVED — The sixth section which has been added to the printed bill has no connection with the other parts of the bill, and the proposed incorporators prefer to organize under the general law.

An Act to extend and improve Fourth street in the city of Brooklyn, from the northerly side of Division avenue, through part of the Nineteenth, Thirteenth, Fourteenth and Seventeenth Wards of the said city of Brooklyn.

NOT APPROVED — The second section provides "that the Commissioners may improve, grade, and pave said Fourth street." What commissioners it refers to is uncertain. It cannot mean Commissioners of Estimate, provided for by section four. It does not say the Water Commissioners of Brooklyn, who now have power to regrade and repave.

Power to grade and pave is now with the Common Council.

The act in an essential part, therefore, is uncertain, and must be rejected.

An Act to extend, widen, alter, and improve Banker street, and to close a portion of the same in the city of Brooklyn.

NOT APPROVED — The provisions of this bill are extraordinary. It opens a street laid out on the city map, widens one portion of it; then, changing the map, closes another portion now in process of being opened by the Common Council, makes it the duty of the Common Council to proceed with the work proposed by the bill, and directs assessments on lots without regard to the value of the lots, or the general law restricting the amount of the assessments in similar cases. No good reason is assigned for these extraordinary provisions.

An Act to authorize the Trustees of the village of Charlotte, in the County of Monroe, to raise money to build a police-office and lock-up.

NOT APPROVED — The trustees have express power, by the Village Charter, with the consent of the tax-payers, to expend any amount necessary to the purposes for which this bill provides.

An Act to enable the electors of the town of Newtown, county of Queens, to vote in districts for town officers, and to provide for the apportionment of the same to the districts herein named, and also for the raising of moneys for the maintenance of the town poor and other purposes.

NOT APPROVED — The provisions of this bill conflict with the charter of Long Island City, which has just become a law.

An Act to amend chapter 907 of the laws of 1869, entitled an act to amend an act entitled an act to authorize the formation of railroad corporations and to regulate the same, passed April 2, 1850, so as to permit municipal corporations to aid in the construction of railroads, passed May 18, 1869.

NOT APPROVED — The bill contains a provision allowing all savings banks to invest a portion of their deposits in town bonds. Such a provision is not proper in a bill, the title to which makes no reference to savings banks. Moreover, it is not well to authorize an investment of savings banks deposits in securities not easily negotiable in the open market.

An Act to enable the town of Clifton to aid the construction of the railroad of the Adirondack Company.

NOT APPROVED — Bill unnecessary. The town can do what the bill proposes under the General Town-bonding Act.

An Act to amend title 16 of chapter 8, part third of the Revised Statutes, relating to proceedings for the draining of swamps, marshes, and other low or wet lands, and for draining farm lands, as amended by chapter 888 of the Session Laws of 1869.

NOT APPROVED — The bill is defective. It does not amend any specific section of the act of 1869. It is not described as a substitute for any part of that act nor as an addition to it. It is not necessary, as an addition; for the act of 1869 already provides for the cases mentioned in this bill.

An Act to incorporate the New York Advertising Company.

NOT APPROVED — The bill undertakes to regulate the use of the streets of New York city, which should be left to the municipal authorities.

An Act incorporating the Commercial Credit Guaranty Company of the city of New York.

NOT APPROVED — Sec. 2 relieves the Company from the restrictions, in the general law of the State, as to the rates of interest.

Sec. 4 authorizes general dealing in real estate.

An Act to authorize the levying of an annual tax upon the owners of lots in the Lyons Cemetery, for the improvement thereof, and to provide for the collection of the same.

NOT APPROVED — The bill proposes to authorize the trustees of a cemetery to levy a tax of five dollars annually for each lot sold to any person in said cemetery, and to issue their warrant to a collector appointed by themselves, who shall have power to collect the tax in the same manner as school taxes are now collected. The bill gives undue power to non-official persons; and, if the lots sold were to be subject to an annual rent, it should have been reserved by the deed of conveyance.

An Act to enable the county of Richmond to lay out a Central Park.

NOT APPROVED — Without considering the question of the necessity or propriety of laying out a large public park in a beautiful rural region like Staten Island, I decline to approve of the bill because it provides that assessments are to be made, "as in case of street openings in New York City." The rule of assessment for such purposes varies in that city, and thus this provision would be void for uncertainty.

An Act to incorporate the Frewsburg Cemetery Association.

NOT APPROVED — There is a general law authorizing the organization of such associations.

An Act to repeal chapter five hundred and seven of the laws of eighteen hundred and sixty-nine, entitled "An act to alter the Commissioners' map of the city of Brooklyn," the same being for the purpose of opening Pratt street in said city.

NOT APPROVED — The bill is defective, the title not corresponding with its provisions. It does not repeal the former act, but simply amends one section.

An Act to provide for the organization of the "Barnes's Corners Burial Association;" to authorize said association to tax the lots in said burial ground at Barnes's Corners, in the county of Lewis.

NOT APPROVED — There is a general law for the organization of such associations.

An Act to incorporate the Haverstraw Savings Bank of the town of Haverstraw, in the county of Rockland.

NOT APPROVED — The Legislature of 1869 passed a general act in relation to savings banks, imposing certain conditions on the action of subsequent Legislatures in reference to bills chartering such instructions. These conditions the Legislature of 1870 have disregarded, as they had a right to do. Nevertheless, in conformity with the spirit of the fifth section of the act of 1869, I have submitted this bill to the Superintendent of the Banking Department, and he having found objections to certain provisions in it, I decline to approve it.

An Act to amend the charter of the Hamilton Savings Bank.

NOT APPROVED — Authorizes the removal of the bank to another county.

An Act to incorporate the Cascade Fire Company No. 1, of the village of Little Falls.

NOT APPROVED — The charter of the village empowers the trustees of the village (Laws of 1850, p. 700) to maintain fire engines and other apparatus for extinguishing fires.

An Act to incorporate the American Mutual Benevolent Association of New York.

NOT APPROVED — May organize under existing general laws.

An Act to incorporate Canton Lodge Number Five Hundred and Fifty-eight, Independent Order of Good Templars.

NOT APPROVED — May be incorporated under the existing general laws.

An Act authorizing a part of the town of Hector, in Schuyler county, within certain defined lines, to bond under the general law authorizing towns to bond for railroad purposes.

NOT APPROVED — The bill sets off part of a part of a town by metes and bounds, and authorizes that part to incur a separate debt for railroad purposes. I refused to approve a similar bill last year for a town in Suffolk county. Such a law would create confusion. It erects a part of a town into a municipal corporation for this one purpose, and no other.

An Act to amend the charter of Canastota.

NOT APPROVED — Nothing is sought for in this charter which cannot be obtained by incorporating under the general act for villages of 1870, except one or two things of secondary importance, which are of doubtful propriety, if not positively objectionable. I prefer, therefore, to leave the people of the village to incorporate under the general act, which they can do with as little delay as would be occasioned by the provisions of this bill.

An Act to authorize the Board of Supervisors of Essex county to levy and assess certain taxes upon certain lands in said county.

NOT APPROVED — The bill directs supervisors to levy specific sums by tax of certain lots of lands, without saying for what purpose.

An Act to change the number and term of office of the School Trustees of School District Number Seven, in the town and county of Niagara.

NOT APPROVED — The bill legislates out of office some of the existing trustees, duly elected under the Union Free School act, and makes the terms of office of future trustees different from that prescribed by that general law; such special laws, for a single district, tend to make the school law complicated to no permanent or general benefit.

An Act authorizing the Commissioners of Highways of the town of Fowler, in the county of St. Lawrence, to construct a highway across certain lands in said town, and to acquire title to said lands.

NOT APPROVED — The bill provides that the Commissioners of Highways of this one town shall have power to acquire title to land in a highway, in the same manner as is provided in the general railroad act. I see no reason why any power should be conferred on

these officers not given to the same class of officers throughout the State.

"An Act fixing the size of barrels used for packing fruit and vegetables."

NOT APPROVED — The custom of trade will regulate such things. But if it be desirable to regulate them by law, the measure should be accurate and permanent. In 1862 the barrel of apples, peas, and potatoes was defined by law as equivalent to so many quarts, dry measure. (See chapter 178, Laws of 1862.) This bill repeals that law, and substitutes the less accurate definition that the fruit barrel shall be of like dimensions with the flour barrel.

"An Act to amend the charter of the American Popular Life Insurance Company."

NOT APPROVED — The Superintendent of the Insurance Department objects to this bill on the ground that it would compel him to adopt a different rule for estimating the condition of this one company from that which is in use by the Department for all Life Insurance Companies. I consider his objections sound and must, therefore, withhold my signature.

"An Act to change the name of the Knox Railway Clamp Company, to the Sheridan Manufacturing Company.

NOT APPROVED — Can be done under general act, chap. 322, Laws of 1870.

An Act to provide for the draining of certain lands in the towns of Cicero and Clay, in the county of Onondaga.

NOT APPROVED — A very comprehensive general drainage act was passed last year (chap. 888, Laws of 1869), under which all the relief proposed by this special bill can be had.

An Act to amend the charter of the village of De Ruyter, Madison county, and to alter the bounds and enlarge the powers of the corporation of said village.

NOT APPROVED — The bill provides for an extension of the territory of the village, against which extension remonstrances are filed. It appears the village is in debt to the extent of $20,000, and no provision is found in the bill for protecting the territory which is to be added from the taxes to be levied therefor.

An Act to regulate proceedings in the construction of roads and laying out highways in the town of Newtown, Queens county.

NOT APPROVED — The provision of the first section that all highways directed to be laid out by any law of the State by commissioners in the town of Newtown "shall be laid out, constructed, and completed in such manner as such commissioners may deem expedient and to the best interests of the public," is too sweeping a delegation of power and discretion, which, in the special acts heretofore passed, has been always limited.

An Act to incorporate The Eagle Hose Company, Number Two, of the city of Buffalo,

NOT APPROVED — Full powers have been given to organize a fire department, in the new charter (chap. 519, Laws of 1870), to the city authorities of Buffalo.

An Act to create a separate road district in the town of Worcester, county of Otsego.

NOT APPROVED — The bill creates a special road district in and over which the Commissioners of Highways in the town shall have the same control and be charged with the same duties as in other districts, but they are not to appoint the overseers. The laws of the State give the Commissioners of Highways the appointment of their subordinates, the overseers. I see no reason for making this one exception.

An Act to appoint commissioners to lay out and construct certain necessary avenues in the county of Richmond, and provide for such construction and the necessary expenses thereof.

NOT APPROVED — On the 5th of May I signed a general bill appointing commissioners to report a plan for the whole island as to roads, parks, &c., &c., with which this would conflict.

An Act to incorporate the Mental and Moral Improvement Society of Irvington, in the town of Greenburg, and County of Westchester, State of New York.

NOT APPROVED — May be incorporated under the general laws for literary societies.

An Act to revive the charter of the Saratoga County Mutual Fire Insurance Company and to reduce the number of directors.

NOT APPROVED — The bill revives an old charter never used. I have submitted the bill to the Superintendent of the Insurance Department, and his opinion is that the bill should not become a law, in which opinion I concur. The parties desiring this revival of the charter can organize under existing general laws.

An Act to amend an act entitled "An act to incorporate the city of Cohoes," passed May 19, 1869.

NOT APPROVED — Through inadvertence, probably, this bill as passed leaves out the word "schools" in the section providing for tax to be levied. The word was in the original act. If I approved this bill the schools in Cohoes would be left without provision for their support. For this reason, the whole bill must fail.

An Act to incorporate the New York Annuity Company.

NOT APPROVED — Bill allows this company to begin business when only $25,000 is paid in out of an authorized capital of $500,000.

An Act to authorize the election and appointment of an additional justice of the peace in the town of Deer Park.

NOT APPROVED — The bill authorizes the appointment by the supervisor and justices. The Constitution requires that justices of the peace shall be elected.

An Act to enable incorporated rural cemeteries in Oneida county to acquire title to lands where the owner or owners are unwilling to sell, or where the cemetery association and the owners cannot agree upon the value thereof.

NOT APPROVED — A similar bill, applying to the counties of Jefferson and Cayuga, was returned to the Legislature during its session, with objections.

An Act to authorize the Trustees of the Reformed church of Helderberg, in the town of Guilderland, Albany county, to sell a portion of their lands.

NOT APPROVED — The general laws of the State provide for a method of authorizing the sale of lands belonging to a church, by application to the courts of law.

An Act to amend section two hundred and fifty-six of an act, entitled "An act to simplify and abridge the practice, pleadings and proceedings of the courts of this State."

NOT APPROVED — The bill is carelessly worded, and may authorize appointment of several stenographers where only one is needed.

Village Charters of Geneva, Copenhagen, and Clyde.

EXECUTIVE CHAMBER, ALBANY.

I send to the Secretary of State, without approval, three bills to incorporate villages, or to amend their charters, to wit: The three

relating to Geneva, in Ontario County; Copenhagen, in Lewis County; and Clyde, in Wayne County.

They contain serious defects. That relating to Geneva provides (title 2, section 2) that "ths police justice shall be nominated by the board of trustees and appointed by the presiding justice (of the Supreme Court) of that judicial department of this State, in which Geneva is."

In my opinion, this is in conflict with the Constitution (article 10, section 2), which provides that all village officers shall be elected by the electors thereof, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate. It is claimed that under the new article just engrafted upon the Constitution, a local court of this kind may be established, and the appointment of the judge or justice thereof be placed in such hands as the Legislature may choose. If this argument be correct, there is so much the more reason why I should withhold my approval of the bill, for it is contrary to sound policy, and to the established custom of the State, to give to the judges of our courts any such patronage.

That relating to Copenhagen provides (title 5, sections 5 and 6) that when the trustees of the village open a street, the clerk of the village shall "summon a jury of six freeholders," who shall award the damages to owners of land taken, and that their award, unless appealed from in twenty days, shall be final and conclusive. Such appeal may be made to a court of record, asking for the appointment of three commissioners to review the decisions; but the appeal cannot be made except on the execution of a bond in the penalty of $250 by the appellant to the village to cover costs. The owner of the land taken cannot be thus deprived of his property. Six freeholders summoned by the village clerk do not constitute a "jury" within the meaning of the Constitution, as construed by the courts.

That relating to Clyde provides (title 7, sec. 5) that real estate when sold for non-payment of village taxes, shall be sold not for a term of years, but in fee; and that the surplus, beyond the tax received from the sale of the property, shall be invested by the village authorities on bond and mortgage, and held by them until the former owner of the land claims it; but, when transferred to him, the interest that may have been collected on the mortgage meanwhile shall not be accounted for to him, but such shall belong to the contingent fund of the village. It is unnecessary to comment on this provision.

Abundant evidence is furnished in the special village charters that have been submitted to me this year, that they are not prepared by the Legislature or its committees; they are prepared at home,

sent to some member of the Legislature, and passed without any critical or careful examination. In several instances during the session bills of this kind were recalled by the Legislature at my suggestion, in order that certain unconstitutional clauses, or clauses otherwise objectionable, might be stricken out, so that they might obtain my approval.

No inconvenience can result to the inhabitants of the villages to which these bills relate by a delay till next year. It is too late now for elections this year under the new charters.

It would be wiser, in my opinion, that all villages should avail themselves of the general act for the incorporation of villages passed this year. A general act of this nature, of course, receives more general and careful examination at the hands of the Legislature. It, no doubt, is yet imperfect in some minor details; but, if found to be so, it is better to amend this general act than to supply the defect in some special charter applicable to only a single village, as is the present practice. Amendments to the general act would, for obvious reasons, be more wisely made than when applicable to a single charter, and the benefit of the amendments would be at once conferred on all villages.

May 23, 1870. JOHN T. HOFFMAN.

The Foreign Insurance Bill.

AN ACT in relation to Insurance Companies, Corporations, Associations and Partnerships doing business in this State, not organized under the laws of this State.

NOT APPROVED — My decision upon this bill has been delayed until I could receive and consider the written statement of the special committee of the New York Board of Underwriters, and the written argument of the Superintendent of the Insurance Department in support of the bill.

Both of these have now been received, and have been (in connection with the previous oral arguments before me) carefully considered.

Whether the foreign and domestic insurance companies, doing business in this State, are now on terms of just and proper equality under our laws, is not the present question. The question is, whether the law proposed will establish equality, as its advocates urge it will do.

It appears to me very clear that this bill does not establish equality, but discriminates severely against the foreign companies.

In estimating the capital of the Foreign Insurance Companies for the purpose of insurance here under the laws of this State, it includes only:

1. Securities on deposit with the Insurance Department of this State.

2. Securities deposited with the Insurance Departments of other States for the general benefit and security of all policy-holders residing in the United States, immediately available for the payment of losses in this State.

3. Investments on bond and mortgage in this State and upon United States securities held in trust for policy-holders by trustees in and citizens of this State.

It excludes, therefore, from the estimates, all real estate, if any, which such foreign companies may hold in this country for the purposes of their business, and money invested in the stocks of this State, or in the bonds of the city of New York or other cities of the State; all which are recognized by the general laws as proper investments for fire insurance companies, and are certainly to be considered investments of the first class in point of security.

It then, while giving the foreign companies no credit for what capital they may have invested abroad, or for any in other States, except deposits with their insurance departments, nevertheless deducts from this limited portion of their capital all liabilities everywhere, whether on their business in this State, in other States, or abroad, including among the liabilities fifty per cent. of all unearned premiums, whether these premiums pertain to their business here or elsewhere.

It may be, and probably is very proper, that all capital not invested in this country should be disregarded; but it is obviously making up a very one-sided account to charge against the capital invested here, and against a limited portion of that, not only the liabilities arising from the business done here, but also all the liabilities incurred in the business done abroad, although this latter portion of their business is done on the credit of, and secured by, capital separately invested there. It is easily to be seen that a company of large means, prudently managed, both here and elsewhere, thoroughly solvent and affording great and desirable security to policy-holders, might be excluded from doing business here at all, upon this arbitrary and unjust estimate of its actual condition. To illustrate: Suppose a company incorporated in England to have in all $4,000,000 of capital, $2,500,000 of it being invested in England, $1,000,000

invested in this State, and held by trustees residing here for the benefit of holders of policies issued here, and $500,000 deposited in the Insurance Departments of other States. Suppose, then, its liabilities on its business in England to be represented by the sum of $1,000,000; those in this State by the sum of $500,000; those in other States by the sum of $500,000. By the rule of this bill, the total liabilities everywhere, amounting to $2,000,000, are to be charged against that portion of the capital which is invested here, which would exhibit the company as having exhausted all its means; while, in fact, there would be in England alone a surplus of $500,000 above all liabilities everywhere; a clear surplus of $500,000 invested in this State over all liabilities in this State; a clear surplus in this country of 500,000 over all liabilities in this country, and a total surplus capital, here and in England, of $2,000,000 over all liabilities everywhere.

When, as is provided by this bill, only a limited portion of the capital invested here is to be taken into account, the injustice, and, in fact, inaccuracy of the statement, would be greatly exaggerated.

The only answer suggested to this proposition and illustration is, that the bill does not intend to charge the liabilities abroad which are secured by capital there invested, against the limited portion of the capital held in this State. Reference to the language of the bill satisfies me that it will not bear the liberal interpretation put upon it by the Superintendent of Insurance, applying to it the ordinary rules of interpreting laws. The bill makes no distinction between secured and unsecured liabilities. A liability is none the less an actual liability because secured. The bill declares that the actual losses and liabilities of the company shall be deducted from the limited portions of the capital which it allows to be taken into account. Can it be argued that an obligation of a foreign company to pay a loss abroad, or in other States, is not an "actual liability," because the company has assets abroad, or in other States, to secure its payment?

The construction put upon the bill by the Superintendent cannot, therefore, in my judgment, be sustained, and he agrees with me that if it cannot, the bill should not become a law.

I agree with the domestic companies that equality should be established between them and the foreign companies, and there can be no serious difficulty in agreeing upon a bill to that end at the next session of the Legislature.

Against the bill now before me, large numbers of merchants and others interested in effecting insurance on property strongly protest.

They say that the aggregate capital of our domestic companies is often inadequate to afford the protection needed by them, and that the capital of the foreign insurance companies brought to this country is absolutely necessary to afford this protection. It is always unwise to do anything which tends to drive capital away from the country, and in my judgment, the domestic companies themselves will be more healthy and prosperous for wholesome competition *on equal terms* with the foreign companies. Severe discrimination against foreign companies, for the purpose of giving to our domestic companies special protection, will only give a sickly and temporary strength to the latter at the expense of those who want insurance. Protection to special interests is almost always injustice to the people.

It is better, therefore, to leave it to the next Legislature to establish by a well-considered law the equality which this bill fails to secure, than it would be to sign this bill with the expectation that it should be hereafter amended.

JOHN T. HOFFMAN.

The Arcade Railroad Bill.

The bill entitled "An act to incorporate the New York Arcade Railway and provide for the construction of a subsurface railway in the city of New York" was passed during the last hours of the legislative session, and did not reach the Executive Chamber until after the final adjournment of the two Houses. I have given to it careful and deliberate examination and reflection, notwithstanding the labor thrown upon me of considering near four hundred other bills sent to me, in like manner, after adjournment.

The professed purpose of this project is to give increased facilities of travel from one extremity of the city to the other, and to and from intermediate points. The city of New York is in great need of additional means of transit between that portion of it devoted to business and that occupied chiefly for dwellings. The form of the city is such that its growth can go on only in one direction. At its northern extremity alone can cheap homes be had. The Central Park, the place for the recreation of its citizens, is also at a point remote from the centre of their business. The necessity for additional facilities of transit grows with each year, and any measure which looks to supplying so great a want commends itself to favor with all classes of the community in that city, and is entitled to at-

tentive consideration from the authorities of the State. For these reasons and also because of the character of its chief promoters, among whom are such well-known and influential citizens as John A. Griswold, of Rensselaer county, and ex-Senator Labau, of Warren county, named in the bill as corporators, I have felt it my duty to give especial attention to the proposed plan. The unreserved support which the scheme is receiving from some of the leading journals in the city of New York, doubtless representing a large share of public sentiment, increases the responsibility of my action.

The bill authorizes the fifty-seven persons named in it, or their assigns, to form themselves into a corporation, with a capital of ten millions of dollars, which may be increased to twenty-five millions.

The company are empowered to locate, construct and operate a subsurface railroad, on which steam is to be the propelling power, from a point in or near the Battery, up Broadway to Fourteenth street, thence through Union Square to Seventeenth street, thence up Broadway to its junction with Eighth avenue, and thence to a junction with the Hudson River Railroad. It is not defined where this junction shall be made; it may or may not be at the extreme end of the Island. There is also to be a branch, so called, from Union Square up the Fourth avenue to Harlem river. They are also authorized to enter upon and appropriate any street which crosses the proposed route, to the distance of a hundred feet, for the purposes of depots, store-houses, light, ventilation or otherwise, restoring the roadway over their excavations in the same manner as over the main line of their railway.

The company are, moreover, authorized to acquire the title to such real estate as may be necessary to enable them to construct, maintain and operate said railway, and construct and maintain proper platforms, stairways, station depots, and buildings or other property, at such points along said route as may be most convenient and suitable for the ingress and egress of passengers and freight, and requisite for the operation of said railway and for proper communication between said platforms, stairways, station depots and buildings. If the owner of any property declines to sell, it may be taken against his will and his compensation be fixed by Commissioners appointed by the Supreme Court; but the rule for estimating damages and benefits in such instances is by this bill made a special one, varying from the rule now established in all other like cases. The company are empowered to take, for the purposes above specified, any portion of any public grounds, parks or places along the route; no portion of any public grounds, parks or places, so

taken, to exceed five hundred feet in length and one hundred feet in width; which dimensions would take in nearly the whole of the Bowling Green. They may also extend the tracks of their railway in open excavations or on the surface from the point of commencement at the southern extremity of Broadway, into and through the Battery to a point therein near the South ferry. It is expressly provided that for any property of the corporation of the city of New York, so taken, no compensation shall be awarded or paid.

The bill provides that the railway is to be constructed on the plan, substantially, of the improved Arcade Railroad; no other description is given. No limit is put upon the depth or the width to which the streets may be excavated; the words of the bill are simply, to a sufficient depth and width. Nor is any limit put upon the number of tracks which may be laid side by side, and for which sufficient width is to be taken; the number of tracks permitted by the bill is four or more. The upper roadway and sidewalks are to rest upon iron girders or beams, supported by iron tubular columns or masonry, or both; and the surface of the streets is to be, substantially, restored as it was before the excavation. It is provided that the lower sidewalks, nothing being said of the upper ones, shall not be excavated unless with the consent of a majority of the owners owning a majority of the property along the entire proposed route. It is further provided that the vaults now under the streets, built by private owners under license from the city, shall not be appropriated by the company unless with the consent of a majority — not of the vault owners, but of the property owners along the entire line of said railway. In effect, therefore, all the vaults in the most valuable part of Broadway may be appropriated by the company without the consent of any single person among those now occupying them, by means of overwhelming votes from owners along Fourth avenue and other parts of the route, where there are no vaults, and who have, consequently, no interest in the question.

The upper sidewalks are to be lessened, everywhere, six feet in their width, so as to provide an open space for light or ventilation.

Sections nine and ten of the bill provide for cases of interference with sewers, gas-pipes, and water-pipes, and, after putting the expense of any changes of these upon the company, give to them the use of streets parallel to their route for the purpose of effecting these changes. The provision for the protection of the people in the accustomed use of gas, water, and the sewers, is that the company shall not unreasonably stop this accustomed use.

Section eleven forbids interruption of travel on streets other than Broadway for more than a reasonable time. It also provides that the Commissioner of Public Works may compel the execution of the work in such a manner as not to interfere with the surface of Broadway, except under such conditions and regulations as he may prescribe; but this power of supervision and direction on his part is limited to that portion of the work south of Fourteenth street.

By section nineteen the company are forbidden, until the capital of ten millions is subscribed and twenty per cent. thereof paid in, to disturb any ground except below Wall street.

The mayor, aldermen, and commonalty of the city of New York, and all other companies, are prohibited from giving permission to any person to do anything to hinder, delay, or embarrass the construction of said railway; and it is, by the bill, made the duty of the mayor and common council and of all officers of the city corporation, within their respective departments, to do such acts as may be officially required of them, and needful under this act, to promote the construction of said railway.

I have been thus particular in analyzing and describing the bill now before me, because it is necessary to the full comprehension of its character, and because the statement of its provisions seems to me to be equivalent to an argument.

I cannot permit the bill to become a law. I, therefore, send it to the office of the Secretary of State without my signature. It is my practice to briefly assign my reasons and give them to the public, although not required so to do by law, for withholding my approval from bills which reach my hands after the adjournment of the Legislature; not so fully as if these reasons were to be submitted to and passed upon by the Legislature, but sufficiently so to convey to the people the views which control me in each case.

I take this course in reference to the bill under consideration; and here it is proper to state that it is now represented by counsel and others that the arcade plan of the road will probably, of necessity, be abandoned and the road be constructed upon what is called the tunnel plan; to cover which, the provisions of this bill are, it is claimed, sufficiently comprehensive. It must be borne in mind, however, that the corporation is named the "Arcade Railway Company." The only description of the road in the bill is that it is to be upon the plan, substantially, of the "Improved Arcade Railroad," only some minor and unimportant details of construction being given. Beyond this, there is no way to define the precise plan except by the highly colored pictures or prints which have been exhibited to

the Legislature and to the Executive. As the Arcade Road it has been discussed, considered, and applauded as possessing superior advantages. I must consider the bill as authorizing and contemplatting chiefly the construction of such a work, and I cannot be expected to approve it upon a mere assurance that a sub-surface road upon a different plan, not defined or described in the bill, will probably be built.

My objections, among others, are these:

First — The so-called arcade plan is a new and untried experiment. Skilful engineers differ widely in their judgment of it; some maintaining it to be practicable, but others condemning it as a visionary project. The removal of the present pavements of Broadway and the other streets included in the grant, and the opening of a great trench through them, with no limit upon the depth or width of the excavation, may endanger the safety of every building on Broadway and the other streets along the route. Damage may be done by the company in their operations for only a short distance, for which they could not compensate and which might be irreparable. The pavement or street-way that is to be sustained upon iron columns may or may not prove to be sufficient to withstand the shocks and burden of the constant and heavy travel over it. In case this part of the experiment fails, no provision is made for restoring the streets to their present condition, even if this restoration were practicable.

Second — The vaults on Broadway, constructed by private grantees thereof at great expense, and now necessary to their business, are to be taken without compensation, if owners of property on other portions of the route, who have no vaults, and do not require any, shall so decide.

Third — The excavation, under whatever restrictions, would interrupt business and travel on Broadway, the continued free use of which great thoroughfare is important to the commerce of the whole country. No limit is imposed upon the period for which the company may interrupt travel on Broadway. On the other streets the bill provides that travel shall not be interrupted beyond a reasonable time, which would be construed to mean whatever time is necessary for the construction of this work. The printed bill, as originally introduced, forbade the interruption of travel on Broadway as well as the other streets for more than a reasonable time; but the bill was amended in its progress so as to leave out Broadway.

Fourth — The project takes away six feet from the present width of all the sidewalks in Broadway, which are not wide enough now for the convenience of the people. The space so taken on both

sides of the streets is to be left open, and connections with the lower sidewalks are to be established at so many points as the company may determine. This open space would be more or less an obstruction to business with every store or other building along the route, to say nothing of the annoyance which would probably result to both the occupants of the buildings and to passers-by from the smoke and exhalations rising through it.

Fifth — In the construction of this work the whole system of sewerage along the route must necessarily be greatly deranged. The lowering of the sewers in and near Broadway would render necessary the lowering of all connecting sewers, entailing an expense difficult to calculate, and a possible damage not to be estimated.

Sixth — The company are permitted to deprive the people along the route of the proposed work, for a period of time on which no limit is placed, except that it shall be reasonable, of the use of gas, water and the sewers, conveniences absolutely essential to their daily comfort. The supply of water necessary to the extinguishment of fires may also be cut off for a time, to the possible loss of property greater in amount than the whole capital of the Arcade Company. It is obvious that the reasonable time named in the bill, for which the company may stop the use of gas and water, would be claimed to mean so long as the work of the company made such stoppage necessary; and it is still more obvious that if the supply of gas and water were once cut off, the people would be, practically, at the mercy of the company in this respect, for a long time without immediate or effectual remedy; while the city government, in all its departments, would be powerless to afford relief, for it is expressly prohibited, by one section of the bill, to permit anything to be done which shall embarrass the operations of the company.

Seventh — The bill proposes to surrender a large portion of the Battery for a surface or open-cut railway.

Eighth — The bill violates private rights of property in prescribing a special rule of estimating damages or compensation when such property is to be taken for the purpose of the company, which special rule, varying from that established in all other cases, is in effect this: that title may be acquired by the company to a valuable lot of ground on Broadway, against the will of the owner, and instead of paying for the same, the company may offset the benefit which, it may claim, will accrue to property on the upper part of Fourth Avenue belonging to the same owner, by reason of the increased communications the road will open.

It is claimed that the bill does not establish such a rule. I quote its language: "In proceedings to ascertain the value of the property taken, &c., the question of benefit shall be considered, and when it shall appear that the construction of said road will enhance the value of the property of the person claiming damages to an amount greater than the amount of injury sustained, &c., the claimant shall not be entitled to recover more than nominal damages." The enhanced value of the property of the person claiming damages cannot, of course, refer to the property taken, but must of necessity refer to property on some other portion of the road. Notwithstanding this rule of assessment and the great promise held out of facilitating the travel from the upper part of the city, the company is under no obligations to build its road up Fourth avenue at all. It may, if it choose so to do, confine its operations to Broadway between the Battery and Fourteenth street, or to a less distance. The bill provides that failure to construct one portion of the road shall not work a forfeiture of the franchise in respect of any section which may have been commenced.

Ninth — The language used for the protection of the present sidewalks, and elsewhere in the bill, is loose and careless, or else purposely delusive and deceptive.

Tenth — A proper power of supervision is not given to the Commissioners of Public Works, except for the limited portion of the work below Fourteenth street.

Eleventh — The company is authorized to take possession of all that portion of Broadway which is below Wall street, before one dollar of capital is subscribed; and as the original corporators named in the bill are empowered to assign their privileges at any time to others, they may take possession of this portion of Broadway and break it up, through the agency of irresponsible parties and as a preliminary experiment, and do irreparable injury.

Twelfth — The contract between the State and the company is, by this bill, wholly one-sided. Everything is given to the company; nothing required in return. No guaranty or security is provided that the work shall be completed, so as actually to afford to the public the facilities for travel the whole length of the island, which is the consideration for the grant of their great privileges. The time is, indeed, limited to six years and six months within which to finish their work; but it is also provided that they may construct any small section of it and leave all the rest undone, and yet their franchise shall not be forfeited as to the small portion they may have

chosen to build. They may thus reap high profits from a small and the most valuable portion of the route, and leave the great mass of the public wholly unprovided for.

Thirteenth — The bill authorizes this company to take portions of the Battery, Bowling Green, the City Hall Park, Union Square, Madison Square, and Central Park, which are the property of the city, without compensation. It is claimed that, except in the Battery, no part of the surface of these public grounds is to be taken. An examination of the bill shows that this is not so. The company may take in any of the public parks a space of five hundred feet wide by one hundred in length, for constructing and operating their railway, and for platforms, stairways, station depots and buildings, and for proper communication between the same. In no case is the city to receive any compensation for its property. Having thus attempted to give away city property to a private corporation, the bill, by section 14, in effect, enjoins the authorities of the city from any attempt to defend its property and rights.

The public parks and other property of the city are pledged for the payment of the city debt, and for this and other reasons I deny the right of the Legislature to take any such property and give it to a private corporation, under the plea that being now devoted to one public use, it may be diverted to the purposes of this company, as being for another public use. If it is competent for the Legislature to do so in this instance, then it may, some day, give away to the street railways of New York city, for depots and stables, the City Hall Park, Union and Madison Squares, and such portions of the Central Park as may be deemed necessary, and this bill, if passed into a law, would be taken as a precedent for so doing. A portion of the Battery was ceded by adjoining owners to the city for the purpose of a public place, and for no other. The city itself cannot convey this portion without a quit-claim from these grantors, and yet this company is authorized to appropriate this property to its own use. The property of the city proposed by this bill to be, practically, confiscated, for the benefit of this company, is estimated to be worth between six and seven millions of dollars; and the application of these public grounds to the purposes proposed would utterly destroy some of them and disfigure all the others.

It is claimed that like privileges with these, as to the public grounds and parks, have already been given to the Central Underground Railroad Company, and that I approved the law granting them. This is not so. The charter of the Underground Company was passed in 1868, before I came into office, and was approved by

my predecessor. The only bill relating to the last-named company which has been submitted to me, in the act of 1869, amending certain sections of the original act. The section under which it is claimed the Underground Road has had given to it the privileges in and to the public parks proposed to be extended by the bill to the Arcade Company, was not amended, nor referred to in the act of 1869, and so, strictly speaking, was not put before me, for my official approval or disapproval. My attention, in considering the Amending Act, was of course not attracted to any but those sections of the original act which were amended. If, however, it can be justly said that by signing the act of last year, I aided in reviving privileges which had then expired and sanctioned the taking of city property without compensation, then my action was wrong. If I have once committed an error, through mistake or oversight, that is no reason why I should commit another.

I have heretofore refused my assent to a bill giving to a railroad company the partial use of streets in New York, without compensation; it could not be expected that I should sanction a bill which undertakes to grant to a private corporation, as this does, a large and valuable portion of the property of the city, with the express condition that nothing shall be paid to the city treasury in return.

I shall not pause to recite other objections which occur to my mind; those already stated seem to me to be sufficient, and I therefore send the bill to the Secretary of State without approval.

JOHN T. HOFFMAN.

ANNUAL MESSAGE.

EXECUTIVE CHAMBER,
ALBANY, *January* 3, 1871.

TO THE LEGISLATURE:

The favorable action of the Legislature, at its last session, upon many important recommendations made by me, has left very few questions of State policy to which it is necessary to call your attention.

General laws have been passsed, through which much special legislation will be avoided. The conspiracy laws have been amended. A new revision of the statutes has been ordered. The registry laws (except in the city of New York) have been repealed. Important changes in canal policy have been made. The examination of numerous claims against the State, heretofore requiring a special act in each case, has been provided for by a single statute. The excise laws have been modified in conformity with the judgment of a majority of the people. A general law for the incorporation of villages has been enacted. The powers of the boards of supervisors of the several counties have been enlarged. Metropolitan and other district commissions, which had absorbed the rightful powers of local governments, have been abolished. The management of their own affairs has been restored to the people of the great cities. The initiatory steps have been taken to secure a more just and satisfactory assessment of property for taxation.

These subjects engrossed, in a great degree, the time of the Legislature at the last session. The disposition then made of them having commanded the popular endorsement, the principles involved may be treated as settled. I am justified, therefore, in the hope that the present legislative session will be much shorter than usual. It will be a relief to the people if the volume of annual legislation be diminished; especially if they see that much of the diminution is due to the defeat of the private schemes which are so frequently thrust upon your consideration.

Although the people of this State are enjoying a fair degree of prosperity, they feel sensibly the heavy burden of taxation, Federal, State, and local, which rests upon them, and which, as heavy taxes always do, lessens their home comforts and interferes with their

efforts to improve their condition. They watch closely their representatives, legislative and executive, in the administration of public affairs. They expect retrenchment of expenditures wherever it is possible, and have a right to demand that legislation be confined to its legitimate purpose, to wit, the equal protection of all and the promotion of the general good. They know that all the money drawn from the public treasury is taken out of their earnings; that there is, in fact, no public treasury except in the pockets of the people. Willing to be taxed for the legitimate purposes of government, they are not disposed to be parsimonious in contributing thereto; but waste, extravagance, and taxation for the benefit of private speculative enterprises, will incur their condemnation.

The tendency on the part of both Federal and State Legislatures, for many years past, has been to the making of laws for the benefit of a favored few, protecting and advancing special, at the cost of the general interests. Those who seek such legislative favors are always ready to put forward the specious argument that some public benefit is likely to accrue as a compensation for the private gain assured to themselves; but in too many cases the result is simply that new burdens are imposed on the people. This evil is one of great magnitude. Our government is a government by majorities; but it is a mistake to suppose that the governing power, even when vested in a majority, has the right to impose taxes upon the people at large for purposes of private benefit.

It is time to return, both in Federal and State affairs, to a full appreciation of the principle of justice to all, upon which our government is founded. Our country has passed through the struggles and trials of a great civil strife, and our people are rapidly forgetting the causes which engendered it, and the griefs and sorrows it produced. While the nations of Europe are convulsed by war, or stand in dread of it, a merciful Providence blesses us with peace. Gratitude to God, as well as our interest, demands that we shall cultivate, all through the land, the spirit of magnanimity, charity and patriotism; then, if wisdom shall inspire our counsels, we may easily throw off the burden which folly and evil passions have put upon us, and enter upon a new career of public and private prosperity.

TAXES.

The rate of State taxation this year is about seven and one-fourth mills. Nearly one-third of the tax is for the annual payment on our war bounty debt, required by the act creating it. Besides this, one

mill was necessary to provide for obligations incurred and claims audited in former years, but for payment of which the Legislature then omitted to make appropriations. It was not a question of discretion, but a matter of State honor, that these claims, heretofore examined and audited by the proper officers, should be paid at once. They ought to have been paid before. This item will not appear another year. Five-eighths of a mill are levied to meet payments for work on the new Capitol. The two last mentioned items amount to about one-fourth of the whole State tax.

The new Capitol was begun under a former administration; it is for the people, through their representatives, to say how rapidly the work shall go on. It is manifest that the cost of this work will very far exceed the original estimates, and the limit imposed by law; to this I deem it my duty to call your especial attention. The act conferring authority on the commissioners to erect a new Capitol (chapter 330 of Laws of 1868) explicitly provided "that they shall not proceed to the construction of the said new Capitol unless they shall be satisfied that the expense thereof shall not exceed, when completed, four millions of dollars." The sum of one million six hundred and three thousand seven hundred and fifty dollars and fifty-three cents ($1,603,750.53), (independent of six hundred and forty-seven thousand five hundred and sixty-five dollars and sixteen cents paid for land) has already been expended in the construction of the building; and the foundation only is completed. It is due to the commissioners to say that before they commenced the work they had estimates from skilled men which came within the limit of four millions of dollars; they claim also that the work above the foundation will be, proportionately, less expensive. It is nevertheless evident that the cost of the building, when completed, will be very greatly in excess of the first estimate.

It is for you to provide a remedy for this very unsatisfactory state of things. If the work is to go on, perhaps the plans might be so modified that a building of much simpler and less costly style could be erected on the present foundation, and yet all the accommodation needed by the State government be afforded. Nor do I see why, with the abundant space occupied, part of the proposed Capitol building should not be appropriated to an Executive residence; this would be a saving to the State. If, on the other hand, the work is to be stopped or suspended for a time, this can be done with less loss and inconvenience now than at any future period in the progress of construction. A new Capitol is, unquestionably, needed; but, unless the plans can be so modified as to insure that

the cost will be very much less than it now promises to be, and not much in excess of the original limit, I recommend that the work be suspended, at least, until our war bounty debt, which requires about three million of dollars of annual taxation, be paid.

STATE DEBT.

The greater portion of the State debt consists of the war bounty debt, which will be extinguished within seven years through the annual taxes imposed by the act which created it. The unpaid portion of this debt amounted, on the 30th September, 1870, to nineteen million five hundred and eleven thousand three hundred and ninety dollars and forty-two cents ($19,511,390.42).

The residue of the State debt, amounting to twelve million eight hundred and ninety-seven thousand seven hundred and fifty-three dollars and eighty-four cents ($12,897,753.84), was in existence before the war, and was incurred in gold; it is to be satisfied, not from taxation, but out of the revenues pledged for its payment. No part of the principal will come due this year, and you will merely have to provide for the payment of the interest in coin, in accordance with the policy which the State adopted last year. The entire State debt was, on the 30th of September, 1870, after deducting the unapplied portions of the several sinking funds, thirty-two million four hundred and nine thousand one hundred and forty-four dollars and twenty-six cents ($32,409,144.26); a reduction of six million four hundred and fifty-five thousand three hundred and four dollars and forty-eight cents ($6,455,304.48) having been effected during the past two years.

SALT SPRINGS.

The quantity of salt inspected from the Onondaga Salt Springs, during the last fiscal year, was eight million eight hundred and fifty-one thousand two hundred and forty-seven bushels (8,851,247). This shows an increase of production, compared with the previous year, of three hundred and sixteen thousand five hundred and eighteen bushels (316,518).

Revenue for the year, eighty-eight thousand five hundred and ninety-nine dollars and ninety-seven cents	$88,599 97
Expenses, fifty-four thousand six hundred and eighty-eight dollars and ninety cents	54,688 90
Net revenue to State, thirty-three thousand nine hundred and eleven dollars and seven cents	$33,911 07

BANKS.

On the 1st of October last, sixty-one banks were doing business under the laws of this State; of which number twenty-seven have been organized under the provisions of chapter 475, Laws of 1867, or converted from National into State banks under that law. Thirty banks in all have been so converted or organized as new banks from National banks into State banks. Three of these are closed; one in consequence of failure, after an existence of less than one year.

During the last fiscal year circulating notes to the amount of $288,925 have been burned by the Bank Department, and eight banks have been credited with lost circulation to the amount of $123,227, the time for redeeming it having expired.

On the 1st of October last the amount of circulation outstanding, charged to banking associations, individual and incorporated banks, was $2,253,937.50. Of this, the amount of $779,297.50 consists of notes of incorporated banks in existence prior to the passage of our free banking laws, and for which no securities were required; and the sum of $1,474,640 is secured by deposits of bonds and mortgages, stocks, and cash.

The total amount of securities held by the Superintendent of the Banking Department, at the close of the fiscal year, was $2,671,288.63: of which $525,378.98 was held for trust companies, and the balance $2,145,909.65 for banks, most of them being banks of circulation.

One hundred and thirty-three savings banks, with total estimated assets of $220,000,000, are now doing business in the State. The number of persons having deposits, as represented by the number of open accounts on the 1st of January, 1870, was 651,474, against, 588,556 the previous year. The total amount of interest credited to depositors during the year ending January 1, 1870, exceeded ten and a quarter millions of dollars. In the same period of time, the assets of these banks were increased by the sum of twenty-six millions of dollars, and more.

In view of the magnitude of the interests involved in our savings banks, I renew my recommendation that full authority be conferred on the Superintendent of the Banking Department to examine their affairs, and to apply proper remedies for mismanagement.

INSURANCE.

The number of insurance companies, subject to the supervision of the Insurance Department, on the first day of December, 1870, is 275, as follows:

New York joint stock fire insurance companies	105
New York mutual insurance companies	10
New York marine insurance companies	9
New York life insurance companies	43
Fire insurance companies of other States	67
Marine insurance companies of other States	2
Life insurance companies of other States	30
Casualty insurance companies of other States	3
Foreign insurance companies	6
Total	275

The total amount of stocks and mortgages held by the Department for the protection of policy-holders of life and casualty insurance companies of this State, and of foreign insurance companies doing business within it, is $7,412,567, as follows:

For protection of policy-holders generally, in life insurance companies of this State	$4,462,917 00
For protection of registered policy-holders, exclusively	1,559,650 00
For protection of casualty policy-holders, exclusively	26,000 00
For protection of fire policy-holders in foreign insurance companies	1,048,000 00
For protection of life policy-holders in foreign insurance companies	316,000 00
Total deposit	$7,412,567 00

STATE PRISONS.

The Comptroller's Report will show, in detail, the earnings and expenses of the State prisons during the past year. The discipline in these institutions has been, on the whole, better than heretofore. Nevertheless, there is great need of further improvement in their management, financially and otherwise. As I said in my last mes-

sage, greater concentration of responsibility is required; and this can, probably, be attained only by an amendment of the Constitution. I renew my recommendation that greater discretionary power be conferred on the chief officer of each prison in the matter of punishment.

Under the authority of chapter 427 of the Laws of 1870, I appointed as Building Commissioners for the erection of the State prison or Industrial Reformatory established at Elmira, in Chemung county, Amos Pilsbury, of Albany, Charles C. B. Walker, of Corning, Abram H. Miller, of Oswego, and Stephen T. Arnot and Frank H. Atkinson, of Elmira.

These Commissioners have visited the most important of the buildings recently erected for similar purposes in the eastern States; and Mr. Pilsbury, by their authority and on their behalf, has examined all newly-constructed prisons in Ohio, Illinois and other western States. They have perfected the title of the State to the lands selected by a former commission for the site, and will be prepared to begin the construction of the building early in the coming spring, if the necessary appropriations be made by the Legislature.

The commission appointed by me, in pursuance of your concurrent resolution, to examine the subject of convict labor, consists of E. C. Wines and Thomas Fencer, of New York, and Michael S. Myers, of Auburn. A report from them may be expected during the present session.

I visited, during the past year, as I did the year before, all the State Prisons, and gave a hearing to every convict who desired to apply personally to me for pardon or commutation of punishment. More than a thousand applications for pardon and commutation of punishment have been presented to me, by the convict in person, or by written petition. Eighty-five pardons, thirty-four commutations, and one reprieve have been granted; a detailed statement whereof, and of my reasons in each case, will be hereafter submitted.

CHARITIES AND ASYLUMS.

I respectfully refer you to the report of the Commissioners of Charities for information upon the condition of the various State charities, all of which are recommended to your favorable and careful consideration. In some of the counties great improvements have been made in the management of the poor-houses. The pressing claims of the insane poor for better care than can possibly be given them elsewhere than at asylums specially provided for their form of

human suffering, I again urge upon your attention. You will be called upon to make appropriations for enlarging the accommodations in the State asylums for such of the insane as have no means of support. I trust, you will do whatever is needed to hasten the time when all of this class may be removed from the county poor-houses. I recommend, also, to you an inquiry into the condition of pauper children in the several counties, and whether some provision ought not to be made for removing them to proper asylums.

EDUCATION.

The general operations of the Department of Public Instruction during the fiscal year, ending September 30, 1870, are shown by the following statistics :

Total receipts from all sources, including balance on hand at the beginning of the year	$10,919,466 45
Total expenditures	9,929,462 92
Amount paid for teachers' wages	6,501,173 37
Amount paid for school-houses, repairs and furniture	$1,980,546 70
The estimated value of school-houses and sites	20,417,329 00

Number of children attending the public schools	1,029,955
Number of persons attending the normal schools	4,734
Total number of school-houses	11,705

The money which we cheerfully pay for the purposes of general education is well and carefully applied, and the extent to which the opportunities afforded are made use of, proves how highly the people appreciate our common schools. I am sure, the Legislature needs no recommendation from me to extend to our school system the most liberal encouragement.

STATE MILITIA.

The State militia, organized under the name of "The National Guard of the State of New York," numbers now over twenty thousand officers, non-commissioned officers and privates. For details I respectfully refer you to the Report of the Adjutant-General. The Military Code, adopted at the last session, has been received with approval by officers and men alike. I consider it of great importance that the State military organization should be generously sustained by the Legislature. To make it thoroughly efficient, it should be

armed with breech-loaders of the best quality and most approved pattern, and I recommend a suitable appropriation for that purpose. A further settlement of over six hundred thousand dollars ($600,000) of the war claims of this State upon the general government, has been effected this year.

QUARANTINE.

The experience of the past year has furnished additional evidence of the security afforded to the public health by the proper administration of quarantine laws. Out of 365 vessels which arrived in the port of New York from ports infected with yellow fever, 107 had had cases of this disease on board, either in the port of departure or on their passage, or were found on their arrival here to have some of their crew or passengers sick with it.

The total number of cases on these vessels, as nearly as could be ascertained, was 470, out of which 112 died. Twenty-six cases from vessels under quarantine were admitted to the West Bank Hospital, only six of which proved fatal. In addition to these, eighty-three patients, prostrated with yellow fever, were admitted to the hospital from among the troops on Governor's Island, thirty-one of whom died. Thirty vessels have been detained at quarantine on account of small-pox, having an aggregate of over 18,000 persons on board, from among whom sixty-six patients, sick with this disease, were sent to the hospital on Blackwell's Island. Ten vessels have arrived, having ship-fever on board, with an aggregate of nearly 6,000 passengers, twenty-two of whom died with the disease on the passage, and forty others, sick with it on their arrival, were transferred to the Ward's Island Hospital.

These statistics of disease show the dangers to which we are exposed through our foreign commerce. Happily, they have been so warded off, that, notwithstanding the intense heat of the past summer, the general health has not been disturbed by them. It is reasonable to assume that this result is, in a great measure, due to the vigilance and fidelity of the quarantine authorities, and to the increased facilities afforded them by the West Bank Hospital for the care and treatment of patients. This is the first year that it has been in full operation, and the success which has attended its workings has fully met the expectations of the public and demonstrated the wisdom of its erection. It is claimed, however, that until a suitable place for the detention of those who, while not actually sick, have been exposed to disease by passage in an infected vessel, and until warehouses for the storage of infected goods are provided,

it will be difficult to protect the public fully against the dangers of imported disease. A structure on West Bank for the former purpose has been commenced, but an additional appropriation will be required to complete it.

IMMIGRATION.

The number of emigrants arriving at the port of New York this year is 211,000, a loss as compared with last year of 47,000; the number of arrivals this year being about the same as in 1868.

We may reasonably expect, that, with the return of peace in Europe, emigration thence to this country will be very largely increased.

REVISION OF STATUTES.

I appointed, under chapter 33, of the Laws of 1870, Amasa J. Parker, of Albany, Nelson J. Waterbury and Montgomery H. Throop of New York, Commissioners, to revise, simplify, arrange, and consolidate all statutes of the State of New York. The work is being prosecuted with diligence.

TAX REVISION.

Under the authority of the joint resolution of the Legislature, passed at its last session, I appointed David A. Wells, George W. Cuyler and Edwin Dodge, Commissioners, to revise the laws for the assessment and collection of taxes. Their Report will be submitted at an early period of the present session.

CANALS.

I hold to the same opinions, concerning our canals, as were expressed in my annual messages of 1869 and 1870.

The magnitude of our internal commerce is far beyond that of our foreign trade. Our canals are a necessary means of facilitating this great domestic traffic, and their maintenance in good navigable condition is essential to the general welfare of the people of this State. Our Constitution, from obvious considerations of public policy, has provided that these works shall always remain the property of and be under the management of the State; and the suggestion to surrender them to the control, in any degree, of the Federal government, deserves no consideration. The Federal government has already enough of administrative duties. This State built these canals without any extrinsic aid; it owns them, and is quite compe-

tent to take care of them. Our own people are directly interested in their good management, and these great works are much more likely to be well administered by ourselves, than if put under so remote a supervision as that of the Government at Washington.

The Canal Board, by authority of the Legislature, adopted last year a reduced scale of tolls. As was anticipated, there has resulted a diminution of revenue, as compared with the previous season. As compared with a period of years, however, the falling off is not serious. The average annual receipts of the canals from the year 1846 down to 1869 inclusive (the period of high tolls) is very little in excess of those of 1870; and this includes the exceptional period of the war, when the receipts were unusually large. The falling off, last year, is not all due to the low rate of tolls. From purely commercial causes, there has been a diminished traffic. The business of the canals, moreover, suffered, during the past summer, from a great reduction of railroad rates of freight temporarily made by rival companies in a struggle for the Western trade.

Whether this diminution of revenue is to be temporary or permanent, the interest of our people requires that whatever changes in the toll-sheet the experience of the past year may suggest, we should adhere, as far as possible, to low tolls. We produce in this State not more than six million (6,000,000) bushels of wheat in a year. We consume, every year, twenty-one million (21,000,000) bushels. One-half of the total quantity of other grains consumed in this State, to wit, Indian corn, oats, rye and barley, are also supplied from other States. It is obvious that cheap transportation from the grain-producing States is essential to our comfort and prosperity. To say nothing of the importance of having cheap means of fowarding to the West our own manufactures and the merchandize imported from abroad, our people gain much more by lowering the rates of transportation on the supplies they must procure from other States than they lose in reduced revenue from low tolls. When we built our great canals the people of this State produced all the food necessary for their consumption and had a surplus to sell. If in a spirit of far-seeing and liberal enterprise it was wise then to construct these works for general benefit to the internal commerce of the country, how much more essential is it now, for our own interests as well as theirs, that we keep up the freest intercourse with our western brethren. Nature has favored us in the great lakes upon our borders, and in the unequaled outlet to the sea afforded by the Hudson river; our people have united these by the construction of great artificial water-ways; the interests of the State and of its people

seem to me to be irrevocably bound up now with the perservation, in full efficiency, of the connecting channels so established. The people of Europe and of Canada are projecting canals on a grand scale; our Government is expending large sums of money in clearing away obstructions in the Hudson and other navigable rivers; an inference that our canals are no longer useful because of the railroads opened to the West, is as unwarranted as it would be to suppose that the free navigation of the Hudson River is no longer important, now that a railroad is built upon its banks. We ought not to levy a greater toll upon the commerce of the canals than is absolutely necessary to their maintenance, and the gradual payment of that portion of our debt to which their revenues are pledged.

Except in the canals, our people have no efficient check upon the rates of freight which the railroads may impose. The consequences of natural rivalry among the roads themselves are avoided by combinations and agreements on their part for establishing uniform rates; and in view of the fact that this State does not produce probably one-quarter of the food which its people consume, while it may be said to furnish none of the coal we use, it is vitally important to us that the great connections of the lakes with the Hudson should be maintained, with the least possible tax upon the traffic which they were established to promote. It should be borne in mind that the canals were not constructed with a view to create a revenue for our State treasury. They must be kept up in their efficiency out of regard not only to the interests of the people of our own State, but to the great mutual good which, by means of the freest trade between us, we and the people of other States are capable of conferring on each other.

A part of the policy of the past year has been to put the canals in thorough order. They had been neglected for many years, and their obstructed and dilapidated condition rendered very heavy expenditures necessary. Another year the revenue will, probably, be larger; the expenditures, certainly, much less. The round trip from Buffalo to Albany and back has averaged four days less the past season than the previous year. The canals are in much better order than heretofore; their capacity for business increased; the necessity for repairs diminished.

There is great need of the application of steam power to propelling or towing of boats on the canals: and I recommend that you make a suitable appropriation of money to enable the Canal Board or the State Engineer to test, by actual experiment, the merits of several projected methods.

GENERAL RECOMMENDATIONS.

The lamented death of one of your number, the Honorable Isaiah Blood, of the Fifteenth District, has left a vacancy in the Senate, which owing to imperfection in the statutes, cannot be filled. It will be your duty to supply this defect.

I have twice recommended to the Legislature (without effect) a modification or amendment of the laws relating to murder. There are many instances of homicide where the criminal intent to take life is proved, in which, however, the jury are unwilling to find a verdict of guilty of murder in the first degree, because, in their judgment, the circumstances do not justify the death penalty. Under judicial construction of the existing statutes, they cannot bring the case within the definition of murder in the second degree, or of manslaughter in either the first or second degree. They have no alternative but to render a verdict of absolute acquittal, or of guilty of manslaughter in the third or fourth degree, notwithstanding they feel that the punishment which the law will, in the latter cases, award, is wholly inadequate. I recommend that either the maximum punishment for manslaughter in the third degree be made much greater, or that in all cases where the degree of premeditation does not, or the circumstances attending the homicide do not, in the judgment of the jury, justify punishment by death, they may render a verdict of guilty of murder in the second degree, to be punished by imprisonment for life or for a term of years, in the discretion of the court.

The only objection that is likely to be urged against this recommendation is, that, if it were adopted, the jury would have too great a discretion in the matter of enforcing the death penalty. The answer to this objection is, that they exercise that discretion now, and will, in any event, continue to exercise it, when they think it right so to do; but in doing so, as the law now stands, they render a verdict which does not satisfy themselves or the demands of justice.

I recommend, also, the passage of an act which will put an end to the great injustice of detaining as prisoners, persons who are unfortunate enough to be witnesses to the commission of crime, and unable to give security for their appearance at the trial of the accused. The magnitude of wrong and suffering resulting from this practice, especially in cities, is not, I am sure, appreciated or understood, or it would not be permitted to continue. The law should provide that no person shall be detained in prison as a witness in criminal cases

beyond a specified time, and that, if the trial be postponed beyond that time on the motion of the prisoner, it shall be only on condition of his consenting that the testimony of the witness may be taken *de bene esse*, as in civil cases. It may be urged that the people may not be ready to bring on the trial, and may thus, in some cases, lose the benefit of the testimony of the witnesses altogether. I answer that it is better so than to have innocent persons suffer imprisonment, in order that even the guilty may be convicted.

I recommend, anew, that power be conferred upon the Oyer and Terminer, or upon the Supreme Court, to grant new trials in cases of conviction by the Oyer and Terminer. The courts of sessions, which are inferior tribunals to the Oyer and Terminer, have this power, under existing laws, in cases of conviction before them. They are authorized to grant new trials upon the merits, or for irregularity, or on the ground of newly discovered evidence. It is obviously proper that the higher criminal courts should possess the same power. As the matter stands now, a person wrongfully convicted in the Oyer and Terminer, no matter how clearly his innocence may be shown by evidence discovered after conviction, has no remedy except in a pardon from the Executive. This is not the proper and just rectification of the wrong done to him by an unjust conviction.

I recommend an amendment to the General Village Law (chap. 291 of the Laws of 1870), so as to authorize the election of a police justice in villages having sufficient population to justify it.

There is a great and constantly increasing demand for some means of rapid transit from the lower to the upper part of New York Island. This demand must be met. To most of the plans hitherto suggested there have been serious objections, on account of the nature of the work proposed, or the privileges asked for by those who offered to undertake it. To a bill passed by the last Legislature authorizing what was called the Arcade Railroad, I was obliged to refuse my signature, after the adjournment, for reasons already given tothe public. The objections to the provisions of this bill were insuperable. Heretofore, a charter was granted for the construction of an underground railway; but thus far, sufficient capital to prosecute the work has not been subscribed. It is claimed by persons who have given the question careful consideration, that the true solution of the difficulties which surround it, is to be found in the construction of an elevated railroad, upon a solid structure, raised so high as to cross the transverse streets by arches that would offer no obstruction to ordinary travel, and avoiding interference with the leading avenues,

by passing chiefly through the middle of blocks. It would seem, that, under a properly guarded bill, less inconvenience to the public in their use of the ordinary streets, and less interference with private rights of property would ensue from this method than from any other, while the convenience to passengers would be greater than on roads below the surface. There are those who have always stood in opposition to every plan heretofore presented, and who ought to be ready to suggest some method of relief, or give their assent and their aid to any plan which, while free from the objections urged against the rejected methods, holds out a reasonable prospect of success.

The powers of the Commission for preventing the spread of the disease among cattle, known as the rinderpest, will expire, by limitation of law, on the twentieth of April, this year. The necessity for the vigilance exercised by the Commissioners still exists, and very serious consequences would, in my judgment, result from an intermission of the important duties devolved on them. The Commission has always been embarrassed by the omission of the Legislature to make the necessary and very limited appropriations required by them. I trust that you will provide all the means needed for a service so valuable and essential to our stock raisers and farmers, and will continue the act in force. Certain amendments will be suggested by the Commissioners, to which I ask your careful attention.

I call your attention to article 8, section 1 of the Constitution, providing that "Corporations shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws." Of late years, there has been a disposition to overlook the strict intent of this limitation upon legislative power.

I suggest to you the importance of passing all bills making large appropriations of money, including the New York tax levies, at a period of the session early enough to enable me to return them with objections, if I have any to make. The practice of allowing these bills to be delayed until the end of the session, deprives me, in fact, of my constitutional rights to disapprove of objectionable items, unless by withholding my signature from a bill, I permit desirable and proper appropriations for the year to be lost. It is not right to leave me no alternative but to sign bills containing objectionable items, or to refuse my signature, and thus defeat appropriations which are necessary.

FEDERAL AFFAIRS.

The disposition of the Federal administration to unnecessary, unwise and unconstitutional interference with the pursuits and rights of the citizen and with the State governments continues and is a great evil. By the prolonged disfranchisement of a portion of the people of the South, and by other means, the full and final restoration to them of political rights, of the control of their own affairs, and of the free choice of their representatives, is still, for partisan ends, delayed and obstructed, to the prejudice of good government and of the general welfare.

TARIFF.

We are made to endure the evils of an oppressive and ill-regulated tariff of duties, and have no immediate prospect of substantial relief. The principle of special protection is at war with the general sentiment of the world; and to this it must, sooner or later, yield, although its advocates, who, during the last ten years, have secured more than ten revisions of the tariff, all tending to higher and higher protection, still manage to control Congress and its committees.

We are the only great power which commands extended coasts on both oceans, and are a maritime people by inheritance from almost every stock that contributes to our mixed blood, yet we have become within a few years, by the suicidal operation of our own laws, destitute of shipping. Not only have we been driven from the ocean, but, on our great lakes, Canadian-built vessels are gradually drawing trade away from us, because, costing much less, they can accept lower rates of freight. Ship-building, in which, a few years ago, we excelled the world, has become a lost art among us. Our agriculturists, who, under this system of favoritism, miscalled protection, realize no increased price for what they raise and want to sell, are, nevertheless, compelled to pay an enhanced price for what they need and have to buy. Blankets, woolen clothes, and many other things of common use are dearer in this country than in any other, to the injury of those whose lot it is to work very hard for their comforts, which class constitutes the great bulk of every people. These are only some of the evil results from the Federal Government legislating for the benefit of a few capitalists, under the false pretence of protecting our home labor. The enormous profits resulting from this unjust favoritism go all to the manufacturing and mining capitalist; not to the men employed by him. The high

duties, laid for so-called protection, do not enure to the benefit of the public treasury, nor do they make the general condition of the laborer, whether in or out of factories, better. Even the protected capitalists are beginning to share in the effects of the general derangement and langour in business generated by this false system, which undertakes to sustain certain favored persons in occupations in which, if left to their own skill and resources, they would, by their own admissions, fail.

There is no sufficient remedy for this except in the absolute rejection from our Federal legislation of the principle of favoritism. All the people are entitled to equal protection; none have a right to special favors; and it is a wrong which, it seems to me, ought to shock the moral sense of every one, for a government, under the pretext of raising revenue, to tax the whole people in order that a few men may do a profitable business. It is, moreover, demonstrated by experience, that high duties and a complex system of taxes laid on many articles (the larger number of which contribute little to the revenue), while they make necessary the maintenance, out of the revenues, and consequently, at the cost of additional public burdens, of many more government officers than would be required by a simpler method, render frauds more profitable and easier of accomplishment, and lead to an increased amount of private and official corruption. Piece-meal amendments to the tariff are of little value. What we need is, that a rebuke shall come up from the people, so strong that it cannot be overlooked or forgotten, of the practice of imposing taxes for any purpose, save the one of procuring necessary revenue for the public treasury. No compromise should be made on this question; nothing accepted by the people short of the establishment of a tariff, as moderate as the necessities of the Government will permit, applied to as few articles as will yield the required amount, and adjusted strictly to its only lawful purpose, that of raising revenue.

FEDERAL FINANCES.

The administration of the Federal finances exhibits no improvement. Taxes are still levied to an amount greatly in excess of the needs of the Government; and the excess is applied to the payment, in advance, of Government bonds which we are not obliged to pay for many years to come. Part of these taxes are levied through the custom-houses, to the extent of two hundred million dollars ($200,000,000) a year, payable in coin, although the quantity of gold re-

quired by the Government to meet the annual interest on the public is less than one hundred and twenty million dollars ($120,000,000).

The surplus of coin, or much of it, is, from time to time, sold in Wall street, for the purpose (as is claimed) of keeping down the premium on gold, when, considering the magnitude of the Federal revenues, there ought not to be, and, if the Federal finances were wisely managed, there would not be, any premium.

Notwithstanding the reduction of the premium on gold in the past year, it is admitted on all hands, by the Government officers as well as by others, that we have made no real progress toward specie payments. Nor have we any guaranty that the premium on gold will not rise again; we can have none except in the Government growing stronger in the actual means of redeeming its circulating paper.

The Federal treasury has had in circulation, for many years, promissory notes of its own, payable on demand, to the amount of four hundred million dollars ($400,000,000).

These notes, made a lawful tender for debts, constitute now the money habitually used by banks and the people in all transactions. These promises the treasury does not redeem; and this non-redemption, and nothing else, makes the present condition of things, which is known as a suspension of specie payments. If the Federal treasury were redeeming its notes in coin, the notes would be worth as much as gold; in other words, the money now used by banks and the people, would then be the same as gold; and such a condition of things would be, of itself, without any further arrangements, a full and complete return to specie payments. All that is necessary to establish such a condition is that the Federal treasury make itself ready to redeem its own notes, and nothing will be required to maintain that same sound condition but that the Federal treasury shall continue to redeem the notes. The banks are not responsible for the present suspension; they have no duties in respect to it; they are helpless to put an end to it; they pay their own debts now in the lawful money of the country; that lawful money consists of government notes, which the government alone can make worth as much as specie. That once done, banks and people, while continuing to pay their debts in this same kind of money, would be dealing, in all transactions, on the specie basis.

There would be no shock to business in a transition so effected. No contraction of the currency, and, consequently, no stringency in the money market, need precede it. No demand for the actual possession of coin, among the people, would follow it; for, manifesting,

as they do now, great confidence in the legal tender notes, they would have still more faith in them when it was established that the notes command coin at the treasury, on demand; and they would, for convenience, prefer the notes to gold itself. Anything that the Government shall do in order to promote a return to specie payments, except this one thing, the making of its own notes worth as much as gold, will be not only needless but mischievous. No new regulations for the banks are necessary to this end; and needless regulations always do harm. The banks paid their debts in legal tender notes year before last, when the notes were worth seventy-five cents to the dollar in gold; they have continued to pay, during the past year, in the same notes when worth ninety cents; they will, with the same ease, pay in legal tender notes, they being equally abundant, when they are worth one hundred cents; and that will be paying specie.

The Treasury might easily have put itself in a condition to pay its legal tender notes on demand, long before this. From April 1, 1865 (the close of the war), down to the 1st July, 1870, the Federal treasury has received, through its custom-houses, an aggregate of nine hundred and twenty-four million dollars ($924,000,000) in gold coin. If it had laid aside only one dollar in five of these receipts, for the purpose of redeeming its legal tender notes, it would have now in its vaults, one hundred and eighty million dollars ($180,000,000) of coin, absolutely belonging to itself, exclusive of what is retained from time to time, to meet accruing interest, and exclusive, also, of private deposits.

The whole amount of legal tender notes outstanding (including fractional currency, and making no allowance for what is lost) is three hundred and ninety-five million dollars ($395,000,000). The fund on hand for the redemption of notes, would be now, if one dollar in five had been saved, nearly one-half of the amount of notes in circulation; a proportion much larger than a private bank in good credit finds it necessary to keep on hand to meet its circulation. The superior credit of the Federal Treasury would, of course, maintain its notes at par with gold on a much less reserve of coin than would be required by a private banking incorporation. I cannot doubt that the Government notes would rise to par with gold and be kept there, with a fund of coin, devoted to their redemption, not exceeding one-fourth the amount of notes outstanding.

Under this policy we would have resumed specie payments, naturally and easily, more than two years ago; and it could have been pursued without inconvenience to the treasury. For, ever since the

war, both the aggregate surplus revenue of the Government and its surplus of gold revenue have been so great that it could have well afforded to put aside one dollar in five of its coin receipts. It could have been pursued without inconvenience to private business; for our mines were producing more gold than the treasury would have laid aside. The only commercial effect of the proposed process, would have been to make certain the retention in the country of so much coin that might otherwise go abroad; and that result, all men agree, is a proper and valuable means to convenient and permanent resumption.

Under this policy, the Government could now resume specie payments in less than a year's time. The Tressury had, on the 1st of December last, forty million dollars ($40,000,000) of coin of its own on hand. Its gold income is now nearly two hundred million dollars ($200,000,000) a year, of which less than one hundred and twenty million dollars ($120,000,000) is required to pay interest. If the Treasury would simply reverse its policy of selling gold, less than a year would give it a fund of one hundred million dollars ($100,000,000) of coin against its circulating notes. The continuance of large sales of gold during the past season, when commercial causes have been operating, powerfully, to keep down the premium, was especially unnecessary and wasteful. The Treasury may save either the whole of its surplus gold income, or one-half of it, or one-quarter. The result would be equally certain in any of these cases; it would simply be postponed in proportion as the process of saving was made rapid or slow.

There would be no longer any speculation in gold after it was known that the Treasury had adopted a policy leading, inevitably, to an early resumption. No one would buy, except for immediate use, an article which was sure soon to be worth no premium. If, however, it be deemed wise that the Treasury hold part of its surplus gold revenue for the purpose of checking, by the sale of it at times, possible speculation, let it do so, but let it retain another portion, absolutely and sacredly, for the great purpose of resumption.

Our path to the restoration of a sound currency is, in my judgment, so simple, plain, and direct, that I cannot help regarding the financial course of the Federal government as lacking the common sense which is every day applied by men to private business. No private debtor would be regarded as wise (scarcely honest) who, having in circulation a large amount of notes payable on demand, and having at the same time an income in gold, far in excess of any other demands on him, should neglect to apply his surplus income

to the purpose of redeeming his notes. It would not be received as an excuse that he preferred to pay in advance certain obligations, not maturing for many years.

It is obvious that specie payments are not to be restored, so long as the legal tender notes are in existence, except by making these notes and gold equal in current value. This can only be done by making the proportion of coin in the treasury to its outstanding notes such that the Treasury may safely undertake to redeem the notes on demand. Such proportion may be established either by contracting the quantity of the notes in circulation, or by increasing the quantity of coin in the treasury. Contraction in the quantity of the notes was tried by Secretary McCulloch; but the process was so distressing to the business of the country, that, after a few months, he was compelled, by public outcry, to abandon it. Contraction of this legal tender money, however gradual, will be found, if tried again, to be a painful remedy. As the notes become scarcer and scarcer, debtors will find it less and less easy to procure the money they need. Banks will find it less easy to keep on hand a proper reserve, and will be compelled to press their debtors. The confidence of creditors in their debtors, including the confidence of depositors in the banks, will be continually growing less with the growing scarcity of money. Capital will withdraw itself more and more from active enterprises; and labor, consequently, will find employment with constantly increasing difficulty. That these would be the results of a persistent contraction is proved, by experience, in instances where combinations of speculators have succeeded in locking up, temporarily, a small quantity of the legal tender notes.

Is it not obvious that it would be wise economy for the Federal Treasury to get back, as soon as possible, to paying its debts in coin? For then, with its credit perfected, the negotiation of loans at very low rates of interest, which it is anxious to effect, would be practicable. Is it not equally obvious that a return to specie payments, if brought about by a wise method, would result in great good to the people? For the industry and business of the country, once rid of the embarrassment and lack of confidence arising from the use of a currency of shifting value, would take a fresh start on a career of active, stable and well-assured prosperity. We must, sooner or later, return to the use of gold and silver; until we do, we shall continue to be subject to frequent and discouraging fluctuations in values, of which we may not yet have seen the worst.

The people naturally shrink from the harsh remedy of contraction. They look upon it as one which threatens, perhaps, greater

evils than those which they now suffer. It is unjustifiable to resort to it, when another method will accomplish the result.

FEDERAL INTERFERENCE IN ELECTIONS.

Since the adjournment of the Legislature, the Federal government has assumed to interfere directly, by its officers and armed forces, with elections in this State. The pretext was fear that the right of suffrage would, in some way, be denied to the class of persons upon whom it had been conferred by the fifteenth amendment to the Constitution of the United States. It was a mere pretext; for our State Legislature, at its last session, promptly altered our election laws to conform with that amendment, so soon as it was declared adopted. Moreover, this class of voters had exercised their new right freely and without the least molestation, at our State election, which took place in May last.

Congress, nevertheless, enacted a law for the ostensible purpose of supervising the election of congressmen only; and the President was authorized to employ the army and navy to enforce certain of its provisions. Under color of this act, the President and other United States officials claimed the right to supervise the entire election, not only for representatives in Congress, but for State and local officers. In the city of New York special preparations were made to enforce this claim. A large number of United States deputy marshals and supervisors were appointed, many of whom were men of well-known disreputable character, and some of whom had been convicted criminals; a class of dangerous men never before chosen by any ruling authority, in any community, as conservators of the peace. They were instructed, under advice of the Attorney-General of the United States, to submit to no interference, from any quarter, under State or municipal authority. Orders were issued which authorized them, in the discretion of each one of them, to arrest at the polls citizens claiming the right to vote, as well as the inspectors who were charged by law with the custody of the ballot-boxes. These arrests were to be effected without process of law issued upon formal complaints. The peaceful conduct of the election and the good order of the city were thus made to depend on the discretion of these hastily selected, inexperienced, and undisciplined men, some of them habituated to felonious violations of law, and all of them unused to the exercise of delicate and important trusts of power; all having been appointed in one political interest, and having a common partisan purpose to subserve. The police and civil authorities of the city

and State, whose duty it is to preserve order, were ignored, under instructions from Washington, as completely as if the people of the State were in rebellion against the government of the United States. It was a bold attempt on the part of the Federal government to assume absolute control of the State and local elections in order to accomplish partisan ends; and officials, both judicial and executive, seemed determined to prosecute it without any regard to the rights either of the local officers or of the people.

The law of Congress under which he was acting required the Federal judge to appoint one-half of the whole number of supervisors from each political party; yet, he deliberately refused to appoint any of the political organization which he well knew represented the great majority of voters in the city. Every popular right was ostentatiously denied, as if the purpose was to irritate and excite the people and to provoke tumult, which might result in breaking up the election and depriving the city of its vote.

The President well knew that the people intended no forcible resistance to the law. Their determination was to meet it, simply and exclusively, by the force of public opinion. It must have been apparent to every mind that the interest of the great majority in the city was to have a quiet and orderly election. It could be the interest only of the minority to promote an outbreak. The President knew also that even if disorder, of any degree, should ensue, the whole civil and police power of the State, sustained by its National Guard (a military organization of our own citizens, composed of men of all classes and all political parties, and maintained by the State to do service, as occasion may demand, for the State or the United States, and which has never yet failed in its duty to either), was both ready and able to preserve order, and to protect all officers of the law in the execution of judicial process and the discharge of official duty.

Notwithstanding all this, by the President's orders, United States troops were brought from distant posts and quartered in the city of New York, and ships of war were anchored in its harbor. It was certainly not unreasonable to expect that the first drop of citizens' blood shed in the city of New York by Federal troops, in time of peace, might lead to terrible results, involving great loss of life and incalculable destruction of property. Therefore, as chief magistrate of this State, charged with the duty of enforcing its laws and preserving order within its boundaries, I used every exertion and made every preparation and provision in my power to preserve order and protect the people in their rights, their lives and property. At the

last moment, that is to say, the afternoon immediately before the election, the officers of the United States, fortunately and wisely, abandoned the extreme ground they had taken, and entered into a stipulation with the local authorities of New York city, in my presence, which resulted in preventing any armed interference by troops, either of the United States or of the State.

Nevertheless, it is well known that about two thousand deputy United States marshals were appointed in the city of New York, who were, each one of them, armed with what is known as a navy revolver, worn in belts bearing the designation of the Federal armories. They did not, it is true, form any portion of the regular force of the army or navy; they were undisciplined and without a military commander; but they were men armed by the United States government and paid out of its treasury, and were stationed, thus armed, at the election polls, having been taught that they were the superiors of the lawfully appointed peace officers of the State, upon whom the preservation of order in a large city depends.

It was due to the patient forbearance of the people, and to the earnest endeavors and great coolness and discretion of the peace officers of the city, that order was preserved.

I deem it my solemn duty to protest now formally against these outrages, which, it is given out, will be renewed at future elections, with preparations looking to a greater degree of intimidation and coercion. In this protest the people of this State do, I am confident, by an overwhelming majority, earnestly unite. They are not to be misled by the pretense that military force is necessary to prevent fraud. For they well know, what all history proves, that military elections are never honest nor free; that military force at elections has always been used by ambitious rulers to hinder a full and fair expression of popular sentiment; in fact, to perpetrate and cover fraud, not to prevent it. If elections are not honest, they should be made so by the force of public opinion and by law; military force asserts its supremacy over both, and is itself a fraudulent and final overthrow of a free ballot.

No State is, or ever was, more devoted than New York to the Union and to the Federal government; none more submissive to that government's constitutional authority; none more ready to defend its rights and vindicate its power; but our Union is a Union of States; the elements of its great strength are the home governments of the people. To weaken the parts is to endanger the whole.

Half a century ago, when Federal officers were accused of interering with State elections, not by armed forces but simply by ex-

erting an influence through the distribution of patronage, De Witt Clinton, then Governor of this State, addressed the Legislature as follows:

"As a member of the American confederacy, it is not only our duty, but our interest, to sustain the respectability and to promote the authority of the national government, by a patriotic and enlightened exercise of our suffrages, and by contributing all our energies to establish a wise and public-spirited administration. But in attending to measures so important, we ought not to overlook the duties which we owe to ourselves. Our government is complex in its organization, and it is essentially necessary to preserve the State governments in their purity and energy. A free government could never exist in a country so extensive as the United States without a judicious combination of the federal and representative principles. The apprehensions which some of our wisest statesmen entertained, at the formation of the Constitution, that the State governments would constantly encroach on the powers of the national government, appear not to have been realized. The practical tendency has been in the opposite direction. The power of the general administration has increased with the extension of its patronage. And if the officers under its appointment shall see fit, as an organized and disciplined corps, to interfere in the State elections, I trust there will be found a becoming disposition in the people to resist these alarming attempts upon the purity and independence of their local governments; for, whenever the pillars which support the edifice of the general government are undermined and prostrated, the whole fabric of national freedom and prosperity will be crushed in ruin. I have considered it my solemn duty to protest against these unwarrantable intrusions of extraneous influence, and I hope that the national legislature will not be regardless of its duty on this occasion."

These words, more applicable now than then, are so forcible and eloquent that I quote them, in the hope that they may impress themselves upon the minds and upon the hearts of the whole people.

To depend, for the peace and order of localities, on the Federal army is not self-government; to substitute the regular soldier with his musket as a peace officer, in place of the constable with his writ, is not to preserve the peace but to establish the condition of war; to surrender elections to the control of the President, supported by armed forces, is to surrender liberty and to abandon a republic.

JOHN T. HOFFMAN.

SPECIAL MESSAGES.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *January* 26, 1871.

TO THE LEGISLATURE:

Intelligent and fair minded men of all parties agree that one of the greatest evils of the times, connected with elections, is the corrupt use of money to influence the votes of electors. All laws and measures which aim at establishing purity in elections will fail in their purpose, if they fall short of reaching this one great evil. Registry laws, no matter how stringent, do not prove effective. No power can guard the ballot-boxes to any purpose if the men whose constitutional privilege it is to vote, are to be influenced in the exercise of that privilege by the corrupt use of money. In all countries the purchase and sale of offices, civil or military, is prolific of evil. In a Republic like ours, the purchase and sale of voters and of votes endangers the whole organization and structure of the government. It cannot be disputed that all through the State, nominations to office, Federal and State, are often bestowed upon men for the reason, and for the only reason, that they will indulge in lavish expenditure of money to secure success. Money, not merit, secures nominations and controls results. It is a fact, too general and too apparent to be denied, that large amounts are expended by candidates for office at every election for other than lawful and honest election expenses; that they are directly applied to the purpose of corrupting and debauching the electors, and very often to the almost open purchase of votes. This pernicious and dangerous practice is not peculiar to cities and villages; it pervades the whole State. Scarcely a neighborhood is exempt from it. It is practiced with entire impunity, because, under the existing Constitution and laws, the wrongdoers know very well they cannot be convicted or punished. We shall never have pure elections till we strike at the root of the evil. Public opinion cannot be concentrated with sufficient force against the wrong to correct it. What is absolutely necessary is that some men who seek their own advancement by corrupting their fellows should be convicted and punished as criminals. It is far more important to punish the

man who tempts and corrupts, than him who, being tempted, yields and falls.

Under our present Constitution, laws may be passed excluding from the right of suffrage persons who may be convicted of bribery, larceny, or of any infamous crime, and for depriving persons who may make wagers upon the result of any election, of the right of voting at such an election. And this is all that can be done under existing provisions. The Consitution needs to be amended in this respect. Resolutions, proposing amendments, passed the Senate and Assembly in 1853, but failed to receive the assent of the Legislature chosen at the next election of Senators.

These resolutions were as follows:

"IN ASSEMBLY, *April* 1, 1853.

"Resolutions proposing an amendment to the Constitution:

"*Resolved* (if the Senate concur), That section two of article two of the Constitution of this State be amended by inserting therein, immediately after the word 'election,' where it first occurs in said section, as follows: 'or who shall pay, give or receive, or promise to pay or give any money or other property or valuable consideration, with intent to influence any elector in giving his vote, or to deter any elector from voting,' also, by adding at the end of said section as follows: 'or from holding any office voted for at such election. Laws may also be passed for determining, in a summary manner, at the polls, any question affecting the right of any person to vote thereat,' so that said section two, as amended, shall read as follows:

"Laws may be passed excluding from the right of suffrage all persons who may have been or may be convicted of bribery or larceny or of any infamous crime, and for depriving every person who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, or who shall pay, give or receive, or promise to pay or give money, or other property, or valuable consideration with intent to influence any elector in giving his vote, or to deter any elector from voting, from the right to vote at such election, or from holding any office voted for at such election. Laws may also be passed determining, in a summary manner, at the polls, any question affecting the right of any person to vote at such election.

"*Resolved* (if the Senate concur), That said amendment to said section two, be referred to the Legislature to be chosen at the next

general election of Senators, and that, pursuant to section one of article thirteen of the Constitution, it be published for three months previous to the time of such election."

I respectfully recommend the adoption of these resolutions by the present Legislature, with such modifications, if any, as to them may seem proper, so that the next Legislature (a new Senate being chosen next November) may act upon them, and, as I trust, they will do, concur in them and send them for approval to the people.

JOHN. T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *February* 16, 1871.

TO THE LEGISLATURE:

A joint resolution was passed by the Legislature, at its last session, authorizing me to appoint three commissioners "to revise the laws for the assessment and collection of taxes." I appointed David A. Wells, Edwin Dodge and George W. Cuyler; and I now transmit their report. This report was not completed, in time, to allow such an examination of it, on my part, as would enable me to form an opinion of the expediency of adopting the recommendations made. It is apparent, however, that the report contains a great amount of information, and of argument, which will afford most valuable aid to the Legislature and the people in coming to an intelligent judgment upon the questions involved. No subject is more important than this one, to the interests of the people, and, consequently, none is more worthy of your attention.

The tax system prevalent in the other States is, in its main features, the same as in our own; and the information furnished in this report will be very valuable, not only to the people of our own State but to the country at large. It is right that New York, the State foremost in population and wealth, should take the lead in investigating this great question, and in adopting such improvements as are shown to be valuable.

The interests of the people require a method of taxation at once equitable, effective and free from unnecessary oppression; one which will yield the requisite revenue, while subjecting them as little as possible to inquisitorial vexation, and which shall be attended with the least expense for official services, and afford the fewest temptations to fraud, concealment or evasion.

If the commissioners have succeeded in devising such a system, it should be adopted as early as possible. In view of the importance of the subject to the general welfare, I earnestly commend the report to your immediate and careful consideration.

Unless otherwise instructed by the Legislature, the commissioners will deem themselves authorized to go on and complete their work, by preparing and submitting such laws as they think necessary to the carrying out of their views.

JOHN T. HOFFMAN.

STATE OF NEW YORK — EXECUTIVE CHAMBER,
ALBANY, *January* 20, 1871.

TO THE SENATE:

I return, without my approval, Senate bill entitled "An act to authorize School district No. 4, of the town of Castleton, in the county of Richmond, to borrow money for the purpose of completing a school building in said district, and to provide for the payment thereof."

By section one of the bill, the trustees of the school district named are authorized to execute and deliver a mortgage upon the whole or any part of the property of the district to secure the payment of bonds issued by them under authority of the proposed act.

The bonds being made by the bill a charge on the taxable property of the district, the further security of a mortgage ought to be unnecessary.

From a mortgage upon the school-house and the land upon which it is built might result at some time a transfer of the title to some private owner, and a consequent suspension of the operation of the school.

I have no doubt, that on consideration, the Legislature will concur in my opinion, that this provision of the bill is neither wise nor proper.

Whether there be, in former legislation, precedents for this provision of the bill or not, the policy of mortgaging their school property is one which the people of this State ought not to pursue, and one which they will not, I am sure, on deliberate examination of the question, be willing to sanction.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 2, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill entitled "An act to authorize the clerk of Monroe county to appoint assistant and special deputy county clerks."

The general laws of the State provide for the appointment by every county clerk, of one deputy, who, in the absence of the clerk, may discharge all the duties of his principal, except that of deciding on the sufficiency of the security given by public officers, and who, in case of a vacancy in the office, is empowered to perform the duties until the vacancy be filled. The Constitution provides that the county clerks shall be clerks of the Supreme Court; and the general law authorizes every county clerk to appoint a special deputy, who shall possess the same power and authority as the clerk "to attend and do all things in and about the courts."

The clerk of Monroe county is already authorized by a special law (chapter 750, Laws of 1859), to appoint one assistant deputy, who may perform all duties appertaining to the office, whenever the clerk and deputy shall be absent from the office, except that of deciding upon the sufficiency of the security given by public officers.

The bill now under consideration authorizes him to appoint a further number of assistant deputies, not to exceed three, making in all four assistant deputies, all having equal authority to perform the duties of the office in the absence of the clerk and deputy. It also empowers him to appoint two special deputies (in addition, of course, to the one authorized by the general law) to attend to business in the courts.

It is usual for every important officer to be allowed one deputy, and no more, who shall, in his absence, take his place so far as to prevent interruption to the business of the office. A deputy Comptroller, a deputy Secretary of State, a deputy Attorney-General, &c., are provided, each authorized to act for his principal in his absence. The general policy of the law seems to be that some one person, and no more, shall be ready to act for the principal officer in case of his absence; and no further provision is deemed necessary or proper in the case of officers of greater importance than that of county clerk.

It is difficult to see the necessity for, or the propriety of giving to the county clerk of Monroe county, as this bill proposes, the excep-

tional and extraordinary power of appointing five deputies, all clothed with power to act in his stead in the general business of his office, while the clerks of counties of much larger population, and with consequently a greater amount of business, have a less number.

The four assistant deputies (one under the general law, and three under this bill), are all to be clothed with equal power to act, in the absence of the clerk and deputy; and no method is provided whereby to ascertain which one of the four is, in such contingency, to be regarded as chief of the office.

It may be, that some reasons can be urged for increasing the number of special deputies to attend the courts. If so, these reasons would apply with more force to the counties of greater population than Monroe. To a special law, applicable to only one county, providing for a large increase of deputy county clerks, with the full powers proposed by the bill, the objections are to me so manifest, that I am constrained to withhold my signature, not doubting that on reconsideration the Legislature will agree with me.

It appears from the petition and papers submitted to me with the bill, and from the statement, in conversation with me, of the clerk of Monroe county himself, that the relief which he thinks necessary, is simply that of having the persons who attend the courts, in his stead, clothed with the power of deputies in that branch of his business. If it be deemed necessary that all persons designated by county clerks to attend the courts in their behalf, should be appointed special deputies for such business, it would be better to enact a law to meet this need, making it applicable to all the counties in the State, so that any county, in which an additional force of deputy clerks for this purpose is required, may avail itself of it. The necessity for such a provision must be equally great in New York, Kings, Erie, Albany, and perhaps some other counties as in Monroe.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY *February* 16, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 54, entitled "An act to change the name of the Methodist Episcopal Church at

Tompkinsville, Staten Island to 'The Kingsley Methodist Episcopal Church of Edgewater, Staten Island.'"

Chapter 323 of the Laws of 1853, authorizes any religious corporation to obtain a change of its name, in the same manner as is provided by the general act to authorize persons to change their names, namely, by petition to some one of the judges of a court of record therein named. Chapter 322 of the Laws of 1870, also authorizes all corporations and incorporated societies to change their names by applying to the courts.

There is no necessity, therefore, for this special bill, and I feel it to be my duty to withhold my approval.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 28, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 23, entitled "An act to incorporate the Granite Lake Company."

This is a local bill, the subject of which, as required by the Constitution, should be stated in its title. The subject is not only not stated in the title, but it is not even indicated; nor is the location of the company stated.

It is entitled "An act to incorporate the Granite Lake Company." The object, as declared by its provisions, is to incorporate a water company to supply the village, and the people, of Saratoga Springs with water, and for this purpose, to acquire title to private property by the exercise of the right of eminent domain, and to build dams, reservoirs and acqueducts. The purpose of the constitutional requirement is well understood, and the result of a non-compliance with it, in this instance is, that the village authorities, and others in Saratoga Springs, had not, as they now aver, any knowledge of the provisions of the bill until after its passage, there being nothing to indicate its character in the title as published in the record of proceedings of the Legislature. Having learned its object, they strongly remonstrate against the approval of the bill.

A second objection to this bill is that the provisions relating to the appraisal of damages are, in some particulars, unusual and unwise. The tenth section provides that, on appeal, any court of

record in the district may reverse an award of the commissioners, if the proceedings are "irregular or erroneous or the award unsatisfactory," but it declares, also, that the court shall confirm the same if such proceedings "are regular," and it is further provided that the second award, when made, *shall be final;* that it cannot be reversed, no matter how irregular, or erroneous, or unsatisfactory it may be.

The third objection is, that by the act of 1868, as amended in 1869 and 1870, the village of Saratoga Springs was authorized to issue one hundred thousand dollars of bonds for the purpose of constructing the necessary water-works to supply the village with water, and water commissioners were appointed to take charge of the construction of the work. Upon the faith of these legislative enactments, the work has been commenced, and is partially completed. Contracts, to the amount of ninety thousand dollars, have been entered into, about sixty thousand dollars have been expended, and four miles of mains have been laid. One hundred thousand dollars of the village bonds have been issued, and a part thereof negotiated. It is now alleged that the organization of a private corporation such as is contemplated by this bill, in opposition to the public work now in progress, is not only not demanded by any public interest, but would tend to embarrass, to some extent, the further negotiation of the village bonds. For these considerations, the president and board of trustees of the village of Saratoga Springs, and the commissioners now engaged in constructing water works, at the expense of the village, remonstrate against the bill becoming a law. They declare that they had no knowledge of it until after its passage, and had no opportunity, therefore, to oppose it before it reached the Executive. They had no reason to suppose that a bill entitled simply "An act to incorporate the Granite Lake Company," was in effect, an act to incorporate a company to supply Saratoga Springs with water.

These objections, thus briefly stated, are, to my mind, conclusive, so that I feel it my duty to withhold my approval. It seems clear to me that the Legislature, having authorized the construction of the public works at the expense of the village corporation, ought not (so much progress having been made and so much expense having been incurred) to charter a private corporation with powers such as are conferred by this bill, against the remonstrances of the authorities of the village, who are presumed, at least, to represent the wishes of its people.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 28, 1871.

TO THE LEGISLATURE:

I return, without my signature, Assembly bill No. 2, entitled "An act authorizing the board of supervisors of Orleans county to build a lock-up at Medina, in the county of Orleans."

The bill, as originally introduced in the Assembly, provided for the selection of a site, and the erection thereon, of a county building, by the board of supervisors, for the purposes of the county, and at an expense to the county not to exceed $3,000. It was an unnecessary bill, because the supervisors had already full powers, under the general law (chapter 194, of the Laws of 1849), to do all it authorized. It was amended in the Senate, and as amended, passed by the Assembly (the original title remaining the same), so as to authorize the county board to select the site and construct the building at the expense, not of the whole county, but of such of the towns as they should deem proper to tax therefor; when completed, to be used as a place of detention for any prisoners committed for trial by any magistrate of the county, and to be the property of the towns contributing thereto, a majority of whom may appoint a keeper for the same.

The bill, therefore, provides for the erection of a building, which is neither a county nor a town building, but one to be owned in common by several towns, to be used as a sort of county prison, and to be in charge of a keeper, who is neither a county officer nor a town officer. As to how a majority of the towns are to make the appointment of the keeper; how he is to be paid; how the building, when completed, is to be maintained and supported as a prison or place of detention; and how, or in what proportion, taxes are to be levied and collected, for any of these purposes, the bill is entirely silent.

It is usual and proper to provide for the erection of necessary county, town and village buildings, to be the property of the respective corporations and under their control; but an association of several of the towns within a county, for purposes such as are contemplated by this bill, cannot, I think, be authorized, and is, I am confident, without precedent in the State.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March* 1, 1871.

TO THE SENATE:

I return, without my signature, Senate bill (not numbered) entitled "An Act to amend chapter 909, of the Laws of 1869, being an act to amend an act entitled 'An act to amend and consolidate the several acts relating to the preservation of moose, wild deer, birds, and fresh water fish, passed May 9, 1868,' passed May 18, 1869."

The bill returned was introduced in and passed the Senate on the first instant, and the Assembly on the second instant, and was not printed before passage. It amends section 25, of the act of 1869, by inserting "April" in the place of "March."

The sportsmen of the State and of other States, and the people generally, are deeply interested in the protection and perservation of game, and in the maintenance and enforcement of well-considered game laws, and I respectfully submit, that, when such laws have, after careful consideration, been enacted, they should not be altered in any material point without a full opportunity for examination and discussion.

The act of 1869, which was carefully prepared, makes it unlawful, among other things, to kill or have in possession pinnated grouse, commonly called prairie chickens, between February 1st and July 1st; ruffed grouse, commonly called partridge, between January 1st and September 1st; venison from the 10th of January to the middle of August; and Virginia partridge, commonly called quail, from the 1st of January to the 20th of October, under certain prescribed penalties.

By way of protection, however, to those whose possession is in good faith by purchase, without intent to violate law, it was declared by section 25, of the act, that the persons having such possession might be relieved from the penalties, by proving that the game was imported from beyond the United States, or was killed prior to the prohibited periods, or outside of the limits of the State and within the United States, provided the law of such place did not prohibit the killing, "except that any person having possession of prairie chickens, partridges, fresh venison or quail, after the 1st day of March, and between that day and the time when they can be lawfully killed, shall be liable for the penalties," &c. This provision, therefore, is in

effect, secured to all persons, one to two months time, after the "prohibited periods," in which, any could dispose of all stock on hand, if lawfully acquired.

By the amendment, herewith returned, it is proposed to extend the time from March 1st to April 1st. The reason which has been stated to me (and no other is assigned) is, that some dealers have now, after March 1st, unexpectedly, and, as is alleged, in good faith, a large stock of game on hand, and they desire to be relieved from the penalties.

The bill does not give the proper and usual protection to those, who in good faith, and from public considerations, had already instituted suits for penalties, and is on that account objectionable; but, even if it did, I respectfully submit that the reason assigned for its passage is not sufficient to justify the proposed change.

The tendency, if not the necessary result of the amendment, would be to defeat the whole object and policy of the game laws of this State and of other states. If the reason assigned is deemed sufficient this year to warrant an extension of the time to the 1st of April, it would be equally good another year for extension to the 1st of May, and so from month to month thereafter.

I respectfully ask of the Senate a full consideration of these objections, which I trust will be received with favor.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 9, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 35, entitled "An Act to incorporate the Cascade Association of the village of Little Falls."

The bill provides that certain persons named, and their associates, are "constituted a body corporate by the name of the 'Cascade Association of the village of Little Falls,' for the purpose of protecting life and property in said village, and for the mutual benefit and literary advancement of its members."

Incorporations for nearly every proper object may be effected under the comprehensive laws of the State for the formation of

corporations. Benefit societies may be incorporated under chapter 668, Laws of 1865; literary societies under chapter 302, Laws of 1862. There is no general law which makes provision, in terms, for corporations "for the protection of life and property," as mentioned in the bill herewith returned, but if it is intended by this vague description to organize a fire company, that object may also be attained under existing general laws, and the village authorities, under the village charter, are also empowered to make suitable provision to protect property from fire by organizing such companies. If the bill has any other objects than these, they ought to be expressed in plain and unmistakable language.

I take this opportunity to call your attention again to the evil of unnecessary special legislation. The bill in question affords an example of an enactment for which there is not, apparently, the slightest necessity. The whole machinery of legislation is put in motion to incorporate a society or club which may be incorporated under existing general laws. The time of the Legislature is occupied in the consideration of bills of this character, and the unnecessary burden is thrown upon the Executive of examining them, and returning them, as he feels it his duty to do, with his objections.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March* 9, 1871.

TO THE SENATE:

I return, without my signature, Senate bill, not printed, entitled "An Act to authorize the town of Deerpark, in the county of Orange, to elect an additional justice of the peace."

The bill was introduced in the Senate on the 28th of February, passed the same day, and passed the Assembly on the 3d of March. It provided for the election of an additional justice at the next annual town meeting, which was on the 7th of March. It was first brought to my attention on the 6th; if I had signed it then, the fact that it had become a law would not have been generally known to the people of the town, and an election under such circumstances would probably have caused much dissatisfaction.

Since then, I have made careful enquiry and am satisfied that there is no good reason for excepting the town from the operation of the general laws under which each town elects four justices. In addition to the four justices already elected in the town of Deerpark, there is a police justice in Port Jervis, the principal village of the town, who has been elected under the village charter. The judicial force is now quite sufficient.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 15, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 71, entitled "An Act to extend the operation of chapter 938 of the Laws of 1867, being 'An act providing for relief against illegal taxation in the counties of Herkimer, Otsego, Chenango, Onondaga, Saratoga and Fulton,' to the county of Westchester."

The bill proposes to extend over the county of Westchester the provisions of chapter 938 of the Laws of 1867. This last mentioned act, approved by my predecessor, gives power to the supervisors of several counties named therein, viz: Herkimer, Otsego, Chenango, Madison, Onondaga, Saratoga and Fulton to refund to the parties who paid the same, such taxes as they may find to have been improperly levied at any time since the year 1861; and authorizes them to levy the sum so refunded as a new tax upon the county at large. Subsequently, by chapter 860 of the Laws of 1869, the counties of Herkimer, Otsego and Madison were exempted from the operation of the act of 1867. The cases for which this special provision was made, are understood to consist, chiefly, of claims made by certain corporations for repayment of taxes paid by them during the war without protest or contest on their part. In one instance, or perhaps more, of a like tax levied in other counties, payment was refused or made under protest, and, after prolonged litigation, the tax was declared to have been improperly laid. Other parties, who did not at the proper time avail themselves of their privilege to appeal to the courts, and who did not, probably, look upon the tax as unfair and oppressive, now seek to have their cases reopened and to have

repaid to them moneys which they paid without hesitation, and which, with other moneys raised by taxation, have been applied to the support of the State and local governments.

If the cases to which the act of 1867 applied, and the proposed bill would apply, were cases of great hardship and practical injustice, there might be some reason for providing an extraordinary remedy by legislative action. As they are not such, I cannot perceive the propriety of reopening now these old reckonings of the share which each tax payer of the county was in past years bound to pay toward the public expenses. The claims which will be put in will be founded, it is understood, upon a construction given by the courts to the law exempting the securities and public debt of the United States from local taxation. At the time of their levy, the taxes now sought to be refunded were almost universally believed to be fair and equitable; the parties themselves on whom they were levied, paying them without complaint. It is not probable that any of those who now seek relief paid more than their just contribution to the great expenditures of that period; notwithstanding that, since then, it has been decided that a certain portion of personal property, including even ready money, in the form of legal-tender notes, should have been exempted from all taxation.

The corporations and the shareholders who resisted the State tax did so, successfully, under strict construction of law. They were equitably bound to contribute their fair share toward the expenses of the government. The statute of 1862 provided for a tax on bank and other moneyed corporations, on a valuation equal to their capital stock and surplus earnings, less ten per cent. of the surplus. Under this act a litigation arose between tax commissioners and certain banks, when capital was invested largely in United States securities, and was decided in favor of the banks.

Then the State passed a law, chapter 97, Laws of 1865, designed to reach the shareholders in the banks by taxing the shares as personal property. This law was held invalid in the United States court, not because such shares were not taxable, but because of a defect in the law. (See Van Allen v. The Assessors, 3 Wallace, U. S. Reports, page 573). This defect was remedied by chapter 761 of the Laws of 1866, under which, while the bank capital is not taxed, the shareholders are, and the validity of this law has not been disputed.

Many, if not quite all, of the claims now made for repayment of taxes, come from those who paid upon their capital, or upon their shares before the law of 1866.

These claims, are not, therefore, in my judgment, of a nature to appeal powerfully to our sense of equity. If the claimants had the power at the time to resist in the courts the payment of a just and equitable tax, and neglected to exert the power, and assert their strict legal rights in the ordinary way and at the proper time, that affords no sufficient excuse for providing now a special tribunal for considering their demands, for reopening and resettling tax levies made in good faith years ago, and for levying new burdens on the tax-payers of to-day, to meet claims which may fairly be objected to now as having become, by the lapse of time, stale. It would be a bad precedent to allow the boards of supervisors to go back over so long a period to reconsider the acts of their predecessors in this respect, unless in instances of very great and most manifest oppression. When, in consequence of the great expenditures rendered necessary by the war, all tax-payers had to endure unusual burdens, the hardship was certainly not felt so severely by the class who were favored by exemption of part of their property from taxation, as by others. While content that this class should have all their legal rights, I do not think we are bound to provide special means for remedying their own neglect to enforce their rights. I, therefore, return the bill to you in the confident belief that, on reconsideration, you will agree with me that it should not pass into a law.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 17, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill 179, entitled "An Act to provide for the appointment of an additional clerk for each of the district courts in the city of New York."

The act not only provides for the appointment of an additional clerk by each of the justices of the several district courts in the city of New York, but it fixes the compensation of the clerk, and directs the board of supervisors to raise, by tax, the amount necessary to pay the salaries of the appointees.

There are nine district courts in the city of New York. The expense of maintaining these district courts, in connection with the

police courts, is at least $450,000. There is no valid reason for increasing this expense; it should rather be diminished.

Each district court, in addition to the justice, who receives a liberal salary, has a clerk whose salary is $6,000 per annum; a stenographer, who receives $2,500 per annum; two attendants, a janitor, and an interpreter, each of whom receive about $1,200 per annum. It is well known to those who are conversant with the business of the Courts, that in all of them, this clerical and other force is sufficient, and more than sufficient, for the business which appertains to them. This bill, therefore, if I signed it, would authorize the appointment of nine unnecessary officers, each of whom would receive $6,000 per annum, and it would add $54,000 annually to the taxes of New York city.

If bills like this are permitted to become laws, no efforts of the authorities to reduce expenditures and taxation can be successful. I cannot, therefore, give it my approval.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 22, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 186, entitled "An Act to amend chapter 311 of the Laws of 1859, passed April 14, 1859, being an act to provide for the inspection and sealing of gas-meters, and for the protection of consumers of illuminating gas, and further to amend chapter 116 of the Laws of 1860, passed March 24, 1860, being an act to provide for the appointment of Deputy Inspectors of gas-meters, to reside in different parts of this State."

The first section of the bill returned amends section 1 of chapter 311 of the Laws of 1859, by providing that for every stamp or seal put upon a gas-meter by an inspector, the inspector shall receive five cents, to be paid by the manufacturer of the meter. This is in addition to the salary now payable in the first instance out of the State Treasury, but which is ultimately charged and assessed by the State upon the different gas companies.

The right of the Legislature to provide for the inspection of gas-meters (which are "measures"), and to charge the expenses upon

the companies who sell the gas by these measures, under the constitutional provision relating to weights and measures, will not I suppose, be denied; but to impose a tax or charge upon the manufacturer of the meter, to be paid to the inspector, is, I respectfully submit, clearly in violation of that portion of section 8 of article 5 of the Constitution of the State, which abolishes "all offices for the weighing, gauging, measuring, or inspecting any merchandise, produce, manufacture, or commodity whatever."

The meter can properly be inspected at the expense of the individual or corporation using it as a measure for the sale of gas, but not at the expense of the manufacturer, who holds it merely as a mechanical production, an article of manufacture. In this opinion, I respectfully submit, the Attorney-General of the State concurs.

There is another objection to this bill, which being stated, will also, I am confident, command the assent of the Legislature. It is this: The inspector of gas-meters is an officer of the State appointed by the Governor, by and with the consent of the Senate. By chapter 116 of the Laws of 1860, his salary was increased from $1,500 to $2,500 per annum, and he was authorized to appoint deputy inspectors, to reside in different parts of the State where gas-meters were manufactured, who were to receive two dollars a day from him out of his salary, when actually engaged in the discharge of their duties.

There can be no doubt, I think, that this provision was not only wise, but sufficient for the accomplishment of the end in view. The inspector would appoint only when necessary, and the appointees would be engaged only when necessary, the chief inspector being obliged to pay them out of his increased salary a per diem allowance.

The bill now returned makes an entire change in this respect. It authorizes and requires the inspector to appoint three deputies, and no more, one for New York, one for Brooklyn, and one for Albany, each of whom shall receive a salary of $1,500, to be paid primarily from the State treasury, ultimately to be assessed upon and apportioned among the gas companies. If these deputies are needed in New York, and Brooklyn and Albany, it is difficult to see why they will not be required also for the other cities of the State. Moreover, if the public interests demand these appointments under salary (which is greatly to be doubted), I respectfully submit that, as matter of public policy, they should be appointed as the chief inspector himself is appointed, namely, by the Governor and Senate. It seems to me impolitic, if not improper, to confer upon the inspector, who is an appointee of the Governor and Senate, the power to appoint three deputies, each of whom possesses as much power as he does, and

who together draw from the treasury of the State nearly twice the amount of his salary.

I therefore, respectfully submit that this bill should not become a law.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 23, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 18, entitled "An Act to amend an act to incorporate the Little Valley Water Works Company."

The bill creates a private corporation, by the corporate name of the Little Valley Water Works Company, with a capital stock of not less than three nor more than ten thousand dollars, for the purpose of supplying the village of Little Valley with pure and wholesome water; and authorizes this private corporation, for the purpose mentioned, to enter upon any lands, streets, highways, roads, lanes, canals, railroads or public squares through which they may deem proper to convey water and to lay pipes and aqueducts. The corporation is also authorized to enter upon any lands, even without the consent of the owner, for the purpose of making an examination, survey and map of the lands, the title to which they intend to acquire under the provisions of the act. In case they cannot agree with the owners and occupants of lands and water which they intend to take and use, they are authorized to apply to the Supreme Court for the appointment of commissioners to determine the compensation to be paid, and upon the payment or legal tender of the amount awarded by the commissioners, or in case of appeal therefrom by the court, the corporation is authorized to enter upon and take and hold the lands, water and property for which compensation is awarded. The company is authorized, when its works are completed, to make contracts and agreements for the use and distribution of its water; in other words, to sell the water, at its own price and upon its own terms, to whoever may choose to buy it.

The bill, therefore, creates a private company with power to take private property against the consent of the owners by the exercise

of what is commonly called the right of eminent domain, upon the theory that it is taken for a public use, while, in fact, it is taken to empower a private corporation to construct aqueducts and reservoirs which would enable them to sell water to the public for their own private gain. There are such grave doubts about the constitutionality of such a law that, although I am aware that the legislation is not without precedent in this State, I feel it my duty to withhold my approval from this bill, and I do so after having asked and received the opinion of the Attorney-General of the State.

The right of the Legislature to confer upon cities and villages the power of constructing water-works for the use of the public, and, to that end, to delegate to them the right of eminent domain by which they are enabled to obtain the title to private property for public use, is indisputable, and, as a general rule, such works have been constructed in this State by or under the direction of municipal authorities; but care must be taken to discriminate between powers delegated to, or conferred upon, municipal corporations and similar powers sought to be conferred upon individuals or private corporations. If the Legislature can authorize a private corporation to acquire title to lands and property against the consent of the owner, as is done by the bill herewith returned, it can authorize an individual to do the same. I cannot learn that the courts have ever decided that the Legislature could confer upon any individual or association of individuals the right to take any private property, against the owner's consent, for the purpose of enabling the individual or association of individuals to sell to the public any article, even pure and wholesome water, for private gain. The Attorney-General informs me that he is not aware that in this State the exercise of the right of eminent domain under the Constitution has been carried further than to authorize the creation of corporations to build railroads, plank, macadamized and turnpike roads, bridges, ferries, etc., which are confessedly for public use, and that it has never been held that the property of one man could be taken and given to another, or to an association, for a purpose not strictly of a public use, although full compensation should be made. And he says, further, that as the spirit and intention of this bill seems to be to authorize this corporation to possess itself by compulsory proceedings of water streams and springs in the locality named, and to hold the water for sale to the inhabitants for the private profit and speculation of the corporators, dictating their own terms as to price, that it is difficult to distinguish such an enterprise from those entered upon by incorporations formed under general laws, or by private parties, for developing

mines and quarries, or engaging in any other manufacturing or mechanical pursuit, all to inure to the public benefit, but none of which general laws arm the corporation with power to take, by compulsion, private property for their business purposes.

While it may be, as is claimed by some, that the question is not free from doubt, and while, as I have said before, there are precedents for somewhat similar legislation to that proposed by this bill, yet, for the reasons given, and inasmuch as owners of private property likely to be affected by its operation have remonstrated to me against its becoming a law, I respectfully submit the objections which have been suggested in the hope that they will be carefully considered and sustained by the Legislature.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 28, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed number 77, entitled "An Act relative to the assessment roll of the town of Oswegatchie."

It is precisely similar to a bill which passed the Legislature in 1869, and which was then returned unapproved, for the following reasons, which are as forcible now as then. The bill provides that the assessors of the town of Oswegatchie shall hereafter, in all assessments for the purposes of taxation, make a roll for each of the wards in the city of Ogdensburg, and another for that portion of the town not included within the corporate limits of said city, and shall deliver one of said rolls to the supervisor of each ward; and yet, that the warrants issued for the collection of the taxes shall be addressed and delivered to the collector of the town.

The bill is, in my judgment, a needless interference with the details of the duties of town assessors and town supervisors, which are regulated, and no doubt wisely regulated, by the general laws.

The city of Ogdensburg is a part of the town of Oswegatchie, and its citizens have their share in electing the supervisor of the town, whose jurisdiction as a town officer extends over the city, as well as over the rest of the town, for all town purposes. So long as

the city continues to be a part of the town, it is not right that any of his duties and powers should be devolved upon the ward supervisors, whose jurisdiction is much more limited.

If there be sufficient reason for making the proposed change, then it should be made by a general law applicable to all cities and towns similarly situated.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 29, 1871.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill No. 120, entitled "An Act to incorporate the New York Musical Instrument Saving and Loan Society."

There is no necessity for the passage of a law to accomplish the object of this bill. The incorporation may be effected under the general law. Chapter 368, Laws of 1865, makes express provision for the organization of musical societies.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March* 28, 1871.

TO THE SENATE:

I return, without my signature, Senate bill No. 288, entitled "An Act for closing the offices of the sheriff and county clerk of the several counties, and register of the city and county of New York, and county of Kings, on certain holidays."

If the object of this bill be to afford clerks and employees, in the offices named, the privilege of being absent on the days established by law as holidays in respect to the presentation and payment of notes, bank checks and bills of exchange, I deem it hardly necessary to pass a law for that purpose, inasmuch as there are few public offices in which the privilege is not accorded already, for, although

kept open ostensibly, business is suspended to such an extent as to permit the greater portion of the employees to absent themselves.

I do not think it wise to close these offices entirely, and, in effect to prohibit altogether the transaction of business therein on holidays; and I deem it unnecessary to do more than suggest the great inconvenience which would result to the public if this bill should become a law. Inability to procure a docketing of a judgment in the office of the county clerk, or the deposit of a deed or mortgage with the clerk or register, for record, on the days indicated, would operate greatly to the disadvantage of the public, and might result in serious loss, and, perhaps, irreparable damage to those who had business to transact with these officers. The same objection applies to the closing of the sheriff's office, by means of which the delivery and execution of process of the courts might be hindered and delayed, and the ends of justice thwarted.

If there was an entire cessation of business on these legal holidays, as on Sundays, there might be more reason for the passage of this law, but the customary partial suspension does not, in my opinion, justify the compulsory closing of these offices, access to which, at all proper times, for the public convenience, should be facilitated rather than impeded.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March* 31, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed, No. 219, entitled "An Act supplemental to and amendatory of chapter 842 of the Laws of 1868, entitled 'An act to provide for the transmission of letters, packages and merchandise in the cities of New York and Brooklyn, and across the North and East rivers, by means of pneumatic tubes, to be constructed beneath the surface of the streets, squares, avenues and public places in said cities, and under the waters of said rivers,' passed June 1, 1868, and of chapter 512 of the Laws of 1869, entitled 'An act supplementary to chapter 842 of the Laws of 1868, in relation to carrying letters, packages and merchandise, by means

of pneumatic tubes, in New York and Brooklyn, and to provide for the transportation of passengers in said pneumatic tubes."

As appears by its title and provisions, this bill is supplementary to, and amendatory of two acts passed in 1868 and 1869.

The act passed in 1868, amongst other things, authorized certain persons named therein and their assigns to lay down, construct and maintain one or more pneumatic tubes, of a mean interior diameter of not exceeding 54 (fifty-four) inches, to convey letters, parcels, packages, mails, merchandise and property through said tubes for compensation, by vehicles to be run and operated thereon by the pneumatic system of propulsion, and authority was given to erect on the sidewalks, lamp-post boxes, pillars or receptacles, not exceeding 30 (thirty) inches in diameter, and without limit as to number, connected with such tubes, for the deposit of letters, parcels and property to be transmitted therein. For the purpose of laying and constructing said tubes, the said persons or their assigns were authorized to make such openings in said streets, squares, avenues or public places under which said tubes were to pass as might be necessary and proper. The Croton aqueduct department was authorized to make such regulations as would prevent, as far as possible, the obstruction of any street, square, avenue or public place. It was required that the said persons or their assigns, should first lay down and construct one line of said pneumatic tubes from the post-office in Nassau street, between Liberty and Cedar streets, in said city, not extending above Fourteenth street, which should be put in successful operation, and continue so for the period of three months, and a certificate to that effect, to be made by the postmaster, for the time being, of the city of New York, and the mayor and comptroller of said city, or a majority of them, should be filed in the office of the Secretary of State, before proceeding to lay down and construct any other lines of such pneumatic tubes as therein authorized. By one of the sections of said act, the said persons or their assigns were authorized to incorporate themselves under the general manufacturing and mining act.

By the act passed in 1869, it was provided, that if the postmaster should neglect or refuse to give his consent to connect said tubes with the post-office, the said persons or their assigns, instead of performing the foregoing requirement, and in lieu thereof, should first lay down and construct one line of pneumatic tubes, from Warren street, at its connection with Broadway, southerly under Broadway, to the point of intersection of Cedar street therewith, or to some

point within 200 (two hundred) feet, thereof. It was also provided in this act, that the tubes should not exceed 54 (fifty-four) inches interior diameter, and authority was given such persons or their assigns during the "laying, construction and repairing of the pneumatic tubes and appurtenances," to make such openings in said streets, squares, avenues and public places, through and under which said tubes were to pass, as might be necessary, subject to the regulations therein before provided.

It is claimed that the said persons or their assigns, organized as a corporation under the sixth section of the act of 1869, and the bill returned herewith assumes that they duly organized by the name of the "Beach Pneumatic Transit Company;" and it is expressly provided, by section ten of this bill, that nothing therein contained "shall be construed to limit or restrict any of the powers, rights and privileges heretofore granted to said corporation."

No tubes have been laid under either of said acts, as required by their provisions, but there has been constructed in Broadway, between Warren and Murray streets, without authority of law, a tube 8 (eight) feet in diameter, or nearly double the size of those authorized which has not been used for the purposes declared by the act, but has been kept on exhibition.

The bill under consideration declares that this tube, between Warren and Murray streets, shall be deemed to be the preliminary line of pneumatic tubes "duly certified," required by the provision of the act, to which this bill is proposed as supplemental and amendatory. It will be seen that the bill under consideration revives two acts, containing important powers and privileges, none of which have been exercised according to the laws now sought to be revived, and that the provisions of those acts, and of the bill herewith returned, must be considered as one scheme.

I have given, to the measure thus presented, careful examination and consideration, from the time the bill reached the executive chamber, and I have the most decided conviction, for reasons which I will proceed to state, that I ought not to give it my approval.

I have given a public hearing to the parties interested. I have patiently heard and weighed all that could be said in its favor by the parties to the bill, as well as those who were led to take part in favor of the measure because of their interest in the general question of increasing facilities for more rapid city transit, but they have failed to change my first conviction derived from an examination of the subject, which so far as it relates to a railway under Broadway, is not new to me.

Soon after the bill reached me, I addressed a communication to Mr. E. H. Tracy, chief-engineer of the department of public works, in the city of New York, who is charged, under the direction of the head of that department, with the care of the Croton aqueduct, water-pipes, sewerage and underground works of the city, asking his opinion and judgment as to the practicable character and effect of the proposed scheme. He has furnished me with a thorough and comprehensive report upon the whole question, unqualifiedly condemning the project and pointing out the great and irremediable injury which would be produced if it were attempted to be put in operation. Mr. Tracy is specially qualified to furnish an intelligent and reliable opinion on the whole subject; he was connected with the building of the Croton aqueduct works of the city during fourteen years, from the commencement to the conclusion of that great enterprise, first as assistant, and finally, as chief-engineer in charge thereof. Subsequently he was chief-engineer of the city department of the Croton aqueduct, in charge of the laying of water-pipes and building sewers. He has had also a large experience in railroad construction, and since the organization of the present department, has been the chief-engineer in charge of its under-ground works. No one can be found in the whole range of his profession, who has greater experience than he upon such questions, or who can claim to be his superior in professional attainments. His judgment, in regard to the subject under consideration, is obviously entitled to great weight.

The bill under consideration authorizes the said company, organized under the act of 1868, to construct, maintain and operate an underground railway for the transportation of passengers and property in the city of New York, extending from Bowling Green, under Broadway to Fourteenth street, thence under Union square to Seventeenth street, thence under Broadway to its junction with Central Park and Eighth avenue, with a branch railway from Union square under Fourth avenue to Harlem river, and across and under the bed of said river to the northerly shore thereof, by means of tubes of enlarged diameter, sufficient for the construction of a railway or railways therein, and the carrying of passengers therein; and also to construct within said tubes two or more tracks of railway. It is further provided, that these passenger tubes shall, "as far as practicable," follow the center line of the aforesaid streets, and shall not occupy in the aggregate a greater space than 31 (thirty-one) feet in width by 18 (eighteen) feet in height, exterior measurement. The

company are authorized in addition to construct "turnouts and stations" without limit, and "flues, openings and stairways for ventilation" without number.

The work is to be done under the direction of three engineers or a majority of them, one of whom is to be appointed by the department of public works, and the remaining two (or the majority) are named in the bill, who are to adopt needful precautions. The said engineers, or a majority of them, are to decide whether the pneumatic system or a suitable locomotive shall be adopted by said corporation for the propulsion of the cars to be used.

If the said company shall not comply with the provisions of the act the only remedy provided, is that the engineer shall notify the mayor, and he may bring a suit against them; but it is further declared, that in all cases, the use of the streets, avenues, squares, grounds and places, and the right of way under the same, shall be considered to be a public use, consistent with the uses and purposes for which the mayor, aldermen and commonalty of the city of New York hold said streets, avenues, squares, grounds and public places; and that, as far as practicable, the municipal authorities of the city shall at all times aid the corporation in the construction of the work.

The said company are given the right to acquire title and hold any real estate or interest therein as may be necessary to enable them to construct, operate and maintain such tubes and railway, and to construct and maintain proper platforms, stations and buildings of said corporation, at such points along said tube as may be convenient and suitable for the ingress and egress of passengers, and for the receipt and discharge of freight and packages. All changes or alterations in the sewers, water-pipes or gas-pipes that may be necessary for the proper construction of said tubes, are to be done by the said company, the city authorities having only a supervision thereof.

The said company are prohibited from constructing any station, depot or other building or work upon any land belonging to the mayor, aldermen and commonalty of the city of New York, either in their own right or as trustees or commissioners, without the consent of the mayor, aldermen and commonalty first had and obtained; but nothing in the act shall be construed to authorize the said mayor, &c., to donate, lease or sell any portion of the ground surface of any public park of said city, beyond what may be absolutely necessary "for the exit from and entrance to said railway."

This would give the common council power to grant to the said

corporation spaces in the parks for such exits and entrances, and with the consent of that body, they could proceed under their general powers to acquire such portions of the several parks, along the proposed route, as they should require by commissioners under the provisions of the general railroad act. The parks thus affected would be the City Hall park, Union Square park, Madison park and Central park. It is further provided, that the travel through streets shall not be interrupted, except by the permission of the commissioner of public works, and that temporary bridges shall be constructed when the surface of Broadway is broken. It is not required that any amount of capital shall be paid into the said company before the work is commenced, but it is required that within 10 (ten) days the said company shall file with the State Comptroller a bond (it is not stated to or with whom said bond is to be made), in the penal sum of ($200,000) two hundred thousand dollars with sureties, to be approved by said Comptroller, that active operations shall be commenced within 90 (ninety) days after the passage of the act, and for the completion of the section of passenger tubes, with 2 (two) railway tracks from Bowling Green to Fourteenth street within 2 (two) years thereafter, and for the completion of the remainder of said passenger tubes within 5 (five) years thereafter; but it is further provided that, in case of delay by legal proceedings, or "extraordinary causes beyond the control of said corporations," which shall compel the stoppage of the work, the time so lost by said stoppage shall be added to the time allowed for completing said tubes. This is all the provision as to the time when the work is to be performed in part or in whole.

It will be seen among other things:

First. That Broadway, for its entire length, is surrendered to this company, for an indefinite period of time, for the construction of passenger tubes, under the provisions of this bill, and "one or more" tubes under the other acts, to which this is proposed as supplemental, for a pneumatic or underground railway, as shall be decided. It is fair to assume that the purpose of the bill is an underground locomotive railway. The facts that the pneumatic process, provided for by the previous act, has not been carried into effect by the company, that it has proved a failure in other places where it has been fully tried, and that the bill makes such full provision for an underground locomotive railway, make it a fair assumption that such a railway is intended; at all events, it is fully authorized by the bill.

Second. It provides that a tube or opening may be made under the surface of Broadway, following the centre line "as far as practicable," and occupying, in the aggregate, a space not greater than 31 (thirty-one) feet in width, by 18 (eighteen) feet in height. It is argued that the antecedent words, "as far as practicable," in the sentence, relate to the size of the tubes as well as "the position," in which event there is no limit to what might be held "practicable." There is, in addition to the width authorized for the tubes, authority without limit for turnouts and stations. To allow the proper space between the top of the tube and the surface of the street, the bottom of this tube must be about 22 (twenty-two) feet below the surface. This will place such bottom, at a portion of the route, 10 (ten) feet under tide water. Chief-engineer Tracy reports that, from the character of the soil, such under-ground road could not be made by tunneling, but would require an open cutting from the surface, necessitating the removal of the pavement and the digging of the soil to the required depth; that the material thus removed could not be allowed to remain in the street without endangering the safety of the vaults underneath, but must necessarily be taken away and brought back again.

Third. By the bill under consideration, the surface of the street is not to be opened without the permission of the commissioner of public works, but, by the previous acts, which are re-enacted by this bill, any street or road may be opened without this permission. By this bill, any street or road may be opened without this permission. By this bill, bridges are required to be constructed to facilitate travel when interruption occurs; by the previous acts, no such requirement exists. The company would, therefore, proceed at once to open Broadway at as many places as they might desire, claiming to be authorized under the acts of 1868 and 1869, and there would be no remedy.

Fourth. The company are only required to follow the centre line of Broadway, "as far as practicable," after stipulations that "all needful precautions" are to be taken to prevent unnecessary interference with the sewers, water-pipes, etc. As the sewers and pipes run at or near the centre of the street, it may be found expedient to construct this underground railway at the sides of the streets and under the pavements, to the entire destruction of the vaults on the street, and with greater danger to the safety of the buildings adjoining than if in the centre of the street. Mr. Tracy, in his report to me, gives it as his judgment that the excavation in the centre of the

street, where there is quicksand, would endanger the safety of the adjoining buildings, and that, at certain parts of the street, soft mud will probably be encountered, which is likely to flow into the cut and endanger the safety of the adjoining buildings.

Fifth. As to the vaults, there is nothing in this bill which could prevent the company from taking all the space occupied for vaults on Broadway, without the consent of the owners and without compensation. By the act of 1868, referred to, the consent of vault owners, and compensation for the injury, must precede any interference with such vaults for the purposes of the tubes therein provided for, but this bill is silent as to such consent or compensation.

Sixth. The said company are authorized to construct openings, flues and stairways, for ventilation on the street. There must be 10 (ten) or 15 (fifteen) of these in every mile for due ventilation, as chief-engineer Tracy reports to me. There is no restriction as to where these openings are to be made, and they may be in the most valuable portions of the street, and opposite the most frequented places of business. Through these flues, staircases and other openings, smoke (or if no smoke), gas and noxious vapors will be constantly passing.

Seventh. The company are authorized to carry freight and passengers, and to select any point for their buildings for the purposes of said railway, and may take any man's store or other building without his consent, by proceeding under the general railroad act to make compensation.

Eighth. The company are authorized to occupy the parks for ingress and egress for their railroad, with the consent of the common council, and may, with such consent, proceed to take any part of the parks for their purposes, by commissioners under the general railroad act, and virtually without compensation; for the bill declares that in all cases the use of the streets, avenues, squares, grounds and public places shall be deemed a public use consistent with the uses and purposes for which the mayor, aldermen and commonalty of said city hold the same.

Ninth. The provision for giving a bond for $200,000 (two hundred thousand dollars), not required to be made to the State, the city or any one in particular, does not amount to anything. As it is not required to be made to any one, it could not be enforced, and, if available at all as indemnity, it would not compensate for the damage which might be done to a single building on Broadway. The bill is drawn, in all its provisions, in a loose manner, without adequate

guards in any essential, if the scheme were in all other respects practicable.

I have given only a portion (yet I hope sufficient) of the objections of a general character to show that this bill ought not to become a law. Every important interest is endangered, and no private or public right is protected. I deem it my duty, however, to present a portion of the objections to the scheme contained in the report of Mr. Tracy, in addition to those I have referred to:

As to the effect of constructing the tubes under Fourth avenue:

"The Harlem Railroad Company have their tracks, depots, open cuts, tunnel and bridges over the centre of Fourth avenue, under all of which the tubes will have to pass. Where the tracks are now laid on a level with the surface of the streets, they will have to be removed during the construction of the tube. If new tunnels are cut beneath the old ones, they will have to be cut at a considerable depth below them to insure the safety of the present tunnels, and in that part of the avenue north of One Hundredth street, the abutments and piers of the Harlem railroad bridges will have to be supported on top of the tube. The tube can only be built strong enough to support these abutments by great care and at great expense, and will necessitate the abandonment of the present tracks of the Harlem Railroad Company during the construction."

As to the effect on sewerage:

Mr. Tracy states that "the tubes will cross the line of the larger sewers now built in the city. Nearly all that part of the city between Fourteenth street and the Bowery, Chatham street and Broadway now drains into the North river, and a large portion of it through the sewer in Canal street. The proposed pneumatic tube will, almost of necessity, compel a new sewer or sewers to be constructed to carry this drainage into the East river, and as the surface of the ground at Canal street and Broadway, is but 12 (twelve) feet above tide level, but little descent can be given to the sewer, and, consequently, it must be of great size to effectually drain this descent.

All of the sewers on Broadway will have to be removed, and the drainage provided for through side streets, as the spaces between the vaults of the buildings will be too narrow in which to build and maintain the sewers.

"The small sewers in the cross streets that would be cut in two by the tube will have to be rebuilt in every case, and the plans of inclination changed so as to descend in an opposite direction from that which they do now. In many cases, this would involve the

rebuilding of the sewers for several blocks east and west of Broadway, and sometimes in the adjoining streets running parallel with Broadway."

Mr. Tracy presents other points as to the effect of laying the tubes on sewerage, but these will suffice. He also presents equally strong objections, in detail, as to the water-mains and pipes and the consequences to them. He concludes his report as follows:

"I give it as my opinion, as an engineer, that the plan of building the pneumatic tube, as proposed by the bill, is impracticable, as well as detrimental to the interests of the city, and without a fair prospect of overcoming the problem of quick transit from one end of the island to the other.

"The work of construction will necessarily be slow, for where rock is not encountered, the subsoil will be so treacherous as to call for great skill, care and expense in constructing the tube, and the buildings along the route, especially on Broadway, will be endangered. The streets will be rendered impassable for months, not only in laying the new gas and water-mains and rebuilding the sewers, but in the construction of the tube itself, and this blocking of the streets will not only take place in the principal thoroughfare, but in the streets far distant on either side, where sewers will have to be changed. Sufficient space will not be left on Broadway in which to lay and maintain the gas and water-pipes, and where they are laid in the narrow places, between the tube and the vaults, they would be likely to be broken by the jar of the locomotives passing through the tube; thereby causing an inconvenience from the stoppage of water, as well as the liability of the tube itself being broken through by the action of the water pressure. The buildings on Broadway will be left without proper drainage, it being entirely impracticable to build sewers in the streets between the tube and the vaults.

"The travel will have to be suspended upon the railroads coming into the Fourth avenue while the work is progressing in that portion of the city. If the ventilators open into the street, as the bill contemplates, they will obstruct the street and fill it with noxious and poisonous gas."

It is with regret that I am compelled to withhold my approval from any measure which proposes to furnish additional facilities of passenger transit for the people of the city of New York. I realize fully the great necessity which exists in that city for such facilities, and I am aware of the earnest feeling which prevails among the people there, and especially among those who reside or own property in the

upper section of the Metropolis, in favor of the adoption of some feasible plan; but the necessity and the desire for rapid transit should not be permitted to overshadow or overcome the fair consideration of the question as to whether a particular scheme presented is a just, wise and defensible one to accomplish the object sought. I cannot allow myself to be swayed from the conscientious examination of any bill, on its merits, simply because the object proposed is in harmony with the desires of the people, nor am I influenced to decide against any bill of this character merely because it proposes to trench on Broadway, or on any other great thoroughfare, or interfere with the prejudices or inclinations of the owners of property on particular streets. Every citizen must yield his preferences and contribute his share of sacrifice to the public good, and great public objects must, at times of necessity, be attained at the serious cost of individual interests and the surrender of individual opinions. But this necessity has its limits, and the measure under consideration is, in my judgment, one of aggression against public interests and would inflict injury on the business and welfare of our great metropolis which could not be estimated or repaired; while, at the same time, it could not accomplish any benefit to the public at large. Broadway, while it is the great highway of travel and the centre of business to the people of the city, is, at the same time, the object of pride and admiration of the State and country. Its greatness and its influence do not belong alone to the individuals who, by their enterprise, public spirit and liberality, have made it what it is, but to the whole people, and any scheme which, however specious or popular the pretext, is plainly calculated to destroy it should, and will, meet with general public reprobation.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 4, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed No. 107, entitled "An Act to enlarge the boundaries of the city of Auburn."

The bill, among other things, adds to the present territory of the city of Auburn, a portion of the town of Sennett, in the county of

Cayuga, consisting of about six hundred acres, upon which only eleven freeholders reside. Nine of the eleven (who together own a majority in acres of the territory proposed to be annexed) remonstrate against the bill for the reason, among other things, that the lands within the area are farming lands; that there is no necessity for extending over them a municipal government; that the city of Auburn has a debt of over half a million of dollars, in addition to the one hundred thousand dollars mentioned in the bill, with the contracting of which the rural district had nothing to do; and that the bill makes no provision for exempting the new territory, when annexed, from the lien of that debt. It seems to be clear that this remonstrance should be heeded, and I trust that the bill will not be permitted to become a law.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 4, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed No. 443, entitled "An Act to incorporate the Knickerbocker Loan and Trust Company of the city of New York."

There are, I am aware, upon the statute books of the State, several acts incorporating loan and indemnity, trust and other companies, with powers and privileges, such as individual citizens are not permitted by law to possess or exercise, and I have noticed, with regret, the introduction of several bills, during the present session, which are even more extraordinary in their provisions than any which have been enacted in former years. The incorporation of companies for any single object, not forbidden by law, and in accordance with public policy, is well enough, but I respectfully submit that it is against public policy, to confer upon any company the power and privileges granted by the bill herewith returned.

An examination of its provisions will show, that under the title of an act to incorporate a loan and trust company, it establishes and permits the following, among other things:

First. A company with power to do a general mercantile as well as real estate business under the words "shall have power to grant, bargain, sell, buy or receive, all kinds of property, real, personal and mixed, and to hold the same in trust."

Second. A guaranty and indemnity company, under the words, "shall have power to guaranty the payment, purchase, performance and collection of promissory notes, bills of exchange, contracts, &c., &c., as well as the title to property, real and personal.

Third. A storage and warehousing company (under words broad enough even to give to it, also, the privilege of a bank of deposit and discount), viz.: "To receive, upon storage, or deposit, or otherwise, merchandise, bullion, specie, plate, stocks, bonds, promissory notes, certificates and evidences of debt, contracts or 'other property;' and to take the management, custody and charge of real and personal estate and property, and to advance moneys, securities and credits, &c., &c.

Fourth. A trust company, under the general language of the whole act.

Fifth. And while the act provides that the rate of interest charged shall not exceed seven per cent per annum, the company is authorized to charge such commissions upon "advances, (that is, loans) of moneys, as the directors may establish and approve."

Section two fixes the capital of the company at $1,000,000, with power to increase the sum, indefinitely, in the manner provided by certain sections of the general act authorizing the formation of corporations for manufacturing, mining, mechanical or chemical purposes.

I respectfully submit that this bill should not be permitted to become a law.

My attention has been called to the fact that, at the last session, I approved a bill, the provisions of which were similar to those now objected to. It was an error on my part, committed through inadvertence, and perhaps inexcusable. It would certainly be inexcusable to repeat it. The public interests demand that such legislation should be stopped, whatever precedents there may be for it.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 4, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed, No. 224, entitled "An Act for the relief of Simon De Graff, James Conway and George

W. Phelps, and to authorize the board of supervisors of the county of Livingston to audit and allow the claims of Simon De Graff, James Conway and George W. Phelps, for constructing and repairing a bridge over the Genesee river in the county of Livingston, and to levy a tax for the amount allowed."

The bill provides that a special meeting of the board of supervisors of the county of Livingston shall be held, within thirty days, for the purpose of adjusting and auditing the claims of the persons named therein for constructing and repairing a bridge over the Genesee river between the towns of Geneseo and Leicester, in said county, and authorizes and requires the supervisors to adjust and audit the claims mentioned. They are further required, at the regular session of the board, for the year 1871, to "levy and collect the amount audited upon the towns of Geneseo and Leicester, or, in the discretion of the supervisors, upon the county of Livingston."

It is said that a dispute has arisen about the construction of the bridge, and the contract therefor and the payments on account of it, and that this bill is intended to dispose of the same and of the questions in litigation. I do not think that fact affords any reason for the bill becoming a law. Boards of supervisors are clothed with ample powers, under the general laws of the State, in the matter of constructing bridges, levying and collecting the expense thereof, and auditing and adjusting claims against the county. If there was any doubt of their power in this particular case, the Legislature might properly confer upon them special authority to adjust the claims mentioned in this bill, but to undertake to do more, as this bill proposes, — to require the supervisors to adjust and audit the claims, is, in my judgment, an impolitic and unwise interference with the general discretionary powers of boards of supervisors; in other words, it is wrong to compel the supervisors of the county, by special act, to hold a special meeting to consider particular claims, and to require the supervisors to adjust and audit them. The matter of auditing and adjusting claims should be left where the general laws leave it, to "the discretion of the supervisors," at their regular meetings, or at special meetings, which may be called at any time by a majority of the board.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 6, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed number 226, entitled "An Act to incorporate the Idlewild Temperance Association of Cornwall."

This society may be organized under the general laws which provide for the incorporation of societies for "social," "temperance" and other purposes.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 6, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed number 240, entitled "An Act to provide for making new indices of deeds and mortgages recorded in the county of Queens."

This bill authorizes the county clerk to make new indices of deeds and mortgages, and fixes the compensation to be paid. By section 7, chapter 855, Laws of 1869, the board of supervisors has full power to order and direct the performance of this work and to determine the amount to be paid therefor, which in no case shall exceed a sum to be certified by the county court as reasonable. This special bill is, therefore, unnecessary.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 7, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed No. 225, entitled "An Act to amend an act entitled 'An act to incorporate the Central Savings Bank of the city of New York,' passed May 1, 1869, amended May 5, 1870.

The bill extends the time for the organization of the bank one year, and re-enacts and continues in force the act of 1870. The amendment of 1870 was not May 5th, as specified in the title, but May 6th, so that there is an error in the title of the bill.

It appears that this bank was chartered in 1869, and that up to this time, it has failed to perfect its organization and to commence business. There would seem to be no good reason for reviving a charter of which, up to this date, the incorporators have neglected to avail themselves. If, however, the original act was unobjectionable, I should make no opposition to its revival. I find, however, on careful examination, that it is objectionable. The sixth section authorizes investment in village bonds, but does not limit the amount of such investment. The limit should be not more than ten per cent. of the assets of the bank.

It authorizes loans "on unencumbered real estate," it should be on "unencumbered, improved and productive real estate." It does not declare whether such loans shall be made on real estate, exclusive of buildings thereon. If it was intended to include buildings in the valuation, provision should have been made for their insurance, and for the assignment of the insurance policy to the bank.

It prescribes no limit to the amount which may be loaned on bond and mortgage. It is usual, in well-drawn charters, to fix such limit at not more than forty or fifty per cent. of the assets of the bank. That limitation I consider a proper one.

It provides for the accumulation of a surplus of twenty per cent. This is larger than has been recommended by the Bank Department; ten per cent. is deemed sufficient.

The seventh section authorizes deposit of the funds of the bank in any incorporated bank, or trust company, or national bank, in the city of New York, but does not limit the amount that may be deposited. It is usual to provide that the sum so kept on deposit, in any one bank or trust company, shall not exceed twenty per cent of the capital of such bank or trust company. And, also, that it shall not exceed ten per cent. of the whole amount of deposits with the savings bank making the deposit.

The large number of bills incorporating savings banks, and the seeming disposition to depart from well-established rules relating to their organization, a strict adherence to which is essential to the maintenance of their credit, induces me to call attention to these objections, and to express the hope that the Legislature will sustain them.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 7, 1871

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed number 398, entitled "An Act to levy a tax upon the town of Hopkinton, in the county of St. Lawrence, to pay a debt incurred in building a town hall in said town."

The general laws of the State relative to the auditing of claims of town officers and other persons against towns, and the raising of necessary sums, by tax, to defray the same, are sufficient to accomplish the purposes proposed by this bill. The bill is, therefore, unnecessary special legislation.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 7, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed number 290, entitled "An Act to incorporate the Gleneida Savings Bank."

The bill does not conform to the usual requirements contained in well-considered charters of savings banks. It authorizes loans on bonds and mortgages on unencumbered real estate, but fixes no limit to the amount that may be so loaned. This should not exceed forty or fifty per cent. of the assets. It does not prescribe that the property on which such loans may be made shall be worth double the amount, exclusive of buildings thereon. It does not provide that if buildings are included in the valuation, insurance should be effected thereon, and the policy of insurance assigned to the bank. It uses the words "unencumbered real estate" instead of "unencumbered, improved and productive real estate." It fixes no limit to the amount that may be deposited in any one bank or trust company. The amount so deposited should not exceed twenty per cent. of the capital of such bank or trust company, nor should it exceed ten per cent. of the whole amount of deposits of such savings banks. In the

seventh section, the word "condition" is used instead of "constitution."

I respectfully call the attention of the Assembly to the fact that, in 1868, an act was passed to regulate and restrict the organization of savings banks, the provisions of which were well calculated to guard against the granting of improvident and ill-considered charters. This act has been generally ignored or overlooked by the Legislature. Several bills have been passed, during the present session, without any attention having been paid to its requirements. In almost every case the bills have been loosely drawn, and it has been found necessary to recall them for amendment. I notice, by the legislative proceedings, that a large number of bills for the incorporation of savings banks are now under consideration. I respectfully urge the importance of adhering to the provisions of the law of 1869. The tendency is toward the unnecessary multiplication of such institutions. They are the depositories of the savings of the people, who look to them as secure places for the safe-keeping of their earnings, and it is, in the highest degree, important that every precaution should be taken to guard them against the liability to loss, and to preserve their credit unimpaired.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 12, 1871.

TO THE ASSEMBLY:

I return, without approval, Assembly bill, printed No. 476, entitled "An Act to incorporate the New York Real Estate Banking Company." It is objectionable for the following, among other reasons:

First. It provides that the principal place of business shall be in the city of New York, but does not confine it to that city.

Second. The sixth section confers upon the company, banking powers in derogation of the statutes of this State relating to banking.

Third. The capital fixed is below the limit prescribed for banking associations.

Fourth. No limitation or restriction is imposed upon investments, and the company is not made subject to the supervision of the Bank Department.

Fifth. Article 8, section 4, of the Constitution, prohibits the granting of any special charter for banking purposes, and yet this bill, in substance, proposes the incorporation of a bank without the usual restrictions and with unusual privileges.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 14, 1871.

TO THE SENATE:

I return, without approval, Senate bill, printed, No. 364, entitled "An Act to empower the town of Wellsville to levy a tax for building a bridge across the Genesee river."

This bill is wholly unnecessary. Under the general laws of the State, the board of supervisors of the county has full power to provide for the building of this bridge, and to apportion the expense thereof as may be just. (See Revised Statutes relating to the powers of supervisors, and chapter 855, Laws of 1869.)

It is far better to leave such matters to the local authorities, than to provide for them by special enactments.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 14, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed, No. 82, entitled "An Act for the relief of Ferdinand Frantz."

The bill requires the Canal Board to hear and determine the claim for damages sustained in the loss of the canal boat "Major

Anderson," caused by the breaking of a weigh lock on the Erie canal, in September, 1870; and if the facts proved shall be such as would establish a legal or equitable liability against the State, in case the State was an individual or a corporation, the board is directed to award to the claimant such sum as he shall be entitled to.

Regarding this as the pioneer bill of a class which, it seems to me, should not meet with favor from the Legislature, I feel it my duty to state objections to it, which, it will be understood, are of general application and will be interposed to every bill of a like character.

The claim is based upon the theory that the State is the insurer of the property of all persons engaged in navigating the canals, and is bound to pay them whatever damages may be sustained by reason of obstructions in the canal, accidents in locks, or remissness or inattention or official misconduct or neglect on the part of the officers of the State.

The claim that the State is an insurer is not a new one, but it was promptly met and answered by the Legislature in 1847, since which time, I believe, it has not, until recently, been revived. In the proceedings of the Senate of 1847, appear two reports from the judiciary committee, numbered, respectively, 142 and 150, to which I respectfully ask your attention. The first of these reports was upon the petition of common carriers engaged upon the canals of the State asking for the passage of a general law recognizing a liability of the State for loss and damage to canal boats and cargoes caused by obstructions in the canals, or remissness or inattention on the part of the State or its officers, and for the appointment of commissioners to examine and pass upon claims. The committee reported against the petition, repudiating the idea that the State was to be considered an insurer, and, among other things, said as follows:

"Many millions of dollars have been, and many more will be, expended in the construction, enlargement, completion, superintendence and repair of our public canals. It is believed that they afford means and facilities for transportation as safe and useful as any other now in existence, and there is no class of citizens more interested in or benefited by their use than the common carriers upon them. They ought, therefore, in the opinion of your committee, to be willing to meet and bear the ordinary hazard incident to their business. These years of experience have clearly shown, and are doubtless taken into account in fixing the measure of compensation for the service rendered. This compensation, including such hazards, is

paid by those who send their property on the canals, so that the owners of such property, in a great measure, become the mutual insurers of each other, and pay their premium in the price of transportation.

This report, having been sustained, a special bill was afterward introduced to provide for the appraisal of damages sustained by the owners for the loss of a canal boat and cargo by reason of an obstruction in the canal. Upon this claim, the committee reported adversely, for the same reasons given in their report against the proposed general law for the appraisal of damages, and, among other things, said as follows:

"The State has discharged a great duty in constructing its public canals, and the benefits thereof are manifest and universal, blessing not only our own citizens but those of other States and nations, and its watchful attentions and liberal expenditures guaranty a continuance of these blessings. It has not hitherto assumed, and it is not believed by your committee that it would be wise to assume the responsibility of answering for all damages and losses which may arise from the failure of its officers and agents to discharge their public duties with care, skill and fidelity. It is believed to be far wiser policy to leave parties to their appropriate remedies against these officers and agents for redress, and when no such remedy exists to leave them to bear such loss as may accidently fall upon them by the voluntary use of our canals for their own private emolument. Let the State assume these responsibilities and no bounds could be set to the numerous frauds and impositions which would be practised upon them. It would find itself unable to detect and expose them. The same strong reasons which cast the responsibility upon common carriers should deter the State from its assumption of the same; impossibility to show the truth of the case would be found to exist with the State, as with the owners of property lost or destroyed."

I have quoted at length from these reports, both of which were presented by the Hon. Joshua A. Spencer — distinguished in the history of this State — because they declare so concisely and so pointedly sound doctrine in relation to these claims. Swarms of claim bills press upon the attention of the Legislature, some of which are like the one herewith returned, others of a class equally objectionable. They threaten serious inroads upon the treasury, and, by their magnitude and the pertinacity with which they are pressed, create in the minds of the people a prejudice even against the canals,

in the maintenance and honest management of which the whole State is so deeply interested.

I enter my earnest protest against them.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 15, 1871.

TO THE SENATE:

I return not approved, Senate bill, not printed, entitled "An Act to repair and improve the road from Carthage, in Jefferson county, to Lake Champlain, in the county of Essex."

By the first section, two commissioners are appointed "for the purpose of completing the road, authorized by the act" passed April 14, 1841, with power to lay a "tax upon the same district of country as they were under the said act."

By a reference to the act of 1841, it appears that three commissioners were appointed "to lay out and construct" this road, and the powers of commissioners of highways under the act of April 24th, 1835, and of overseers of highways under section 47, title 1, chapter 16, article 3, part 1 of the Revised Statutes, were conferred upon them for three years.

It is now some twenty-six years since the expiration of their powers and duties, during which time it must be presumed the road has been kept up under the general laws for the maintenance of highways, and it is not a little singular, that, after this lapse of time, a special act should be deemed necessary.

But there are graver objections to the proposed law. Under the act of 1841, the commissioners were to make out a tax upon the lands affected, and if the owner, or his agent, did not appear and pay the same, within a specified time, the commissioners were to cause a copy of the same to be laid before the boards of supervisors of the several counties affected by said tax, who should "thereupon levy and direct to be collected, in the usual manner, the amount returned to them by said commissioners," &c.

By this act, the commissioners (on whom the powers of commissioners and overseers of highways are not conferred, as under the act of 1841), are to lay a tax — for which no time or place of pay-

ment is specified — and when completed, send a copy of the same to the Comptroller, who shall cause said tax to be entered upon the books of his office, in the same manner as are the non-resident taxes returned to his office by the treasurers of the several counties of the State.

The counties of Herkimer, Hamilton, and Essex, are affected by this act; and yet, their county organizations are ignored, and a tax is laid by commissioners (whose powers are at least of doubtful extent), and levied by their respective boards of supervisors.

So radical a departure from our system, which recognizes the county through its board of supervisors, as the sole instrumentality for levying taxes and returning those unpaid to the Comptroller, should not be allowed, except for sufficient cause. The existence of such cause is not to be presumed, in passing upon acts for completing a work which was begun under a statute in harmony with the system, passed nearly thirty years since, and which work has been maintained under general laws for more than quarter of a century.

Nor does the act seem to be properly guarded in other respects. By section 3, it is provided that, "as early as the 1st day of July in each year, after said return shall have been made, as above provided, the Comptroller shall pay, upon the draft of the said commissioners, such sum as they shall certify has been expended by them at that date, and also such further sum, as in their opinion will be necessary to expend, in the repair and construction of said road, previous to the 1st day of January after such draft shall be made."

Here is no limitation to the amount of the tax laid by the commissioners.

Again: the act of 1841 made it obligatory on the commissioners to give security for the faithful discharge of their duties; the proposed act imposes no such obligation.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 15, 1871.

TO THE SENATE:

I return, without approval, Senate bill, printed No. 424, entitled "An Act to authorize the employment of stenographers in the Surrogates' courts of the Second and Third judicial Districts."

This bill provides for the appointment of stenographers in the surrogates' courts, and establishes the fees to be paid for each day's attendance, for mileage, stationery, and copying testimony, all of which it declares shall be a charge against the several estates in the business of which the stenographers shall be employed.

If the business of any of the surrogates' courts, within the second and third judicial departments (not "districts" as named in this bill), is such as to render the employment of stenographers necessary, they should be appointed, I am inclined to think, as are clerks and other employes, by authority of the board of supervisors, and the expenses of such employment should be, as in other cases, a county charge. There is, I respectfully submit, no propriety in making the employment and compensation of stenographers an exception to the general rule.

If it is proper to provide for the appointment of stenographers by surrogates at the expense of the estates of deceased parties, as contemplated by this bill, the provision should be general—applicable to the whole State, and not limited to any particular "judicial department."

I respectfully call the attention of the Senate to the fact that Assembly bill, printed number 667, which provides for the appointment of stenographers by surrrogates in all the counties of the State, who shall be paid a reasonable compensation, to be certified by the surrogate as part of the costs of the proceedings, has passed both Houses of the Legislature and is now before me for consideration.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 17, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, printed No. 557, entitled "An Act to authorize the commissioners of highways of the town of Lowville to borrow money on the credit of said town."

It authorizes the commissioners of highways to borrow, not to exceed two thousand dollars, for the purpose of building and repairing bridges and roads, and to give their notes for the amount borrowed, to be paid out of moneys to be raised by tax.

It is an unnecessary special bill. The general law of the State (see chapter 855, Laws of 1859) provides that the board of supervisors of any county may authorize certain town officers to borrow, on the credit of the town, such sums as may be necessary to build or repair roads and bridges.

If it is urged that a necessity has arisen since the regular meeting of the board of supervisors to raise money for the purpose mentioned; then the local officers have full power, under chapter 103 of the Laws of 1858, to do the necessary work, and when the expense shall be audited by the board of town auditors, the supervisor and town clerk are authorized to issue an interest-bearing certificate setting forth the amount audited and allowed, and in whose favor; and such amount, with interest, can be levied and collected in the same manner as other town expenses.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 17, 1871.

TO THE ASSEMBLY:

I return, not approved, Assembly bill printed No. 105, entitled "An Act to amend the charter of the Mutual Fire Insurance Company."

This company is located in the city of New York. Under the general laws of this State relating to insurance companies, no joint stock company can transact business with a smaller capital than $150,000; and no mutual insurance company can transact business until agreements have been entered into for insurance with at least four hundred applicants, the premiums on which shall amount to no less than $200,000, of which $40,000 shall have been paid in cash, and notes of solvent parties founded on actual and *bona fide* applications for insurance shall have been received for the remaining $160,000.

A bill was passed at the last session of the Legislature, changing the name of the "Insurer's Own Fire Insurance Company" to the "Mutual Fire Insurance Company," and authorizing it, in lieu of the notes and agreement of insurance required of mutual companies under the general law, to receive subscriptions payable in cash and

give therefor interest bearing receipts, and to commence business on a mutual plan as soon as the subscriptions reached the sum of $200,000; thus enabling this company to do a mutual insurance business on a different basis from other mutual companies. It was of doubtful propriety, but had the sanction of the Superintendent of Insurance.

The bill herewith returned excepts this mutual fire insurance company still further from the operations of the general law, by permitting it to do business whenever $100,000, instead of $200,000, shall have been subscribed and paid in cash.

It may be expedient to amend the general law of the State in regard to mutual companies. It seems to me, however, unwise to give to any one of them the special privileges conferred by this bill. The laws relating to their organization and management should be uniform.

JOHN T. HOFFMAN.

TO THE SENATE:

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 18, 1871.

I return, not approved, Senate bill, printed 104, entitled "An Act to incorporate the South Hill Water-works Company in the village of Ithaca, Tompkins county."

The bill creates a private corporation for the purpose of supplying a part of the village of Ithaca with pure and wholesome water, and authorizes the corporation to enter upon and take land and water, being private property, against the consent of the owners, by the exercise of what is called the right of eminent domain, upon the theory that it is taken for a public use, while, in fact, it is taken to enable a private company to sell water to the public for private gain. It contains, in substance, the same provisions as Assembly bill No. 18, incorporating the Little Valley Water-works Company, which was returned by me to the Assembly, not approved, March 23, 1871, with a message, in which I presented the following views, after having received the opinion of the Attorney-General of the State:

"There are great doubts about the constitutionality of the bill. The right of the Legislature to confer upon cities and villages the power of constructing water-works for the use of the public, and to

delegate to them the right of eminent domain, by which they are enabled to obtain the title to private property for public use, is indisputable, and, as a general rule, such works have been constructed in this State by or under the direction of municipal authorities, but care must be taken to discriminate between power delegated to, or conferred upon, municipal corporations, and similar powers sought to be conferred upon individuals or private corporations. If the Legislature can authorize a private corporation to acquire title to lands and property for such purposes, against the consent of the owners, it can authorize an individual to do the same. I cannot learn that the courts have ever decided that the Legislature could confer upon any individual or association of individuals the right to take any private property, against the owner's consent, for the purpose of enabling the individual or association to sell to the public any article, even pure and wholesome water, for private gain. As the spirit and intention of this bill seems to be, to authorize this corporation to possess itself, by compulsory proceedings, of waters, streams and springs in the locality named, and to hold the water for sale for the private profit of the corporators, dictating their own terms as to prices, it is difficult to distinguish the enterprize from others entered upon by incorporations formed under general laws, or by individuals, for developing mines and quarries, or engaging in any manufacturing or mechanical pursuit, under laws none of which confer the power to take, by compulsion, private property for these business purposes."

These views appear to have met the approval of the Legislature, for, since they were submitted to the Assembly, several bills have been amended and passed in accordance therewith.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *April* 19, 1871.

TO THE SENATE:

I return, not approved, Senate bill, printed No. 275, entitled "An Act to incorporate the Fulton Savings Bank of the city of New York."

My objections are:

1st. There is a discrepancy between the title of the act and the first section, in the designation of the name of the bank. The former

describes it as the "Fulton Savings Bank of the city of New York," the latter as the "Fulton Savings Bank." There is a savings bank in the county of Oswego known as the "Fulton Savings Bank," and this similarity of names might lead to embarrassment.

2d. The sixth section authorizes loans "on unencumbered, productive real estate;" it should provide that such loans may be made on "improved, unencumbered and productive real estate, situate within this State."

3d. The bill does not specify whether buildings are to be included in valuation upon which loans may be made. If they are included, provision should be made for their insurance and for the assignment of the insurance policy to the bank.

4th. No limit is prescribed to the amount that may be loaned on bond and mortgage. It should not exceed forty or fifty per cent of the assets of the corporation.

5th. The bill authorizes an available fund equal to one-third of the total amount of deposits. Twenty per cent. is a proper limit.

6th. The bill authorizes temporary deposits in any of the incorporated banks or banking associations in the city of New York, but does not limit the amount that may be deposited with any one of them. It is usual and judicious to restrict such deposits to not exceeding twenty per cent. of the capital of the savings bank, and not exceeding twenty-five thousand dollars or ten per cent. of the whole amount of deposit with the savings bank.

7th. There is no provision for the accumulation of a surplus.

JOHN T. HOFFMAN.

MEMORANDA OF OBJECTIONS

Endorsed on Sundry Bills filed, after Adjournment of the Legislature, by the Governor, with the Secretary of State, not signed.

An Act in relation to the deposit of manure in the city of New York.

NOT APPROVED — Board of Health should regulate this matter; they have power to do so.

An Act for recording of notices of pendency of action and certificates of satisfaction of mortgage on file in the county of Richmond, for the payment of the costs and expenses thereof, and of the books and materials required for the same.

NOT APPROVED — Board of supervisors have full power.

An Act to incorporate the Staten Island North Side Railroad Company.

NOT APPROVED — Should be organized under general railroad act.

An Act to incorporate the Harlem Hospital of the city of New York.

NOT APPROVED — Usual provision, subjecting the corporation to general regulations of the Revised Statutes, is omitted.

An Act to amend an act entitled "An act to incorporate the the Southern Tier Savings Bank of the city of Elmira, Chemung county," passed March 19, 1869.

NOT APPROVED — Adds eight new trustees, by legislative appointment; present trustees, the institution being already organized, protest against this addition to their number.

An Act for the better protection of health in the city of New York.

NOT APPROVED — Gives a monopoly in matters the regulation of which pertains to the local authorities.

An Act relative to insane persons, lunatics, idiots and persons of unsound mind in the city and county of New York.

NOT APPROVED — provisions of bill limited to city of New York. If its reforms be proper, they should extend over the whole State. A better and wiser law will probably be framed after further agitation of the subject.

An Act to provide for payment of a bounty to the representatives of Robert M. Ferris, deceased.

NOT APPROVED — Directs a tax and orders payment of the proceeds to certain private persons without saying anything of the nature of their claims, although the title of the bill speaks of it as a claim for bounty. If it be a legal charge, the Legislature should not audit accounts for the supervisors; if illegal, they should not reverse the action of supervisors in rejecting it.

An Act to provide for the construction of a bridge over the Erie canal, in the city of Syracuse.

NOT APPROVED — Chapter 767, Laws of 1870, appropriated $10,000 for an iron bridge. This bill reappropriates and provides for a swing bridge, to be a charge upon the State. The bill, when introduced, provided that any excess over the $10,000 should be a charge upon the city of Syracuse. As submitted to me, this provision is stricken out. I think it my duty to withhold my approval from any more bills for construction of swing bridges to be maintained by the State, except when extraordinary circumstances demand their establishment.

An Act to regulate the mode of writing for, and prescribing the use of remedies for the treatment of diseases.

NOT APPROVED — Seeks to regulate how prescriptions for medicine shall be made out, with the view of avoiding mistakes. It is better to leave this matter, as now, to the discretion and good judgment of careful physicians and druggists.

An Act to prevent the spread of contagious diseases in the city of New York, etc.

NOT APPROVED — So much of this bill as is indicated in its title is the same as Assembly bill approved April 27, 1871.

An Act to authorize Union Free School District No. 1, in the town of Madrid, to borrow money, etc.

NOT APPROVED — Unnecessary. General laws sufficient for the case.

An Act to incorporate the Immaculate Conception Total Abstinence Beneficial Society of Yonkers.

NOT APPROVED — Not properly certified. The bill was returned by me to the Legislature for amendment, at their request. The amendments have been inserted; but new certificates of its passage, signed by the presiding officer of Senate and Assembly, since the amendments were adopted, are not appended.

An Act to incorporate the Clarkson Cemetery.

NOT APPROVED — There is a general law for incorporation of rural cemeteries.

An Act to incorporate the United States Commission and Storage Company.

NOT APPROVED — Location of company not fixed by the bill, nor is it subjected to the provisions of the Revised Statutes relative to corporations.

An Act to authorize the commissioner of highways of the town of Philipstown, in the county of Putman, to lay out and open a highway, etc.

NOT APPROVED — General laws sufficient.

An Act to incorporate the Expressman's Savings Bank in the city of New York.

NOT APPROVED — Charter objectionable by report of Superintendent of Banking Department.

An Act to authorize the town of Verona, in the county of Oneida, to elect an additional justice of the peace.

NOT APPROVED — Additional justice not needed.

An Act to provide for the regulating, grading, curbing, guttering and flagging of certain streets in the city of New York.

NOT APPROVED — Local authorities have power.

An Act to incorporate the People's Mutual Benefit Association.

NOT APPROVED — Is, in fact, a life insurance company, and should be organized under and subject to the general laws.

An Act to incorporate the Workingmen's Friendly Society of America.

NOT APPROVED — The ninth section organizes a Trust Company, with the full powers of such an institution. No such purpose is indicated by the title of the bill.

An Act to amend chapter 907 of the Laws of 1869, entitled "An act to amend an act entitled an act to authorize the formation of railroad corporations and to regulate the same," etc.

NOT APPROVED — Reopens all cases, even after final judgment.

An Act to authorize the appointment of a stenographer for the county court and county sessions of Onondaga county.

NOT APPROVED — Supervisors have power.

An Act to amend an act entitled "An act to incorporate the village of Mohawk," passed April 16, 1844.

NOT APPROVED — Second section deprives the legally elected justices of the peace of their constitutional jurisdiction.

An Act to enable the American and Foreign Bible Society to unite and consolidate with the American Baptist Publication Society.

NOT APPROVED — The bill repealing the act of 1870 has been approved. This bill, if passed into a law, would give rise to much litigation.

An Act to extend the provisions of the act, chapter 113 of the Laws of the year 1853, entitled "An act declaring Indian river a public highway."

NOT APPROVED — Language of the bill so careless that it ought not to go upon the statute book.

An Act to provide for the construction of a bridge over Fall creek where it is crossed by Steuben street, in the village of Havana, county of Schuyler.

NOT APPROVED — Under the reappropriation bill Canal Commissioner has already power to build this bridge.

An Act to amend chapter 92, Laws of 1869, entitled an act to provide for the compensation of members of the board of supervisors of the county of Oneida.

NOT APPROVED — Bill defective; does not describe properly the law to be amended.

An Act to incorporate the Port Morris Warehouse and Elevator Company.

NOT APPROVED — Place of business not fixed. Seventh section makes the company a guaranty and trust company, a purpose not indicated by the title.

An Act for bonding the towns of Hunter and Jewett, in the county of Greene.

NOT APPROVED — Protested against by tax-payers of Jewett. This town is represented to me as having already a bond debt of $5,000; this bill authorizes a further debt of $40,000; the assessed valuation of property in the town being only $52,000.

An Act to incorporate the National Book Exchange of the City of New York.

NOT APPROVED — Bill incorporates a book exchange; but the fourth section authorizes the company to deal in all kinds of personal and mixed property.

An Act to provide for improving a public highway in the towns of Scarsdale and Greenburgh, in the county of Westchester.

NOT APPROVED — Passed in last hours of the session, not printed, so that tax-payers interested had no opportunity to know of it.

An Act to amend an act entitled "An act to incorporate the Fire Proof Warehouse Company," passed May 9, 1868, etc.

NOT APPROVED — Grants very extensive powers, and is in conflict with views I have heretofore expressed against similar bills.

An Act to incorporate the Metropolitan Nautical Institute of the city of New York.

NOT APPROVED — Corporation not made subject to the general provisions of the Revised Statutes.

An Act to amend an act entitled "An act to amend an act entitled 'An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county accounts,' passed May 10, 1845," passed December 14, 1847.

NOT APPROVED — Inaccurate as to number of the sections amended. Makes an alteration of the law relative to opening highways which is of doubtful propriety, enabling any one interested in a proposed road or supposing himself interested, whether an owner of land adjoining or not, to originate proceedings.

An Act to amend an act entitled "An act to incorporate the Protectives Number One of the City of Rochester," passed March 28, 1868.

NOT APPROVED — Authorities of the city must have all necessary power in matters proposed to be attended to by this corporation, to wit: the extinguishing of fires and saving of property at fires. This bill increases the capital of a company previously incorporated for this purpose. I can see no necessity for a private corporation having been created at all for such purposes.

An Act to authorize town auditors to raise such sums of money as they may deem necessary to build and keep in repair roads and bridges.

NOT APPROVED — Powers conferred too absolute and too extensive. No limit to their power of levying taxes; no control by the board of supervisors.

An Act to incorporate the Baywood Land Improvement Company.

NOT APPROVED — Company not made subject to the provisions of the Revised Statutes.

An Act to authorize the construction of gas-works and the manufacture and sale of gas for the purpose of lighting the village of Gloversville, etc.

NOT APPROVED — General laws suffice for the purpose.

An Act to lay out and construct a public road or highway in the town of Mount Pleasant, in Westchester county.

NOT APPROVED — Passed at a late hour of the session, not having been printed. Not asked for by citizens interested.

An Act to authorize the construction of a railroad in and through certain streets in the village of Owego, Tioga county, State of New York.

NOT APPROVED — Passed at late hours of session; not printed, so that the parties interested had not proper notice.

An Act to incorporate Journeymen Pork Butchers Union Benevolent Society in the city of Mew York.

NOT APPROVED — Can incorporate under the general law.

An Act to amend an act entitled "An act concerning certain vagrants in the city of New York," passed April 17, 1867.

NOT APPROVED — Bill, in fact, makes no amendment; the same language is reenacted.

An Act to provide for laying out and opening and grading a public highway in the town of Newtown, Queens county.

NOT APPROVED — Local authorities have sufficient power to lay out roads, except in extraordinary cases. Many parties interested are strongly opposed, so that Legislature is not justified in interfering with the general course and operation of ordinary road laws.

An Act to authorize the commissioners of highways to widen and straighten the church road leading from Port Richmond village to New Springville.

NOT APPROVED — Case provided for by general laws.

An Act in relation to compensation for stenographic notes of trials had in Court of Oyer and Terminer in and for the city and county of New York.

NOT APPROVED—The stenographers are employed at an annual salary, and bound to perform the duties under the terms of their present employment; if not, the county authorities have sufficient power in the matter.

An Act in relation to certain taxes imposed and collected in the county of Chautauqua.

NOT APPROVED—Special alteration of the law for one county only.

An Act for recording of notices of pendency of action and certificates of satisfaction of mortgage, on file in the county of Richmond, and for the payment of the costs and expenses thereof, and of the books and materials required for the same.

NOT APPROVED—Supervisors have power in the matter, Senate bill to same effect not approved.

An Act to amend an act to reorganize the fire department of the city of Albany.

NOT APPROVED—This bill gives a salary to the Commissioners. They, only a year ago, accepted these places to which no salary was attached; no more reason for salary now than then. The Mayor and many citizens protest against the bill, as an unnecessary increase of expenses of the city.

An Act to amend an act entitled "An Act to incorporate the Industrial Exhibition Company, and to authorize said company to purchase real estate in the city of New York," etc.

NOT APPROVED—Exempts from State and local taxation all the property of the company; not merely the land it may occupy. Although an enterprise of public interest, and probably of great public benefit, the company, nevertheless, is organized with a view to private profit to its stockholders.

An Act for the erection of a breakwater on the Oswegatchie river improvement, on the west bank of the Oswegatchie river, on the lands of D. P. Woodcock, in the town of Fowler, in the county of St. Lawrence, etc.

NOT APPROVED—Appropriation for local purposes; not passed by two-thirds vote; has also more than one object, to wit: building the breakwater, and paying damages caused by erection of piers already constructed.

An Act to improve the roads and bridge in the county of Wayne.

NOT APPROVED — Interferes with General Laws as to road taxes in this one county.

An Act authorizing the formation of a separate road district in the town of Jay, county of Essex, and appropriating money therefor.

NOT APPROVED — Appropriates money for local purposes; not passed by two-third vote.

An Act to incorporate the Progress Health Insurance Company of New York.

NOT APPROVED — There is a general law regulating formation of such companies. This bill authorizes a corporation to be formed without complying with the general law.

An Act authorizing the offices of Cherry Creek Cemetery, in the town of Cherry Creek, Chautauqua county, to take charge of the public burying-ground in said town, and to provide for the payment of the expenses of the same.

NOT APPROVED — First section defective; does not conform to the title; it authorizes trustees of Cherry Creek Cemetery to take charge of "the cemetery," not of "the public burying-ground.

An Act to amend an act entitled "An act to equalize the State tax among the several counties of this State," etc.

NOT APPROVED — Increases the number of State assessors from three to eight, one to be appointed for each judicial district. It is not, in my judgment, probable that the larger board, constituted as proposed, would be any more efficient than the present board of three, while the expense would be greater.

An Act in relation to the county treasurer of the county of Rensselaer.

NOT APPROVED — Bill not only increases his compensation for the future, but applies, so far as accounts with the State are concerned, to the past.

An Act to incorporate the Lake George Baptist Association.

NOT APPROVED — General laws suffice for this.

An Act to incorporate the Jamestown Savings Bank.

NOT APPROVED — Objections of Superintendent of Bank Department concurred in by me.

An Act to authorize the raising of a fund in aid of the Homœopathic Insane Asylum at Middletown.

NOT APPROVED — Authorizes a corporation for giving musical and other entertainments for special purpose. Unnecessary.

An Act concerning certain female habitual drunkards, vagrants and prostitutes in the city of Brooklyn, and county of Kings.

NOT APPROVED — Bill defective.

An Act to incorporate the Mechanicsville Bridge Company, for the purpose of constructing and maintaining a bridge over the Hudson river, between the village of Mechanicsville and the town of Schaghticoke.

NOT APPROVED — Authorizes unlimited increase of capital.

An Act to discontinue a portion of a certain road in the town of South Hampton, in the county of Suffolk.

NOT APPROVED — Local authorities have power under general laws.

An Act to incorporate the Gloversville Savings Bank.

NOT APPROVED — Objections of Bank Department concurred in by me.

An Act for the relief of the legal representatives of Peter Robinson.

NOT APPROVED — Claim already examined and passed upon four times.

An Act for the relief of Jacob Schaub.

NOT APPROVED. — Seeks to make the State responsible for loss of money deposited by claimant in a bank of his own choice, by failure of the bank, simply because he handed the certificates of deposit therefor to State officers, as securitiy for performance of certain contracts.

An Act to authorize the village of Dunkirk to issue its bonds for the purpose of purchasing a steam fire engine, and for other purposes.

NOT APPROVED — Protested against by citizens. Does not seem necessary.

An Act to repeal section 4 of chapter 70 of the Laws of 1845, entitled "An act to amend an act in relation to State prisons, passed May 1st, 1844."

NOT APPROVED — Unnecessary; section referred to already repealed by section 160, chapter 460, Laws of 1847.

An Act to regulate the sale of patent rights, and to prevent frauds connected therewith.

NOT APPROVED — Forbids selling of patent rights except by previous license of the county judge. The subject is to prevent frauds, said to be frequently perpetrated in these matters. Policy of substitutiug the judgment of the county judge for the vigilance of the community in guarding, each one his own interests, very doubtful.

An Act to alter the commissioners' map of the city of Brooklyn, and to authorize the common council of said city to lay out, open and improve certain streets therein.

NOT APPROVED — Principal section objectionable; but the second section, closing a street, is protested against on good grounds.

An Act to require the Forty-second Street and Grand Street Ferry Railroad Company in the city of New York, to extend tracks in West Thirty-fourth street and to run cars thereon.

NOT APPROVED — Form of the bill objectionable. Does not merely authorize, but requires the company to extend its track and to make compensation.

An Act to amend an act to incorporate the Associated Hotel Company.

NOT APPROVED — By original act stock-holders were liable to workmen and other creditors for amounts not paid on their subscriptions. This bill relieves them of this proper liability.

An Act to provide for straightening, widening, grading and improving Railroad avenue in the town of Mount Pleasant.

NOT APPROVED — Not asked for by tax-payers interested.

An Act to amend section 2 of chapter 838, of the session laws of 1866, entitled "An Act to amend an act entitled "An act to authorize the formation of corporation for manufacturing, mining, mechanical or chemical purposes,'" etc

NOT APPROVED — Authorizes corporations for "conducting mercantile and commercial business." Organization of corporations for such purposes is against public policy, tends to array corporate wealth and power against individual effort, and thus to depress, unduly, individual enterprise. The law authorizing formation of corporations, for various purposes, seems to me to be extended as far now as is consistent with the general good.

An Act in relation to the running of ferry boats by the Green Point Ferry Company across the East river, between the cities of New York and Brooklyn.

NOT APPROVED — Comptroller of the city has power to regulate this by terms of the ferry lease.

An Act to amend section 1, chapter 472, Laws of 1866, entitled "An Act confirming certain leases that the Seneca nation of Indians, in council assembled, have confirmed and ratified."

NOT APPROVED — Not just to the Seneca nation under our treaties with them.

An Act in relation to highway labor in the counties of Westchester and Richmond.

NOT APPROVED — If the provisions of this bill, altering the general law as to roads and highways, be desirable, they should be applied to all parts of the State.

An Act authorizing the trustees of the Williamsville Academy to sell the personal and real estate of that institution.

NOT APPROVED — Regents of the University have power to dissolve the corporation. The trustees can then apply to the courts for instructions as to disposal of the property, if they need any. There are no "stockholders" of the academy, among which class of persons the bill proposes to divide the proceeds. It is an endowment academy; the money contributed given absolutely for educational purposes.

An Act to amend the charter of the City Loan and Trust Company of New York, passed May 7, 1870.

NOT APPROVED — This company originally chartered by another name; name changed to present one in 1870; this bill makes it a guaranty and indemnity company, and a ware-housing company, with banking powers.

An Act to incorporate the Republic Life Insurance and Trust Company of New York.

NOT APPROVED — Should incorporate under the general law for life insurance companies.

An Act to authorize the trustee of school district No. 11, in the town of Benton, Yates county, to levy a tax for the payment of money for the erection of a school-house in said district, which was destroyed by fire before being accepted by the trustee.

NOT APPROVED — The bill authorizes a special tax to reimburse the contractor who undertook to build the school-house, for money expended by him in partial fulfillment of his contract, the unfinished school house having been burned. It is obvious that if, by the terms of his contract, this money is legally due to him, it can be recovered by him without this bill; if it be not due to him, and the building

was at his risk, it would be unjust to tax the district to pay this sum to him.

An Act to authorize and empower the board of education of Union Free School District No. 1, in the town of Deerpark, Orange county, to examine and license teachers, etc.

NOT APPROVED — Confers powers on this board of education not generally possessed by other similar boards, and which is now in the hands of the school commissioner ; no good reason for this exceptional law.

An Act to incorporate the New York Coal Exchange, and to confer certain powers upon it.

NOT APPROVED — Authorizes the company to begin business with only $500 of capital paid in.

An Act to amend the charter of the New York State Loan and Trust Company.

NOT APPROVED — Gives all the powers of a trust company, including the execution of trusts and the care of moneys under order of courts, etc., and yet none of the usual guards are provided, such as report to and examination by the Supreme Court, etc.

An Act concerning the practice of physic and surgery.

NOT APPROVED — This bill authorizes the regents of the university to confer the degree of M.D. upon persons who pass an examination before a board of seven censors, to be appointed by the regents; all applicants to be examined in both of the two leading modes of practice, the allopathic and the homœopathic. I am urged to sign it on the ground that it will tend to elevate the profession by subjecting candidates for degrees to a more rigid examination; and that, although degrees can now be conferred by medical colleges and practitioners licensed by medical societies, this degree of M.D. from the regents will be sought after, as giving to the recipient thereof a better standing before the community. This might be so if the regents were prohibited from granting a degree in any case except that provided in the bill. The powers conferred on the regents by this bill are expressly stated to be "in addition" to those they now possess. They already have the power to grant the degree of M.D. upon different and less exacting conditions than those proposed by the bill. It is clear that it will not do to have two classes of degrees of the same grade and name from the same source. The community could not distinguish between them; so that the proposed object of the bill would not be attained.

An Act amending several chapters, entitled "An act for the better improvement of highways at Rockland Lake and vicinity," passed April 17, 1862.

NOT APPROVED — The references to the various acts to be amended are inaccurate.

An Act to authorize the Comptroller to settle with the commissioners appointed by chapter 454, Laws of 1863, entitled "An act in relation to non-resident highway taxes upon certain lands in the counties of Essex and Hamilton," as amended by chapter 654, Laws of 1866.

NOT APPROVED — Does not leave the Comptroller proper discretion in settling with the commissioners, and pledges, indefinitely, highway taxes hereafter to be collected.

An Act to incorporate St. John's College, Brooklyn.

NOT APPROVED — Name objectionable, there being already a St. John's College, to wit, at Fordham. Moreover, the Regents of the University can grant a charter under their general powers.

An Act to incorporate the Jefferson Medical University, and to authorize the establishment of a dispensary and hospital in connection with the same.

NOT APPROVED — Contains the extraordinary provision that a medical college may confer on its students the degree of doctor of laws. The Regents of the University can grant a proper charter. No law is needed.

An Act to amend an act entitled "An Act relating to the support of the poor of Rensselaer county," passed April 13, 1860, etc.

NOT APPROVED — The late superintendent of the poor was very recently removed for doing what this bill would authorize. What was deemed a salutary restriction then, it is wise to leave in force.

An Act authorizing a culvert or sewer to be built and constructed under and across the Cayuga and Seneca canal at the village of Waterloo, Seneca county.

NOT APPROVED — Bill defective in its language; speaks of "commissioners" merely, not Canal Commissioners; it is believed, moreover, that work can be done, if needed, without a special law.

An Act to incorporate the Co-operative Savings and Loan Association.

NOT APPROVED — Language of bill very vague and indefinite.

An Act to incorporate the Guilderland Center Turnpike Company.

NOT APPROVED — General laws provide for these matters.

An Act in relation to costs in surrogate's courts.

NOT APPROVED — Objectionable, as extending still further than it exists now, the power of the court to allow counsel fee and extra allowance, to be paid out of the estate, in cases of litigation about a will or litigation in any of the proceedings in administering or settling an estate. It is a power that may be greatly abused and may encourage needless litigation.

An Act to incorporate the National Improvement Company, to be located in the city of New York.

NOT APPROVED — Power too extensive.

An Act to incorporate the New York Financial Association.

NOT APPROVED — Power given to buy and sell stocks on commission; provisions of Revised Statutes relative to corporations not made applicable; no provision for distribution of capital among subscribers and no liability clause.

An Act to extend the Rossville road, in Richmond county, from the Amboy road to the southerly beach.

NOT APPROVED — The powers of commissioners of highways and their mode of proceeding are prescribed by the general laws; this bill, for one special case, directs them to dipense with the usual preliminary proceedings, and authorizes them to acquire the right of way by a method other than the usual one.

An Act to further amend an act entitled "An act to incorporate the Insurer's Indemnity Company of the city of New York," passed April 22, 1868, etc.

NOT APPROVED — An amendment has been made every year since the company was chartered, and these cannot be necessary.

An Act to incorporate the Commercial Traveller's Association of New York city.

NOT APPROVED — Authorizes a general commercial business and dealing in buying and selling every kind of personal or mixed property.

An Act to incorporate the Veteran Association Corcoran Irish Legion.

NOT APPROVED — Can incorporate under general laws.

An Act authorizing the justices of the Supreme Court resident in Kings county, and the county judge of Kings county, to appoint messengers, doorkeepers and attendants.

NOT APPROVED — Bill not adequate to the public needs; the judges prefer the law as it stands.

An Act to amend an act entitled "An act for the incorporation of villages."

NOT APPROVED — Would conflict with a bill approved May 1, 1871.

An Act to incorporate the village of Memphis, in the county of Onondaga.

NOT APPROVED — General law provides for all proper cases.

An Act to change the name of the village of Harts Falls, in the county of Rensselaer.

NOT APPROVED — No proof that it is desired by inhabitants. Some have protested.

An Act to incorporate Monhagen Hose Company Number One, of Middletown.

NOT APPROVED — Middletown has power to organize a fire department.

An Act to incorporate the Teutonia Singing Society of Winfield, Queens county.

NOT APPROVED — Can incorporate under general laws.

An Act to incorporate the National Security and Trust Company.

An Act to incorporate the International Employment Guaranty and Deposit Company.

An Act incorporating the Equitable Loan and Trust Company.

An Act to incorporate the Continental Loan and Trust Company.

An Act to incorporate the Nassau Loan and Security Company.

An Act to incorporate the Manhattan Indemnity and Loan Company of the city of New York.

An Act to incorporate the International Trust and Banking Company.

An Act to incorporate the South Brooklyn Loan and Trust Company.

An Act to incorporate the Commercial Trust and Banking Company of New York city.

An act to incorporate the Anglo-American Loan and Trust Company.

An act to incorporate the Johnstown Loan and Trust Company.

An act to incorporate the Albany Loan and Trust Company.

An act to incorporate the Mutual Trust Institution of New York.

An act to incorporate the Banker's Loan and Trust Company of the city of New York.

An act to incorporate the Eagle Trust Company of New York.

An act to incorporate the Island City Trust Company.

An act to incorporate the Mechanics' Savings Bank of the City of Troy.

An act to incorporate the Long Island Island City Savings Bank.

An act to incorporate the Sixpenny Savings Bank in the city of Albany.

An act to incorporate the Farmers' and Mechanics' Savings Bank in the city of New York.

An act to incorporate the Seventeenth Ward Savings Bank of the city of New York.

An act to incorporate the Grand Street Savings Bank of Brooklyn.

An act to incorporate the Washington Savings Bank of Brooklyn.

An act to incorporate the Port Richmond Savings Bank in the county of Richmond.

An act to incorporate the Phœnix Trust Company of the city of New York.

An Act to incorporate the New York City Life, Policy, Guaranty, Loan and Trust Company.

NOT APPROVED — Trust Companies, savings banks, and other financial companies; submitted to Bank Department; objections found by it to the several charters, in which objections I concur.

An Act for the relief of the New York Tunnel Company.

NOT APPROVED — No information as to where the company is, nor when organized, the bill making no reference to any former act.

An Act to amend an act entitled "An act to simplify and abridge the practice, pleadings and proceedings of the courts of this State."

NOT APPROVED — This bill, which, as appears by the records, met with no opposition either in the Senate or Assembly, receiving twenty votes in Senate and ninety in Assembly (no nays), contains, in my opinion, several objectionable provisions, to which public attention has been sufficiently called.

An Act to incorporate the International Improvement and Loan Company.

NOT APPROVED — The third clause is very loose, and confers extraordinary and very varied powers.

An Act for the relief of Luther Wright and William O. Hubbard.

NOT APPROVED — I cannot consent to approve a bill which reopens a case which, it seems clear to me, has been fully examined and passed upon. The claimants have had three hearings before, and judgment has been rendered against them.

An Act to incorporate the New York Stock Exchange, etc.

NOT APPROVED — Bill Defective. Names as the first officers of the corporation the officers of another association who are not even named among the corporators of the association created by this bill.

An Act to abolish the office of Superintendent of Canal Repairs and to give additional powers to the Canal Commissioners, etc.

NOT APPROVED — This bill substantially repeals the law of 1870 and, it seems to me, is not just to the Canal Board. The first year of canal management, under last year's law, was necessarily, from causes well understood, a year of extraordinary expenditure. The present one ought to be, with harmony of action among the members of the board, one not only of reduced expenditure, but of increased revenue. The Canal Commissioners are members of the Canal Board, and not only have a voice in it, but, as clearly appears by the official report of Comptroller Allen, Lieutenant-Governor Beach, and Attorney-General Champlain, dated June 30th, 1870, they have now, separately from the board, very full powers as well as very great responsibility. The repairs and all the ordinary expenditure upon the canal must, under the existing law, be made by and under the direction of the Commissioners; and although the superintendents are appointed by the Canal Board, the Commissioners have power to remove them for incompetence, unfaithfulness or neglect of duty.

Inasmuch as the Commissioners already possess such full powers, I am of the opinion that the policy embodied in the law of last year, giving the Canal Board certain other powers, should be tested by a further trial, before depriving the board of the powers of appointment and supervision thereby conferred.

An Act for the relief of William A. Sackett and Franklin Gage.

NOT APPROVED — This is a very stale claim and belongs to a class that has never been favored. On consultation with the State Engineer, I am satisfied it is not right to sign the bill, which was introduced and passed the last day of the session, never printed, referred or discussed.

An Act to aid and expedite the construction of unfinished railroads in this State, which are intended to connect the chain of northern and western lakes and rivers with tide water, or to develop the resources of improved portions of the State.

NOT APPROVED — I intimated, early in the session, to the friends of this bill, in answer to an inquiry, my views. Nevertheless, I have, at their request, delayed action upon it until this time, in order to give every opportunity to bring forward arguments in support of it, and have heard, attentively, all they have to say. The purpose of the bill is to tax the people of this State two millions of dollars, one-half this year and one-half in 1872, and to divide the proceeds of the tax about equally between the Midland Railroad Company (commonly so called) and the Adirondack Railroad Company, to enable them to complete their respective roads. A very strong pressure of opinion, favorable to the bill, from many quarters, has been brought to bear upon me by those directly interested in and to be affected by these railroads and by the proposed State donation. I realize, as fully as any one, the importance of the roads to those who live along the respective routes and to the State at large; and I sympathize especially with those who, through their town and municipal authorities, have bonded themselves heavily to aid in the construction of either road. I cannot, however, allow my sympathies to control my official judgment. I do not believe the people of the State are willing to be taxed two millions of dollars in aid of these two or any other railroad corporations. Nor do I believe it right that they should be so taxed. There is no unappropriated money in the State treasury out of which contributions can be made to railroad or other private corporations. Whatever money is to be given must be taken out of the pockets of the people, by a direct tax levied especially for that purpose. It is not a purpose connected directly

with government; it is a private purpose, the profits arising from the investment of the money, if any, going to the stockholders, although, incidentally, benefit may result to the districts through which the roads run and to the State at large. The State government has no moral right to tax the whole people in aid of these roads; at all events, not without their express consent. Not a town along the line of these or other roads can tax itself for a similar purpose, without the consent of a majority of those representing a majority of the taxable property in the town; yet this bill proposes to tax the whole State, without even submitting the question to a vote of the people.

The Constitution (section 9, article 7) forbids the loaning or giving the credit of the State, in any manner, in aid of any individual, association or corporation. The State cannot even create a debt, and with the money borrowed promote any single work of a public character, without the consent of a majority of the people, expressed through the ballot box. It ought not to (and in my judgment it cannot, without violating the spirit of the Constitution) tax the people in aid of any railroad or other private corporation; certainly not, without a like consent. I know there are many, who have always been opposed on principle to granting State aid to railroad or other corporations, who feel that perhaps an exception should be made in favor of the two roads for whose benefit this bill has been passed, that the sum now asked for is small, compared with the great result of securing the early completion of the Midland road and the opening of the Adirondack region, and that the expenditure of two millions of dollars will be soon repaid, in the addition insured to the general prosperity and wealth of the State. We must not, however, shut our eyes to the inevitable consequence of yielding the principle, by making an exception in this instance. It would justify and encourage, in the future, applications from every quarter for similar aid. Every road hereafter to be built would expect to receive it, and the demand upon the State treasury would be almost without limit.

I cannot, therefore, sign this bill, which imposes a tax of two millions of dollars upon the already heavily taxed people of this State, without their consent being first asked for and given.

An Act in relation to the doubling of locks on the western division of the Erie Canal.

NOT APPROVED — This work was let to the lowest bidder. The work is still incomplete, and the bill proposes that the Canal Commissioners shall have power to increase the prices for work named in

the contract, leaving the contract otherwise in full force; so that the contractors, having excluded their competitors by a low bid, would have the benefit of the higher prices named in the unsuccessful proposals. My attention having been recently called to the question of the constitutionality of such legislation, which is not without precedent, I have come to the conclusion that it is in violation of section three of article seven of the Constitution — see last sentence thereof.

ADDRESS

By John T. Hoffman, Governor, at the Laying of the Corner Stone of the New Capitol, at Albany, June 24, 1871.

The city in which we are assembled, the capital of the State, is the oldest existing settlement in the original thirteen States. Here Hudson, the discoverer of our noble river, landed from his Dutch ship in 1608. Here the Hollanders settled in 1612. Here they built Fort Orange in 1614. The fort and the colony having been taken by the English in 1664, this city received the name of Albany in honor of the Duke of York and Albany; and so the first resting place of the adventurous Dutchmen got a Scotch name; we take good care, however, to pronounce the first syllable not in broad Scotch, but in still broader Dutch. In 1786, New York and Albany received their charters from Governor Dongan; these two being the oldest chartered cities of the United States. Here assembled the first convention for the union of the colonies. It was held in 1754, and Benjamin Franklin was its presiding officer. Its ostensible object was the defense of the colonies against the savages; but a plan of union was then drawn up and adopted, the first recorded in the history of the country.

The first session of the Legislature of the State in Albany was in 1797, in pursuance of a law that it should meet here every year unless it adjourned to some other place, or was convened elsewhere by the Governor. It assembled in the Stadt House or City Hall at the corner of what are now known as Hudson street and Broadway; where the courts of justice of that day were held; where stood the prison, the whipping-post, the stocks and the pillory, and where freemen and slaves (for New York was then a slave State) were alike arraigned for trial and for punishment.

It was about this time that the corporation of the city, the seat of government having been thus established here, made an offer to the State of any unappropriated ground as a site for public buildings; and the place where the Capitol now stands, on what was called Pinkster hill, was chosen.

The first act making provision for the Capitol shows that some things could be done as well as others in those days to which we are accustomed to refer as halcyon days, when men were more

honest than now, and when all legislation was pure and perfect; when the object of every bill was indicated by its title, and not concealed, as sometimes happens in these latter times.

What think you, was the title of this bill, passed in 1804? You answer, perhaps, "An Act to provide for the erection of a new Capitol in the city of Albany." You are mistaken. It was entitled "*An Act making provision for improving Hudson river below the city of Albany, and for other purposes.*"

It first directed the managers of lotteries, under the act for the encouragement of literature, to raise $20,000, and to pay the same to commissioners for improving the navigation between Troy and Waterford (which you know are above, not below, Albany), and then proceeded as follows: "Whereas the situation of the present Court House, in the city of Albany, is found by experience to be inconvenient for the transaction of business, and the corporation of said city having represented to the Legislature that they are willing to appropriate a lot of ground on the public square of the said city, for a site of a public building for the accommodation of the Legislature, and for a new City Hall, and have prayed that the present Court House, and the lot used with the same, might be sold, and the proceeds thereof applied toward erecting and furnishing such new State House; therefore, Be it enacted that John Taylor, Daniel Hall, Philip S. Van Rensselaer, Simeon De Witt and Nicholas W. Quackenbush, be appointed commissioners for the erecting and completing a public building in the city of Albany, etc., etc., with sufficient and commodious accommodation for the Legislature, the Council of Revision, the Courts of Justice and the Common Council," etc.

It further provided that the managers of the lotteries aforesaid, should raise by lottery $12,000, and pay the same to the said commissioners, for the purposes of the Capitol building.

Not a word is found in the body of the bill about improving the Hudson river below the city of Albany. It nevertheless bears this indorsement:

"IN COUNCIL OF REVISION, *April 6th*, 1804."

"*Resolved*, That it does not appear improper to the Council that this bill should become a law of the State.

"GEORGE CLINTON."

How the ears of the Governor and of the Legislature would have tingled under the sting of criticism, and what a shout of indignation

would have gone up from the partisan press on either side now, if a Democratic or Republican Legislature of the present day had passed, and the Governor had approved, a bill for the erection of the new Capitol, the title of the bill being "An act to provide for the improvement of the Hudson river below Albany, and for other purposes;" to say nothing of the money being raised, not by tax, but by lottery.

Whether the Legislature, or honest and good George Clinton, the Governor, who, in the act of 1804, is described as "the person administering the government of this State," was criticised according to the most approved style of the present day, I am unable to inform you.

At the beginning of the present century, the population of our State was but little more than half a million, and that of this city, its capital, a little over five thousand. A historian enumerates the public buildings then located here as follows: "A low Dutch Church, one for Presbyterians, one for Germans, one for Episcopalians, a hospital, the City Hall, a brick gaol, the City Hotel, and a bank, established in 1794."

In 1806, the corner stone of what we now call the old Capitol, was laid by Philip S. Van Rensselaer, then mayor, in the presence of the chancellor, and judges of the Supreme Court, members of the corporation, the State House commissioners, and the leading citizens, as we learn from the newspapers of the day; and, as was then said, with the usual enthusiastic accuracy of such occasions, it was to be built on "improved plans, embracing much elegance with great convenience and durability."

There my friends, it stands to-day, within our view, a monument of what we call the olden time; venerable, and though not yet three score years and ten of age, full of historic associations, with rich memories of the past of this great and prosperous State clustering around it. Almost the whole of our State history, in peace and in war, has been made and written within its portals. There have been raised the voices of the great men of other days, whose names and words and deeds are still fresh in the memory of our people; Clinton and Tompkins, Van Buren, Marcy and Wright, and others now numbered with the dead. There justice was administered with a firm well-balanced hand by Kent, Spencer, Thompson, Beardsley, Jones, Savage, Lansing, Bronson, Walworth and others, who made the reputation of New York law-reports world-wide. There constitutions have been framed and laws enacted under the benign influence of which this State, during the present century, has grown from half a million to four millions and a half of people; a nation in itself.

Where now are all who, less than seventy years ago, stood where we stand, when the old corner-stone was laid? Probably not one witness of that ceremonial is among us to day. Man's work is more enduring than himself.

Some facts about the old Capitol, in its early days, may be interesting to you. Its total cost was about $120,000, which was paid in part by the State and in part by this city. The Governor and the council of revision, the Senate and Assembly, the Supreme Court and the Common Council of the city, all, at first, had rooms in it. In the attic was the Mayor's court and the State Library, the Society of Arts and the Board of Agriculture; while the County Clerk and the City Marshal occupied the basement. When completed, it was an object of excessive admiration. Travelers from abroad praised it. Dr. Stuart, of Edinburgh, described it as "a fine large object." Henry Nearan, an English traveler, says it presented a fine appearance. Professor Silliman, in 1813, speaks of it as a large and handsome building of stone, furnished with good rooms for the government and courts of law; and the furniture of some of the departments, he says, exhibited a good degree of elegance and even some splendor; while another enthusiastic writer, born, I should guess, somewhere under our own starry banner, said, in 1833: "In the furniture of the rooms there is a liberal display of public munificence, and the American eagle assumes an imperial splendor."

We can hardly realize the changes which have occurred since that corner-stone was laid. Then the number of the States was seventeen; their total population less than six million. Republican government was an experiment, just put upon its trial. The work of developing the energies of the country and its resources, agricultural and mineral, had hardly commenced. The group of what we call the eastern and middle States, and three or four southern States, made up the republic. The star of empire had not yet taken its way westward. States and territories, now thronged with a busy, energetic population, were then a dense wilderness, the abundant riches of which were not even imagined. Not only beyond, but far east of the Alleghanies, was an almost unknown land.

Now thirty-seven States make up our beloved Union, which thanks be to God, has been preserved even amid the fires of a terrible civil war. Forty millions of people constitute a brotherhood extending the hand of a common citizenship, from the Canadian border to the Gulf of Mexico, and from the Atlantic coast, on which the early pilgrims landed, to the golden shores of the Pacific, where a quarter

of a century ago no American citizen could be found, but where now exist two great and prosperous States of the American Union. Trials we have had, almost beyond endurance, it is true. The long smouldering fires of sectional differences and hate, kept in subjection as they were for many years by the earnest self-sacrificing efforts of patriotic men, once burst forth into a flame, in which the republic was very nearly consumed. But the Union was saved, and it was saved because the States of which it was made up were, each of them an independent government, and had the self-reliance which comes of independence. The Union was saved, not because it had what is called a strong government, ruling, as all strong governments do, over a weak people, but the people were strong and used to self-reliance; and they were able, through their State, county and town organizations (our own beloved State being in the front rank), to defend the integrity of the Union, upon the maintenance of which as a union of sovereign States, they knew depended the welfare and happiness of all. Now our people, so lately at war, are again at peace, determined to maintain a republican form of government, and to preserve alike the integrity and independence of the several States, and the perfect and harmonious union of all.

I have spoken of the population of this State, then and now Since then it has made rapid progress, not only in population, but in all that makes a State great. Then we had few emigrants from Europe. Now every year a number nearly equal to the total population of the State at that day, land in the city of New York, and are distributed over our country as permanent citizens. Then we had peace; no need of soldiers. Since then, we have furnished hosts of brave men and true for the war of 1812, and the Mexican war; and in our late terrible civil contest, our State alone sent to the field nearly 475,000 armed men, a number about equal to its total population less than seventy years ago; and to-day, in the midst of peace, with no paid army, the State of New York has, nevertheless, a volunteer force of 20,000 men, engaged otherwise in peaceful industry, but armed, equipped, disciplined, officered, ready at a moment's notice, to defend the honor of the State and the rights of its citizens, as well as the Union of which it is the chief member. When the foundations of the old Capitol were laid, no steamer had navigated the great river which is our pride and glory; now there are hundreds of them, many of them very beautiful and very fast. With all their speed, however, they move too slowly for the spirit of the age. Then we had no artificial channels of navigation; now we have 1,000 miles of canals, the Erie uniting the great inland

eas of our continent with the ocean. Then we had no railroads; now we have thousands of miles of them skirting our rivers, pushing through the valleys and around the mountain sides into the very wilderness. Then we were without telegraphs; now the obedient lightning carries our messages from the capital to the humblest of the many villages within our borders and to the far corners of the world abroad. Then we had no common schools; now nearly 12,000 schoolhouses are scattered over our State; in which every year 1,000,000 of children are taught the rudiments of a good education. The children in our schools are twice as many as were the whole people of the State when the old corner stone was laid.

My fellow-citizens, in the seventy years since the building of the old Capitol, our State has had a glorious and marvelous growth; true to its motto of "Excelsior."

The old Capitol, long ago, ceased to be worthy of the State or to answer its requirements. Movements were set on foot for the erection of a new one. In 1863, the first appropriation was made for the purchase of ground. In the same year a resolution passed the Senate, directing the Trustees of the Capitol and the chairman of the Senate committee on public buildings to procure plans for a new Capitol. In 1865 an act was passed authorizing the erection of a new Capitol on condition that the city of Albany should give to the State, toward the purpose, the ground commonly known as the Congress Hall block, This condition was complied with, and in 1866 the first appropriation of $250,000 was made for the building. The work was begun and has steadily gone on, each year fresh appropriations being made.

I have mentioned these few facts relating to the old Capitol and the new one, for the sole purpose of making up a brief record of history for those who shall come after us; a record more useful, I think, and therefore more appropriate than any display of rhetoric would be. I would not, with too much show of words, break in upon the simple beauty of the services for which the Commisssoners of the Capitol have arranged.

I have said that almost the whole of the past history of our State has been written within the portals of the old Capitol. Its future record is to be made up within the new one. Whether what is to be, shall be as honorable and glorious as what has been, will depend not upon the magnificence of the structure to be erected, nor upon the solidity of the foundation upon which it rests, but upon the intelligence, energy, virtue and patriotism of the people, whose representatives shall in coming years assemble here. From foundation

to dome it may be of granite, firm as a rock, and lasting as the hills, yet it will be built in vain, unless the State shall have its foundation deeply laid in truth, equity and justice, and shall have for its corner stone a great and enduring reverence for those fundamental principles of government which the Fathers of the Republic contended for, in the perils of war, and left as a rich legacy to us.

"Except the Lord build the house they labor in vain that build it. Except the Lord keep the city the watchman waketh but in vain."

Our responsibilities as a people have increased, step by step with the rapid growth of the State and country, and will continue to increase. It is wise for us all, as we fix our hopes upon the great future which is before us, to remember always the counsel of our fathers, and to walk by the light which experience throws upon our path.

The material past of the country may stand in meagre contrast to its great future, but the early history of the Republic will be more glorious than anything which shall be hereafter written, if we forget the men who made it, and the great truths which are inscribed in every volume and on every page of that early record.

Let us lay the corner stone of our new Capitol with the prayer, that our beloved State may continue to grow in the future as it has in the past; and that its growth may be made manifest, not alone in the outward signs of prosperity and power, but also in a wider and wider diffusion of the elements of domestic happiness among its people. The glory and strength of a State consists not merely in its public edifices, its public works, its monuments of public or private splendor and munificence. Its sources of strength are to be found in the purity and vigor of character, the self-control of the men and women who constitute the State; its true glory in the general diffusion of virtue, peace and comfort among the homes of its people. That is the most perfect state in which the benefits of constantly added wealth reach farthest down on the scale of society, and in which self-government, the government of each man over himself, renders other government all but unnecessary. To this wholesome and substantial growth, the efforts of every one of us can contribute, with the help of God. And may God grant to each of us the will to do his part.

ANNUAL MESSAGE.

EXECUTIVE CHAMBER,
ALBANY, *January* 2, 1872.

TO THE LEGISLATURE:

It is my duty to make known to you the general condition of the State, and to recommend to you such matters as I judge expedient.

STATE DEBT.

The unpaid principal of the war bounty debt was, on the 30th September last ($16,887,206,57), sixteen millions eight hundred and eighty-seven thousand two hundred and six dollars and fifty-seven cents. This portion of our debt will, by the annual tax provided by the terms of the act authorizing the loan, be paid, in full, in about five years. It was contracted and is to be paid in our present legal-tender currency.

The residue of the State debt, which amounts to ($12,595,495.95) twelve millions five hundred and ninety-five thousand four hundred and ninety-five dollars and ninety-five cents, was contracted before the war, in gold, and the honor of the State and good faith demand that it shall be paid, both principal and interest, in gold coin. It is to be paid (except $48,860.11, loan of credit to the Long Island Railroad) out of revenues pledged for the purpose, and not by taxation, unless the sinking funds "shall prove insufficient to enable the State, on the credit of such funds, to procure the means to satisfy the claims of the creditors of the State as they become payable."

Of this last-mentioned species of debt ($2,257,900) two millions two hundred and fifty-seven thousand and nine hundred dollars of principal will be due on the 1st of July next, and ($847,500) eight hundred and forty-seven thousand and five hundred dollars of principal will be due on the 1st of January, 1873. The Comptroller is of the opinion, in which I concur, that there will be no difficulty in obtaining the means of meeting these payments, on the credit of the sinking funds, as authorized by the Constitution.

The entire State debt was, on the 30th of September last, ($29,482,702.52) twenty-nine millions four hundred and eighty-two thousand seven hundred and two dollars and fifty-two cents, the amount of principal paid in the last year being ($2,926,441 74) two millions nine hundred and twenty-six thousand four hundred and forty-one dollars and seventy-four cents.

TAXES.

The State tax levied the past year is five mills and seventy-nine one hundred and twentieths of a mill. Of this tax, two mills were required for the annual payment on the war bounty debt; one mill and a quarter for the support of the public schools; three-eighths of a mill to meet payments for work on the new Capitol; seventy-nine-one hundred and twentieths of a mill for canals; and one mill and three-eights of a mill for general purposes. The total yield of the State tax is eleven millions six hundred and thirteen thousand nine hundred forty-three dollars and sixty-one cents.

NEW CAPITOL.

The new capitol commissioners report to me that of the six hundred and fifty thousand dollars appropriated by the Legislature at its last session, they have expended three hundred and forty-three thousand six hundred and thirty-one dollars and thirty-one cents up to the twenty-second day of November last; making, with what has been previously reported, about two millions thus far expended on the construction of the building, independent of about six hundred and fifty thousand dollars paid for land.

SALT SPRINGS.

The quantity of salt from the Onondaga salt springs, inspected during the last fiscal year, was eight millions five hundred and seventy-nine thousand one hundred and ninety-three bushels. This shows a decrease of production, compared with the previous year, of two hundred and seventy-two thousand and fifty-four bushels. The net revenue to the State has been twenty-six thousand six hundred

and fifty-six dollars and seventy-nine cents, which is seven thousand two hundred and fifty-four dollars and twenty-eight cents less than that of the previous year.

BANKS.

On the first of October last, sixty-nine banks were doing business under the banking law of this State. During the fiscal year circulating notes to the amount of forty-seven thousand seven hundred and seventy-seven dollars have been destroyed by the department. Twelve banks have been credited with lost circulation to the amount in all of sixty-four thousand seven hundred and twenty-five dollars; the time for redeeming the same, after the usual legal notice, having expired.

The amount of circulation outstanding, including that of incorporated banks, banking associations and individual bankers, was, on the 1st of October last, two millions one hundred and forty-one thousand four hundred and thirty-five dollars and fifty cents. Of this amount, the sum of one million three hundred and eighty-three thousand five hundred and twenty-five dollars is secured by deposits of stocks, mortgages and cash. The residue, being circulation issued by incorporated banks in existence prior to the passage of the general banking law, is, of course, not secured by any deposit in the Bank Department.

SAVINGS BANKS.

There were, on the 1st of July last, one hundred and forty-three savings banks doing business in the State, with assets to the amount, in the aggregate, of two hundred and sixty-six millions two hundred and fifty-three thousand five hundred and ninety-four dollars. These assets may now be estimated, upon the ratio of increase of the year before, at two hundred and eighty millions of dollars. The number of persons having deposits in these institutions was, on the 1st of January, 1871, seven hundred and twelve thousand one hundred and nine.

I ask your especial attention to the necessity of being very cautious in the enactment of charters for savings banks. Some failures have occurred among this class of institutions during the past year. Being intended to induce saving habits among those of small means, by enabling them to obtain interest on the sums which they can,

from time to time, lay aside from their daily earnings, it is the duty of the Legislature to provide in their charters every possible safeguard for the protection of the depositors. The object kept in view should be security more than high interest.

At my instance (Senator Palmer, then chairman of the Senate Committee on Banks, cordially co-operating with me), a law was passed at the Legislative session of 1869 (chapter 213 of the Laws of that year), requiring that all persons desiring to organize a savings bank should execute a certificate, setting forth the name of their projected institution, its intended place of business, the name, residence, occupation and post office address of each member of the association, and containing a declaration from each one of them that he is willing to accept the duties of a trustee in such institution; and requiring that such certificate, with a copy of the proposed charter be filed with the Superintendent of the Banking Department, at least sixty days before the annual session of the Legislature. The law provides also, that notice of intention to organize such an institution, giving the particulars contained in the certificate, shall be published in a newspaper of the neighborhood where it is proposed to be established, for six weeks. It then makes it the duty of the Superintendent of the Banking Department to transmit to the Legislature at its next meeting, a report concerning the expediency of incorporating each one of such proposed institutions. Every legislative committee to whom a bill for incorporating a savings bank shall be referred, which has been introduced otherwise than in the manner and with the preliminaries above described, is, by the terms of this law, required to report against the passage thereof. Of course, this law may be disregarded by a subsequent Legislature; but I recommend a strict compliance, on your part, with its provisions, as calculated to avoid a needless increase of these institutions and to guard against carelessly framed charters. I recommend to your consideration the propriety of restricting, by a general law, applicable to all savings banks, the amount which may be held on deposit for any one depositor, to a moderate sum. Those who deal in large amounts are usually capable of providing investments for themselves. It is not right that the funds of this latter class of persons should be mingled with those of less means, whose circumstances require a peculiar class of institutions, and for whom, especially, savings banks were created.

The tendency of late years to careless legislation in respect to savings banks and other moneyed incorporations, is shown by the fact that during the three years of my administration, I have found

myself obliged to refuse my signature to sixty-eight bills for the incorporation of, or increasing the powers of savings banks and other moneyed institutions under various names.

In connection with this topic, I call your attention to article 8, section 1 of the Constitution, providing that "corporations shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be obtained under general laws." Of late years there has been a great tendency to overlook the intent of this limitation upon legislative power. It is true, the judgment of the Legislature is to decide whether, in any special case, they are justified in disregarding the general prohibition. This discretion, however, should be exercised not arbitrarily, but in harmony with the purpose and intent of the whole section; which was, obviously, to take away from the Legislature the right of creating corporations by special act, except where it was very clear that the object could not be obtained under general laws.

INSURANCE DEPARTMENT.

The number of insurance companies subject to the supervision of the Insurance Department was, on the first day of December, 1871, 238, as follows:

New York joint stock fire insurance companies	84
New York mutual insurance companies	10
New York marine insurance companies	9
New York life insurance companies	40
Fire insurance companies of other States	53
Marine insurance companies of other States	2
Life insurance companies of other States	30
Casualty insurance companies of other States	3
Foreign insurance companies	7
Total	238

The total amount of stocks and mortgages held by the Department for the protection of policy holders of life and casualty insurance companies of this State and of foreign insurance companies doing

business within it, was eight millions fifty-one thousand one hundred and eighty-five dollars, as follows:

For protection of policy holders generally in life insurance companies of this State	$4,104,035 00
For protection of registered policy holders exclusively	2,442,650 00
For protection of casualty policy holders exclusively	4,000 00
For protection of fire policy holders in foreign insurance companies	1,300,500 00
For protection of life policy holders in foreign insurance companies	300,000 00
Total deposit	$8,051,185 00

The Superintendent of the Insurance Department estimates that, toward reimbursing the loss by the fire at Chicago, companies organized under the laws of this State (not including those of other States and countries doing business in this State) will contribute over twenty millions of dollars.

STATE PRISONS.

The Comptroller's report will show, in detail, the earnings and expenses of the State prisons during the past year. The condition of our prisons is not satisfactory. Improvement can be secured, in my judgment, only by an amendment to the Constitution, which shall concentrate responsibility for their management.

I visited, as usual, all the prisons during the past year, for the purpose of hearing applications from the convicts for pardon or commutation of punishment. More than eight hundred applications for pardon or commutation have been made to me during the year. Eighty-four (84) pardons, twenty-nine commutations and five reprieves have been granted. I shall, in a few days, submit to you, as has been my practice every year, a statement of the particulars of these cases, including the reasons which, in each instance, have influenced my action.

CHARITIES AND ASYLUMS.

The annual report of the Commissioners of Charities will give detailed information of the condition of the several State charities. I trust you will continue to provide for the early completion of the State lunatic asylums now being constructed, so as to afford additional room for the insane poor; to the end that, within a short period, all of this class may be removed from the county poor-houses. I again recommend, as I did last year, an inquiry into the condition of pauper children in the several counties, with a view to providing for their removal, if found expedient, to proper asylums.

EDUCATION.

The following statistics have been furnished me by the Department of Public Instruction, for the fiscal year ending September 30, 1871:

Number of children attending Public Schools.....	1,027,089
Total receipts, including balance on hand, September 30th, 1870	$10,658,576 87
Total expenditures.....	9,588,356 37
Amount paid for teachers' wages.....	6,678,377 51
Amount paid for school houses, repairs and furniture	1,587,276 39
Estimated value of school houses and sites.....	23,613,201 00
Number of persons attending normal schools,.....	5,129
Total number of school houses,.....	11,721
Number of teachers employed for the legal term,	17,828

For particulars and for suggestions relating to the administration of our Common School system, you are respectfully referred to the annual report of the Superintendent of Public Instruction, under whose care the educational affairs of the State have been so ably administered. I ask for the schools the most liberal legislative encouragement.

STATE MILITIA.

The State Militia known, now, as the "National Guard of the State of New York," numbers about twenty-four thousand officers, non-commissioned officers and privates. The details will be made known in the report of the Adjutant-General. This valuable force, essential to the security of public order, ought to be generously sustained by the Legislature. A contract has been made, in accordance with authority vested in the Governor by the law of last session, for supplying the force with breech-loading rifles.

The Adjutant-General has made very satisfactory progress in obtaining the adjustment and allowance of claims of the State against the general government for expenditures in the late war. At the time he came into office, the balance of the claims which had then been presented to the accounting officers of the treasury of the United States and were on file with them, unsettled, was $932,132.82, of which it had been estimated not more than fifty per cent. could be recovered, owing to informalities of vouchers, and irregularities occurring in the hurry of the times when the expenditures were made; and it was suggested that the Comptroller should employ a special agent for the adjustment of these claims, to be compensated by a per-centage upon the amount which should be recovered. The Adjutant-General, with my approval, placed the matter in the special charge of Colonel Stonehouse, the Assistant Adjutant-General, who was familiar with the origin of the claims, and detailed Captain Butler, of the Inspector General's Department, to assist him. There has been recovered already the sum of $622,279.10, with the well-assured prospect of an early adjustment of the whole balance left unsettled on the 1st January, 1869 (except certain items of interest on temporary bonds issued by the State which will require Congressional action), and the prospect also of establishing the validity of further claims upon the government. Additional claims to the amount of $364,107.07, have already been presented to the Treasury department, and others to about the same amount will very soon be ready for presentation. The Legislature, at its last session, passed a concurrent resolution, authorizing me to appoint a special agent to prepare and collect these claims, and to award to him such a per centage of the amount collected as I might deem just and proper.

I have done nothing under this resolution, being satisfied that the claims can be adjusted and collected quite as rapidly through the clerical force of the Adjutant-General's office, and, of course, at much less cost to the State.

QUARANTINE, ETC.

During the past year, 227 vessels arriving at the port of New York have been quarantined on account of sickness which had occurred on board of them. Upon these vessels, at their port of departure, on the passage, and after their arrival at quarantine, there were 729 cases of contagious and infectious diseases and 109 deaths.

During the quarantine season, to wit, from the first day of April to the first day of November, 466 vessels, which arrived from ports infected with yellow fever, were detained in the lower bay for observation. During the same period, 542 vessels from suspected ports were examined at lower quarantine, and placed under observation for a period of from two to five days.

These constitute the total number of vessels detained during the year beyond the time actually necessary for examination. Out of this number, seventy-five discharged their cargoes under quarantine being but little over one per cent. of the whole number of arrivals from foreign ports during the year.

Seventy of the vessels thus detained were found to have had cases of yellow fever on board, and from these, eighteen patients were sent to West Bank hospital. Besides these, 205 cases and fifty-one deaths from this disease had occurred on board of these vessels, either at their port of departure or during the passage.

For the five years, ending December 31st, 1870, the total number of vessels which arrived with small-pox on board, was one hundred and forty-two; while, during the past year, there have been one hundred and forty-seven vessels, having on board an aggregate of 80,428 persons who had been exposed to this disease during the passage. The number of cases of small-pox reported to have occurred on these vessels, was three hundred and forty-two, of which two hundred and ninety-three were taken to hospital from quarantine. Of these, owing to the crowded state of the municipal institutions on Blackwell's Island, it was found necessary to send a number of patients suffering from small-pox to West Bank hospital.

Seven vessels only have had cases of ship-fever on board during the past year. On these, the number of persons exposed to the disease was 3,778, of whom eight were sent to the fever hospital on Ward's Island.

Three vessels from infected districts have had cases of cholera on the passage to this port; and from these, fifty-two patients suffering from the disease were treated at the West Bank hospital. The total number of cases of cholera occurring among the passengers and crews of these vessels, was 156; and the number of persons exposed to the disease, 1,432. Of these, forty-three died at sea and twelve in quarantine.

At the West Bank hospital the total number of patients suffering from cholera, small-pox and yellow fever, received during the past year, was 132, of whom 109 recovered and twenty-three died.

The absence of buildings upon the upper structure at West Bank, for the reception of persons who have been exposed to contagious and infectious diseases during the voyage to this port, was temporarily provided for by the transfer of the steamships Delaware and Albany, from the general government to the quarantine department. These vessels were anchored at quarantine in the month of September, and in the case of the steamship Franklin, which arrived on November 11th, with cholera on board, were of the greatest utility in affording facilities for the immediate transfer of the passengers from the infected vessel. The favorable results which followed this transfer, are said by the health officer, to prove the importance of completing, at once, the structures contemplated at West Bank.

The foregoing statistics demonstrate the necessity for a thorough administration of quarantine laws. The immunity which the city and State of New York have enjoyed during the past year from the introduction of contagious and infectious diseases from abroad may justly be ascribed to the precautions adopted. All abuses, if any be found, should be remedied, but the inconvenience to a few, by the detention imposed upon only one vessel out of a hundred, is not to be weighed against the protection afforded to the people in the cities of New York and Brooklyn. and of the State, against infectious diseases.

There have been for many years, and under all administrations, complaints in the press against the health officer, and also against the harbor-masters of the port of New York. No proof has been adduced before me of maladministration on the part of the present officers. In one instance, prior to December 15, 1871, charges were preferred against a harbor-master, which were withdrawn.

On the 15th of December, 1871, charges were preferred in another case, which are now under examination. In the case of the Health officer, one complaint has been laid before me. Although the law gave me no power in the matter, the health officer promptly responded to my request for explanations; the complaint was found to be connected, not with his office proper, nor with his fees, but with certain rates established for contributions to the support of the hospitals at quarantine; and the injustice complained of was promptly cured. Under the law, as it was established in 1863, and as it now stands, the Governor has no power to remove the health officer (and appoint another), even after a formal investigation, during the recess of the Senate; the period of the year when, if ever, abuses are likely to occur. I recommend that the Governor be empowered to appoint the Health Officer and Harbor-Masters, including the Captain of the Port, without the consent of the Senate; and to remove them, or any of them, at pleasure. A prompt remedy would then be provided against abuses, without the delay incident to a formal investigation.

In the single instance of the presentation to me of charges agains the health officer, I took the occasion, in referring the matter to the Commissioners of Quarantine, to request them to inquire into alleged sbuses in quarantine administration, giving merchants and others opportunity of being heard. I have received their report, dated December 11th, 1871, which, with a communication from the health officer relating thereto, will be duly transmitted to the Legislature for its information.

It is proper to say, that if citizens who know of and can prove official misconduct on the part of public officers, fail to present the charges and proofs to the Governor, the responsibility for continued abuses rests upon them, The Governor, in such matters, acts in a quasi-judicial capacity, and he cannot, any more than can a court, entertain charges made through the public press.

Nor should it be forgotten, that if extra compensation is paid to harbor-masters, it may be too often due to the eagerness of owners and consignees of vessels to get the advantage, one over another, in the occupancy of wharves.

The Governor is always ready to do his duty, and to remove a guilty party when he has the power. Merchants and others fail to do theirs, when any of them pay a bribe to a public officer, or neglect to expose and bring to justice whoever demands or accepts one.

I recommend a thorough examination of the official acts of the health officer and harbor-masters, and such amendments to existing

laws as may be necessary to put an end to such evils as may be shown to exist.

IMMIGRATION.

The number of arrivals of immigrants in the port of New York this year is two hundred and twenty-nine thousand, an increase, as compared with last year, of seventeen thousand.

REVISION OF STATUTES.

A report from the commissioners for revising the statutes may be expected at an early day in the session, showing what progress has thus far been made in their work.

CANALS.

The surplus revenues of the canals, for the past year, have been nearly double those of the previous year, although, for four months of the year 1870, the former higher rates of toll prevailed; the contribution to the sinking fund, for the fiscal year ending 30th September last, being $981,588.61 against 569,974.61 contributed the year before. The expenditures have been very materially reduced. The official reports of the Comptroller and Auditor will show the details of expenditure and revenue. It is the unanimous testimony of those engaged in business upon them that the canals are in better order than at any previous period. My opinions as to the true policy of the State, with reference to its canals, have been so fully expressed in three successive annual messages, that it is not necessary here to repeat them. The policy of low tolls, which, when first recommended, met with strong opposition, is now, by general consent, admitted to be wise. The season of navigation of 1871 was fifteen days shorter than that of 1870, yet there was an increase of tolls to the extent of $478,722.78.

I have received a letter from the President of the United States calling my attention to the twenty-seventh article of the recent treaty between Great Britain and the United States, which article is in these words, to wit:

"ARTICLE XXVII. — The government of her Britannic majesty engages to urge upon the government of the Dominion of Canada

to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion, on terms of equality with the inhabitants of the Dominion; and the government of the United States engages that the subjects of her Britannic majesty shall enjoy the use of the St. Clair Flats canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State governments to secure to the subjects of her Britannic majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties, on terms of equality with the inhabitants of the United States."

The President requests such legislation on the part of this State as may be necessary to carry out, on our canals, this provision of the treaty. My impression is that nothing exists in our State laws, now, to forbid the subjects of another country using our canals on terms of full equality with the citizens of the United States. I recommend an inquiry on your part on this point, and the prompt passage of any laws which may be necessary for the fulfillment of the undertaking made by the Federal government.

GENERAL RECOMMENDATIONS.

The disastrous fire at Chicago destroyed the valuable public law library of that city. It was always open to the free use of members of the bar from other States, and contained complete sets of the Reports of this State and of its Statutes, as well as those of other States and of Great Britain. Upon being informed of this loss by a committee of the bar of Chicago, engaged in the work of restoring the library, and upon their application for such assistance as this State could give, I took the responsibility, in view of the intimate business relations existing between the States of Illinois and New York, of causing to be sent to them the Statutes, the Reports and the Digests of this State, complete, as a donation from New York, knowing that the need was pressing for the work of restoration being promptly effected. In doing this, I was careful not to incur any liability in behalf of the State. I, nevertheless, respectfully ask that you make an appropriation to cover the cost of this gift. Some of the books having been furnished by the State Library, from extra copies in its possession, the total amount expended will not exceed sixteen hundred dollars.

Full rights of inheritance are accorded to the children of American male citizens, without reference to the nationality of the mother, although the children be born abroad; while the children of an American woman married to an alien, are, if they be born abroad, denied like rights. I recommend that the disability of the latter class of persons to inherit be removed by Statute.

I suggest, for your careful consideration, especially in view of the several treaties made between the United States and foreign governments, in respect to naturalization and expatriation, whether it would not be wise to remove all disabilities of aliens relating to the acquisition, possession and transmission of real estate. In several of the States of the Union these disabilities no longer exist, and in England they were removed by statute, passed May 12, 1870, the day before the date when the treaty between England and the United States, relating to naturalization, was signed. If you should pass a law removing all these disabilities, the suggestion last made, with reference to children born abroad of American women, will have become unimportant.

I recommend to your consideration the subject of alleged abuses under the referee system in our courts, with a view to providing a remedy, by law, for such abuses as may be found to exist.

The statutes providing for the election of Senators, in case of vacancies occurring otherwise than by expiration of term, are defective. The defect was brought to public notice by the death of Senator Blood, just before the last session of the Senate. I called the attention of the Legislature in my last annual message to the necessity of amending the laws in this respect, but they failed to supply the defect. I recommend prompt action by you on this subject.

I recommend, as I did last year, the putting an end, by law, to the hardships and injustice frequently inflicted upon persons who are detained as witnesses to the commission of crime. The suffering resulting from this, especially in cities, is very great and extends to many unfortunate persons, who are too poor to give security for their appearance to testify. The law should provide that no person shall be detained in prison as a witness in criminal cases beyond a specified time, and that, if the trial be postponed beyond that time on the motion of the prisoner, it shall be only on condition of his consenting that the testimony of the witness may be taken *de bene esse*, as in civil cases. It may be urged that the people may not be ready to bring on a trial, and may thus, in some cases, lose the benefit of the

witnesses altogether. It is better so, than to have innocent persons suffer imprisonment in order that even the guilty may be convicted.

I recommend, for the third time, that power be conferred upon the Oyer and Terminer, or upon the Supreme Court at General Term, to grant new trials upon the merits or upon newly discovered evidence, in cases of conviction before the Oyer and Terminer. The courts of sessions, which are inferior tribunals, have this power in cases of conviction before them. A person wrongfully convicted in the Oyer and Terminer, no matter how clear his innocence may be shown by newly discovered evidence, has no remedy save a pardon from the Executive.

I recommend that the laws relating to the insane be revised. As they are now, any two justices of the peace, upon the certificate of two physicians, may deprive a man of his liberty on the ground of lunacy, and order him to be confined in a lunatic asylum. A bill was passed, at the last session of the Legislature, upon this subject, but some of its provisions seemed to me to be objectionable, and it was generally objectionable, in that its operation was limited to the city of New York. For these reasons I withheld my approval from it. There can be no doubt that there is room for great abuses under the law, as it stands. I recommend that all physicians who may grant certificates of lunacy, and all magistrates who issue an order of commitment to an asylum, be required under heavy penalties, to report their action, at once, to the county judge of the county within which the order was made, and that all superintendents of public and private lunatic asylums, be required, under like penalties, to report forthwith, the arrival of every patient at their respective establishments, to the county judge of the county whence the patient was sent; that the county judge be required to investigate the case, summarily, and confirm or annul the proceedings; and that he be empowered, at any time, on his own motion, or on the application of any one interested in an alleged lunatic, to re-open the hearing of a case, and to conduct such rehearing, with or without the aid of a jury, as to him may seem best, and thereupon, in his discretion, to discharge the alleged lunatic. Whether any amendments to existing laws relating to the State asylums for the insane be found necessary by you or not, I recommend that private lunatic asylums be brought under some system of licensing by the public authorities. The Legislature should provide for their supervision and frequent visitation. Inasmuch as the State permits the detention of insane persons in such private institutions, it is right that the same watchful

care should be exercised over persons confined in them as over those in our public hospitals.

For the fourth time, I recommend an amendment of the laws relating to murder. Instances of homicide occur where intent to take life is proved, but where the facts are such that the jury are unwilling to find a verdict of guilty of murder in the first degree, because the peculiar facts do not warrant the extreme penalty of death. They cannot, under our present statutes, define the case as one of murder in the second degree. They are driven, therefore, to either acquit or render a verdict of guilty of manslaughter in the third or fourth degree, although conscious that the light penalty awarded by the law to these two degrees of crime is very inadequate. I recommend that either the maximum punishment for manslaughter in the third degree be made much greater, or that when the degree of premeditation does not, or other facts do not, in the judgment of the jury, justify punishment by death, they be authorized to render a verdict of murder in the second degree, to be punished by imprisonment for life, or for a term of years, in the discretion of the court. It is no valid objection to the above amendment that, under it, juries would have too great discretion in the matter of enforcing the death penalty. They exercise that discretion now, in many instances, and do so with the law as it stands, at the cost of rendering a verdict not satisfactory to themselves, and of allowing a very serious crime to go unpunished, except by the light penalty attached by the law to one of lower grade.

I respectfully suggest that all bills, making large appropriations of money be passed by you at a period of the session early enough to enable me to return them to you with objections, if I have any to make; so that I shall not be obliged to consent to items not, in my judgment, proper, as the only means of avoiding the defeat of other just and necessary appropriations. The Supply Bill, as it is commonly called, has always been sent in for approval after the Legislature had adjourned, leaving me no alternative but to approve of it as a whole, or to let all the appropriations made therein go over, many of them being required at once for the support of the various departments of the government. The practice has grown up of inserting in this bill items of appropriations of money which have no proper connection with the general purposes of the bill as indicated in its title; many of which items, I am satisfied, would not, if proposed in separate bills, receive the sanction of the Legislature. This practice has become a great abuse.

I recommend the immediate repeal of the general town-bonding act. Without discussing the policy of this law, I suggest that aid has already been given to railroads, upon the credit of municipalities, to quite as great an extent as is wise, and, in some instances, to the oppression of tax-paying communities. Its early repeal is, in my judgment, important to the general welfare of our people.

EIGHT HOUR LAW.

In 1870, what is commonly called the eight hour law was enacted by the Legislature and approved by me. It provided, among other things, that eight hours should constitute a legal day's work upon all the public works of the State, and that any public officer, who should violate or evade its provisions might be removed by the Governor, or by the heads of departments to which such officer was attached. By this act, the Legislature intended to hold out the promise, on behalf of the State, to the laborers who might be employed on any public work, that they should receive a full day's wages, at current rates, for eight hour's work. The spirit of the promise has not been kept; yet no case has arisen where a removal of a public officer could legally be made. The laborer understood the law to provide for a reduction of the hours, but not of the wages of labor. The State ought not, under the forms of law, to deceive any portion of its people. Its practice should be in accord with its professions, It demands a general obedience to its statutes, and should itself set the example of strict conformity with its own laws. While the law stands upon the statute book, the professions embodied in it should be made good by such amendments to it as will render the fulfillment of its purpose certain.

TAX REVISION.

Under the provisions of a joint resolution of the Legislature, passed April 25, 1870, I appointed David A. Wells, George W. Cuyler, and Edwin Dodge a commission "to revise the laws for the assessment and collection of taxes;" which commission, in the discharge of its duties, presented a report in February, 1871. The report was so important and exhaustive in its character, and so novel in its suggestions, that although I had supplied copies thereof to the Legislatures of the other States, and to municipal bodies in this

country and in the British Provinces, yet, notwithstanding the very large edition issued by the State, the Report has been twice reprinted, at private cost, in order to meet the demand for it among the general public, to wit, once in this country and once in Europe; the latter reprint being issued, with a preface by the Secretary of the British Board of Trade, by an association of gentlemen for distribution among the people of Great Britain.

In respect to personal property, the report of the commissioners shows that the whole amount thereof assessed and taxed is not as much as thirty per cent. of the real estate assessments, or not in excess of the railroad and banking capital alone of the State; while the probable proportion of such property, assessed to its true value, is not more than *fifteen* per cent. The commissioners, futhermore, present a large amount of evidence tending to show that not only is such a result unavoidable under existing laws, but that the tendency of things (through recent court decisions, the offsetting of indebtedness against assets, and the exemption of United States and other securities from taxation), is to become worse; and that at no distant day, the present system of taxation in this State will be brought down, practically, to an exclusive tax on real estate and bank capital.

Another matter of great importance, to which the commissioners call attention, is the circumstance that during the last few years the legislation of contiguous States, in respect to local taxation, has been of a much more liberal character than that of New York; and that, in consequence, the interests of New York have suffered, and are likely to continue to suffer unless remedial or reciprocal legislation is provided. Thus, for example, the States of Maine and Vermont, and also the British Provinces which border upon New York, have either wholly, or for an extended period, exempted manufacturing industry from all taxation. The new territory of the District of Columbia exempts all evidences of debt, that is, bonds, mortgages, negotiable instruments, etc.; the State of Maryland, all bonds and mortgages for the city and county of Baltimore; New Jersey, bonds and mortgages for a large part of her territory contiguous to New York; while Pennsylvania, proceeding much farther in this same direction, has exempted the machinery and capital of manufactures from local taxation, and, practically, also in a great degree, her banking capital, evidences of debt, and all vessels engaged in foreign and domestic commerce.

New York is soon likely to be forced, by considerations of self-interest and self-defense, into giving this whole subject of State taxation careful attention.

The system recommended by the commissioners, and of which an outline code has been already submitted to the Legislature, is substantially as follows:

First. To tax real estate in like manner as under existing laws; provisions for enforcing valuation according to a common and well-defined but moderate standard being at the same time prescribed. It is understood that the commissioners favor the creation of an office, whose incumbent shall be especially charged with the enforcement of the laws relative to taxation, and be invested with all necessary powers for accomplishing such object, and insuring, so far as possible, equity and uniformity.

Second. To tax moneyed corporations of the State in conformity with existing laws..

Third. All experience, and especially the experience of New York, shows that the attempt to tax, directly, property other than such as is embraced under the two before-enumerated classes, affords little revenue; it fails in execution, and is certain to yield less of revenue in the future than in the past; and, above all, it discriminates against the industry of New York in comparison with other States. The commissioners propose as a substitute and equivalent for all such defective taxation, *to tax the occupier, be he owner or tenant, of any and every building used as a dwelling, or for any other purpose, on a valuation of three times the rental or rental value of the premises occupied; but not including under such assessment, any land except such as the building stands on, or is essential for access thereto.*

All property not embraced under one of these provisions, as above stated, is to be exempt from taxation.

The principles on which the commissioners have founded this part of their system, are stated by them as follows:

"That the market value of real estate is always proportional to and dependent on the amount of personal property, or rather productive capital, placed upon it, or in its immediate vicinity."

"Only, therefore, as personal property or productive capital is brought in connection with real estate, does its value become appreciable and augment."

"Applying, practically, to New York the proposed system for taxing personal property, through buildings or rentals, as its representative, the commissioners say, that examination will show that the aggregate of taxation, according to the new system, on the occupiers of buildings, *will be the lowest in the most sparsely settled agricultural districts of the State.* Property here is mainly in land,

and the value of buildings is generally much less than the value of this land with which they are connected. As we leave the sparsely settled agricultural districts, and rise through the more densely populated portions of the State, from the towns to the villages, from the cities to the great metropolis of the continent, we shall find that the value of land, of buildings, and the aggregate of taxable valuation will increase as the amount and accumulation of personal property increases, until land and buildings attain their greatest market and tax-valuation in Wall street, Broadway and Fifth avenue, where the accumulation of personal property is the greatest. It is also to be observed that, starting at the bottom of the scale, with the value of land greatly in excess of the value of the buildings connected with the land, that this difference, as we progress upward through the more densely populated districts, gradually diminishes, until, as is the case very frequently in the cities, *the value of the building greatly exceeds the value of the land in which it is situated.*"

"And yet, while under the proposed system, the agricultural districts would, as now, pay the smallest proportion of the aggregate taxes, and the villages and cities as now also the largest, there would be no injustice; but, on the contrary, one uniform, equitable rule of valuation and assessment."

"The sum of *three times* the rent or rental value is taken as the substitute for personal property, other than what is invested in the stocks of moneyed corporations, on the assumption that no person can occupy any building, who is not possessed of such property, at least to the extent of the valuation adopted; an assumption fully sustained by evidence and investigation."

The commissioners allege, in regard to their proposed new system that, under the *first* and *second* provisions, nearly all the property now subject to taxation will be embraced; and that, under the *third* provision, property additional, or rather ability to contribute to the expenses of the State, commensurate to the protection which the State accords to the person assessed, will be embraced to the extent of from *five hundred* to *seven hundred* millions; thus reducing the rate of taxation all over the State, and especially relieving the labor and capital invested in agricultural and manufacturing industries, and in shipping, which ought to be the object of the State especially to favor.

When the report of the commissioners was presented in February, 1871, it seemed to me and to the Legislature advisable, that on account of the novelty of the views presented, the consideration of the whole subject should be postponed for another year in order to

allow of the fullest discussion and considerations on the part of the public, and, pending all action, the Legislature instructed and authorized the commissioners to prepare a code in accordance with their recommendations. This code, with a further report, will be ready at an early period of the present session, and I should fail in my duty if I did not ask for it, in advance, the most careful consideration from both the Legislature and the people.

STREET PROCESSIONS.

The subject of the regulation and control of processions in public streets has been made one of special interest by unhappy occurrences in the city of New York, in July last. The occupation of the public streets by bodies of men for the purpose of civic as well as military processions has been permitted under a custom so long established that it has come to be looked upon as a common right. The local police must have, of course, great discretionary power in the matter of regulating such processions. It has been the practice of New York city to afford them protection by the presence and escort of part of the police force, without reference to the occurrences which the demonstrations were designed to celebrate, or to the race, color or sentiments, political or religious, of those engaged in them. Our respective political parties have been in the habit, on the eve of an election, of getting up such demonstrations, not only in New York but throughout the country, with banners and mottoes indicative of their own views, and not unfrequently reflecting with severity upon those of their opponents; all which are looked upon, usually, by the by-standers of either party, in good humor and perfect toleration. Noted events in our own history have been commemorated by great public demonstrations in the streets, and, in like manner, men of foreign birth or descent, have celebrated occurrences remarkable in the civil, military or religious record of the country from which they sprang, or of the faith and church in which they and their fathers were educated. This right of procession has been considered to be established by custom as firmly as the right of free discussion and as is the right of the people "peaceably to assemble" by the Constitution of the United States, and may be regarded, in some sense, as a practical exercise of those rights.

A procession had been proposed for the 12th of July last, to which objection was made by persons holding views adverse to those to be celebrated, and they resolved to prevent it by violence, if ne-

cessary. Opponents of the first proposed procession organized another for the same day, with, substantially, the same line of march. The police of the city, deeming it almost certain that a serious breach of the peace would ensue, and in order to prevent it, forbade both of the proposed demonstrations. The order forbidding the processions was not submitted to me by the Police Commissioners, for consideration or approval, nor did they ask my advice upon the subject. The order was made by them in the exercise of their exclusive discretion and lawful power, and it was not my lawful right, on my own motion, to interfere with that discretion. On the afternoon of the day on which the order was issued and published, which was the day before that proposed for the processions, I received, while at the capital, information that the local authorities thought my presence in the city was desirable. I repaired thither, immediately, and advised that the police order be revoked. I was satisfied that it would be generally regarded as having been made by those in authority in submission to the demand and dictation of those who were not, and as subversive of the equal rights of men of all races, creeds and sentiments to protection, and would tend to permanent strife and bitterness, and to the disturbance of the peace of the State, perhaps, for many years to come. In deference to my advice, the order was revoked by the same authority which had issued it. My duty, then, was plain, to wit, to sustain, by the whole power of the State, the local authorities in repressing threatened disturbances, and by so doing, to assert the equal rights of all citizens. The loss of life that ensued from the use of military force is a matter of great regret. It is clear, however, that whatever may be the cost, the rights and privileges of all classes of men must be alike protected, or none are safe; and that the prohibition of a procession representing one class of sentiment to-day, upon the demand of its opponents, or otherwise, would be taken as a precedent for interference, on another occasion, with one representing the opposite views, to the constantly recurring disturbance of the public peace, and to the abridgment of the privileges of all. I submit to your judgment, whether any new provisions of law are required regulating this matter of street processions and public demonstrations, which, good temper being preserved, have, heretofore, been harmless recreations for those engaged in them and for great numbers of lookers-on. Whatever laws you may pass on the subject should secure equal privileges to all men of whatever religion, of whatever politics, of whatever race, color, or creed.

UNITED STATES SENATORS.

I recommend that you pass a joint resolution requesting the Senators and Representatives from this State in the Congress of the United States to use their efforts to have the following amendment to the Constitution of the United States proposed by the Congress, to wit:

"After the adoption of this amendment, Senators from each State shall be chosen by the people of the several States, and not by the legislatures thereof; whenever the term of a Senator is about to expire, his successor shall be chosen by the people of his State at the general election for members of the House of Representatives in such State, occurring next previous to the expiration of such term; and whenever a vacancy shall happen, otherwise than by expiration of term, such vacancy shall be filled at the first general election for members of the House of Representatives which shall take place, in the State in whose representation in the Senate the vacancy shall have happened, not less than three months after the vacancy shall have occurred; and, in the meantime, the Governor of the State may make a temporary appointment of Senator, until the expiration of one month after the election at which the vacancy shall be permanently filled."

The Legislature of a State has its own proper duties to perform, to wit: That of providing good laws for the internal government of the State, with which the choice of a Senator of the United States has no natural connection; and the members of a State Legislature should be chosen solely with reference to these, their proper duties, and not with reference to their probable votes for this or that candidate for Senator.

It is obvious, too, that the distribution of Assembly and Senatorial districts in the State may, at times, be such that a majority of the members of the Legislature, although freshly chosen, do not represent the popular majority in the State. In such instances, a Senator may be chosen who is not in accord with the majority of the people, and who, in such case, does not represent the State at large, as he properly should do. I can see no good reason for devolving the election of a Senator upon the Legislature; while the arguments against doing so are many, and, it seems to me, unanswerable. The people are quite as capable of electing a Senator by their own direct

vote as they are of electing a Governor; and there is no need of delegating the important power of choosing a Senator of the United States to any electoral body.

NEW YORK CITY.

The recent exposure of great wrongs in the administration of the local government of the city of New York, has aroused public attention, to an extraordinary but wholesome extent, to the necessity of a reform in the conduct of public affairs. In that city, especially, the people have spoken in a way which must not be misinterpreted. They demand an improvement in the condition of their local government through legislation, which shall have in view neither party nor personal ends, but the permanent general good. The limits of this message forbids a discussion of the causes which, for a long time, have been contributing to the results recently laid bare. For many years, the city had not had a charter under which it was possible for its people, even if they had been willing to attend to their own interests, to have secured an efficient and faithful local government. At one time governed under local laws which failed to fix responsibility anywhere, at other times under varied, disconnected and irresponsible commissioners, created to enable minorities in the city to exert political control; confusion, mismanagement and extravagance were apparent to every one, but the responsible authors thereof were concealed under the complicated machinery which was unwisely substituted for a simple government of the people. In my first annual message to the Legislature, while calling attention to evils then existing, I said: "Every dollar paid for taxation should draw with it direct responsibility, and every officer should feel himself at all times on trial for his public acts. No party could then long maintain local ascendency which did not nominate its best men for office, and did not by economy and good government, make their control of affairs consistent with the interests of the people;" and I added: "No good government can be secured to any great city unless it shall have one responsible head, in whom shall be vested all executive power, and to whom, as the elected representative of the people, all departments charged with executive duties shall be directly and summarily responsible and accountable. If, with this as the fundamental idea, a plan shall be devised which will give to the polit-

ical minority within the city a just representation in its councils, we shall, doubtless, secure better results in municipal government than have ever before been attained."

The same views, excepting those upon minority representation, had been, on several occasions, in nearly the same language, urged by me while Mayor of New York, and were reiterated in my second annual message, as Governor, in 1870.

During the session of 1870 the present New York charter was enacted. It received very extensive favor from the press, and passed by a nearly unanimous vote of both Houses of the Legislature; another form of charter, submitted to them previously at the same session, having been, by a decided vote, rejected. As a whole, the charter adopted was a great improvement on the then existing condition of things. By its provisions and those of a law passed almost simultaneously with it, the former board of Supervisors, the members of which had been designated in such a manner as to leave the people, practically, no choice in the selection of them, and against whose management of public affairs the complaints had been, for a long time, many and loud, was abolished, and aldermen, elected by the people at large, under the new charter, were substituted. It broke up the irresponsible district commissions in which the city government proper had been substantially merged, and provided for new departments embracing every branch of public duty, to be organized by the Mayor of the city. It restored to the people of the city their constitutional right of local self-government, of which they had been for many years deprived. It defined the responsibility of those in authority; so that, in case of wrong-doing, the people could tell at once upon whom to cast the blame.

It was a first step in reform, casting aside, as it did, a very vicious system of government, the evils of which had long been manifest to many, and are now manifest to all. It was not an unusual mistake, that in providing a remedy for then existing evils, others, likely to come out of the remedy itself, were overlooked. This was the fatal error in the legislation which, many years ago, transferred the government of the city from the people to irresponsible commissions. It will need great caution to avoid like mistakes in framing a new charter.

The chief defect of the present charter is in recognizing the mistaken doctrine of the Congressional tenure of office law, whereby a subordinate in administrative duties is made independent of the appointing power, instead of being subject to summary removal by the chief executive officer for cause satisfactory to him. The length

of term of office assigned to some of the departments would not have been found, in practice, objectionable, if the power had been given to the Mayor to remove, summarily, for misconduct. As a substitute for this wholesome power of removal, it was provided, in harmony with the erroneous doctrine so prevalent of late years — that good administration is to be secured by scattering instead of concentrating responsibility — that the Mayor should have no power over the subordinate officers, in case of misconduct, except to accuse them before the court of Common Pleas, as the means (and the only means), of removing them from office, while the Mayor himself was not made subject to removal by the Governor.

A somewhat lengthened tenure of office in some departments of the city government, such as are created to carry out, or to administer some special work, may be, for many reasons, desirable; and is not objectionable, if the power be given to the Mayor to remove, for cause, to be publicly assigned by him. The parks of city and the Croton Aqueduct have been thus administered from the beginning. All officers connected with the general administrations of the city affairs, the Comptroller, the Counsel to the Corporation, the Chamberlain and others, should be appointed by the Mayor, with or without the consent of the Aldermen, be removable by him, and go out of office with him at the end of his term, as a matter of course.

My judgment is not in favor of requiring the consent of the Board of Aldermen to appointments. To do so, leads to a division of responsibility and opens the way for bargains whereby one appointment may be dependent for its confirmation upon the consent of the Mayor to give other places to favorites of the Aldermen.

Though the charter was not all it should have been, it was the best that could then be obtained, and it promised relief from great and long continued wrong, under which the people of the city had been suffering, and from a system of government, the abuses under which are now coming to light. The misconduct, recently exposed, was not a consequence from any of its provisions.

The responsibility for the wrong-doing, which has very justly aroused public indignation, does not rest so much upon the charter as upon individuals who held office in the city before the charter was passed, and took office also under it. The difficulty with the charter, in this connection, is that it provided no means for summary removal from office. The auditing of the alleged claims against the former county government to the extent of six millions of dollars and upward, to which the public attention has been chiefly directed, was made, not under the charter, but under a clause in the bill commonly

called the New York county tax-levy; a clause, perhaps, not objectionable in itself, if the powers which it conferred had been faithfully and carefully executed. The annual tax-levy of New York should no more be made up by the Legislature than that of any other county. It has been the practice for many years, to have the city tax-levies passed upon by the Legislature, and this has been the occasion of great abuse; the estimates of the city authorities being almost always largely increased by the Legislature. One of the good results looked for from the enactment of the present charter and other laws passed at the same time, was the abolition of the practice of bringing the city tax levies into the Legislature.

I allude to these facts not because I would recommend retaining the present charter, but because I think they ought to be known and understood. Many of the provisions of this charter cannot, in my judgment, be improved upon, but it is under popular disfavor, and I recommend its repeal and the enactment of a new one in which all that is good of the old one may be retained, all that is evil rejected, and all that is defective remedied.

The people of the city have, by their recent concerted and intelligent action, proved their capacity to manage their own affairs, and to redress their own wrongs. They demand of the Legislature now, not a return to systems which have, upon trial, proved to be failures, but the establishment of the wisest and best form of a strictly local government; the prominent features of which shall be executive power and responsibility in its Mayor, clear and well defined accountability of all officials and frequent opportunities for the people to rid themselves of a local administration not faithful to their interests. It would not be wise for the State to take any part of the responsibility for the management of the local affairs of New York city. It is the duty of the State to give to the city a good organic law under which its people can manage their own affairs and protect their own interests, and then let them understand distinctly that success depends on their own willingness to attend to their public duties. If they will not give attention to their own affairs, no form of charter, nor provision of law can secure to them good government. Municipal wrongs are not to be cured by the mere passage of a new law, however perfect in its structure; and it is certain that any charter framed to promote personal or partisan interests, will have, as it deserves to have, a brief existence.

New York city needs a permanent charter, as well as a good one; one which cannot be nullified or substantially repealed by the surreptitious insertion of a clause in a tax levy, or some other bill, or

even by specific law, with any and every change in the persons composing the Legislature. The charter of a city of a million inhabitants should be as well considered, as permanent and almost as sacred as the Constitution of a State. It should not only provide for the organization and conduct of the various departments of the local government, and clothe it with power to raise by annual tax the moneys necessary for its maintenance, but it should limit and restrict its power to create debts, except, by the consent of its people, expressed in a formal and authoritative manner. In this respect, it would be well if we could imitate in part at least our own State Constitution, which after providing Sinking Funds for the payment of existing debts, forbids the creation of any new indebtedness, except with the express consent of the people, for some single work or object to be specified in the law, which must provide also for a direct tax to pay the interest every year, and the principal in a specified period. This permanent character cannot, however, be secured to a charter, without an amendment to our State Constitution.

In framing a new charter, now, the following points should be kept prominently in view:

1st. Fixing the responsibility for good administration of all city affairs upon the Mayor; and to this end giving him full power of appointment and removal of all heads of departments, except the police.

2d. Giving the people an early opportunity for a new election of local officers.

3d. Making the Mayor subject to removal by the Governor, for malfeasance in office or neglect of duty.

4th. Providing for a police department, with three commissioners, to be appointed as follows; one by the Mayor, one by the chief judge of the Court of Common Pleas, and one by the chief judge of the Superior Court, to be removable, any of them, as in the case of sheriffs, by the Governor, for cause. A board thus constituted and so subject to removal would be, as it ought to be, a strictly local board, subject to the same State supervision as sheriffs, who are conservators of the peace in their respective counties, and as free as any board could possibly be from the danger of improper personal or partisan influence.

5th. Requiring full monthly publication of all receipts and expenditures, and of all bonds issued, and frequent publication also of all contracts made by any department, with a statement of the general operations of each department and of their pay rolls.

6th. Concentrating the responsibility of those composing what may be termed the legislative branch of the city government, by constituting this of only one board, a Board of Aldermen not too numerous; this board, with the Mayor, acting as supervisors, levy ing all taxes. A second Board is not necessary. The common council is not called upon to pass laws, but to manage the affairs of a corporation. To divide it into two Boards has the effect simply of scattering responsibility, weakening the sense of responsibility and dividing the watchfulness of the public. Making the Board to consist of too many members will tend to the same evil results, If any plan can be devised for giving in the legislative branch of the city government, by election, a just and proportionate representation to to the minority, it would be a wholesome improvement. In carrying out such a purpose, great care must be exercised lest the choice of their representatives be, practically, taken out of the hands of the people, as in the instance of the late Board of Supervisors, which was the worst device of modern times in connection with local government. The candidates named by either party were sure of being returned. The proper purpose of minority representation is to secure to the minority the opportunity of being heard in the public councils, without nullifying the rightful control of the majority or relieving it from its just responsibility.

7th. Providing that there shall be no debt created except for some single work or object by authority of law, and also under an ordinance to be submitted to, or approved by the people of the city; every ordinance and law authorizing a debt to contain a provision for the extinguishment of the same within a fixed period; or else, giving to the Mayor an absolute veto upon all ordinances creating or increasing the city debt. Upon all other ordinances, his vote should not be overruled except by the vote of three-fourths of all the members elected to the board of Aldermen; and in the case of ordinances containing several items of appropriation of money, he should have power to veto some of them while approving of others.

8th. Giving compensation to all officers and appointees of the city government by fixed salaries, and not by fees.

9th. Providing some well-defined, summary and effectual remedy in the courts for tax-payers against abuses of trust by municipal officers, with the right also given to them, under proper restrictions, to examine from time to time, the affairs of any of the departments.

10th. Providing that the acceptance of any office in, under or connected with the State government or the Federal government shall vacate any office held by the same person in or under the mu-

nicipal government, and that no person shall hold more than one office, at the same time, in or under the municipal government.

These suggestions, although made with especial reference to New York city, will apply generally to all large cities. City charters must, of necessity, according to population and circumstances, differ more or less in detail. What is needed in a city of a million of people, would not be required in one of fifty or a hundred thousand; and a general law aiming at entire uniformity in such charters is, in my judgment, not desirable. The people of any city, with a charter embracing the general provisions to which I have referred, can, if they choose, keep up a simple, honest and efficient local government; and under such a charter, if they will frown down corruption among the seekers as well as the holders of office; if they will condemn the lavish expenditure of money before election to secure office as earnestly as the stealing of it afterward; if they will make those who ask their suffrages understand that the condidate who by money demoralizes the elector is as much a criminal as the representative who takes a bribe; if they will bear in mind that spasmodic reform movements work no permanent good, but that a persistent attention to public affairs, on their part, is necessary to ensure a faithful administration by their representatives; they can secure all that is possible under any law or system of laws.

Simplicity is one great requisite in the charter of a city. Without it, responsibility can never be clearly and unmistakably defined and fixed. All complicated schemes which aim to secure to the minority an equal or unequal portion of the executive and administrative offices of a municipality, and so to make it share with the majority the responsibility of government will prove failures.

PURITY OF ELECTIONS.

At its last session, the Legislature adopted concurrent resolutions proposing an amendment of the Constitution relative to bribery. They have been duly published, and will, I trust, be favorably acted upon by you, so that they may be submitted to the people for their approval at the next general election. The proposed amendment relates to the corrupt expenditure of money to influence electors in voting, and, if it shall be adopted, laws may be enacted which will, if rigidly enforced, tend to check an evil which has assumed proportions of great magnitude. If I may believe current rumors, men of otherwise good repute are in the practice of standing at the polls in many portions of the State — even in this city, the seat of government —

with money carried openly in their hands, and of paying it, on the spot, to electors for their votes. No such open and shameless use of corrupt means has been charged in the city of New York, much as is said of election abuses there.

The fact that large sums of money are expended throughout the State at every election is well known. Much of it must be spent for corrupting the electors. In city and in country, men are nominated to office because they have been able to purchase a majority in nominating conventions in the first instance, and because it is known they can expend large sums, afterwards, to promote their own election and that of their associates on the same ticket. Men, not candidates, but who take an interest in public affairs, are called upon to contribute, and do contribute liberally toward party success. Individuals and parties are aided by moneyed corporations, who hope in this way to secure favorable legislation for their own interests, or to buy the countenance and support of the government from which they receive their privileges. In this way, the moneyed power of the country is brought in to control elections and secure to itself what it deems strength; but it does so at the risk of its own safety; for it thus debauches the moral sentiment of the community. The love of money, we are told, is the root of all evil. It is, assuredly, the root of all evil in free governments; and the lavish expenditure of money in elections is the chief cause of the corruption in our politics. A man who expends large sums of money to secure an office is apt to seek to make it up to himself when in office. I do not doubt that the multiplication of officers to be elected by the people has had much to do with introducing or increasing this corruption of our politics. The struggle between candidates for local offices is apt to be more intense than the competition for higher place before larger constituencies. It is easier, too, to calculate the influence of corrupt means; and it is easier, by them, to effect the election of candidates, when the constituency taking part in the election is limited in number. The amendment, submitted to you, will enable the Legislature to deprive of the right of suffrage every one who shall be convicted of receiving a bribe for his vote or of bribing an elector; and to pass laws providing that any candidate, guilty of bribing the electors, shall be deprived of the office to which, at any election where he was guilty of this offense, he may have been chosen.

The inconvenience occasioned to the electors, by registry laws, is not to be counted against them, if, by their means, we can ensure pure elections. I have little faith in them to prevent fraud at the polls.

They have been tried and have failed to prevent it. More frequent charges of fraud, and of frauds of a grosser character, have been made since registry laws were put in operation than before. Many who have watched their working insist that they can be easily made, and have been made, a convenient cover for frauds, which, without them, could not have been committed. They have this effect, certainly, that the vigilance necessary to detect illegal voting has to be extended over several days, instead of the one day of election, requiring more time for this purpose than men will spare from their private business; and so the watchfulness over the poll-list is, ordinarily, less general and probably less complete than under the system of challenging on the day of election.

Upon principle, a registry law, if any be passed, should apply to all parts of the State alike. Yet I am satisfied that intelligent public opinion in the rural districts, among men of all parties, does not favor one there. The inconvenience and expense to the electors in such districts, from such a law, are very great, with no adequate good result in compensation. The conviction, however, prevails extensively among intelligent men that, in large cities, registry laws can be made useful in securing the purity of the ballot; and this conviction is so strong that the continuance of the system in the larger cities may be advisable. All laws requiring a registry of the electors, previous to an election, should be made as little vexatious and oppressive to honest voters as is possible, consistently with securing proper identification of the person claiming the right to vote and due examination of his right. It must be borne in mind that it is not the province of a registry law to define the qualifications of voters, or to confer or restrict the right of voting. That right is conferred by the Constitution, and cannot be taken away by act of the Legislature, except in the few cases specified in the Constitution. Any law which you may pass, therefore, ought not to be framed so as to work the actual disfranchisement on the day of election of any elector who, for good reasons, such as sickness or absence from home, or his not having arrived at full age until after the last day of registry, was unable to have his name registered.

The complaints with regard to the late election in New York and Brooklyn, made through the press, are chiefly of false counting of ballots and false returns by inspectors of election. The general suspicion of the existence of such an evil is almost as injurious as the practice itself; our people, if led to believe that it is carried on extensively, will neglect to vote, and will lose their habit of submitting

quietly to the result of an election. The crime is, under our form of government, one of the worst, in its nature and in its effects, and should be punished accordingly. It is a practice which, persisted in, is more likely to overturn our government than any open war that can be levied against it. We have wisely, in our statutes, restricted the definition of the crime of treason to acts of open war against the State government, and to combinations of one or more persons to overturn it by force. The crime of making false returns of votes cast at an election is, nevertheless, of the nature of treason; for it seeks to take away the lawful power and destroy the rights of the true sovereign in our government, the people.

You have the power to attach what penalty you think necessary to any species of offense against the laws; and those imposed should be sufficiently severe to deter men from committing crimes, yet not so extreme as to be likely to protect them from conviction.

Effectual laws against bribery of the electors and to take away an office obtained by bribery, through protection of the right of challenge on election day, severe penalties against miscounting of votes and against illegal voting, ought to suffice for the protection of the ballot, and will suffice, if citizens, juries and public officers will do their duty.

PURITY OF LEGISLATION.

The people cannot be too fully awakened to the dangers inseparable from the growth of moneyed power in this country, whether wielded by individuals or corporations. It makes itself felt everywhere in our politics, and aims to control, and too often does control legislation in Federal and State capitals. We cannot directly strike at it in other States, or at Washington, but we can begin at the capital of our own State, and set an example to others. There is a popular belief that much important legislation, in past years, here, has been influenced by the direct use of money. This belief is so general and wide-spread, that is is due to the people that there should be a prompt and thorough legislative inquiry to ascertain whether it is well founded. If it be so, guilty men should be brought to justice under existing laws, if that is possible. If not, then proper laws should be passed to meet cases which may hereafter arise. The people will be slow to obey laws which, they believe, are enacted by a corrupt Legislature. Their demand to-day is not for municipal reform only, but for reform in every department of government,

State and Federal, in which abuses may be shown to exist. Authority, whether executive or legislative, to be cheerfully obeyed, must be respected and honored.

CONSTITUTIONAL REFORM.

A few years ago the people of this State voted in favor of holding a convention to frame a new Constitution; thus expressing their dissatisfaction with the existing Constitution. The convention was held; but, on the result of its deliberations being submitted to a vote, the people rejected the proposed new instrument, with the exception of one article, to wit, that relating to the judiciary. It is not a fair inference from this action of the people that they desired a convention for the single end of amending the judicial system of the State. That could have been done by the simple process of submitting, after due consideration by the Legislature, a single amendment, covering the one subject. The vote of the people calling a convention indicated that they recognized many defects in our existing Constitution. The vote rejecting the substitute proposed by the convention indicated that, in the popular judgment, the remedies suggested for these defects were not sufficient or satisfactory.

In my opinion, the present Constitution of the State is very defective as a frame work of efficient Republican Government. In considering this subject, it must be borne in mind that the population of this State is now larger than that of the whole Union when the Constitution of the United States was put into operation, and that our State has, in fact, in the number of its people and the great interests protected by its laws, the proportions of a nation. It must also be remembered that the comfort, welfare, and happiness of the people are affected in a very much greater degree by the laws of the State, and the manner of their enforcement, than by the operations of the general government The title to property and the rights of, and the restraints upon the owners of property, are regulated by State laws. The enforcement of business contracts of every nature are, in the main, in the hands of the State courts. The detection and repression of crime are dependent, except in a few rare instances upon the enactment of proper criminal laws by the State Legislature and their due enforcement. The order of the community is under the guardianship of State laws, and dependent upon State authorities for its preservation. The powers of our municipal govern-

ments, whose action influences still more sensibly the peace and comfort of every man's home, are conferred and defined by the State government. It is obvious, therefore, that it is a matter of transcendent importance to every citizen of this great Commonwealth, that it should possess a wisely constructed frame-work of government, adapted to secure the most wholesome legislation, the most efficient enforcement of law, the most faithful administration of its affairs, and an uninterrupted maintenance of order.

I do not recommend the calling of another Convention to revise the Constitution, at this time. The attention of the people will be much engrossed this year by the Presidential election; but I trust that, immediately after that event, the efforts of our best citizens, of all parties, will be united to effect a thorough revision. Nor am I sure that a Convention is a necessary, or the best means by which to attain the end.

A commission of thirty-two (32) eminent citizens, to be made up by selection of an equal number from each of the two great political parties, would, it seems to me, be as likely to work out a good result as a larger body.

Such a commission could have all the benefit of the debate incident to a larger body through intelligent discussions in the press, and the voluntary suggestions of thoughtful citizens; and would be almost certain to agree upon amendments which would secure the popular approval.

If you should be of the opinion that it is wise to appoint a commission, there can be no objection to your creating it at this session. Its report would not be made until after the Presidential election, when the public mind would be in a condition to examine calmly, and to decide wisely. True, it is not the mode provided in the present Constitution for a revision of that instrument, but it cannot be doubted that a Constitution prepared by such a commission and submitted by them to the Legislature and by the Legislature submitted to the people in due form, would, if approved by a vote of the people, be regularly established and become substituted for the present Constitution.

You have, moreover, the constitutional power to originate any amendments to the existing Constitution; and if the same shall be concurred in by the Legislature, to be chosen in eighteen hundred and seventy-three (1873), they may be submitted to a direct vote of the people, and if approved by them, will become a part of the Constitution.

My convictions are so strong that the present organic law of this State is full of serious defects, that I feel justified in calling your attention to the subject and pointing out the particulars in which, in my judgment, it fails as a means of securing to us the best possible administration of our public affairs.

The Constitution of the United States was constructed by a convention made up of the wisest and ablest men to be found in the thirteen States which then composed the Union. Each of these States had been obliged, some years earlier, to frame a constitution for its own government. The delegates from the several States did not, therefore, come together as men inexperienced and new to the work they were called upon to perform. They brought with them, from their several constituencies, varying and indeed conflicting ideas of the powers which ought to be conferred upon the new government about to be established, and the manner in which those powers ought to be distributed among its several departments.

There is, of course, this difference between that instrument and the constitution of a State: that the former originated a special government and conferred on it certain powers and none other, while in the State government all the powers of government inhere, except such as, by the Constitution of the United States or by its own Constitution, it may be forbidden to exercise. This difference does not affect the question of how the powers of government may wisely be distributed among the different departments, executive, legislative and judicial, nor that of how to provide the instrumentalities through which the government is to be administered. In most of these particulars the Constitution of the United States may wisely be followed.

Under the existing Constitution, the executive department of the State is not so organized as to insure the most efficient administration of affairs, and the most complete and direct responsibility. The duty of the chief executive officer, the Governor, is to see that the laws are faithfully executed. It is obvious that in the selection of the subordinate officers upon whom, within their separate departments, the duty is devolved of executing the laws of the State and administering its affairs, the chief Executive ought to have a controlling voice. The experience, alike of public affairs and of private business, prove the expediency of a single executive. The laws and the rules under which public or private business is to be managed are to be carefully laid down and precautions taken against their violation; but, when, subject to these rules and within their limits, the chief direction of affairs is given to one person, the best

safeguard for faithful administration is provided, by concentrating responsibility. The Governor ought to be held responsible for every branch of the actual administration of the State's affairs. Under our present Constitution, all the important departments are separated from his control. In the management of the finances of the State, of the Canals, of the State Prisons, in the prosecution of crime, the chief Executive of the State has not, as he should have, the directing power. In order that responsibility may be full, direct and unmistakably fixed, and that the people may always know who is to blame for any maladministration, all the heads of administrative departments should be subject to the supervision and the correcting power of the Governor. The duties of the Secretary of State are so directly connected with the details of executive action, especially in the matters of appointment to office and the issuing of pardons, that he ought to occupy the position of chief assistant and adviser of the Governor; and ought to be selected by him. The Attorney General is the legal adviser of the Governor. The chief executive officer of the State should be allowed the privilege which all men exercise, of selecting for a legal adviser such person as is, in his judgment, the most competent. The Attorney General ought to have supervision over and be responsible for the conduct of all that class of officers, throughout the State, which is charged with the duty of proseeuting for crime and other violations of State laws. Prosecuting officers for offenses against the laws of the State, now erroneously called District Attorneys, should not be county officers, but be the deputies of the Attorney General, appointed by him or by the Governor on his recommendation. In this way, responsibility for the due enforcement of the laws could be brought home, as it should be, directly to the Governor, upon whom the duty is devolved to see that the laws are faithfully executed.

It appears to me proper that the Secretary of State and the Attorney-General should be appointed by the Governor without the intervention of the Senate, and hold office during his pleasure; and that the Comptroller, a Superintendent of Canals, and a Superintendent of Prisons, should, with or without the consent of the Senate, be appointed by the Governor to hold office during his own term, but removable by him at any time, for cause. These officers would form a valuable council to the Governor.

On the Superintendent of Canals should be devolved all the duties now performed by the three Canal Commissioners and the State Engineer.

The management of the prisons of the State needs great reform which cannot be secured by a mere change of officers; the system is at fault. A constitutional amendment has been suggested putting these institutions under the charge of a Board of Citizens who are not to be paid for their services. While that would be an improvement on the present system, reflection upon the subject has convinced me that a better amendment would be to supersede the present commission of three Inspectors (elected one every year by the people) by one Inpector of State Prisons to be appointed by the Governor and to be removable by him. An advisory or examining board of citizens might be valuable in addition; but for the actual administration of prison affairs and the appointment of all subordinate officers, it would be better to have the responsibility concentrated upon one man, that one man being accountable to the Governor, than to have this responsibility divided among the members of a board or a commission.

It might be well that the State Treasurer, being the actual custodian of the public moneys, and perhaps the Superintendent of Public Instruction, should be appointed by joint ballot of the two houses of the Legislature; but all other administrative officers of the State, in addition to those heretofore named, should, in my judgment, be appointed by the Governor, with or without the consent of the Senate, so as to make his responsibility for the good management of the public affairs complete. In connection with this part of the subject, I would recommend that the term of office of the Governor be extended to three years, which was its duration under the first Constitution of the State. If these changes could be made in the Constitution, the people would have an opportunity once in three years, of putting out of power the entire administration and bringing in a new set of men, whereas now they can make only a partial change every year. It has occurred more than once in consequence of a part of them going out of office each year, that some of the administrative officers of the State have been of one party, and others of the opposing party; a condition of things that bewilders the popular judgment when seeking to fix responsibility for maladministration.

In the Legislative Department there is great need of providing additional safeguards against faulty and special legislation. For twenty years past, the laws passed exceed an average of five hundred a year; for the last six years they average over eight hundred a year, and it requires now two very bulky printed volumes of above two thousand pages to record the acts of each session. There can be no

necessity for this mass of legislation. More than one thousand bills are now passed in a session; as the session lasts only about one hundred days, it will be seen that at least ten bills a day have to be passed through both houses, and as three readings should be had of each bill in each house, it is plain that deliberation by the members of the two houses over proposed laws is impossible.

Notwithstanding the deference which it is natural that the Executive should pay to the Legislature in matters pertaining to their special duty, that of law-making, I have found myself obliged, in the course of three sessions, to withhold my official approval from an aggregate of three hundred and ninety-one bills. In addition, more than one hundred bills have, after being delivered at the Executive chamber, been recalled by the Legislature for reconsideration, in order to correct inaccuracies or strike out objectionable provisions, discovered in my examination of them. It is not right to rely solely upon the Governor to review proposed legislation. It must happen, under the present habit of passing laws, that bills will, at every session, receive the Executive approval containing provisions which escape his scrutiny, and to which, if his attention had been called to them, he would have objected. The people must do their part, in guarding against improper legislation, when selecting their representatives in the Legislature; and the organic law should be so framed as to promote a wise selection.

Provision ought to be made in the Constitution securing the actual reading of every proposed law on three separate days in each house, and forbidding any substitute for the full and free discussion which pertains to consideration of a bill in committee of the whole house.

The provision in the existing Constitution limiting the session of the Legislature to one hundred days, has had no good practical effect. It has not lessened the amount of legislation; it has simply caused the members to act with the more haste. The restriction should be removed and a fair annual salary be paid to Senators and Assemblymen. There is no true economy in withholding from public servants a just compensation for their labor.

As a better restraint upon undue prolongation of a session, I suggest that power should be given to the Governor to prorogue the Legislature, at any time, after it shall have been in session for one hundred days.

The chief office of a Senate should be to review the action of the other house, to check and restrain improvident, hasty or unwise legislation; and, for the best discharge of this duty, it should be

composed of men well versed in public affairs. Its name imports that it is to be a council of men of long experience. Every inducement should be held out to attract the right men to service in this body. The public cannot expect, any more than a private person, to command valuable services unless it offers an adequate reward. This reward need not be wholly pecuniary; the dignity of an office is often a more powerful inducement to the class of men we need in the public service. A long term and a large constituency would greatly enhance the dignity of the office of Senator, and make it attractive to our most distinguished citizens. If the Senatorial term were made four or five years, and the State were divided into a small number of Senatorial districts, so as to throw the choice of Senator upon a large constituency, and the compensation made a fair one, I do not doubt that the ablest and most experienced of our public men would be found ready to apply themselves, in the Senate, to the important duty of securing good laws for the people.

In the constitution of the house of Assembly no improvement suggests itself to me, except to abolish the single Assembly districts as now established, and restore county representation; that is to say, that every county shall elect the whole number of Assemblymen to which it is entitled upon a general ticket.

In respect to the Judicial Department, the action of the people is so recent in adopting the new sixth article of the Constitution (still futher action on their part next year, upon the mode of selecting judges in the future, being also already provided for), that it would not be wise to have any changes made.

Among the general provisions of the Constitution, there ought to be one limiting the amount of indebtedness which municipalities may incur, and defining the purposes for which it may be incurred. Uniformity of the several classes of local governments, counties, towns, villages, ought to be secured by constitutional guaranty; so as to prevent special legislation with regard to them. It is impracticable, as I have already said to frame a uniform charter for our cities. But there are certain fundamental characteristics which ought to be found in all city charters, and ought to be secured by constitutional provision.

There should be more specific constitutional restraints upon legislative power to grant special charters for corporations; upon special legislation generally; upon legislative awards of extra compensation to claimants under contracts and otherwise; all of which tend

greatly to encumber the statute book, demoralize the Legislature, and deplete the Treasury.

The veto power needs to be made more effectual. Two-thirds of all the members elected to either House should be required to overrule a veto, and where a bill contains several items of appropriation of money, the Governor should be authorized to refuse his assent to one or more of the items, while approving of others.

I have dwelt at this length upon the defects, as they appear to me, of our present Constitution, as the best method of inviting attention on the part of the Legislature and the people to the subject.

The excitement of a long war, and the events succeeding it, have operated to divert our attention from our immediate home affairs. It is time we began to look to them.

The framers of the Constitution of 1846, eager for decentralization of power, made the mistake of supposing that this was to be effected by breaking apart and disconnecting the machinery whereby the State government is to be carried on, and by multiplying the number of elective officers. Decentralization consists in giving to to the people of every county or other political subdivision complete control of their own proper local affairs, not in giving to the people of a county the selection of State officers, of officers whose duties are exclusively connected with the general affairs of the State and the enforcement of the laws of the State. It is singular that true decentralization, which is to be found in enlarging the powers of the Boards of Supervisors of the several counties, was not provided for in the Constitution except by leaving the matter to be regulated by the Legislature.

Of the various methods by which a revision of the Constitution may be undertaken, my preference is for the appointment of a commission consisting of thirty-two members; and I recommend the passage of an act for the appointment of such a commission.

Mindful of the fact that the majority of the Legislature and the Executive are of opposed political parties, I refrain from discussing questions connected with the administration of the Federal government, upon which our opinions and views would widely differ; hoping that, in dealing with the home affairs of the State, we may be able to work together, earnestly and heartily, for the promotion of the general welfare of our people.

JOHN T. HOFFMAN.

SPECIAL MESSAGES, 1872.

EXECUTIVE CHAMBER,
ALBANY, *January* 2, 1872.

TO THE LEGISLATURE:

The financial condition of New York city is a matter of great interest to the people of the State at large, and, in some degree, to the commercial world; its stocks and bonds being held for investment at home and abroad. In view of recent events, I deemed it my duty to procure for you full information as to its liabilities and resources, and addressed a letter to the chairman of the State board of commissioners for revision of the tax laws, the Hon. David A. Wells, who seemed to me specially fitted for the work, requesting him to investigate and report to me. In consequence of delay in his obtaining some of the facts, his report did not reach me until my annual message was in print. My letter to him and his reply are as follows:

EXECUTIVE CHAMBER,
ALBANY, *November* 25, 1871.

MY DEAR SIR — The financial condition and credit of New York city are of interest as well to the people of the State at large as to its own citizens. It is important that the actual condition of our great Metropolis, in reference to its indebtedness and its resources, should be made known with accuracy; and I desire to communicate the facts to the Legislature with the people of the State in my next message. Will you undertake to investigate the matter in my behalf?

Very truly yours,
JOHN T. HOFFMAN.

HON. DAVID A. WELLS, *Chairman, etc.*

NEW YORK, *December* 28, 1871.

SIR — In response to your note of November 25th, requesting me to investigate and report to you on the relation which exists between

the indebtedness of the city and county of New York, and the resources available for the payment of such indebtedness, or the extent of the resources or property which may be fully regarded as constituting an adequate and inalienable security for the ultimate payment in principal and interest of such indebtedness, I have the honor to submit the following exhibit:

FUNDED DEBT.

By report furnished on request by Hon. A. H. Green, Comptroller, it appears that the funded debt — bearing *five*, *six*, and *seven* per cent. interest — of the city and county of New York, was, on the 16th day of December, 1871, $87,371,808.51; and the assets of the sinking fund of the city and county — consisting of stocks and cash — available for the redemption of debt, were, on the same day, $20,137,093.02; thus making the present *net* funded debt of the city and county of New York, $67,234,715.49.

FLOATING OR TEMPORARY DEBT.

The temporary or floating debt of the city and county of New York — consisting of bonds issued in anticipation of receipts and assessments, arrears of interest, State taxes, unpaid warrants and the like — was, on the 16th day of December, 1871, $28,259,071.35; or, deducting cash on hand — $6,959,919.62 in the city and county treasury — $21,299,152.73.

In addition to the above, the Comptroller also reports claims already presented on unsettled accounts, to an estimated aggregate of $6,000,000; which last included would make the total *ascertained* debt and "claims presented" of the city and county of New York, on the 16th of December, 1871, $94,523,867.22.

PROSPECTIVE INDEBTEDNESS.

So much for the present aspect of the indebtedness of the city and county of New York. In respect to the future, it is to be noted:

First. That much of the existing temporary and floating debt of the city and county of New York, as above indicated — including

an aggregate of assessment bonds issued in anticipation of the tax receipts of $14,950,700.00 — is redeemable from the collection of assessments, or arrears of taxes, and that a very considerable amount of these assessments and arrears is certain to be collected; and,

Second. That the city holds bonds and mortgages on account of sales of real estate to the amount of $1,132,893.26; the proceeds of which, when collected, are applicable for an increase of the sinking fund held for the redemption of the funded debt.

On the other hand, it is known that claims to a very considerable amount for services rendered and materials furnished to the several departments of the city and county government during the year 1871, and previously, are yet to be presented, and that the carrying out of such public works as are already in progress or are certain to be authorized, will also require further additional expenditures.

But in estimating the amount of these prospective requirements for expenditures, it should not be overlooked, that the amount of claims against the city, yet to be presented, is not likely to be in excess of the arrears of assessments and taxes yet to be collected; and further, that the amount to be hereafter expended on acount of public improvements cannot, with any regard for economy and moderation, ever prove disproportionate to the concurrent increase in the material resources of the city, arising from its certain and rapid increase in wealth, business and population.

So that, making every allowance for contingencies, or any immediate advances on account of public improvements, the total present liabilities of New York city and county, may be safely estimated as not in excess of *one hundred millions of dollars*; and further, that the ratio which the liabilities of the city and county, at present, sustain to their assets and resources, is not likely to be changed, for the worse, in the future; certainly *not*, if the safeguards against corruption and extravagant expenditure, suggested by recent experience, are by the Legislature authorized and provided.

INFLUENCE OF PUBLIC IMPROVEMENTS IN AUGMENTING THE SOURCES OF MUNICIPAL REVENUE.

As bearing upon the question of future municipal liabilities, on account of expenditures for public improvements, it is interesting to note the result which has followed one of the largest single items of expenditure authorized by the city for such purpose, and which at the time of its inception was denounced by many as a measure of

indefensible extravagance. We refer to the expenditure incurred by reason of the construction of the "Central Park;" the cost of which, up to 1869, is returned at $10,463,965.

Now, an examination of all the facts pertaining to this expenditure will show, that so far from its having been a burden upon the city treasury, it has really proved a direct and important source of revenue. Thus, in 1856, before the park was commenced, the total valuation of real estate for taxation in the three wards around the park, the twelfth, nineteenth, and twenty-second, was $26,429,566; but in 1866, when the park had been practically completed, the valuation of the same property for assessment was returned at $80,070,415, an increase in ten years, of $53,640,850. And further, the revenue received by taxation on this increased valuation, was sufficient, in 1870, to not only pay the interest on all the bonds of the city issued for the park purchase and construction, but actually afforded a surplus of over ($3,000,000) *three millions of dollars;* or a sum sufficient, if used as a sinking fund, to pay the entire principal and interest of the cost of the park, in less time than the park was in the course of construction.

ASSETS AND RESOURCES.

The maximum of the liabilities of the city and county, on account of indebtedness, having been thus estimated, we come next to the no less important consideration of the assets and resources available for the payment of such indebtedness; or the real tangible property which may be properly regarded in the nature of security or guaranty for the payment of such obligations of indebtedness as the city and county of New York may have lawfully issued.

Any valuation of the public property of the city must from necessity be very indefinite, inasmuch as many of the items which would be included in any inventory — as the streets, sewers, lamps, public monuments and the like, are not susceptible of a money valuation; and if attached, would be practically of no benefit in the hands of a city creditor; but apart from these, it cannot be doubted that the value of the lands and buildings, wharfs, water, ferry and market rights in possession of the city and county, and which can be readily convertible in open market into a money equivalent, is in excess of every present municipal or county indebtedness.

The valuation of the public property of the city of New York, given by the mayor in an official communicatioh to the board of supervisors, August 16, 1271, was $242,985,499.

In this valuation were comprised the following:

Markets	$4,767,374
Sundry lots of land	2,719,307
Wharfs and piers	13,322,433
Public parks and squares	106,416,490
Total	$126,725,574

Next to the so-called public property of the city and county, the property most rapidly available for attachment and levy in case of a default in the payment of the principal or interest of the city's indebtedness, is the real estate of the city and county, the revenue derived from the assessment and taxation of which constitutes also the main element and strength of its municipal credit.

The valuation of this class of property for the year 1871, as returned by the commissioners of taxes and confirmed by the board of supervisors, was $769,306,410. But it ought to be clearly understood, that this valuation for tax purposes does not represent any fair valuation of the property assessed, or even an approximation thereto, and in great part for the following reasons.

The taxation required to defray the expenditures of the State, as a whole, is apportioned to the several counties of the State according to their property valuation; and hence there has been for years, and is now, a strife between the different boards of county officials to run down the valuation of property to the very lowest practical figure, in order to divert as large a proportion of the State taxation as possible from themselves, and throw it upon their neighbors; and as some of the counties in the interior of the State have been so successful in doing this as to actually reduce their valuation to *twenty per cent* and even a smaller proportion of the real and true value of the property assessed, a similar course of procedure has been forced upon the tax officials of New York, as a matter of necessity and local protection. And thus it has come about that, instead of the returned assessment valuation of $769,306,410 for 1871–2, representing the true market value of the real estate of the city and county of New York, in private ownership, it does not, in all probability, represent more than *forty per cent.* of such true value; an estimate which, instead of being a conjecture, is based on a large amount of evidence,

recently collected by an expert for the board of commissioners for revising the laws of the State relative to taxation.

The conclusion, therefore, seems warranted that the value of the real estate of the city of New York — public and private — which may be fairly regarded as an available security for the liquidation of the city and county debts, cannot be less than *two thousand million dollars* on which the present debt, as above estimated, namely, $100,000,000 would be equivalent to a mortgage of five per cent.

In this estimate, it will be observed that no account has been taken of the valuation of the personal property owned or held by citizens of the city or county of New York. The amount of such property valued and assessed for the year 1871–2 was $306,947,223. The investigations of the State commissioners lead, however, to the conclusion that this amount does not represent so much as *twenty* per cent. of the real value of this description of property concentrated in the city of New York; or, in other words, that the true value of the personal property of New York city cannot be estimated at less than *fifteen hundred millions*. Much of this property, it must be acknowledged, can never be reached for assessment purposes by any law which the ingenuity of man can devise, or which any civilized people would tolerate in respect to execution; but, whether returned for assessment or not, it nevertheless exists, and by increasing the ability to pay, operates to decrease the real burden of taxation imposed on other property of a more tangible and accessible character.

It is also to be noted that if the new plan of assessing personal property recommended by the State board of commissioners, and which is to be presented this winter to the Legislature in the form of a definite code, is adopted, namely, doing away with the direct assessment of individuals for personal property, and substituting therefor, as an equivalent the assessment of individuals on a valuation of three times the rent or rental value of the premises by them occupied, the amount or equivalent of such property returned for assessment and taxation will be very greatly increased; and the financial resources of the city be thereby correspondingly augmented.

INCREASE OF NEW YORK IN POPULATION AND WEALTH.

In estimating the prospective ability of the city of New York to sustain and liquidate indebtedness, the recent and prospective increase of the city in population and wealth constitutes an element

of not a little importance. Thus, from 1820 to the year preceding the outbreak of the civil war, 1860, the average rate of increase for each successive period of five years, was 28 per cent; a continuous rate of growth, probably without precedent, in any country. During the period of the war, or from 1860 to 1865, the population of the city decreased 9¾ per cent. Since 1865, or during the five years from 1865 to 1870 inclusive, the gain in the population was 26¾ per cent; thus indicating that the average rate of increase experienced prior to 1860, was again likely to be approximated.

The increase in the valuation of the property of the city and county for assessment purposes, during the *ten* years from 1860 to 1870, was 82½ *per cent.*

The present increase in the value of the real estate of the whole city for assessment purposes, is estimated by experts to average about *five* per cent. per annum.

RELATION OF TAXATION TO POPULATION AND PROPERTY.

It is also interesting to note the relation which taxation sustains to population and property in New York and some of the other leading cities of the country. The following data are derived from the most authentic sources.

City of New York. — Population, 1870, 952,292; aggregate State, city, county and school taxes, 1870, $25,403,859; special taxes as estimated by officials, $2,000,000; total taxation, $27,403,859. Taxation *per capita*, $29.08.

Boston. — Population 1870, 250,526; aggregate of all taxation, 1870, $9,050,420; taxation *per capita*, $36.

Chicago. — Population 1870, 298,977; total taxation, general and special, 1870, $9,256,333; taxation *per capita*, $30.

But as in the opinion of some experts, the burdens of taxation in any community are properly represented by the relation which the aggregate of the annual levy of taxes sustains to the value of property assessed, attention is further asked to the following comparisons:

In Boston and Philadelphia, real estate is returned for assessment at nearly its full marketable value. On this basis, the relation of taxation to real estate valuation in these two cities would be as follows:

Boston.—Real estate valuation, 1870, $365,593,100; aggregate taxation 1870, $9,050,420; ratio of taxation to real property valuation, 1 to 40.

Philadelphia.—Real estate valuation, 1871, $491,844,086; aggregate taxation, 1871, $9,026,753; ratio of taxation to real property valuation, 1 to 54.

Cincinnati.—Real estate valuation as made anew for 1871, $123,427,888; aggregate taxation 1871, $4,004,035; ratio of taxation to real property valuation, 1 to 30.

In the city of New York, on the other hand on valuation of real estate acknowledged to be only about 40 per cent. of the real property, the ratio of aggregate taxation to real property valuation would have been in 1870, as 1 to 27; but if the valuation of the real estate of New York were advanced in proportion to the value taken for assessment purposes in Boston and Philadelphia, the ratio, instead of being as 1 to 27, would be much more favorable than in either of the cities above mentioned, or in the approximative ratio of at least 1 to 65.

It is, therefore, evident, that in comparison with the actual accumulated and tangible wealth of the city of New York, any liability, on account of indebtedness, which the city has yet incurred, or is prospectively likely to incur, is very insignificant; and with a reasonably honest, efficient and economical government, such as public opinion and legislative authority, guided by recent experiences seems certain to compel, there can be no good reason why the interest bearing debt obligations of the city should not be regarded as the most desirable of investments.

I am, yours, most respectfully.

DAVID A. WELLS,

Chairman Board of Commissioners for revision of the laws of the State of New York, relating to the assessment and collection of taxes.

To Hon. JOHN T. HOFFMAN,
Governor of the State of New York.

I have also received a letter, dated 29th December, 1871, from Hon. Andrew H. Green, Comptroller of the city of New York, in which he says:

"Immediate legislation is essential for the maintainance of the credit of the city by the meeting of the obligations maturing early

in January and to make provision for past claims which are due and which are of pressing importance. Equally important is prompt legislation to make provision for the maintenance of the government of 1872.

„ As the law appears now (chap. 584, sec. 3 of 1871), no authority exists to make appropriations until May next, leaving the first four months of the year 1872 without any provision by which payments of necessary expenses for these months can be made."

I respectfully ask your immediate attention to these suggestions, and such early legislation with reference to them as may be necessary and proper.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *January* 30, 1872.

TO THE LEGISLATURE :

I have this day affixed my official approval to Assembly bill No. 19, entitled " An Act relating to appropriations and deficiencies in the city and county of New York, and the audit and payment of salaries and claims in said city and county."

I have done this with reluctance. The bill appears to me to be faulty in its structure ; yet not so much so perhaps as to preclude arriving at an intelligent construction of its intent. It is, however, seriously erroneous in principle. It provides not only for the audit and payment of claims accrued in the year 1871, against the city and county of New York, to an amount not to exceed the sum of $8,500,000, but also for appropriations and apportionment of moneys to carry on the local government for the first four months of the present year. The power to audit and pay last year's claims up to a fixed amount, and to make appropriations for the expenditures of the current year up to the 1st of May, next, without limit as to amount, is conferred upon the three persons who now are or may hereafter be heads of certain departments of the city government, to wit, the comptroller, the president of the department of parks and the commissioner of public works, all of whom are appointees of the mayor, none of them having been elected by the people. The bill ignores the chief executive officer of the city and the legislative

branch of the local government. A bill which seeks to carry on the government of a great city and county without the concurrence of its mayor and common council and board of supervisors, or any of them, and which places this great duty in the hands of certain subordinate officers, appointed by the mayor, without associating with them in it either the mayor or the legislative branch of the local government, or some representative of the latter, can be justified only by an extraordinary condition of affairs. A limit is placed by the bill upon the amount which is to be applied to the payment of claims against the city, however well founded these may be; but none is imposed upon the appropriation of money for current expenses. The omission of a limit upon the amount of public moneys which these three officers are authorized to appropriate cannot be justified; and is overlooked by me, now, in the faith that you will, by prompt supplemental legislation, affix one. No condition of things can render this omission necessary or proper.

Specific provision is made in the bill for providing means for paying the accrued claims by the issue of revenue bonds; but while the bill authorizes the appropriation of money for all the current expenses of the first four months of this year, it does not provide any means for obtaining the money to meet such appropriations, either by tax or by borrowing. There has been, in nearly all the tax levies for the city and county of New York, heretofore passed by the Legislature, explicit authority conferred to issue revenue bonds in anticipation of the receipt of taxes for the year, and there are also to be found in the laws general provisions authorizing the comptroller of the city to borrow in anticipation of the revenues of the city and county such sums as may be necessary to meet the ordinary expenditures of the local government for each current year, not exceeding the amount of such revenues; yet it may be, and I think is, a matter of serious doubt whether any of these general provisions will apply to moneys appropriated and to be expended under the extraordinary and exceptional powers conferred on the board created by this act, for a portion of the year only, no revenue for the year being as yet provided for or determined. An extraordinary condition of affairs does exist in the city requiring prompt remedy, and making necessary temporary and unusual measures of relief. The needs of the employees of the city government, and of many of its honest creditors are pressing; various important charities which are, in part, dependent upon the city government for the means of relieving the helpless under their care, cannot be longer kept out of the money which has been promised them, without producing great and exten-

sive suffering; and there is a necessity for some temporary means of carrying on the public business of the city, until the Legislature shall determine what shall be done with reference to the permanent reorganization of its government.

If I were to return this bill for reconsideration by you, on account of the objectionable features I find in it, great delay might ensue in providing the means of paying the city's rightful creditors, and of carrying on its government for the time.

The remedy for the existing condition of things ought to be prompt. While I think that, even under the necessity for immediate legislation on the subject, a bill more cautious and more in conformity with correct principles ought to have been prepared, I have signed this bill rather than risk further delay in furnishing relief to those having just claims on the city, and many of whom have suffered already from their non-payment; and in the confident belief that the extraordinary powers conferred by the bill will not be abused. I make this respectful communication to the Legislature to the end that I may not be held committed, by giving to this bill my signature, under the very extraordinary circumstances connected with it, to its objectionable feature in other cases, if any such should arise hereafter; and I respectfully, but earnestly, recommend that the Legislature promptly pass a supplementary act limiting to such amount as to it may seem proper, the sum which may be appropriated by the board created by this act, for the expenses of the city government from the first of January instant to the first of May next; and also conferring specific power on the comptroller of the city to issue revenue bonds, payable out of such taxes as may be levied this year, for the purpose of providing means for the expenditures to be made in the period named.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *January* 31, 1872.

TO THE ASSEMBLY:

To a resolution, passed by you yesterday, requesting me to inform you whether bills had been presented to me, purporting to have passed the Legislature, from which I withheld my signature, on the

ground that certain provisions found in them had not in fact passed the Legislature, and to communicate any facts or circumstances within my knowledge having any material bearing upon the subject, I respectfully reply that there are only two instances of this nature of which I can now remember the particulars. One was a bill to authorize the New York River Road Company to construct certain railroads in the city of New York, sent to me at the end of the legislative session of 1869, which I declined to approve for reasons which will be found in the memorandum filed with the bill at the time; of which memorandum the following is a copy:

"Not Approved. Amendments to this bill were made in the Senate, and it was sent to the Assembly for their concurrence therein. Some members of the House inform me that the Assembly did not thereafter act on it. The Clerk thinks it did not. The Assembly journal, nevertheless, shows concurrence; after which the bill should have been sent to the Senate to be signed by the President thereof. The usual message in such cases from the Assembly to the Senate is not found with the bill, and the Senate journal does not show that the bill was returned to it. In case of its return, the bill would have been sent by the Senate clerk to the President of the Senate to be signed, whereas the journal clerk of the Assembly admits that he took it directly to the President of the Senate, and obtained his signature; he must have done so by managing to place it among the bills then regularly before him from the Senate. This was irregular and contrary to positive orders from the Lieutenant-Governor and the Clerk of the Senate.

"The Assembly journal clerk could have had no motive for carrying the bill himself to the President of the Senate, if, by regular action of the two Houses, it had been properly on its way to that officer. The Senate's journal is, no doubt, correct. The bill was not returned, as it should have been, to the Senate, and I decline to sign it."

The other was the bill to supply deficiencies in appropriations for the support of the government, commonly known as the supply bill, passed at the last session. This bill, engrossed complete, together with the original memoranda of the conference committee, from which it had been engrossed, was, a day or two after the adjournment of the Legislature last year, brought to me by the Clerk of the House of Assembly, with the reservation that it was not to be considered as formally delivered, and with the request that before it was so delivered I would aid him in the comparison of the engrossed bill and such memoranda. I proceeded to examine the bill, item by item,

and became satisfied that it was incorrectly engrossed as to three or four items found in it, which, as far as could be determined from the memoranda accompanying it, had not been reported for acceptance by the conference committee, nor passed by the Legislature.

The Lieutenant-Governor and the Speaker of the Assembly were present, and were also satisfied that the blll was erroneously engrossed, in these particulars, and they erased their signatures from it. The bill was handed back to the Clerk of the House, was re-engrossed correctly, and sent to me for signature. Other instances have occurred, during the last three sessions, of bills being sent to me for approval, engrossed so as to omit material amendments, which were shown by the messages passed between the two Houses to have been adopted, and which messages accompanied each bill when it came to me. In other instances, bills have been recalled from me for the express purpose of inserting in them some amendment or correcting some inaccuracy, and have come back to me again unaltered.

It is impossible for me to give, in all these instances, the titles of the bills or the particulars in which they were found to be erroneously engrossed. In the supply bill of last year, one of the items found to have been incorrectly inserted was an appropriation of extra pay to Mr. Wasson, a former Canal Appraiser; another was an amendment authorizing the appointment of two additional commissioners for building the Elmira penitentiary; another was a counsel fee appropriated for Messrs. Buell and Erhardt, and the fourth a provision regulating publication of the periodical statements of moneyed and other corporations. In relation to these particulars, I speak from memory and without any record. It was found on examination that one, perhaps two, of these items had not originated in either House, but had been brought forward for the first time in the conference committee.

It is obvious, that if conference committees, which are appointed for the purpose simply of adjusting matters which the two Houses have already considered, and upon which they have been unable to agree, will undertake themselves to originate propositions and pass upon them, thus assuming the proper work of the Legislature, which they have no right to do, we may expect, in all such instances as those of appropriation bills consisting of many items, that there will be great difficulty in keeping the record correct. It appeared, also, that it is the practice of conference committees, in such instances, to submit their final report, not written out in full, but in the shape of a mere list of the many propositions upon which the Houses have disagreed, with a brief mark, generally in pencil, opposite to each

one, such as the words "out" and "in," "agreed," or "disagreed," to indicate, and with nothing else to indicate, what the decision of the conference committee was as to each item.

In this shape it is read to the House, the clerk supplying the proper formal words in place of the marks "out" and "in," or the like. In this rough shape, it is handed over to the engrossing clerks to guide them in their important duty, and in this shape it came to me with this supply bill. When the bulk of an ordinary supply bill, and the number of items found in it are considered, it is not surprising that errors in engrossing from these rough minutes should occur. If the Legislature would insist that in all cases conference committees should take time to have their report written out in full before submitting it to the two Houses, mistakes, as to the action of the committee, or of the Legislature on their reports, could hardly occur.

The vigilance of the Legislature and its committees should be sufficient to guard against inaccuracies of language, surreptitious insertion of matter not pertinent to the general purpose of a bill, errors in engrossing and the like. The Governor's duty in examining a bill submitted to him, should be limited to considering the general scope and purpose of the proposed law. Nevertheless, I have been obliged, in some instances, to refuse my signature to bills passed, simply because the language was careless and not suited to the purpose intended, and, in many more instances have, under a practice established before I came into office, returned bills to the Legislature, at its request, after they had been delivered to me, for the purpose of enabling it to correct inaccurate or fatally defective language, rather than have a bill, the purpose of which was unobjectionable (perhaps important) lost.

It is obvious that if the Legislature will not see to it that its bills are properly worded, framed consistently with other laws, or correctly engrossed, that I cannot, as a matter of duty to the people, suffer these errors to pass, when I discover them; but I submit that this duty should not be imposed on me, and that the Legislature should insist upon its committees giving all the time necessary to the proper preparation and completion of bills. Out of the seventeen bills thus far received at the executive chamber this session, several are, in their structure and phraseology, open to very serious criticism. One has been recalled by the Legislature and amended, and two others I have been requested to hold, and am holding so, that they may be recalled for the same purpose.

It is, of course, impossible that the Governor alone should discover all the inaccuracies, inconsistencies and improper provisions which may find their way into the one thousand or more bills which it has become the habit to pass every year. The division of labor among the many committees of the two branches of the Legislature makes it much more possible for them to do this work.

I trust that this Legislature will effect a reform in this respect, and exercise more care and vigilance over both the character and the form of the bills they may pass; and by taking more time for the details of legislative work, will enact fewer laws and consequently better laws than have, for many years, appeared on our annual statute book. I repeat the recommendation made in my annual message, that all important bills, and especially the several general appropriation bills, may be matured as early as possible in the session, so that if objections occur to me as to any provisions or any items in them, I may have an opportunity to submit my objections to the Legislature, to be by it considered and confirmed or overruled, as to it may seem proper. The hurried character which the business of the Legislature assumes in the closing days of the session makes that a very unfit period for the consideration of bills of great importance or of so much detail as the general appropriation bills, which last need the earnest and deliberate attention of every member of both Houses.

I make these suggestions respectfully, believing that they are warranted by the spirit of the resolution transmitted to me, and I ask for them your careful consideration.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *February* 8, 1872.

TO THE LEGISLATURE:

I transmit herewith the draft of a code of laws relating to the assessment of taxes in the State of New York, prepared by the Commissioners on Taxation under an act of the Legislature, passed May, 1871, together with their report relating to the same.

Having, in my annual message, urged upon you an early and considerate examination of the system of taxation presented by the Commissioners, it is unnecessary for me to do more now than renew that recommendation, and at the same time to express my satisfac-

tion with the labor and care which has manifestly been expended by the Commissioners in their conscientious effort to arrive at a uniform, equitable, and productive system of taxation.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 2, 1872.

TO THE LEGISLATURE:

I call your attention to the second section of an act of Congress, passed in 1864, (chapter 210 of the Laws of that year) under which an invitation was extended, through the President, to the States of the Union to provide and furnish statues, not exceeding two in number for each State, of deceased persons who have been citizens thereof, and illustrious for their historic renown, or for distinguished civic or military services; which statues are to be placed in a hall in the capitol at Washington, set apart by Congress for the purpose, being the former hall of the House of Representatives. It has only recently been made known to me, that this invitation was, in 1864, received from the President.

Some of the States have already complied with this request of the Federal government; others have made arrangements for doing so; and it seems to me that our own great State ought not to be behind hand in contributing to this proper commemoration, at the Federal capital, of men who have conferred distinction upon our country.

I commend to your consideration the propriety of making immediate provision for the accomplishment, on the part of this State, of its share of the work proposed..

Without wishing to interfere with the discretion of the Legislature in the matter, I respectfully suggest, that, in case you decide to furnish the two statues, your choice may, with great propriety, fall upon George Clinton, who was the first Governor of the State, and whose public services in the revolutionary period of our history were of marked merit; and upon Robert Fulton, who, in private station, contributed, in a very eminent degree, as well to the renown as to the prosperity of New York.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 20, 1872.

TO THE SENATE:

I respectfully transmit herewith charges and specifications presented to me, alleging official misconduct on the part of Horace G. Prindle, county judge of Chenango county, with petitions accompanying the same from respectable citizens of said county, asking me to recommend the removal of said Prindle from the office of county judge and surrogate, according to section 11 of article 6 of the Constitution; and also copies of the proceedings of the board of supervisors of said county, with reference to said county judge and his proposed removal from office.

I have heard the counsel for the petitioners and for the said judge, respectively, upon these charges, some of which relate to alleged official misconduct during his term of office immediately preceding his present term to which he was elected at the last general election, and others to alleged official misconduct during his present term.

The Constitution evidently contemplates that the truth and sufficiency of the charges, in such cases as this, shall be tried by your honorable body and not by the Governor. The final decision is to be made by you and not by me. My recommendation is, nevertheless, necessary to bring the case within your jurisdiction. It would seem, therefore, to be the duty of the Governor, if a *prima facie* case be made out before him, to send it to you for adjudication.

The charges in this case are presented by respectable citizens and substantially indorsed by the county board of supervisors, and are supported, many of them, by affidavits, *ex parte*, and other proofs.

I therefore recommend that you inquire into the charges so made, and if the truth and sufficiency thereof shall be established, that the said Horace G. Prindle be then removed from the office of county judge and surrogate of said county.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 3, 1872.

TO THE LEGISLATURE:

The telegraph to-day announces the death of its inventor, Samuel F. B. Morse. Born in Massachusetts, his home has, for many years of

his eventful life, been New York. His fame belongs to neither, but to his country and to the world; yet it seems fitting that this great State, in which he lived and died, should be the first to pay appropriate honors to his memory. Living, he received from governments everywhere more public honors than were ever paid to any American private citizen. Dead, let all the people pay homage to his name. I respectfully recommend to the Legislature the adoption of such resolutions as may be suitable, and the appointment of a joint committee to attend the funeral of the illustrious deceased.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *May* 14, 1872.

TO THE SENATE:

The Assembly having sent to me the following resolution:

"*Resolved*, That the charges and testimony taken in connection therewith, reported to this House by the judiciary committee, be transmitted to His Excellency the Governor, with the request, on the part of this House, that he recommend to the Senate to take proceedings for the removal of said John H. McCunn from his office of Justice of the Superior Court of the city of New York,"

I respectfully transmit herewith a printed copy of the charges and specifications so referred to me, alleging official misconduct on the part of said John H. McCunn, and of the testimony taken by the judiciary committee of the Assembly in the case.

I recommend that you inquire into the truth and sufficiency of charges so made; and, if the same shall be established, that the said John H. McCunn be then removed from office.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *June* 18, 1872.

TO THE SENATE:

I respectfully transmit herewith charges and specifications presented to me by a committee of the Bar Association of the city of

New York, alleging official misconduct on the part of George M. Curtis, a Justice of the Marine Court of the city of New York and asking his removal from office, in accordance with section eleven, article six of the Constitution of this State; also the documentary proof submitted to me in support of the charges, together with the answer of Judge Curtis thereto, and the proofs submitted in support of such answer.

After examining the same and hearing counsel, I deem it my duty to present the same to the Senate, and I recommend that you inquire into the charges so made, and if the truth and sufficiency thereof shall be established to the satisfaction of the Senate, that the said George M. Curtis be then removed from the office of Justice of the said Marine Court.

JOHN T. HOFFMAN.

VETO MESSAGES, 1872, DURING SESSION OF LEGISLATURE.

EXECUTIVE CHAMBER,
ALBANY, *January* 31, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 16, entitled "An Act to legalize and confirm the election of Harrison Clute as Superintendent of the poor of the county of Schenectady." It seems to me very clear that this bill should not become a law for the following reasons:

The act to amend and consolidate the several acts relative to the city of Schenectady (chapter 385 of the Laws of 1862) provides, among other things, for the election of a supervisor for each ward of the city, who shall be a member of the board of supervisors of the county; and declares that the supervisors so elected shall have all the powers, exercise all the duties, and be subject to all the provisions of law then applicable to supervisors of towns.

One of the provisions of law applicable to supervisors of towns, and to which, by the words just quoted, supervisors of wards in Schenectady were made subject, was that contained in chapter 80 of the Laws of 1853, which declared that no supervisor of any town should be elected or appointed to hold the office of superintendent of the poor.

At the time of the general election, held in the fall of 1871, Harrison Clute was a supervisor, representing the Fifth Ward of Schenectady, and the provisions of law, just quoted, in clear and unmistakable terms, forbade his election or appointment to the office of superintendent of the poor of Schenectady county. Nevertheless, he was a candidate before the people for that office at that election, and received, it seems, a majority of the votes cast. That election, so far as he was concerned, was in violation of law, and was void. The bill herewith returned is, of necessity, a recognition of the facts that the disability, existed and that the election of Mr. Clute was illegal and invalid; and it declares that such disability is removed as of and from the day preceding that election, and the election "is legalized and confirmed for the full term of three years from the 1st day of January, 1872." In other words, it aims to legislate

into a county office, for three years, a person who has not been legally elected thereto. It is, in effect, a legislative appointment of a county superintendent of the poor, and is in violation of the constitutional provision which declares that county officers shall be elected by the people or appointed by some of the local authorities of the county. However proper it may be for the Legislature to legalize acts of public officers, or of officers *de facto* invalid by reason of mere omission to comply with some provisions of the statute, it should never seek to give validity to anything done in open violation of law. It is not competent, I submit, for the Legislature to make legal now, an election which was void at the time it took place, nor is it competent for it to appoint a superintendent of the poor of Schenectady county; and I submit, further, that this bill will not effect the purpose for which it is designed, to wit, curing the evil now existing in Schenectady county, of a person exercising the powers of an office to which his title is not good. On the contrary, the effect of the bill, if it becomes a law, will be to prolong for nearly three years the present improper condition of things; and it would be necessary hereafter to pass a law legalizing the acts of Mr. Clute, as *de facto* officer, for the whole term.

Mr. Clute's title to the office is not good. I have no doubt on this point; nor has the Legislature, as is proved by its passing this bill. If there were any doubt, however, on this point, it is a question, I submit, which the Legislature should not undertake to decide; it belongs to the judiciary.

The bill appears to me to present one of the worst forms of special legislation. It merely suspends the operation of a general law, in one county, for a brief period, and for the benefit of one person; and at the end of that period the general law is to be again in full force, as well in this one county as in all others.

It is of little importance whether Mr. Clute or some other citizen is made superintendent of the poor this year. It is of importance that a precedent such as this bill would establish, should not prevail.

The election was, it is admitted, illegal and void; the office was consequently left vacant; the supervisors, by chapter 257 of the Laws of 1854, have power to fill the vacancy during the year only, the vacancy to be permanently filled by election of the people at the next general election.

I respectfully submit that this bill ought not to become a law, confident that, upon reconsideration, the Legislature will agree with me.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 6, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 11, entitled "An Act to amend An act entitled 'An act to establish a Recorder's Court in the city of Utica, and for other purposes, passed May 7, 1844." The bill proposes to increase the salary of the Recorder of Utica to two thousand five hundred dollars. The Legislature in 1870 fixed this salary at eighteen hundred dollars. There is nothing in the events of the past two years, to render insufficient now, what was deemed to be and was sufficient then.

The bill imposes one-half of this salary as a charge upon the county of Oneida; the other half to be paid by the city of Utica. The common council of Utica approve of the bill, giving as one reason for so doing that only half the burden is imposed upon the city. The mayor and many citizens protest against it. The supervisors, representing the rural towns, have not approved of it or asked for it.

It seems to me, there is nothing to justify a law obliging the local authorities of Oneida county to enlarge this salary; there being no evidence that the people interested desire it. I am satisfied that the people generally do not favor an increase of official salaries at this time, except when the same are clearly inadequate to the service performed.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 12, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 58, entitled "An Act for the protection of tax-payers against the frauds, embezzlements, and wrongful acts of public officers and agents." The bill is as follows:

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. All officers, agents, commissioners, and other persons, acting for or on behalf of any county, town, or municipal cor-

poration, in this State, and each and every one of them, are hereby declared trustees of the property, funds, and effects of such county, town, or municipal corporation, respectively, so far as such property, funds, and effects have been, are, or may be committed to their management or control; and every person residing in such county, town, or municipal corporation, and assessed to pay taxes therein, who shall pay taxes therein, is hereby declared to be a *cestui que trust* in respect to the said property, funds, and effects, respectively; and any co-trustee or any such *cestui que trust*, shall be entitled, as against such trustees, and in regard to such property, funds, and effects, to all the rights and remedies provided by law of any co-trustee or *cestui que trust*, to prosecute and maintain any action to prevent waste and injury to any property, funds, and estate held in trust. Such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by any co-trustee or *cestui que trust* aforesaid.

§ 2. This act shall take effect immediately."

Impressed, while examining the bill, with the belief that its provisions were open to serious objections, or at least, to very grave doubts as to how they might affect, if it became a law, the vast interests involved in our numerous municipal governments, I addressed the following communication to the Chief Judge and the Judges of the Court of Appeals:

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *February* 12, 1872.

To the Chief Judge and Judges of the Court of Appeals:

A bill is now before me, for approval, of which a copy is annexed.

The bill affects all municipal governments in this State — cities, counties, villages and towns.

The intention of those who drafted the bill, is unquestionably a good one, to wit: To provide additional protection against frauds by municipal officers. Two questions, however, have occurred to my mind in examining its language:

1. Whether the bill, if it become a law, in the words now used, may not operate to divest every municipal corporation of the title to its property, and to vest the legal title thereof in the various officers, commissioners, agents and other persons who may have con-

trol and management of such property, or of separate and distinct portions thereof.

2. Whether it may not operate to give to the tax-payers the exclusive right to sue for wrongs done or in order to prevent wrongs by municipal officers, taking away the right of action, in such cases, from the corporation itself, and from all public officers; and may not, in fact, interfere with suits now pending.

I assume, from the title of the bill, that the Legislature did not intend to make such radical changes; they certainly intended to add to — not to diminish — the remedies against this class of wrongs.

I do not ask the members of the court to say what their construction of the bill would be, if it came before them as an enacted law. But in view of the far-reaching character of the bill, and of the extensive complications and injury that might arise from a possible construction of its present language, I feel that I am justified (and trust that you will agree with me) in asking of you the favor to read the bill, with a view, simply, to your telling me whether there is not room for doubt on the points I have suggested, grave enough to make it wise that, before it is enacted into a law, the language of the bill should be amended so as to guard against such questions.

To this extent, I can see no impropriety in your giving me your opinion, in view of the gravity of the questions involved; and I will be obliged by your doing so, if you see none.

JOHN T. HOFFMAN.

Their answer is as follows:

"STATE OF NEW YORK, COURT OF APPEALS,
ALBANY, *February* 12, 1872.

To His Excellency, John T. Hoffman, Governor:

SIR.— I have submitted to my associates in the Court of Appeals the bill received from you, and which is before you for approval, entitled "An Act for the protection of tax-payers," etc. (Senate bill, No. 58), and they are all agreed that serious questions might arise upon the bill in its present form, both as to the title of the property covered by the terms of the act, and as to whether the municipalities are not divested of all title; and, also, as to the right of a corporation itself, or any of its officers, or any public officer, or any person whatever, other than a tax payer, to bring an action in respect to the property, funds or effects mentioned in this act.

The terms trustee and *cestui que trust* have a well understood meaning, and ordinarily indicate a right of property, a legal title in the trustee, and a beneficial ownership in the *cestui que trust*, to the exclusion of all rights of property, legal or equitable, in any person or corporation other than the trustee or *cestui que trust*.

It is not intended to express an opinion that such is the legal effect of the act, but such effect may be claimed, and a bill more carefully prepared may obviate these objections.

Truly yours,

(Signed) S. E. CHURCH."

As I said in my annual message, "it is not an unusual mistake that in providing a remedy for existing evils, others likely to come out of the remedy itself, are overlooked."

In times of unusual excitement about abuses in the administration of public affairs, and when the demand for correction and reform is urgent and loud, it is especially important that those charged with the responsibility of legislation should move with great caution, and that the most careful consideration should be given to every bill providing new remedies or making great changes in existing laws.

I deem it unnecessary to enlarge upon the objections which have suggested themselves to me, confident that the Senate will concur with me in the propriety of subjecting the bill, before it is enacted into a law, to a further examination by the judiciary committee of the Legislature, to the end that such amendments may be made to it as will carry out, effectually, the important purpose which the Legislature had in view, as indicated in the title of the bill.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 27, 1872.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill No. 79, entitled "An Act to change the name of the First Congregational Church and Society of Poughkeepsie, New York."

Chapter 322 of the Laws of 1870, provides a very simple and inexpensive method of changing the names of incorporations by the courts. This law was enacted for the purpose of relieving the Legislature from applications of this nature, and in order to avoid encumbering, unnecessarily, our annual statute book.

The Legislature, I doubt not, will, on reconsideration, agree with me that the purpose of the law of 1870 is a good one, and should be carried out; which can only be done by rigidly refusing to pass special laws in every case covered by the provisions of the general act.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *February* 27, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 50, entitled "An Act for the extension of the Utica, Chenango and Cortland railroad."

The bill authorizes the Utica, Chenango and Cortland Railroad Company to extend its road from its present terminus to the Utica, Clinton and Binghamton railroad at Smith's Valley. The original route defined in the articles of association of this company, filed with the Secretary of State, in 1870, was of the length of thirty-two miles.

The whole amount of capital stock subscribed was $32,000, being the minimum required by the general railroad law of the State as a condition to the formation of the company and the undertaking of its enterprise. The extension provided for by this bill is, I am informed, fourteen miles in length. If the bill were allowed to become a law, the company would, as to the extension proposed, be specially exempted from the salutary provisions of the general railroad act, requiring a certain amount of capital, per mile, to be subscribed before such associations assume the important privileges conferred on them by that act.

I cannot, therefore, give the bill my approval unless it shall be so amended as to impose upon the company, in respect of their proposed extension, all the conditions which are imposed, and, as I think, wisely imposed, upon all companies by the general railroad law.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 6, 1872.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill No. 114, entitled "An Act authorizing the election of a board of auditors for the town of Lenox, Madison county, and empowering other towns to avail themselves of the provisions of this act."

The bill proposes to create, in the town of Lenox only, a board of three persons, in addition to the regular town officers now provided by the general law; to abolish, in this one town only, the board of town auditors, which, by the general Statute, consists, in all towns, of the supervisor, the justice of the peace, and the town clerk; and to devolve all its powers and duties upon the new board of officers thus created. This special board is to be elected in the same manner and by the same constituency as are the members of the present auditing board, to wit, by the people at their annual town meeting. It is manifest that the Legislature did not deem this change in the powers and duties of town officers, and in the number of them, necessary or expedient in our town governments generally; otherwise it would have made the bill a general one, applicable to all the towns in the State. It is the general judgment of those conversant with such matters, so far as I can gather it, that this duty of auditing town accounts is, as a rule, performed by the supervisors, justices and town clerks of the several towns, as rigidly and faithfully as any public duty in the State. This bill must have been passed with reference to some temporary abuse of power, supposed or real, in this one town. Against such abuses, the people have in their own hands an effectual remedy now, by choosing fresh men to office. The board of town officers consists of the supervisor, the four justices of the peace and the town clerk, six in all; at every town meeting the people can put out of office the supervisor, the town clerk and one justice of the peace, being one-half of the board. There are a few instances in which towns are authorized to have more than four justices of the peace; but Lenox does not appear to be one of these. All unfaithful members of the board of town auditors can be dismissed by the people at every town meeting, except those among the justices of the peace whose term of office may not terminate with the current year. If the local abuses, supposed or real, which this bill seeks to remedy, lie in the improper auditing, by this

last-named class of officers, of their own bills, a remedy is provided in chapter 274 of the Laws of 1871, which authorizes any taxpayer to appeal from the board of town auditors to the board of supervisors of the county, in respect to the audit of any bill of a justice of the peace. It seems to me, therefore, that the special legislation proposed by this bill, making an alteration in the form of government of this one town, which the Legislature is, obviously, unwilling should be made in the other towns of the State, is unnecessary and unwise.

One section of the bill authorizes the electors of any town in this State to make the proposed law applicable to their own town, by a vote at town meeting. This provision appears to me to be unconstitutional under the decision of the Court of Appeals, in the case of Barto against Himrod, 8 New York Reports, page 483. Even if this were not so, the adoption of the provisions of the bill by some towns, and not by others, would create a diversity in the forms of town governments which is not desirable. It is the interest of the people that there should be uniformity in the town governments, to the end that the rights and duties of the people and of their officers may be readily and clearly understood from the general statute. The bill is special legislation, establishing a special form of government in one town, and is objectionable, in my judgment, for that reason. I feel confident the Legislature will, on reconsideration, take the same view of it.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 14, 1872.

TO THE ASSEMBLY :

I return, without approval, Assembly bill, not printed, entitled "An Act to authorize the trustees of the Methodist Episcopal Church of Northville to convey real estate."

The bill provides for the sale of the present parsonage house and for the investment of the proceeds in a house and lot adjoining the church.

The laws of the State, long ago, referred such matters to the courts of justice. By the Revised Statutes the supreme court is

authorized to make an order for the sale of real estate belonging to a religious corporation and directing the application of the moneys arising from the sale to such uses as the court may deem for the interest of the society.

The wisdom of this provision in our laws has never been doubted. The merits of applications of this kind, and the propriety of the proposed use of any money arising from sales of the corporation property can be best ascertained by inquiries under the rules of a court of justice. If the Legislature, in any one case, overlooks the estab lished policy of the State in this respect, it will encourage frequent and unnecessary demands upon its time, for the discharge of a duty which properly pertains to the judiciary.

JOHN T. HOFFMAN.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *March* 15, 1872.

TO THE SENATE:

I return, without approval, Senate bill (not printed), entitled "An Act for the relief of Cornelia Townsend."

The bill provides that the commissioners of taxes and assessments in the city of New York shall examine the assessment roll for widening Laurens street from Canal to Amity, and extending from Amity to Fourth, and thence across Washington square to Fifth Avenue; and if it shall appear to them that the amount assessed upon the property of Mrs. Cornelia Townsend in Fourth street is unjust and excessive, as compared with the assessments upon other property in said vicinity, the said commissioners shall order said assessment roll to be corrected, and fix the assessment to be paid by Mrs. Townsend at such amount as, in their judgment, shall be right and just, and such amount shall be paid, instead of the amount now on said assessment roll.

The bill must have been passed, it seems to me, under a misapprehension, on the part of the Legislature, of the proper duties of the commissioners of taxes and assessments in the city of New York. They have to do only with assessing property for the purpose of the regular annual taxes; have no control of the assessment rolls made up in cases of street openings by commissioners appointed by the

courts, and have no natural connection or familiarity with that business. They would be acting, in the duty by this bill imposed on them, without the sanction of an official oath, to set aside the doings of other officers who had acted under an official oath. It would be as proper for the Legislature to devolve on any other four persons, not in official position, the duty of reviewing and correcting the action of commissioners duly appointed by a court of law.

Moreover, if this one assessment is to be reduced in amount, a deficiency will exist in the fund necessary for the payment of the expense of the street opening, which deficiency must be made up in some way.

The commissioners of taxes and assessments have no power to reassess this deficiency upon the other owners of property benefited, nor to provide for it by authorizing the amount thereof to be paid out of the city treasury. The deficiency can be made up only by the city at large assuming the amount; in this, the tax commissioners have no powers.

The case may be a hard one for the party seeking relief; but there is no proper way of giving relief, now that the assessment has been confirmed by the court, except for the city authorities to pay out of its treasury to the party aggrieved, by way of donation, whatever sum may be found by them to be just.

I doubt not that the Legislature will agree with me, when they come to reconsider the bill, that it ought not to pass into a law.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 20, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 37, entitled "An act to amend an act to incorporate the Port Chester Savings Bank, passed March 14, 1865."

The bill provides that is shall be lawful for the bank to invest twenty per cent. of its assets in county, town or village bonds, and also to lend ten per cent. of its assets upon the pledge of town or village bonds, so that, in all thirty per cent. of its total assets may be in the class of securities above described. The general town bonding law has a provision in it allowing savings banks to invest ten per cent. of their deposits in bonds issued to further the building of

railroads; which was a general act applying to all the savings banks in the State.

It may be presumed that, on the passage of that act, applying, as it does, to all the savings banks of the State, the Legislature gave to the question involved in the present bill more careful consideration than would be likely to be bestowed upon it when presented, as now, in a case in which the interest of one bank only is involved.

The Legislature cannot be too careful in providing, by proper restrictions, for the safety of the money deposited with this class of institutions. They are created for the benefit of those who have no direct interest in speculative enterprises, and whose accumulations are savings from the wages received for labor. They should be managed exclusively with reference to the interests of that portion of our population who live by the wages of labor, and other persons of small means, and, to that end, the assets of savings banks should always consist of investments of the highest ultimate security, and of such as are least likely to fluctuate in value. It is also important that a large portion of their assets should be of such a nature that, at any time, or under any circumstances, they can be sold readily in the public market. While the bonds of towns and villages may be perfectly safe as a permanent investment, they are not of that class of securities which are daily bought and sold in our large markets, and cannot, therefore, be counted upon to be converted into money promptly, at a time of difficulty or of unusual demand upon the savings banks from their depositors. I have submitted the bill to the Superintendent of the Banking Department, who thinks it not advisable that the limitation now imposed upon the savings banks generally, restricting their investments in town bonds to ten per cent. of their assets, should be enlarged, and I concur in his views.

The bill would be objectionable, in my judgment, if it applied to all savings banks; and is also objectionable because it specially exempts this one bank from the restrictions which have been by law imposed on all of these institutions.

Occurrences, within the past year, have shown that our laws cannot be made too rigid in restraining savings banks from investing the money of their depositors in any but the very best class of securities.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *March* 28, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 77, entitled "An Act in relation to non-resident highway taxes upon certain lands in the counties of Hamilton and Warren."

The bill provides that the county treasurers of Hamilton and Warren counties shall pay over to the Comptroller the amount of any highway taxes assessed upon townships Nos. 3, 9, 10, 11 and 29, in Totten and Crossfield's purchase in the counties of Hamilton and Warren, which townships are by the bill made a road district, and that the Comptroller shall pay such moneys over to certain commissioners named in the bill, to be expended upon the road from Washington Craig's, in the town of Wells, Hamilton county, to Rollin Russell's in the town of Johnsburgh, Warren county.

Township No 3 is distant more than five miles from the town of Wells, taking a direct line from the points in each, nearest to each other. The road begins at some point in the town of Wells and runs continually farther and farther from township No. 3. There can be no propriety in the taxes assessed on this township being applied to the proposed road. Moreover, the eastern portion of township No. 9, the whole of township No. 10, and part of 29, are already subject to an assignment of their non-resident highway taxes to the purposes of a special road by the provisions of chapter 507 of the Laws of 1867. The repealing clause in this bill will not serve to avoid complication.

The commissioners are required by the bill to account to the Comptroller, and yet to give bonds to the county treasurer of Hamilton county. Vacancies occurring among them are to be filled by the county treasurer of Hamilton county. It seems to me proper that the vacancies should be filled by the Comptroller, as is provided in similar acts on the statute book.

The special laws so often passed in relation to roads in this region of our State are becoming complicated, and it is very difficult, with the changes that are from time to time made in enlarging or diminishing the area, the taxes of which are to be applied to special road purposes and in partially repealing the provisions of one act by some subsequent law, for the Comptroller to administer them. This class of legislation should not be encouraged; but the roads should be left

to be worked out as best they may under general laws and under the regular authorities.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 3, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 430, entitled "An Act to amend title 12 of the charter of the city of Albany, entitled the police department," passed March 16, 1870.

Among the very earliest of the bills presented to me for approval, after I had come into office, was one relating to the police of the city of Syracuse, being now chapter 17 of the Laws of 1869. This bill was modeled after a law which I found upon the statute book in relation to the police of the city of Utica, chapter 414 of the Laws of 1867. In both cases, there were four commissioners of police, whose term of office was four years, but divided into two classes so that half of them went out every two years, and who were to be chosen in the same mode as provided in the present bill, that is to say, every elector was entitled to vote for only one commissioner, the one having the majority of votes to be declared elected, and the one having the next highest number of votes to be appointed by the common council. The general provisions of both bills were well guarded, and the police commissioners were in each case made removable, for cause, in the same manner as sheriffs.

In 1870, the law of 1867 applicable to Utica was repealed. In Syracuse the law of 1869 is still in force. With more consideration of the principle involved in the Syracuse bill and with the experience of to-day, I would not have given it my approval. The method adopted for the selection of the commissioners in that bill, and in the bill now under consideration, while it seemingly gives the election to the people, is, in fact, simply a designation by party caucuses or conventions, and the supposed ratification by the people is a form, and nothing more.

It is only on very rare occasions that, even in the municipal elections, more than two tickets are before the people between which to choose, to wit, the tickets nominated by the organizations representing

the two great parties. If four persons are to be designated for certain offices, and every elector is restricted to voting for only two of the four, the people, in fact, can make no choice. The nominations made by the respective conventions of the two great parties are, under such a state of facts, conclusive. This method has been tried, on a larger scale, in the designation of the late board of supervisors for the county of New York. It has recently been given up there with general consent.

The bill now before me is more objectionable than those to which I have already referred, relating to Utica and Syracuse. In this bill four commissioners are to be designated at the municipal election now soon to occur, in the manner already described, who are all to hold office for four years. They are during this period to have the sole and absolute control of the police and, no matter how they may use this great power or abuse it, no provision is made for calling them to account or for removing them, or any of them, however pressing may be the need of applying a corrective. For a period of four years the whole power of the police is to be in the hands of men designated by nominating caucuses or conventions, not elected by the people of the city, nor appointed by any public authorities, and subject to no correcting power in case of misconduct or malfeasance in office.

The extraordinary provision of the bill, now under consideration, for the filling of vacancies among the commissioners might lead to very inconvenient results. It is, that in case of a vacancy occurring, the members of the commission who shall be "of the same political party" as that of the person whose place has become vacant, shall nominate three persons and the members of the commission shall, within two weeks thereafter, choose one of these three to succeed to the vacant position, and "it shall require the votes of all the remaining members for a choice." In the meantime, and until the vacancy be filled the commissioners "are prohibited from making any removals from or appointments to the police force." This puts it in the power of one member, by refusing to agree to an appointment for filling the vacancy, to deprive the commissioners of the power of enforcing necessary discipline among the members of the force for an indefinite period.

This provision, moreover, would be liable to great uncertainty in its construction. It is by no means impossible that in a period of four years the political associations of some of the members of the commission might be changed, and so there might be no one qualified to make a nomination, or a serious dispute might arise as to which

one of the commissioners would be entitled to make it. In this case, or in case of an irreconcilable difference of opinion in regard to filling a vacancy, the affairs of the department would remain in confusion until the Legislature could be convened.

The main objections are, however, that the commissioners are to be subject during their long tenure of office, to no responsibility to superior authority for misconduct, and that they are to be designated in fact, by party conventions, instead of being elected by the people or appointed by some local authority.

In the efforts to obtain non-partisan boards or commissions for certain public duties, we may go so far as to set aside altogether responsible government. For the acts of a board of police appointed as this bill provides, neither the mayor nor the common council of the city would be in any degree responsible, nor could either of the great political parties be held answerable. The commissioners would be acting under no sense of responsibility to the people, nor of accountability to the public authorities of the city or State; the only penalty hanging over them for misconduct would be the possible displeasure of the nominating conventions of their respective parties at the distant period of the expiration of their term of four years, or the possible intervention of the Legislature by a repeal of the law and the abolition of their offices.

I feel confident that, on reconsideration of this bill, the Legislature will agree with me, that entrusting power to public officers, unaccompanied by an accountability clear, distinct and capable of prompt enforcement, is dangerous to good government.

JOHN T. HOFFMAN.

NOTE.— *This veto and one other are the only two that were overruled during Governor Hoffman's four years' administration. In this instance, when the overruling vote was taken, a pledge was given that an amending act should be introduced; and one was passed, in a few days, making the mayor a member of the board and giving the common council power to remove any commissioner.*

EXECUTIVE CHAMBER,
ALBANY *April* 10, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 160, entitled "An Act to authorize the Canal Commissioners to construct a road-bridge

over the Champlain canal in the village of Fort Edward, in the county of Washington."

The bill directed the Canal Commissioners to erect a bridge over the Champlain canal at a certain point in the village of Fort Edward, provided the Board of Canal Commissioners shall be of opinion that the State is under legal or equitable obligation to build said bridge.

The State Engineer reports to me that the State has never constructed a bridge at this point, and is not under legal or equitable obligation to build the one proposed by this bill, and that the Canal Commissioners would not be authorized to build it, if the bill became a law.

He further reports that if the bridge were to be built, the amount appropriated by the proposed act would be insufficient, in a large degree, to pay the cost of its construction.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 10, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill, entitled "An Act granting the consent of the State of New York to the purchase by the United States of certain lands for the purpose of the erection of a custom house, court-house, or other public building for the use of the United States at Albany, and ceding jurisdiction over the same."

The bill is unnecessary. An act has already been passed (chapter 357 of the Laws of 1870), covering the subject and almost identical, in language, with this bill.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 24, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 143, entitled "An Act relating to the town officers and local government of Newtown, in Queens county."

The bill alters, in many particulars, the form of local government and the powers of the town officers in this one town.

I have felt it my duty to withhold my official sanction from bills of this character. It is not wise, in my judgment, for the Legislature to undertake to govern every town separately; its duty is best discharged by prescribing, in the general laws, as has been done, a form of government for this numerous class of municipalities, and then leaving the people of each town, who have ample powers to do so under present laws, to guard against wrongs and to remedy them.

If the people fail or neglect to do their duty to themselves in any one town, they should not be encouraged in applications to the Legislature for special relief. If defects can be shown to exist in the present form of town government, the remedy is to amend the general laws.

This bill provides that, in this one town, only one justice of the peace shall be entitled to preside over the town meeting, which right belongs, by the general laws, to all the justices; and as this presiding over the town meeting carries with it the power of appointing the third or minority inspector of elections for the three election districts of the town, at the general election, it places in the hands of one man a power which, under the general laws, it has been thought wise to confide to the whole body of justices, or a majority of them. It authorizes the inspectors of one of the three election districts into which the town is divided, to be inspectors of election at the town meeting, taking this duty out of the hands of the regular town officers as provided by the general laws of the State.

It confers on the supervisor alone, the power of filling vacancies occurring in certain town offices, for filling which vacancies other provisions are now made by law. In addition to these and other special provisions, which, if desirable at all, should be applied to all the towns of the State, the bill alters, for this one town, the general assessment law of the State and the manner of its administration. It provides that the assessors of this town shall have power to issue process and compel the attendance of such tax-payers as they think ought to be assessed for personal property, and any person who fails to obey the summons, or answer any questions put by the assessors, shall be assessed at their discretion, and shall not be entitled to the right of review and correction of such assessment given by the general laws of the State.

It is obvious that most oppressive discrimination and injustice might be practised under this power. Notice might be sent to a tax payer while away from home, and he would be deprived of the right of having an erroneous assessment against him corrected, which his neighbors enjoy by law.

Moreover, it would put it in the power of the assessors to favor some, and do wrong to others of the tax-payers. Those whom they did not choose to summon would be left to enjoy the right of review and correction granted by the laws to all persons in such cases.

If this provision is a proper one, it should be incorporated into the general tax law of the State. It has no proper place in a law relating to one town. The provisions of the general law regulating the mode of levying and assessing taxes ought, if sufficient for other towns in the State, to be sufficient for Newtown.

It is claimed there are peculiar reasons for extraordinary legislation at this time, for this particular town, connected with the personal unfitness of the present justices for their duties. It is singular, if this be so, that this bill, while taking from the justices their general power to preside over town meetings, forbids any appropriation of money by the people of the town, unless the same shall first be proposed by the board of town auditors, of which board the justices constitute a majority of two-thirds.

Whatever be the facts, I am confident it is better to submit to temporary evils, until they can be remedied by the people in the ordinary method, than to seek to cure them by special laws such as this. Such laws tend only to encouraging the people in leaning unnecessarily on the Legislature, and in neglecting the active care of their own interests at home.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 24, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 357, entitled "An Act for the organization and incorporation of the Lenox Farmers' and Mechanics' Association."

All that the parties interested in this bill desire, they can obtain by incorporating themselves under the general laws of the State; either under the law passed in 1855 for the incorporation of agricultural societies, or under the law passed at the present session of the Legislature relating to driving park and park associations, being chapter 248 of the Laws of 1872.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *April* 30, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly Bill, No. 118, entitled "An Act to reorganize the local government of the city of New York."

The bill provides a new charter for the city of New York, the main features of which are these: One board of forty-five Aldermen, elected, nine in each Senate district, by a novel method called the cumulative vote, under which one man may vote nine times for one candidate and whereby a minority can elect its candidate or candidates against the will of the majority in the district; this board of aldermen to appoint four out of the five heads which are given to each of the administrative departments, except the Police Board, of which the Common Council appoints all the members and the mayor is made, by virtue of his office, an additional member thereof; the mayor has the power of appointing the presiding member of the boards of five who severally control the other departments. The law department alone is left with one head chosen by the mayor, comptroller and first judge of the Court of Common Pleas and removable by the mayor for cause.

When considering charters for cities and villages I have not felt myself justified in interposing the executive veto, where a difference of opinion existed between the Legislature and myself only on minor details, not involving important principles. This bill, however, is, in its main features, contrary to the established fundamental principles of good government, as recognized by the people of this country, and is like to lead to very great evils. It vests in the Common Council the appointment of those who control administrative departments, thus stripping the Mayor of power necessary to making his office of use to the public interests. The Mayor is allowed one member of each of the several boards to which the administrative departments are entrusted, while four other members are chosen some by the majority, and some by the minority of the Common Council. It seeks to establish, in one portion of the State only, in a single city, a revolutionary change in the mode of voting by the

people, other than that which has always been practised throughout the country.

In passing this bill, the Legislature could hardly have expected that I would approve of it. On the contrary, it must have anticipated, from the opinions expressed on the subject of city government in my annual message, that I could not give to it the sanction of my official signature. I regret that final action upon it has been delayed to so late a period in the session.

It has been stated in argument before me that, in its main features, this bill accords with my own views, heretofore expressed. The fact is, it is in direct opposition to the recommendations of my annual message, which recommendations were founded upon eight years of official experience in connection with the government of the city of New York; and which, I have reason to believe, have received the approval of almost every intelligent man who has a practical knowledge of the workings of that government. The bill is understood by many as conferring ample power upon the mayor, as chief executive of the city. It, in fact, leaves him almost without power and subordinate, in the matter of administration, to the Common Council, in whom is vested the appointment of those who control the several departments of the city government. All this is opposed to the best experience in matters of government and, in fact, in all matters of private business. A single executive with responsibility concentrated upon him for the acts of subordinates is the first condition of good administration in public or private affairs. Any other method of administration always results in neglect and abuses for which no one can be held to blame. It will be impossible, under this charter, to fix responsibility for mal-administration on any man. The responsibility will be shared by so many that the usual moral restraints of conscience and of personal shame at wrong doing will be weakened so as scarcely to be felt. A man is capable of shame and sensitive to public opinion and public odium. A large body of men, countenancing each other and knowing that the claim of their joint action will be divided among many, are, as experience shows, much less likely to be influenced by these natural restraints upon human conduct. Every day exhibits to us men consenting to things being done by boards whereof they are members, which we know they would not do, if acting in their individual capacity and on undivided responsibility. For the enacting of wholesome laws, for the careful interpretation and application of these laws to the rights of those subject to them, the deliberation of bodies of men,

more or less numerous, are useful and necessary; but in the enforcement and administration of the laws, a single executive has always been found essential to good government.

Our experience, in both our State and local governments, teaches that all changes taking away from the chief executive officer, his control over and his full consequent responsibility for the general administration of affairs, have resulted in making things worse, not better. A fundamental principle of the American forms of government, and, in fact, of all wise government, is that the Executive, the Legislative and the Judicial Departments shall be separated from each other; that each has its proper sphere of action; and that no one of these shall be charged with or permitted to exercise the functions of one of the others. This charter throws aside this principle, recognized by the American people and approved by the experience of the world. Nowhere on this continent is it so essentially a condition of good government as in the city of New York that the chief executive officer should be clothed with ample power, have full control over all subordinate administrative departments, and so be subject to an undivided responsibility to the people and to public opinion for all errors, short-comings and wrong-doings by subordinate officers. The administration of the affairs of that great city should be in the hands of some one on whom the public gaze is always concentrated, and from whom it cannot be diverted on the plea that others share his responsibility and his power. No machinery can be devised which will be a safe substitute for this personal undivided responsibility of the chief executive, and this can only exist where the powers conferred are so ample and so completely his own that he cannot throw off upon others any share of blame and so can not escape having public odium concentrated upon him for all maladministration. Put any man in this position in that city and we have the strongest moral restraints upon him for good behavior, in addition to the legal restraints which can be imposed by providing for his removal from office by superior authority. Having done this, we have done all we can to secure good administration. We ought not to do less. Our people are so accustomed to rely on the chief executive to prevent and correct errors in administration that after this charter shall have transferred the powers that belong to the mayor over to the Common Council, they will not very readily turn their eyes on the members thereof, but, from force of habit, leave them unwatched.

It is amazing to me that men of intelligence and experience from the city, men who have lived in it for years and know something at

least of public affairs there, should urge the confiding, substantially, of all administrative power to any body of forty-five men, no matter how elected; a body in which responsibility can be so easily evaded and covered up, so readily shifted from one to another, and is scattered and shared among so many that, under this system, responsible government will not, in fact, exist. It is amazing to me that men should urge this plan for administering the affairs of that great and wealthy city, who would not think of applying such a false method of administration to any of their great private enterprises, who would not think of so governing their ships, or their counting-houses, their printing-houses, their factories, their workshops, or their farms, if they had them. The instincts of men are against this false method of administration through many-headed boards. Men, invariably in private business, entrust executive duties to one head, to whom subordinates in their several departments are answerable. No private enterprise can prosper under any other system. And, in my judgment, no government can be successful except under the same system, approved by the experience and practice of the civilized world and confirmed by the instinctive habits of men in all enterprises public or private, which require co-operation. When theories are put forward directly opposed to this experience and these instinctive habits, we may be sure, whatever the arguments made in their favor, that they are not the outgrowth of practical wisdom.

The Constitution of the United States affords us the best model of a government. It may not be perfect in all its details; for it is of human creation. But the country has done well under it for a century, and we are justified in saying, after our late civil war, that no form of government, in the history of the world, has stood, and successfully stood, so severe a test as ours. In the beginning, our State governments were, almost all of them, upon the same model; and all thoughtful men acknowledge that in departing from this pattern in the government of this State, as we have done in our existing Constitution, we have made a great mistake.

The city of New York contains a larger population than many of the States, and larger than did our own State a few years ago. Its annual revenues and expenditures are larger than were those of the Federal government thirty years since. There is no reason why, in seeking to devise a good form of government for that city, we should not adhere to the main features of the Constitution of the United States, which has worked so satisfactorily that probably not a man in the country would approve of altering it in these principal features. Hardly an American citizen could be found who would think it wise

to transfer the great administrative power now vested in the President over to Congress. On the contrary, there is great fault finding, among the people, at the extent to which members of Congress, even now, interfere with the President's proper duty, by pressing their personal recommendations of candidates in order to influence appointments to administrative offices. The members of the Common Council in New York will exert all the influence over appointments which are consistent with the public good without having the legal power of appointment, or any part of it, vested in their hands.

It is not many years ago that in the city of New York, the various administrative departments were practically under the control of the committees of the Common Council; the Street Department under the committee on streets, and so on. Some among those who are now advocating this charter, can remember how badly that system worked and how earnest and long-continued were the efforts of the people to get this executive power away from the Common Council. The charter now before me is a retrograde movement; it goes back to a system long since condemned by the people of the city and by the Legislature.

It is admitted by those who advocate this charter that it would be unwise to place this control over the entire administrative duties of the government of the city in the hands of a Common Council, as heretofore elected. They rely on the new method of election proposed by them, to provide security against maladministration. They forget that the objection to this mistaken method of government is not obviated by a change of the men. No body of forty-five men, no matter of whom composed, no matter in what manner selected, can discharge the duties which pertain properly to an executive officer. The forty-five wisest and most honest men in the country would blunder in the effort, because of the want of prompt decision and unity of will, both of which are essential to vigorous administration. Any one of their number, acting alone, would do well where all of them acting together would be pretty sure to do ill.

The remedy which is relied upon against the evils of misgovernment under this charter, is the cumulative system of voting, which it introduces in order to secure fuller representation of the minority. It is claimed that this will result not only in a better class of representatives, but in greater power, on the part of the minority, to restrain the majority. Nine aldermen are to be elected in each district, and every elector is authorized, instead of voting once for each one of nine candidates, to cast, if he chooses so to do, nine votes for any one candidate, or to cast three votes each for any three candi-

dates, and so on. This plan seeks to let the party which is in a minority in any political subdivision put into office its candidate, in spite of the opposition of the political majority. Experiments are now being tried, in one or two of the other States, of this cumulative method of voting as to some of their local elections; but these have been inaugurated so recently that they afford us no guide to sound judgment, derived from actual practice and experience. It is proposed by this bill, that we shall try the experiment in the chief city of the continent, with its vast and complicated interests exposed to great injury, if this new theory prove to be a failure. A city of a million of inhabitants is not the place for trying experiments in government, especially an experiment which many of the most thoughtful of our people believe to be visionary, impracticable, and unconstitutional. It would be much wiser for us to await the results of the trials now going on elsewhere.

This would not be the first time that a scheme to allow the minority to put men into office, in spite of the opposition of the majority, has been tried in this State. For many years the Board of Supervisors in New York was elected upon this principle. In this instance the minority were allowed, practically, to choose just half the Board. This experiment, warmly and earnestly advocated at its introduction as a valuable improvement, resulted, as all admit now, in a disastrous failure, and was abandoned with general consent. There is this difference between that instance and the method now proposed, that there the minority was secured an equal share of power, while here it is expected they will obtain only a share proportioned to their actual numbers.

A very serious question arises whether this method of voting is in conformity with the provisions of the Constitution. Many of the ablest lawyers of the State have not hesitated to express their convictions that it must be held to be unconstitutional. It is said, and with great force, that the election, as regulated by this charter, is not an election in the sense in which that word was understood at the time the Constitution was made, and in the sense that it has always been understood among us. An election is the choice of a public officer by his receiving a larger number of votes than any other candidate in the district entitled to fill the office, all the electors being entitled to vote once at such election for a candidate for the place to be filled. It is suggested also that the Constitution guarantees that all electors shall be entitled to vote for all officers who are to be elected by the people, and that if any elector exercises his right to vote once for each of the nine aldermen to be chosen for

his district his single vote as to any one of the candidates, cannot be overridden by one of his neighbors voting nine times for some one man, for the same place, without an infraction of his equal right of suffrage as an elector under the Constitution. There is, therefore, reason to fear that the election ordered under this charter might be declared invalid at a time when the Legislature is not in session and that, meanwhile, great confusion may prevail in the affairs of the city. While in ordinary cases a threat of litigation is not, of itself, a sufficient reason why the Legislature should refrain from passing a law, or why I should refuse it my approval, yet, when the change to be made in the law is so revolutionary in character as it is in this case, when the doubts of its constitutionality are so grave and serious, and when complicated injurious litigation is almost certain to follow, both the Legislature and myself are bound, by a prudent regard for the public interests, to abstain from making great innovations, not called for by any overruling necessity.

The fundamental principle of our government, familiar to the people, is that elective officers shall be chosen by a majority of the votes of the people entitled to take part in the choice. In all questions submitted to the people, the majority decides. When any other principle is sought to be introduced, a revolutionary change of great magnitude is proposed, which ought not to be tried under the sanction of an act of the Legislature only; if so great a change is to be made at all, it should be done only with the careful deliberation which pertains to revisions of the Constitution.

Independent of the constitutional question is that of the expediency of this change of the method of choosing representatives. I am not disposed to take the ground that some form of minority representation may not prove to be an improvement. This has, nowhere, been tried long enough to prove anything. Whether this method will operate well or ill, in practice, is a question in considering which men, whose intelligence I respect, entertain enthusiastic hopes of good, while, on the other hand, many of equal intelligence anticipate very great evils from it. In the absence of actual experience, all opinions upon it are speculative merely. I suggest some of the dangers to which this system may, it seems to me, be exposed in practice.

In all free governments the people divide themselves into two great parties. This tendency is so universal that it is not statesmanship to ignore it. Enactments will not overcome it. It is a natural, useful and wholesome division; it ensures a large body of men among the people interested in and intent upon fault-finding

with the party in power and struggling, by means of exposure of their errors, to bring over to the side of the minority enough of the electors to convert it into a majority, and so to take over the government. In politics, as in other things, it is agitation which purifies. Under this proposed new system of voting, the minority carry in their candidates without effort. The majority do the same. In a district where it is known that the political majority usually casts about two-thirds of the whole vote, there being nine Aldermen to be elected, the caucus or nominating convention of the political majority will naturally concentrate all their votes upon six candidates; the caucus of the minority will concentrate on three. There will be no actual contest before the people. The decrees of the party caucuses will be absolute. Neither side will be in fear, lest, by putting forward unfit candidates, it may lose the election. For the two parties will be acting at the polls not against each other, but independent each of the other. This condition of things, where the decrees of the party caucuses, on both sides, are final, naturally gives rise to secret combinations between the leaders on both sides for an agreed upon division of power, against which combinations the mass of the voters might, under this system, struggle in vain. It is true there is an opportunity for a combination, in favor of one or two candidates, of independent voters who may be regardless of party associations. But when the power of the regular party organization is considered, will not this influence of combinations of independent voters make itself felt to a very limited extent, and very rarely? Will it be equal to the power which voters, disposed to disregard their party associations on any occasion, can now exert, by temporarily voting with the opposing party, by way of rebuke to their own? Thousands of men in New York city exerted their power in this way last autumn. The political revolution in that city was wrought out by the tremendous power of the majority, not through any scheme of divided votes or of minority representation.

It may be a fatal mistake for us to be over-confident that the effect of this method of voting will be merely to add to the influence and power in politics of the more unselfish and more virtuous among the electors. The professional politicians may use it more skillfully and effectually than others, and it may entrench them in power beyond the reach of the popular majority or of popular condemnation. This system must tend to increase, very largely, the power in politics of men who have a personal following, in the shape of clubs and associations, formed to promote the success of one man in local politics.

The weight of a club of this kind will be increased ninefold, a club of one thousand wielding nine thousand votes.

Nor is it to be overlooked that this cumulative method of voting confers a higher money value on the ballot of any man who is corrupt enough to sell it. He can make his vote worth, to any one candidate, nine times as much as it is now. The inducement to pay and the inducement to take bribes will both be greater than now.

The Legislature must itself have looked upon this method of voting as nothing better than an experiment; if it had been satisfied of its merits and had had confidence in its working well, it would have applied the principle generally, wherever it could be applied, to local elections, at least, throughout the State.

It is right that the minority should be represented in all public deliberative bodies; and the American system of government makes provision for its representation. Every political subdivision sends a representative of its own choice to the general representative body; congressional districts to Congress, assembly districts to the Assembly, towns to the Boards of Supervisors, wards to villages and city Councils, and thus the minority in the State at large, being nevertheless the majority in many of the political subdivisions of the State, is enabled to secure its approximate share in the public councils. If subdivision has not been carried far enough in the city of New York to give the minority its proper share in the deliberations of the public councils of the city, a safe and not an untried remedy can be afforded by dividing the city into more numerous and smaller wards or representative districts. One board of the Common Council might, without inconvenience, be made to consist, if necessary, of as many members as the Assembly of the State. The minority would be sure thus to have, if it chose, a representation equal to performing the true duty of a minority, that of watching the government of the majority and of warning the public of any wrongdoing. Almost every great interest in the city, could, if it chose, have its representatives in such a board. I owe this suggestion to a thoughtful member of Assembly from the city of New York, belonging to the dominant majority in the legislature, who has much practical knowledge of New York and its needs.

I have dwelt at so much length upon this question of minority representation, because it is the distinguishing feature of the charter, both in the election of the legislative branch of the city government and in the choice by it of heads of executive departments; and this feature its advocates claim as its chief merit.

The bill does not limit itself in applying the minority doctrine, so-called, to the election of representatives of the people in the public councils. It proposes to give the minority of the members of the Common Council the same power of selecting, independent of the majority in that body, a portion of the men who are to administer the government of the city in its various departments.

The minority ought to be represented as fully as possible in proportion to its numbers in the public councils. But the minority has not the right to govern. It is not wise that it should share, in any degree, in the actual administration of affairs. The majority must govern. The useful sphere of duty for the minority is to watch the governing party, to expose its wrong doing, if any; to restrain it by this vigilance and exposure. Just so far as the minority is admitted to a share in the actual administration of government, to a share in executive duties, just so far is it weakened for the performance of its proper duty, that of vigilance over those in authority, just so far is its inclination to be vigilant lessened. It is only a minority out of power that will be faithful to the duties of a minority. Every member of the minority who is admitted to take part in the actual administration of public affairs and all of his party whom he can influence ,naturally acquires a tendency to defend the administration of which he forms a part and where they ought to be exercising a restraining power by their vigilance, they are often found helping to cover up things that need exposure. An administration that has its corps of defenders in both political parties will be much more likely to continue improper practices, than if it relies for defence only on its own party friends and feels that the opposite party is ready, in solid ranks, promptly to assail it if guilty of wrong doing. I believe the clear, complete and undivided responsibility of one or other of the political parties into which people, in all free communities, divide themselves, is essential to good government. For vigilance on the part of the people themselves, this bill proposes to substitute the services of a few individuals put into partial power by the minority as watchers, which will tend to make the people rely on these few and indifferent to their own duty of vigilance in their own affairs. These few hired watchers may become screens for errors and neglect of duty on the part of their associates and themselves.

The government of the majority is the only government recognized by the Constitution of the United States and of the State. The majority controls and must control in legislation, and ought to be solely responsible for administration. When its representatives prove recreant to the trusts committed to them, a vigilant minority is quick

to take advantage of the fact and in turn it becomes the majority. The existence of a strong, vigilant minority, which, not being a sharer of power, has no motive to defend those in power, but every motive to expose them when doing wrong, is quite as essential to honest and faithful administration of the affairs of the republic, as is the existence of the majority in whose hands the actual management of public affairs is placed. This cumulative method for appointing heads of departments may have the effect of fatally lessening, at once, the sense of responsibility on the part of the majority, and the vigilance of the minority. The majority rule prevails not only in the governments of the United States and of the State, but also in all municipal and moneyed corporations. To substitute in its place a plan like the proposed, untried as yet anywhere, in the great city of New York, seems to me to be a most dangerous political experiment.

Without entering upon too precise an examination of the details of the charter, the following suggestions as to some of them, may commend themselves to the consideration of the Legislature.

The finances of the city are to be put, by the charter, in the charge of a board of five persons, of whom the Comptroller is to be one. He is to be appointed by the Mayor; the other four by the Common Council. If a proposition were made to associate with the Secretary of the Treasury of the United States, four persons chosen by Congress, who shall have power to overrule his decisions, or if it were proposed to give to the Comptroller of this State four co-ordinate comptrollers chosen, whether on the majority or minority principle, by the Legislature, few would regard the proposition as one likely to lead to more directness of purpose, or greater efficiency and fidelity in management. No proposition has ever been made in any constitutional convention in the country like this one of trusting the administration of a financial department to a five-headed board. Such an arrangement must, of necessity, render it difficult for the Mayor to find a man fit for the position who will accept the office of comptroller, and equally difficult for a fit man, if he took it, to retain the place, and at the same time, his own self-respect. For the comptroller will still continue to be looked upon by the public as responsible for the management of the department, while every decision of his, in small matters or great, is liable to be overruled by the votes of his associates, chosen by the Common Council.

The Department of Public Works is organized in the same way, with five commissioners at its head, appointed one by the Mayor, four by the Common Council; and this department is to be charged, in addition to its present extensive duties, with the duties now per-

taining to the Department of Docks. It is a strange feature in the charter that the Department of Parks, the work of which is substantially completed, should be continued as a separate department, with five commissioners, while the Department of Docks, charged with a very important, necessary and extensive improvement, essential to the future business prosperity of the city and long demanded by its merchants, is abolished and its duties handed over to a bureau in the Department of Public Works.

The Department of Public Charities has a very unwise and needless restraint placed upon its discretion, by this charter. While authorized to grant aid, with the approval of the Board of Aldermen, in partial support of hospitals, asylums and other charitable institutions managed by private associations, it is provided that no aid shall be given "to any institution that is under the management or control of any sectarian or religious denomination." If all aid had been forbidden to any private charitable society, or to any institution not maintained and controlled exclusively by the public authorities, I could understand the arguments by which such a prohibition might be defended. But the principle being once admitted that the city may aid such institutions and so, perhaps, relieve itself partially from the care of the unfortunate and the helpless, I can see no wisdom and no justice in discriminating against those which, while relieving physical suffering and want, choose to furnish, in addition, for the old the consolations of religion and for the young religious instruction. No matter under what form this consolation or this instruction may be given, so long as it leads the old to look for comfort and the young to look for guidance to God, it is monstrous to discourage its being done, by positive enactments of law. It is according to our established notions of government, that the public authorities should do nothing purposely to promote the growth of one religion or another, should not discriminate in favor of any sect or form of belief. Neither is it just, that they should discriminate in favor of unbelief and against religion in every form. There would be no justice in granting aid to a private asylum which shut out from itself everything in the shape of religion and at the same time refusing aid to another which did the same amount of useful work in the way of relief to physical suffering, because it did its work from religious motives and with religious sanction.

A hospital, for instance, founded by private wealth contributed from Hebrews, and therefore properly under the management of men of their ancient faith, is none the less useful to the city for that reason, in relieving those suffering from wounds and sickness. Its

doors are open to all; they must be so, for it is a condition of the aid given to any private charitable institution, under this charter, that the Commissioners of Charity may send to it, to be cared for, free of expense to the city, such persons as they think fit, in numbers sufficient to exhaust the whole amount of aid granted to it. Nothing is more natural than that persons who are already associated in one church or congregation should unite in these enterprises of benevolence; meeting constantly, the formation of a society for any specific purpose of the kind is so much easier a task. The association of men in religion always assumes, of necessity, a denominational form, and there is hardly a charitable institution of merit to be found which is not, wholly or partially, under denominational management or control. Take out of existence all the charitable societies of New York that owe their origin to religious motives, and the religious associations of men, and scarcely one would be left. A deed of charity is none the less an act of practical good to the community because done by religious men or associations, be they Hebrew or Gentile, Protestant or Catholic. If then, while doing all they can to relieve physical pain, to maintain the aged, to feed the hungry, to rescue the vicious, to protect orphans, the managers of these institutions offer prayers for the sick, the penitent and the dying and cultivate the moral and religious element in the young, according to the forms with which they are severally familiar, how does that make them less entitled to aid, if aid is to be given, than institutions which are entirely free from denominational management or control?

The public officers should have nothing to do or to say about the religious forms that prevail in any of these institutions, nor should they inquire whether any religion whatever is taught or practiced therein. The amount of aid which they may think it wise to afford them should be regulated by considerations entirely disconnected with their religious tenets or character. The power of visitation conferred by the charter upon the Commissioners of Charities, the reports required from the institutions themselves, and the agreement exacted that for any aid granted a full equivalent shall be rendered if required, provide sufficient guaranties against abuse, without this monstrous declaration in the law that good deeds are to be discriminated against, if accompanied by religious convictions or religious observances. The claims of any charitable society, if good at all, are none the less good, because it is controlled or managed by men professing some religion.

By this charter, the department of public instruction is to be, forthwith, entirely reconstructed; and, by the first of July next, the whole force of teachers employed, consisting of over two thousand five hundred persons, of whom two thousand are women, will cease to hold their places. Care has been taken to provide expressly that all policemen now in service, all firemen, all the employees of the Health and Building departments shall continue in office; but for some reason, no such care has been taken of the teachers. Their claim to remain in their present places, until good cause is shown for their removal, is quite as valid as that of the employees of other departments. They have earned their positions by capacity, industry and fidelity to duty.

The schools of the city are in a satisfactory condition. The rules provided by present regulations to protect the teachers from removal capriciously, or without good cause being established, are wise, salutary and just, and have been a means of encouragement for faithful attention to duty on the part of the teachers. To put them all suddenly out of employ by this sweeping enactment, to compel them to renew, before a fresh set of men, applications for the places they have already earned, to furnish new proofs of their fitness already ascertained, to force upon them afresh the weary task of gathering testimonials of character from those who know them and appealing for aid to the influential, to subject them to the chances of being rejected from caprice, or in order to make room for some whom the numerous new managers may want to befriend, is a cruel and undeserved wrong, inflicted upon an unobtrusive and faithful class of workers, for which there is no justification, and which will produce a fearful amount of anxiety and distress.

There is another provision of the charter which will work great injustice and positive deprivation of constitutional right. The first election under it is ordered to be held on the third Tuesday of May. The first of May is the established day of the year in New York for changes of residence; and thousands of electors will, by this provision, be disfranchised at this election, because the Constitution requires a residence of thirty days previous to an election to enable an elector to vote in any district. It is proper in this connection, however, that I should say that, since this bill reached me, two other bills relating to elections in the city of New York, have successively reached the executive chamber; one fixing the spring election on the fourth Tuesday, the 27th day of May, and the other on the thirty-first day of May. If this last should become a law the objec-

tion just stated would be removed, but I have not yet been able to give it the consideration which some of its provisions demand.

The provision of the charter which excites in me the greatest apprehension is that which places the absolute control of the Police, Health, Fire and Building Departments in the hands of a Board of Safety, composed of six members, all to be appointed by the Common Council, subject to no authority but theirs, and liable to removal by a two-thirds vote of that body, and to no other corrective power or influence; with power to fill all vacancies occurring in their own body, their regular term of office being six years, one-half of those first chosen to go out in three years. The Mayor makes the seventh member of this Board, but exerts no more power than any other one of his associates.

This board is to have exclusive control over all matters connected with personal safety and the protection of life, health and property. It is to be chosen at two elections, three at each election, by the Common Council voting upon the minority or cumulative plan. It is obvious that in this board is vested, practically, the government of the city, so far as the most imporant functions of government are concerned, to wit, the protection of life and property and the preservation of public order. Yet this board is put more completely under the control of the Common Council, than any of the others. A little examination will show that, under the provisions of the charter, it must become completely subject to the Common Council. For some unexplained reason, even the restraint of the minority principle is, practically, taken off in reference to this board. The Mayor has no power of appointment or removal of any one of them. He sits with them, as President and one of seven, each one having an equal vote. In all the other departments it is provided that, in case of the removal of any commissioner, the aldermen who voted for him shall fill the vacancy, thus enabling the minority, who originally filled the place to retain in it always one of their own choice. In case of removal, death or resignation of any of this Board of Safety, the remaining members of it fill the vacancy for the unexpired term. In the other boards, any commissioner, no matter by whom appointed, may be removed by the Mayor, upon assigning his reasons for such removal, or by the Governor, in the same manner as is provided for the removal of sheriffs. But no member of this Board of Safety, on whom are devolved duties and powers of the same kind as those confided to sheriffs can be removed by the Governor, upon charges of misconduct, or by the Mayor. I ask every

thoughtful man to consider why this power of removal should be given to the Governor and Mayor in less important departments, and denied to them in this the most important department of all? It is provided that any member of this Board can be removed by a vote of two-thirds of the Common Council (and in no other way), provided that the cause of such removal be stated in the journal and the accused have ten days within which to answer the charges against him.

The best result the advocates of the minority method of voting hope from it is that the political minority in the city may, by means of it, secure one-third of the members of the Board of Aldermen. This is the best they expect; they look upon it as probable that the proportion of the minority will be less than one-third, as a general thing. It will be seen that, even with a minority of one-third in the Board of Aldermen, the two members chosen by the minority to the Board of Public Safety may be removed by the two third vote of the political majority, and the vacancies so created will be filled by the other four members of the board, who were appointed by the political majority. A political majority of two-thirds in the Board of Aldermen can fill every place in the Board of Safety; or a combination of any two factions in the Board of Aldermen, whose united members make a two-thirds majority can appoint absolutely, and, in spite of the minority, every member of this most powerful of the departments. The minority cannot secure for themselves one man in the board to watch its doings.

If the safeguard of the minority principle be good for any thing, it ought certainly to have been retained over the department in which is vested the largest amount of power and the most dangerous kind of power. Abuses in the other Departments can end only in wasts of money. Abuses in the Police, Fire, Health Departments affect the daily security of life and property, and of personal freedom. In the provisions relating to this Board of Safety, the charter is not only inconsistent with all established maxims of government, but is also inconsistent with its own cherished theory.

In addition to these objections, I call attention to the fact that, since the passage of this charter, a bill has passed the Legislature, and is now before me, which confers upon this so-called Board of Safety, appointed by and removable only by the Common Council, the entire charge of future elections in the city of New York.

It is a marked confirmation of the correctness of the general instinct which leads us to rely on a single head for executive and administrative duties that those who drafted this charter while tak-

ing away from the Mayor all substance of power, and reducing him to the position of a mere ornamental head of affairs, propose, nevertheless, to enact in it the following provision (see section 24, subdivision 5): "The Mayor shall be responsible for the good order and efficient government of the city." In spite of the theories which they had suffered to mislead them, they express in this a principle on which the whole government of the city, to be successful, must be founded, and with which every provision in a good charter must be made to conform.

The only argument that has been adduced before me to justify the provisions of the charter which make the mayor powerless, is that the people may, possibly, elect an unfit man to the office. If they should do so, is there any reason to believe that the Common Council would be any better?

There are other minor details in the charter to which objections might be suggested, but my main objections are to its lodging all the power of the city government, executive as well as legislative, in the Common Council, and to its making the great city of New York the subject of an experiment in political government, having the sanction, as yet, only of speculative opinions and opposed to past experience. The city is getting on tolerably well under its partially reorganized local government. Its credit is re-established; its scale of expenditures is being reduced, and no complaint of want of fidelity in the administration of its departments, generally, is now made. Even if things were not in this condition, the most pressing necessity could not justify the subjecting of this great city to an experiment or running the risk of sacrificing it to a theory. Novelty is not necessarily reform.

I have watched closely the discussion on the subject of municipal government, and especially of this charter, in the public press. The *New York Herald* in a recent issue, expressed so well the impression left upon my mind by an examination of this charter, that I cannot do better than quote its words. It says: "It is a law experimental in its character, complicated in its machinery, and destitute of that directness and simplicity which, more than anything else, tend to secure good and honest goverment. Unless a great change has come over our politicians and office seekers, we are likely to see more corrupt bargains and conspiracies under this law than we have ever known under any former charter."

I have reason to think that many members of the Legislature have voted for this act, with all its novelties, under a feeling that the

gentlemen from the city of New York who prepared it had looked well and carefully into the subject, and that in many instances, members have been disposed to rely upon the judgment of these gentlemen as to what was needed and what was wished for in that city. I trust that upon further consideration, the Legislature will agree with me that the bill ought not to become a law. The objections which did not perhaps, occur to them, are urged by one who had several years' experience in connection with the government of the city of New York, and who in presenting them has no other object and desire than to promote and protect its interests.

The most experienced legislator in the Assembly, one who has held the second office in the State, and whose practical acquaintance with the public affairs of the State, is of, perhaps, as long and constant continuance as that of any man living, avowed in debate his belief, that the charter would prove to be a failure, and that he voted for it only in deference to the representative men from New York who were urging it, and on them he put the responsibility.

A venerable member of the Senate, who has himself been mayor of the city of New York, shares fully my worst apprehensions as to the disastrous evils likely to result to the city should this charter go into effect.

In the opinion of another gentleman who has been mayor of the city, a distinguished member of the political party opposed to my own, the provisions in the charter which lodge the whole power of the city in the hands of the Common Council are fatal to all hopes of good government under it.

I admit the importance of giving to our great city a good form of local government, and the duty of the Legislature in that behalf. But the people of that city have no right to claim, nor have any portion of its people the right to ask a form of government not in conformity with the general character of the governments which prevail elsewhere in the State and country.

I do not admit that misgovernment in the city is proof of the failure of republican government. Republican government, under a wise and well considered charter, with a proper distribution of power, has not yet been tried in the great metropolis. When the Legislature gives to New York municipal government in conformity with the general idea of American institutions, it performs its whole duty. All further responsibility is on the people of New York city themselves. The people there have recently proved themselves capable of righting their own wrongs. If they culpably neglect their own affairs, if they will not give to their own political affairs the same

attention which the rest of the people, in their several localities, are in the habit of giving, they must suffer the consequences. No self-acting machinery can be devised which will suffice to do the work which the people themselves are bound to do. Complicated machinery will serve only to invite combinations of designing men, whose operations can be concealed under it. Give to the city a chief executive with full power to appoint all heads of administrative departments. Let him have power to remove his subordinates, being required to publicly assign his reasons. The people will try the question whether he abuses this power of removal. Make him the head of the police in the same manner as the Governor is head of the National Guard, with proper protection for the members of the force against removal while faithful to duty. Make him responsible, personally, for all waste or improper expenditure by requiring from him through the Department of Finance, an estimate of what money is needed for the support of the government and its various departments, before any appropriation is made. Give to the people full representation in the Common Council, and confine it to legislative duties and exclude it from administrative. Give to it the power to reduce estimates of expenditure but not to increase them; the power to limit expenditure but not to originate appropriations. Give full power to the Common Council and the Mayor to regulate the local taxes, to expend each year, what money they think fit, in cash expenditures, but limit rigidly by law their power to incur debts. If the expenditures be wasteful, let the people feel it in their taxes and let them apply the corrective. Make the Mayor removable for misconduct by the Governor. All other provisions of the charter could be drawn by any one. They are mere matters of routine and precedent. Then the Mayor can rightfully be held, as this charter says he should be, "responsible for the good order and efficient government of the city" and would feel himself to be so. Add such provisions as shall secure frequent publication of the expenditures and transactions of the city government, ready access of tax-payers to the city accounts and opportunities to the people to change their Chief Magistrate at short intervals, and all the safeguards of good government are furnished.

With such a charter the people of the city of New York should be told, in plain terms by the Legislature, that they must do their share, as the people do elsewhere, in looking after their local affairs, and so contributing their part to the maintenance of republican government. From special legislation on the subject and from ap-

plications from year to year, for amendments to the charter, the Legislature should resolutely turn away.

I am aware that this charter has been prepared under the auspices of a committee of seventy prominent citizens of New York, who have recently done good public service in another way, some of whom have been conversant with public affairs, but many of whom are of the class that has heretofore neglected giving any time or attention to such matters. I have entire respect for the intentions of this committee, but cannot let its judgment control mine.

So convinced am I that great and disastrous evils to the city are likely to grow out of the enactment of this charter, that if I knew every man in the city of New York was clamoring for it, I would not give it my approval.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 1, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 268, entitled "An Act in relation to elections in the city and county of New York, and to provide for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage thereat."

The bill proceeds upon the assumption that Assembly bill No. 118, entitled "An Act to reorganize the local government of the city of New York," would become a law; and confers all the powers relating to the machinery of elections in the city of New York upon the Board of Safety, which was, under that bill, to be organized.

That bill having failed to become a law, the Legislature will, of course, have no desire that this one shall go upon the statute book, as it will serve no purpose.

The election law of 1870, applying especially to the city of New York, is still in force. It is very stringent in its provisions. It was passed with general assent, having received a nearly unanimous vote of the Legislature; and it is universally admitted that the two elections held under it in 1870 and 1871 were eminently fair.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 1, 1872.

TO THE ASSEMBLY:

I return, not approved, Assembly bill, not printed, entitled "An Act to legalize the acts and proceedings of William Seymour, a justice of the peace of the town of Greig, county of Lewis."

My objections will be found in the following extract from the opinion of the Attorney-General, to whom I referred the bill for examination:

"I understand that the term of office of this justice expired on December 31, 1871, and that for three months thereafter he continued to exercise the powers of his former office, and that the acts so done by him are those sought to be confirmed by this bill. In my opinion this cannot be done. Justices of the peace are constitutional officers. See article 7 section 17 of the Constitution of 1846, and section 18 of the amendment of 1869. They must be elected by the people, and the Legislature cannot appoint them. The confirmation proposed by this bill is, in fact, an appointment of a justice of the peace, and beyond the power of the Legislature.

"Possibly some of the acts of Mr. Seymour (such as acknowledgments of deeds) are of such a character that the Legislature might have authorized him to perform them as an individual and not as a justice of the peace, and as to such acts it may be that a power of confirmation exists. But as to his judicial acts he could only perform them in his character of justice of the peace, and as above stated. I am of opinion that no power exists to ratify such acts.

"The bill proposes to ratify all acts, and in my opinion is unconstitutional."

In this conclusion of the Attorney-General I concur.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 1, 1872.

TO THE ASSEMBLY:

I return, without my signature, Assembly bill 419, entitled "An Act regulating the sale of leaf tobacco in the city of New York."

The bill applies only to the city of New York, and provides that no sales hereafter be made of leaf tobacco in that city, if contained in bales, cases or hogsheads, unless there shall be marked on such bale, case or hogshead, in plain figures, the actual gross weight in pounds at the time of sale, also the true weight in pounds of all the materials other than tobacco contained in and around the same.

It futher provides that the seller shall in all cases weigh the tobacco in the presence of the purchaser, if demanded, and that any violation of the provisions of the act shall be deemed a misdemeanor punishable by a fine.

I believe if this bill, which proposes to change a long and well established custom of the trade, is permitted to become a law, it will result in great damage to a very large and legitimate business in the city of New York, and drive much of it away to places which are free from these restrictions and penalties. Aside, however, from this, my objections to the bill are:

1st. That it seeks to enforce upon a lawful business in the city of New York, restrictions which do not exist, so far as I can learn, in any other part of the country, certainly not in any other part of the State, and it is therefore indefensible special legislation.

2d. That it proposes improperly to interfere with the manner of the purchase and sale of leaf tobacco, and to make the same a matter of statutory regulation. The custom of trade, and the voluntary agreements of buyers and sellers, can and will regulate the sale of this and of all other lawful merchandize, better than the Legislature can do it.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 3, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 490, entitled "An Act to establish a special road district in Franklin county, and to appropriate certain non-resident taxes for the construction and repairing of roads in the same."

The bill constitutes of the lands in townships Fifteen and Eighteen, in Macombe's purchase in Franklin county, which may belong to

non-residents, and the White Face Mountain tract, a road district, under charge of special commissioners appointed by it. All highway taxes assessed upon the lands so set apart are to be paid to the Commissioners "for the purpose of constructing and repairing roads in said district. All highway taxes on lands paid to the county treasurers are to be paid by them to the Comptroller. A sum equal to all the arrears of taxes on said lands together with any sum that may be paid to the Comptroller is to be paid annually out of the State treasury to the commissioners, and also a sum equal to the assessed highway taxes of 1871.

The commissioners are directed to expend the moneys so recieved upon a road beginning in the north part of the town of Franklin, and running south to a point in township No. 19.

My objections are: 1st. That no part of the road on which the money is to be expended runs through the townships or tract named in the bill. The White Face Mountain tract is separated from the two townships named in the bill by a distance of at least seven miles and is distant still farther than that from any point in the proposed road. The territory from which the district is made up is disconnected and is all of it outside of the townships through which the projected road is to run. 2d. Townships Fifteen and the White Face Mountain tract are already subject to the provisions of a previous act of the same nature as this, for another road; and even if this bill be regarded as repealing that act, the taxes of last year ought not to be included in the appropriations made by this bill.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 3, 1872.

TO THE ASSEMBLY:

I return, not approved, Assembly bill No. 320, entitled "An Act to amend an act entitled 'An act to incorporate the Industrial Exhibition Company, and to authorize said company to purchase real estate in the city of New York, and to erect a building or buildings which shall be used as an Industrial Exhibition,' passed April 21, 1870."

The bill proposes (by section 11) to exempt from taxation, either municipal or State, the property and securities of the company from the time of the commencement of the building till the same is opened to the public, not exceeding five years.

I refused my approval to a similar amendment to the charter of this company, passed by the Legislature at its last session. It is a company organized for private gain. It is authorized to do, within its proposed building, all legal and proper business. The enterprise may be one of great public interest, and perhaps of benefit to the public; yet the direct profits go to the stockholders.

Moreover, it would be possible for the company, under the provisions of this bill, to hold a large quantity of real estate in the city of New York, and merely by beginning the erection of a building which they might never complete, to make a very good profit ont of the five years' exemption from taxes, which exemption, by the bill, applies not only to the land, but also to the securities of the company.

The bill proposes also another amendment (section 12) giving to the company permission to build over public streets and avenues, provided the travel on the same be not obstructed. This, if granted at all, should be subject to the supervision and dependent on the consent of the municipal authorities, who represent the people at large, interested in such streets and avenues.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 3, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 446, entitled "An Act to enable Timothy Baldwin, Junior, to take and hold real estate, and to release to him the interest and title in lands escheated to the State."

The relief which this bill proposes to afford, has already been given by chapters 141 and 358 of the Laws of this session.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 3, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 509, entitled "An Act to empower the levying of a tax on Union School District No. 1, in the town of Clarence, county of Erie, for the purpose of creating a permanent fund for the employment of teachers, and to regulate the investment and management of said fund; also, to create the office of loan commissioner for said district and to provide for the exemption of said district from taxes for the payment of teachers' wages."

The bill makes provision for a permanent school fund of thirty thousand dollars, for the district, one-half of which is to be contributed by gift, and the other to be raised by tax. The income thereof is to be applied, exclusively, to teachers' wages.

The second section provides that no tax shall hereafter be levied on the district for teachers' wages, so that nothing else than the income of the permanent fund will be available for paying these. This income will not exceed twenty-one hundred dollars. For the last school year, the teachers' wages in this district amounted to three thousand one hundred and seventy-two dollars. The year previous to that they amounted to twenty-three hundred and fifty.

There is no restriction in the general school law upon the amount that may be raised by tax by a school district for teachers' wages. It is unwise and improper to make a limitation of the kind for this one district.

The seventh and eighth sections of the bill provide that it shall be submitted to the electors of the district whether the bill shall go into effect as a law. This provision is unconstitutional, declared so in 1849 by the Court of Appeals; section 8, N. Y. Reports, page 483.

The Superintendent of Public Instruction thinks the bill ought not to become a law, and I concur in his views.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 6, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 213, entitled "An Act supplemental to, and amendatory of, chapter 842 of the Laws of 1868, an act entitled 'An act to provide for the transmission of letters, packages, and merchandise in the cities of New York and Brooklyn, and across the North and East rivers, by means of pneumatic tubes to be constructed beneath the surface of the streets, squares, avenues, and public places in said cities, and under the waters of said rivers, passed June 1, 1868; and of chapter 512 of the Laws of 1869, entitled 'An Act supplementary to chapter 842 of the Laws of 1868, in relation to carrying letters, packages, and merchandise, by means of pneumatic tubes, in New York and Brooklyn, and to provide for the transportation of passengers in said tubes.'"

It is with great regret that I interpose objections to any scheme which has for its apparent purpose the solution of the important and pressing question of rapid transit in the city of New York.

The history of this project is this: Originally certain persons were authorized by the Legislature to provide for the transmission of letters, packages, and merchandise in and between New York and Brooklyn through pneumatic tubes. They organized under the general mining and manufacturing law. To the corporation so formed, the privilege was afterwards given to convey passengers through these pneumatic tubes. On this company it is proposed, by this bill, to confer power to construct a tunnel under Broadway and other streets for the purpose of an underground railway, to be operated by steam locomotives, on which railway are to be conveyed passengers and freight.

By the present bill, the company is apparently restricted to the middle of the street, not approaching the curb nearer than two feet; but by the act of 1868 (chapter 1821), they are empowered to construct tubes under the sidewalks and through private vaults. The powers now granted are, of course, in addition to those before conferred, and, therefore, the whole width of Broadway is practically surrendered to this company, for its purposes.

A bill, somewhat similar to this one, was submitted by the Legislature for my approval at its last session, and was returned by me

without my approval to the Senate, with a message dated March 31, 1871, in which my objections were made known at length. Many of the objections then urged by me are not done away with by the provisions of the act now proposed, and I respectfully refer to that message in connection with this bill.

I deem it proper to call the attention of the Legislature again especially to the fact that the chief engineer of the department of public works, a man of large experience and established repute for skill in his profession, decides that this project is impracticable, and that the undertaking of it will be detrimental to the interests of the city. As he represents the public, his opinion ought to be accepted in preference to that of engineers acting in behalf of the company interested.

I quote from his report to me. The proposed construction "will cross the lines of the larger sewers now built in the city. Nearly all that part of the city between Fourteenth street and the Bowery, Chatham street and Broadway now drains into the North river, and a large portion of it through the sewer in Canal street. It will almost, of necessity, compel a new sewer or sewers to be constructed to carry this drainage into the East river, and as the surface of the ground at Canal street and Broadway is but twelve feet above tide level, but little descent can be given to the sewer, and consequently it must be of great size to effectually drain this descent. All of the sewers on Broadway will have to be removed, and the drainage provided for through side streets. The small sewers in the cross streets that would be cut in two will have to be rebuilt in every case, and the plane of inclination changed so as to descend in an opposite direction from that which they do now. In many cases, this would involve the rebuilding the sewers for several blocks east and west of Broadway, and sometimes in the adjoining streets running parallel with Broadway.

"I give," he continues, "as my opinion as an engineer, that the plan is impracticable as well as detrimental to the interests of the city, and without a fair prospect of overcoming the problem of quick transit from one end of the island to the other."

The present bill undertakes to give to this company an important part of the route, which is, by previous acts of the Legislature, assigned to another company for the same purpose of an underground railroad; a company possessed of means and capital to which large subscriptions of stock have been already made, and the promoters of which assure me that their work will be prosecuted without further delay.

Whether the present bill will be looked upon as operating so far to repeal the franchise heretofore granted to another company, or to give the two concurrent powers over one and the same route, it is obvious that, if not unconstitutional, it must lead to protracted litigation, and so, by suspending for a long time both works, will retard and embarrass rather than promote the solution of the question of rapid transit in New York city.

It seems to be the special purpose of all bills which have been passed in reference to this route, to get possession of the valuable portion of Broadway lying between the Bowling Green and Fourteenth street, where the facilities for transit are already many, making the great question of rapid transit through the whole length of the city secondary.

The company are required, by this bill, to finish the portion of their work up to Fourteenth street in two years, but are allowed five years thereafter, in other words, seven years, in all, to complete their proposed connections with the Harlem and Hudson river railroads. Nor is there any penalty or forfeiture as a guaranty against their stopping their work after the road shall have reached Fourteenth street; should they do so, nothing will, in fact, have been contributed towards furnishing the people with what is really wanted.

Assuming that the project is a practicable one, the bill proposes the granting of a most valuable franchise without adequate good being secured to the public in furnishing means of rapid transit from one end of the city to the other.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 6, 1872.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill No. 633, entitled "An Act to provide for the repayment of certain moneys paid to the commissioners of Mamaroneck avenue, in Westchester county."

The bill directs that certain moneys, now deposited in the National Trust Company, in New York city, to the credit of two of the commissioners who, heretofore, had charge of work on Mamaroneck avenue, being assessments for benefit, shall be paid back to the persons from whom it was received. The damages awarded for land

taken have not yet all been paid. The moneys which this bill seeks to control constitute a fund out of which the damages are to be paid. Under the decisions of the courts (see People *vs.* Supervisors of Westchester county, 4th Barbour, page 70,) the parties have vested rights in the sums awarded to them, of which legislation cannot deprive them.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY *May* 8, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill printed number 360, entitled "An Act in relation to the Board of Excise in the city of Brooklyn, and to reorganize the same."

The bill provides for the appointment of three commissioners of excise, one by the mayor and two by the auditor and comptroller of the city. The commissioners so appointed are to take the place of the present commissioners (who are by the bill legislated out of office), and are to exercise all their powers in accordance with the provisions of existing excise laws, which remain unchanged. Chapter 175 of the Laws of 1870, contains directions for the appointment of boards of excise for all cities and villages in the State; such boards in the cities of New York and Brooklyn to be appointed by the mayor and common council, and to hold office for the term of three years. In these cities, commissioners of excise have been appointed in conformity with existing law, and their terms of office have not expired.

The law of 1870, under which they were appointed, makes provision for their removal from office for neglect or malfeasance, as in the case of sheriffs, that is, by the Governor. No complaint has yet been made to the Governor of any misconduct on the part of any of the present commissioners, and I assume, therefore, there is no sufficient cause for their removal. This bill seems to have no further purpose than that of effecting a temporary change of the persons who are to act as commissioners. It makes no permanent alteration in the mode of appointing the board of excise. It does not provide that the mayor, auditor, and comptroller shall exercise the power of

appointment of commissioners at or after the expiration of the present term. The appointees would serve one term and then the power of appointment would revert, under the general law to the mayor and common council.

The bill takes away for a brief period from the mayor and common council powers eminently proper to be vested in them, and which the Legislature, with the deliberation attending the passage of a general law of the State on the subject, thought proper to assign to them. A temporary suspension of the provisions of this law, in this respect, appears to me to be objectionable as improper special legislation.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 8, 1872.

TO THE ASSEMBLY:

I return, without approval, Assembly bill No. 601, entitled "An Act to provide for the holding of courts of Oyer and Terminer for the trial of certain causes by justices of the Supreme Court, to be assigned for that purpose."

The bill seeks to establish a new order of things in the administration of criminal law, in certain cases. It is an outgrowth, undoubtedly, of recent developments in the city of New York, and is, no doubt, enacted with special reference to certain indictments now, pending in that city. Nevertheless, the bill applies, in terms, to the whole State, and to every judicial district and county.

It provides, in substance, that, in case of indictments for frauds committed by municipal officers in any county, all indictments pending in any court shall be transferred to the Oyer and Terminer, but that the Oyer and Terminer for the trial of such indictments shall be a specially constituted court, and shall not be held by the regular judge thereof or by any justice of the Supreme Court residing in the judicial district within which such county is situated; that it shall be held by some justice residing in some other district, who shall be designated by the Court of Appeals, if it be in session, if not, then by the Chief Justice thereof, on the motion of the Attorney General; and such motion is to be made without notice to, and without the re-

quest of the district attorney in whose county the indictment is found.

It ignores the constitutional officer, elected for the duty of prosecuting indictments, and excludes from the courts, in special cases, all the judges elected by and residing in the district where the offense was committed; and who, in all past time, have had, as was supposed, constitutional jurisdiction to try all criminal cases arising anywhere in the State.

Such provisions, even if constitutional, which I do not believe, are, in my judgment, unjustifiable and unwise; and they reflect, without excuse, upon the judges and district attorneys throughout the State. The class of cases in which, if occurring in their own neighborhood, they are by this bill excluded from performing their ordinary and proper duties, should stand on the same footing as other criminal cases. There is nothing in the history of the jurisprudence of the State which warrants this sweeping legislative exclusion of judges and district attorneys from their proper duties.

If it be said that in New York extraordinary frauds have been committed, and that the condition of the courts there is unsatisfactory, and that this bill is really intended only for cases of this kind in that city, although its provisions extend over the State, we must bear in mind that the frauds have been already exposed; that judicial officers there have, thus far, been fearless in this matter, and, moreover, that judges to whom objections, personally, have been made, are powerless now, even if they had the inclination to prevent justice being done. There is no reason why courts held by the judges throughout the State, under long established laws and in the ordinary way, should not be relied upon to try all classes of criminal offenses. For the reasons, therefore,

First, That the bill is of doubtful constitutionality;

Second, That it is impolitic and unwise, and is unjust to the judicial officers and district attorneys of the several localities;

I must decline to affix my signature.

In times of excitement, whether it be the result of civil war or great abuses in the administration of government, we should be careful not to establish dangerous precedents. If legislative interference with the ordinary course of administration of justice is sustained, and the establishment, from time to time, of special tribunals for special instances of crime or accusation of crime is to be regarded as proper, a precedent may be established that may lead to great abuses. A specially constituted court might be organized in this or some other way for partisan purposes to work out mere partisan

ends, or to accomplish some act of great wrong to private rights. Tribunals, especially organized for particular cases, have never been regarded as consistent with the general spirit of English or American jurisprudence.

Ample provision has already been made in the general statutes of the State in reference to the judiciary, passed since the adoption of the judiciary article of the Constitution, for extraordinary emergencies.

Section 14 of chapter 408 of the Laws of 1870, reads as follows:

The Governor may, whenever in his judgment the public good shall require it, appoint extraordinary general terms, Circuit Courts and special terms of the Supreme Court and courts of Oyer and Terminer, and he shall designate the time and place the same shall be held, and name the justice who shall hold the extraordinary circuit or special term, or preside in such court of Oyer and Terminer, and he shall give notice of such application in such manner as he may believe the public good requires."

JOHN T. HOFFMAN.

NOTE.—*Furnished to the Assembly in connection with the above message.*

In 1866, the Legislature passed a bill, which, in principle, was precisely like the above bill. That authorized the appointment by the Governor of one judge to certain duties, and excluded four other judges from those duties. This bill authorizes the appointment by the Court of Appeals of judges to certain duties, and excludes other judges from such duties.

Attorney-General Martindale gave the following opinion to Governor Fenton, in 1866, upon the bill to authorize the Governor to appoint one judge out of the five in the First Judicial District to hold special terms in New York city:

I am requested to examine the act regulating the practice in the First Judicial District as to holding special terms at Chambers, passed at the last session of the Legislature, and to state my opinion whether the act is repugnant to the Constitution.

Under the Constitution of 1777, the Supreme Court consisted of a chief justice and four justices, who performed the duties of justices

of the court at general and special terms and at the Circuit Courts and Courts of Oyer and Terminer throughout the State.

Under the Constitution of 1822, the Supreme Court was made to consist of a chief justice and two justices, any of whom might hold the courts. But further provision was made for Circuit Judges to be appointed for each of the circuits into which the State was to be divided, and who were invested with the powers of a Justice of the Supreme Court at Chambers, and in the trial of issues joined in the Supreme Court and in courts of Oyer and Terminer and jail delivery.

Under the Constitution of 1846, the office of Circuit Judge was abrogated and the Supreme Court was retained with general jurisdiction, in law and equity. By the fourth section of the sixth article, the State was divided into eight judicial districts and four justices were provided for each district, and power given to increase the number in the district composed of the city of New York.

It is perfectly obvious that these justices, each and all of them, were intended to participate in and perform all the judicial duties theretofore performed by the Chancellor, Justices of the Supreme Court, and the Circuit Judges. In order to secure uniformity and homogenity in the opinions of the Judges and in the judicial system of the State, further provision was made, by which each one of these judges should spend one year of his term in the Court of Appeals, and by which one-half of that court of final resort should be composed of judges having practical experience acquired in all the departments and branches of the Supreme Court.

By the fifth section of the same article, the Legislature is invested with power to alter and regulate the jurisdiction and proceedings in law and equity. This affects only the remedies which the court may afford, but gives no power to classify the judges and invest a portion with superior authority, privilege or dignity above the rest; nor to degrade any portion of them below the rest.

The only authority vested in the Legislature, in this respect, is contained in the sixth section of the same article. By that article, the Legislature may provide for designating a presiding justice at general term, who, with *any* three or more other justices may hold such general term. The same section provides that *any one or more* of the justices may hold special terms and Circuit Courts, and any one of them may preside in courts of Oyer and Terminer, *in any county*.

I think the act under consideration contravenes this section. It deprives all the justices of the Supreme Court in the State, ex-

cept one to be designated by the Governor, of authority and jurisdiction to hold special terms in the city and county of New York. It separates that district into a distinct and peculiar one, subjected to the judgment of a single justice; and that, too, without any right of review in the large and important class of cases which are by law submitted to his discretion. This experiment (absolutely without precedent) is attempted in a portion of the State where the largest amount of special term business is transacted, involving the disposal of millions of money annually. This large field of practice and judicial experience is shut against all the justices of the Supreme Court save one, and is proportionally withdrawn from the Court of Appeals. It is not necessary to enlarge on the dangers which will attend the administration of such a law. They will occur to the mind as affording reason for considering, carefully, the constitutional objections to the act.

If the Legislature may thus deprive a part of the justices of the Supreme Court of authority to transact special term business, they may also deprive them of power to hold circuits and general terms. In short, they may, by legislative act, substantially revive and reinaugurate the old system of a separate Supreme Court and separate Circuit Courts, which was created by special constitutional provision in 1822, and was supposed to be abrogated by the Constitution of 1846.

It may he said that the act in question does not disqualify any of the justices to perform special term business, but is a convenient and legal mode of designating which one, among all, shall do a certain class of business in a certain locality.

Suppose some exciting political question shall arise and be pending in the special term of the Supreme Court in any judicial district of the State. Could it be considered within the constitutional authority of the Legislature to designate the particular justice who should decide it? That exercise of power would not be more repugnant to the Constitution than the act in question.

If the Legislature may authorize the Governor to designate some justices who may, and others who may not perform a certain class of judicial duties in one of the counties of the State, the designation may be made directly in the act without the intervention of the Governor at all, and may be extended to any number of counties. Would it be constitutional to enact, for example, that the present distinguished presiding justice of the First Judicial District should not hold, or, in other words, should be disqualified from holding special term anywhere? The Constitution provides that he and all

other justices may hold them, "in any county." For further example, would it be constitutional to enact that some other justice might hold special terms, but should not sit as a justice at general term in the First or any other judicial district?

I am impressed with the conviction that such legislative acts, limiting the judicial authority of the justices of the Supreme Court and making an invidious discrimination between them are repugnant to the Constitution, and that the Governor will be justified should he omit to make the designation directed by the law in question.

JOHN H. MARTINDALE,
Attorny General.

The Bar of New York unanimously acquiesced in the correctness of Attorney-General Martindale's decision.

EXECUTIVE CHAMBER,
ALBANY, *May* 9, 1872.

TO THE ASSEMBLY:

I return, without my approval, Assembly bill No. 428, entitled "An Act to provide for the holding of a charter election in the city and county of New York, on Friday the 31st day of May, in the year 1872."

The bill provides for the appointment of two commissioners of election, who are to exercise certain powers of appointment and removal of inspectors of a local election which, it contemplates, is to be held, in and for the city of New York, on the thirty-first of the present month of May. One of these commissioners is to be appointed by each of the two justices of the Superior Court of New York, who were chosen by the people of the city and county of New York at the last general election. This is, practically, the same thing as conferring the power on any two persons described by name.

The Constitution expressly provides that all local officers in cities, counties, towns or villages, shall be elected by the electors of such cities, counties, towns, villages, or appointed by some local authorities thereof.

Doubts have been expressed by some whose opinions on such questions are entitled to peculiar weight, whether the Superior Court of New York is a local authority of the city in the sense of the Constitution. Last year, the power of appointing police commissioners in Buffalo was, by an act of the Legislature, put in the hands of the presiding justice of the Superior Court of that city, which is more

strictly a local court than the Superior Court of New York. That has been repealed at this session.

Even, however, if the court should be held to be a local authority, certainly it is very clear that two out of the six justices of this court, if designated by name, would not constitute any such local authority under the words, or within the meaning of the Constitution. The powers given by this bill are not given to the court, nor to its presiding judge as its representative. They are bestowed on selected individual members of it, and are such as do not pertain to the offices they hold. The description — the two who were elected at the last election — is a personal description of two men as distinct and plain as if their names were given. The powers are not bestowed upon the office, but upon the men. The powers are not to go with the office to their successors. The designation is not of the court, nor of the justices of the court, but of the two persons who were elected as a portion of the court, last autumn.

It is evident that the powers conferred by this bill are conferred on a person and not upon an office, and the holder thereof; for if either of these justices were to die, the power does not then, by any provision of the bill, devolve upon his successor in office. It is true, that any vacancy occurring after the original appointment may, under the bill, be filed by the successor in office of the justice who made the appointment; but the original appointment of commissioners of election can be made only by the two persons elected last autumn. If either or both should die before the power was executed, no one could execute it. If the power were given to the court, it would survive, though all the members of the court were to die. Under this bill, if these two members of the court were to die, the powers granted by the bill would die with them; no one would be left to execute them. The power given is personal not official, and is, therefore, it seems to me, not authorized by the Constitution.

JOHN T. HOFFMAN.

EXECUTIVE CHAMBER,
ALBANY, *May* 9, 1872.

TO THE SENATE:

I return, without approval, Senate bill No. 489, entitled "An Act dividing the State into congressional districts."

The act of Congress for the apportionment of representatives from the several States provides that they "shall be elected by districts composed of contiguous territory containing, as nearly as practicable, an equal number of inhabitants."

The bill seems to be framed in plain disregard of the requirements of the act of Congress. The average population to a district should be, on the ratio of the number of representatives assigned to the whole State, 137,000. There are created by this bill one district containing a population of only 92,700, another with only 99,500, two with each 103,000, one with only 110,000, and one with only 111,000. On the other hand, one district will contain a population of 118,000, another 178,000, another 172,000, and another 166,000. These instances suffice to show the great inequalities in the provision of the bill.

It is, of course, impossible to avoid material differences in the population of the several districts. In making up the districts of contiguous territory, it is well to avoid dividing counties, except when a county is so large in numbers as to entitle it to more than one representative, or has so large a fraction of population beyond the number entitling it to one, that it would be gross injustice to disregard the practice. But if it be proper to avoid dividing counties, it is manifestly not proper to divide wards in cities, as is done by this bill.

The unequal distribution prescribed by this bill is unnecessary, and cannot be justified as being the only way to avoid the disintegration of counties or other existing municipal districts. For great inequalities within a single county — the county of New York — are produced by dividing wards and attaching one part of a ward to one district, and another part thereof to another district. In New York city, under this bill, one congressional district will contain 187,700 of population, while another will contain only 92,700; that is to say, one district will contain more than twice as great a population as the other. New York city is justly entitled to one additional representative, if it were divided into seven districts of equal population; each one would contain a population of 134,613. There will be fifteen districts under this bill, outside of the city, which will contain, each of them, a less population than the above average of 134,600; yet New York is allowed but six members of Congress. In dividing the wards of New York city, it must have been difficult, if not impossible, for the Legislature to arrive, with any exactness, at the population of the districts created in such cases.

One instance, outside of New York city, will illustrate how easily it would have been to make the districts more fairly out of contiguous territory, and without dividing counties. By the bill, Westchester, Putnam, and Rockland are to form one district, and they contain a population of 172,000; Orange and Sullivan constitute another district with 115,000 population; Duchess and Columbia constitute another district, and contain 121,000 population. Here is great inequality among the three districts. All the seven counties form one mass of contiguous territory, and may be divided into three districts, each one being formed of contiguous territory, with a very much nearer approach to equality in population. Westchester left as a district by itself would have a population of 131,300, and is growing rapidly. Within the next ten years its population will be increased by many thousands, while many other portions of the State will probably remain about as at present. Columbia, Dutchess, and Putman would contain, if put together, a population of 136,500; Orange, Sullivan, and Rockland would contain one of 146,000.

Other glaring and unnecessary instances of inequality could be pointed out, but these are sufficient to establish the fact that proper pains have not been taken to do justice to the people, nor to comply with directions of the act of Congress.

I cannot believe that the wrong proposed to the city of New York, where, without increased representation to the city at large, wards are divided in making up districts, and where one district is assigned to a population of less than half that of a neighboring district, is the result of the best judgment of the Legislature.

The injustice of the whole apportionment for the State, as made by this bill, may be briefly shown. The territory embracing New York city, Long Island, and Staten Island, contains a population of 1,515,969, which is 9,398 in excess of the number required for eleven representatives, but only ten are given to it; the rest of the State contains a population of 2,866,790, which is not enough, by 9,391, to entitle it to twenty-one representatives, and to this portion of the State are given twenty-two.

For the reason that the bill is in plain disregard of the rights of the people, and of the directions of the act of Congress under which the apportionment is made, I cannot give it my approval.

JOHN T. HOFFMAN.

NOTE. — The above Veto and one other, heretofore noted, are the only two overruled during the four years of Gov. Hoffman's administration.

1872.

MEMORANDA OF OBJECTIONS

To sundry bills filed, after adjournment of the Legislature, with the Secretary of State, not signed.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *May* 16, 1872.

AN ACT relating to the local government of the city of New York.

After the veto of what is commonly called the "Seventy Charter" had been sustained by the Legislature, this act relating to the local government of the city of New York, was introduced by Senator Palmer and without any considerable discussion of any of its provisions, except the one forbidding appropriations to what are called sectarian, or denominational schools, it passed the Senate, May third, the Assembly May seventh, and reached me only May eleventh, amidst the great pressure of business incident to the closing days of the session. I have taken the earliest day for considering whether it should become a law, and have decided to refuse my signature because:

First — Without discussing the merits or demerits of the general provisions of the bill, and both are very marked, it is sufficient to say that it orders the municipal election for Mayor, Common Council, School officers, &c., on the 31st day of the present month, and in my judgment it is unwise and extremely dangerous to precipitate upon the people of New York so important an election on such short notice.

Second — The election, if held, would be conducted by inspectors and canvassers heretofore chosen. Under the operation of the Registry and Election law passed this session (Chapter 675 Laws of 1872) the laws under which they were chosen expire, and the official existence of the officers terminates June 1st, 1872. If for any reason the canvass of any part of the vote should not be completed on the night of the election, May 31st, it is, to say the least, very doubtful if it could be completed at all, for the reason that the canvassers would

be after that day, by operation of law, out of office. Serious litigation would be likely to ensue between those who are now in office, and those who would claim under the new election law.

Third — Assuming, as I think must be the case, that no person who is not registered could vote at the proposed election, and that he must be registered in the election district in which he resides, a very large number of the citizens of New York would under the operations of said chapter 675 of Laws of 1872, be disfranchised at that election. No citizen who since the last registry has moved into another election district than that in which he then lived (and many thousands did so move on the first of May last) could vote; for section 37 of said chapter (which section takes effect immediately) provides that, "No person registered in one election district, can be registered in another in any other manner *than is provided in said chapter*." No registry can therefore be had under any other law, and none can be had under the law of 1872 for the reasons that the sections which provide for a registry, do not take effect till June 1st, 1872, the day after the proposed election. There is no provision for a new registration for the election proposed to be held May 31st, and no time to make it, if there was. No voter, therefore, who has moved into a new election district since the last fall election can by any possibility vote this spring. An election which directly affects for good or evil the welfare of a million of people, and which affects indirectly the whole State, to be held on a fortnight's notice, and at which many thousands of citizens are thus disfranchised, cannot be held with my consent.

JOHN T. HOFFMAN.

Senate Bill 360.

An Act to incorporate the Washington Park Association.

Can be incorporated under General laws.

Assembly Bill 170.

An Act to incorporate the Dairymen's Manufacturing Association of Perth.

Can be incorporated under General laws.

Assembly Bill No. 909.

An Act to incorporate the Quincy Rural Cemetery Association in the town of Ripley and county of Chautauqua.

Can be incorporated under general law.

Assembly Bill 877.

An Act to incorporate the New Baltimore Chestnut Lawn Cemetery Association.

Can be incorporated under general law.

Assembly Bill 869.

An Act authorizing the trustees of the Quincy Rural Cemetery Association, in the town of Ripley, county of Chautauqua, to purchase additional lands to enlarge their burying grounds on lot number 14 of Holland Land Company's Survey.

Supervisors have power. Chap. 280, Laws of 1852.

Assembly Bill 694.

An Act to amend chap. 368, of the Laws of 1865, entitled "An Act for the incorporation of societies or clubs for certain social and recreative purposes as amended by an act," passed May 1st, 1865.

Authorizes societies to be incorporated for detective purposes; is against public policy and good morals.

Assembly Bill 962.

An Act to amend an act entitled "an act to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes," passed February 17, 1848.

Extends act to formation of corporations for mercantile and commercial purposes.

Similar bill vetoed in 1871.

Assembly Bill 763.

An Act to incorporate the Buffalo and New York Oil Tankage and Transportation Company.

Authorizes erection of buildings in New York city, Buffalo, and elsewhere, for storage of crude and refined petroleum without being subject to local regulations; also authorizes the company to take lands against will of owners, in like manner as for railroads.

Assembly Bill 454.

An Act in relation to dower and to actions and proceedings for recovery of dower.

Of doubtful policy and difficult of construction. At death of party entitled to dower, a life interest can not have an ascertainable value.

Senate Bill 426.

An Act to amend an act entitled "an act to provide for the incorporation of villages," passed December 7, 1847, so far as the same relates to the village of Akron, in the county of Erie.

Is not an amendment of the general law; is simply a legislative extension of boundaries of one village (Akron); supervisors have power.

Assembly Bill 136.

An Act to prevent frauds in the sale of patent rights.

Special legislation and improper. Alters the law as to one class of promissory notes.

Senate Bill 243.

An Act to provide for the construction and improvement of the road from Piseco lake to Claflin's tannery in the county of Hamilton.

Comptroller disapproves of phraseology as to the taxes which are to be included.

Assembly Bill 533.

An Act to provide building sites for life saving stations on the coast of Long Island, State of New York.

Defective. Not signed by President of Senate.

Assembly Bill, not printed.

An Act to amend charter of the city of Rome.

Increases salary from $800 to $1200, for which no good reason is shown and gives fees, which latter provision is unconstitutional.

Assembly Bill 831.

An Act for the relief of George Howard.

Similar bill vetoed in 1871.

Assembly Bill 561.

An Act to authorize the Lockport Home for the Friendless to contract with the county of Niagara for the care and support of poor children of said county, and as to the trustees of said society.

Supply Bill for 1872, provides for this and all like cases.

Assembly Bill 212.

An Act to appoint commissioners to make a survey of Richmond county and certain maps therefrom, and to mature and report a plan for laying out Staten Island, and for securing a water supply for the inhabitants thereof.

Unconstitutional. Makes the law go into effect only if people of district vote for it.

Senate Bill 402.

An Act to incorporate the Safe Deposit and Trust Company of Buffalo.

See objections of Bank Superintendent.

Senate Bill 238.

An Act to incorporate the Manhattan Loan and Trust Company of the city of New York.

See objections of Bank Superintendent.

Senate Bill 207.

An Act to amend an act entitled "an act to incorporate the Safe Deposit Company of the city of Rochester," passed May 30th, 1868.

See objections of Bank Superintendent.

Assembly Bill 550.

An Act to authorize the construction of a farm bridge over the Champlain canal for the benefit of Hiram Cramer, in the town of Saratoga, county of Saratoga.

Party has a bridge now; if the purpose be to rebuild this, no law is necessary.

Assembly Bill 647.

An Act to authorize the construction of a bridge over the Glen's Falls feeder in the village of Glen's Falls, New York.

State Engineer reports no obligation, legal or equitable, on part of State to build the bridge.

Assembly Bill 583.

An Act to amend an act, entitled "an act to abolish the office of County Superintendent of the Poor in the county of Albany," passed April 4th, 1858.

Gives to an officer appointed by the city, authority over county; unconstitutional.

Senate Bill 425.

An Act to incorporate the Nyack Water Works.

Private company for private profit authorized to take lands as for railroad or other public purposes.

Assembly Bill 903.

An Act amending charter of the city of Binghamton.

Defective. See letter of Superintendent of Public Instruction.

Senate Bill 139.

An Act amending an act concerning proof of wills, executors and administrators, guardians and wards and Surrogate's Courts passed May 16, 1839, and May 11, 1869.

The amendment made should have required a notice of *lis pendens* to be filed; without this, would be unjust to innocent purchasers.

Assembly Bill 786.

An Act to amend an act entitled an act regulating the sale of intoxicating liquors," passed April 11, 1870.

The second section is a re-enactment of a bill relating to Brooklyn which was vetoed this session, and the veto sustained by the Assembly.

Senate Bill 168.

An Act to amend an act entitled "an act to amend and consolidation the several acts relating to the preservation of moose, wild deer, birds and fish," passed April 26, 1871.

Defective; amends an act of 1871, which has already been amended this year; no reference made to the latter act.

Assembly Bill 894.

An Act amending an act to consolidate the several acts relating to the preservation of moose, wild deer, birds and fish, passed April 26, 1871.

Repeals prohibition of general law as to shooting and hunting on Sunday in some counties.

Senate Bill 413.

An Act in relation to Fordham and Pelham avenues in the towns of West Farms and Westchester, in the county of Westchester.

The fourth section appoints the engineer of the road, taking the proper responsibility and authority from the commissioners.

Assembly Bill 407.

An Act to enable the legal voters of any town, county, or city, to determine by ballot, whether the sale of liquors shall be prohibited.

This bill, although passed by the Assembly on the 16th of April, was not definitely acted upon by the Senate until the 7th of May, and was not transmitted to me until the 11th of May, only two days (excluding Sunday) before the final adjournment. The first elections, provided for in this bill, are to be held on the 28th of May, little more than a fortnight from the time this bill reached me; too little time for the proper notice to the people for such elections, and for a full understanding or discussion of the provisions of the bill.

I deem it unnecessary, therefore, to consider other objections which have been suggested.

Assembly Bill 391.

An Act to enable life insurance companies to restore impaired reserve, and also to transfer their business.

See objections of Superintendent of Insurance Department, on file.

Assembly Bill 783.

An Act authorizing the sale of school-house in School District Number Four, town of Huntington, and providing for application of proceeds of sale.

Bill defective — Subject matter does not correspond with the object as expressed in the title.

Assembly Bill 848.

An Act amending act of April 10, 1854, to provide for a deputy clerk for the Court of General Sessions of Kings county.

Largely increases salary of Deputy Clerk of General Sessions of Kings county.

Assembly Bill 739.

An Act for the relief of the New York Tunnel Company.

Bill is defective in phraseology.

Assembly Bill 508.

An Act requiring agents and wardens of State Prisons to keep a detailed account of purchase and sales made by them.

Recalled for amendment, and amendments not made to conform to Governor's suggestions.

Assembly Bill 830.

An Act amending the several acts in relation to State Prisons.

Reduces prison force to an unjustifiable extent.

Assembly Bill 779.

An Act amending act to provide for establishment of Free Schools in Newburgh, passed April 6, 1852.

Bill names an additional Trustee by act of Legislature.

Senate Bill 438.

An Act amending an act to prevent the furtive possession and use of slung shot and other dangerous weapons, passed April 20, 1866.

Impolitic legislation, and not likely to be effective.

Assembly Bill 753.

An Act providing for keeping, in duplicate, certain books in the office of the Clerk of the city and county of New York, in which judgments and decrees are required, by law, to be docketed.

Bill not necessary, and county clerk says that office accommodations are inadequate to carry out its provisions.

Senate Bill 384.

An Act to organize a Board of School Commissioners in and for the city of Troy.

The theory of this bill is to make a non-partisan board of school commissioners, but the fourth section of the bill is so drawn as to defeat this purpose.

Assembly Bill 457.

An Act authorizing the Canal Commissioners to settle for work done under the contract for raising the towing path on section 12, 13, 16, 22 and 23 of the extension of the Chenango Canal.

Bill defective, subject of bill does not correspond with the object, as set forth in the title.

Senate Bill 952.

An Act to amend chap. 110, of the Laws of 1871, in relation to the fees of county treasurers.

Title of bill does not correspond with subject matter. It contains only a special provision relating to a single county, (Ulster).

Senate Bill 334.

An Act to consolidate the government of the city and county of New York, and further to regulate the same.

Second section of this bill is very loosely drawn, and would lead to serious embarrassments and complications. This is the opinion of an able jurist whom I have consulted.

Bill is also defective. No certificate of its passage by the Assembly.

Senate Bill, not printed.

An Act to authorize the Buffalo, Corry and Pittsburgh Railroad Company, to extend its road and change its name.

Bill does not state what the new corporate name shall be, nor is the general railroad act applied to the extension.

Senate Bill 282.

Amending Act for the support and relief of the Poor, and for the government of the Poor Department in the county of Erie.

The law as it now stands, makes the Superintendent of the Poor removable by the appointing power; this bill allows the present board of supervisors to appoint for a fixed term of three years without power of removal; the law is better as it is.

Senate Bill 522.

An Act amending chap. 739, Laws of 1857, to authorize the formation of town insurance companies.

General act amended as to a particular town Fire Insurance Company, which the title of bill does not express.

Senate Bill 451.

An Act in relation to the publication of notices and citations.

A similar Assembly Bill was returned for amendment; and after amendment by Assembly, the Senate failed to concur therein.

Senate Bill 396.

An Act further to amend the charter of the city of Watertown.

Increases pay of city officers, and abolishes some offices necessary to the city government.

Assembly Bill 537.

An Act to amend General Drainage Act of 1869.

Bill not to apply to Jefferson county, nor to any incorporated village, leaving villages without necessary power to conduct drainage proceedings. Also repeals all special drainage acts, except those relating to draining ponds.

Senate Bill 329.

An Act to clear and regulate the Court House property of the county of Kings.

No necessity for this bill. Supervisors have full power and are now exercising it.

Assembly Bill 755.

An Act to amend chapter 412, Laws of 1864, to amend "an act to provide for the registry of liens and incumbrances upon boats navigating the canals and rivers of the State."

Objections: It is bad policy to change a law so old and well understood, unless the innovation will result in an improvement.

Boatmen, forwarders and others interested in canal boats, have become familiar with the present law, and the proposed change would cause great uncertainty, mistakes and confusion.

2d. The proposed change would render it much easier to fraudulently cover up property, and greatly increase the chances for defrauding the creditors of the mortgagor and subsequent purchasers and mortgagees in good faith.

3d. Under the present law, searches as to titles of canal boats in the Canal Department extend back for one year only; under the proposed change, after the lapse of a few years, it would be almost impossible to ascertain the title to a canal boat. I am informed that mortgages are very seldom satisfied on the records of the Canal Department when they have been paid. The new law does not compel mortgagees to satisfy them on the record, when paid. Under the present law this is not necessary, for if mortgages are not renewed yearly they are, in effect, cancelled; but under the proposed change a mortgage remains a lien forever unless a satisfaction piece is filed in the Canal Department. A search, extending back many years, would in many cases show a large number of mortgages against boats and the purchaser could only be certain as to the title after communicating with a large number of mortgagees scattered all over the country, involving much time and expense. After a few years it would be very unsafe to buy, and almost impossible to sell canal boats, if the change were made.

Assembly Bill 354.

An Act to amend chapter 150, of the Laws of 1837, in relation to U. S. Deposit Fund, so far as relates to the county of Jefferson.

Comptroller objects. The county of Jefferson has invested about $30,000 in war bonds of that county, which are filed with the Comptroller.

Should these be withdrawn, it is probable that the moneys arising therefrom may not be invested by the county loan commissioners for some time; resulting in loss of interest, besides the danger of not securing so favorable and safe investments as at present.

It does not appear that the Board of Supervisors of the county have asked for the withdrawal of the county war bonds.

Assembly Bill 731

An Act creating a Board of Commissioners of Emigration, and conferring thereon certain powers and duties.

A convention of Superintendents of the Poor of the State, held at Goshen, protested against the provisions of the 5th section of this Bill, in relation to the support of destitute emigrants.

Assembly Bill 890.

An Act to establish and maintain a police force in and for the county of Richmond.

Changes manner of appointing Police Board. The Police Act of 1870, has been in force only two years, and should be further tested, before its repeal.

Assembly Bill 949.

An Act to establish police courts, courts of special sessions and District courts in the city of Brooklyn.

Provides for the *appointment* of police justices by a commission, instead of *election* by the people.

Assembly Bill, not printed.

An Act to authorize the several courts of record of criminal jurisdiction in the county of Kings, to sentence prisoners convicted before them, to the Penitentiary, in the same manner and for the same time as said prisoners may be sent to the State prison; and to provide for the transportation of such prisoners to said Penitentiary.

Special legislation, which it is not the policy of the State to encourage.

Senate Bill 77.

An Act authorizing the appointment of attendants and messengers of the Supreme Court, in the county of Kings.

The manner of appointment by the Sheriff, is unusual, and there appears to be no good reason for this method of appointment in this special case. Power is already conferred upon judges to make appointment.

Assembly Bill 675.

An Act to provide for the completion of certain highways in the towns of Yonkers and East Chester, in the county of Westchester.

This bill affects rights vested under prior legislation.

Assembly Bill 839.

An Aot relative to the medical laws of the State of New York.

I have submitted this bill to my much respected and esteemed friend Doctor Thomas Hun, of Albany, in whose judgment, as a man as well as a physioian, I have great confidence, and have asked his views with reference to it. They generally accord so completely with my own, and are so tersely expressed that I file them with the bill as my reason for not giving it my approval.

"*Remarks on Assembly Law No.* 839, *respectfully submitted to the Governor by Thomas Hun, May* 30*th*, 1872.

The object of this bill is to compel every person offering to practice medicine, to prooure a license from some one of the three sets of county medical societies, under penalty of fine and imprisonment. It is hoped by its advocates that in this way, legal practitioners would have a medical education, and that all others would be forced to relinquish practice.

I believe the bill is not founded on sound principles of legislation, and that, in practice, it would not accomplish the end proposed by its authors.

Laws restricting the practice of medicine are intended either for the protection of physicians against competition of irregular practitioners, or for the protection of the public against imposition and injury.

Educated physicians ought not to have, nor do they need any protection against competition, except that furnished by their character for learning and skill. They ought to claim no monopoly established in their interest.

The public are entitled to protection against imposition, but not against the consequences of their own mistaken judgment. Every man is supposed to be able to take care of himself, and to have a right to choose what kind of medical attendance he will provide for himself and family. The State is only bound to provide that those offering to practice medicine, shall not hold out false pretences, and this demand is fully secured by the law as it now stands.

Provision is now made for examining and licensing three kinds of Doctors, viz: Doctors who hold to and continue the tradition of the profession, Homœopathic doctors and Eclectic doctors. These are legal practitioners, but have no legal privileges not possessed by all other persons.

The mode of licensing these three classes of practitioners has been so defined by law, that any person wishing to employ a physician can readily find out whether he has been duly accredited as belonging to one of these classes, and which one. For this purpose, he has only to enquire whether he is a member of one of the county medical societies or not. He who wishes to employ a practitioner belonging to any one of these three classes, or one not belonging to any of these classes, is left at liberty to do so on his own responsibility; and as he alone or those under his guardianship are to be benefited or injured by his action, it seems right that the State should interpose no obstacle to his free choice.

In contracts the law furnishes protection against deception, but not against errors of judgment.

The State having guarded the public against imposition by furnishing the manner of ascertaining what kind of qualification the practitioner possesses, leaving each man to choose for himself, has done all that it is called on to do. It is not the business of the State to compel men to choose wisely. It is a fact that a portion of the public, and that not the most unenlightened portion, believe that a Doctor's capacity to cure diseases does not depend very much on the degree of education in medical science he has had, and much as we may regret this error, as we consider it, we have no right to call on the State to assume the guardianship of those persons and compel them to abandon what we consider a wrong notion, especially when we take into account the class of men who have recourse to clairvoyants, and natural bone-setters and hydropathists, and others for whom no provision is made in the proposed law.

So long as the State recognized only one kind of medical practitioners, there was some logic, even if there was not good policy in restricting to them the right to practice, but now that it has admitted two other kinds, homœopathists and eclectics, there seems no reason why all other sects should not have the same recognition. After giving up the idea of orthodoxy in medicine, on what principle is it going to limit the number of sects to three and no more? By the proposed law it allows the public to choose between Doctors proper, and homœopathists and eclectics; but if some one wishes to employ a clairvoyant, or a spiritualist, or a dealer in patent medicines, why should he be hindered in his choice?

But besides being founded on a vicious principle the law would, in practice, fail to carry out the object proposed.

The only argument in favor of this law that can have any force, is, that it will require all practitioners to present at least some guaranty

of education and moral character. When we take into account that any one of about one hundred and eighty proposed medical societies can confer a license to practice and that the candidate rejected by one can apply to another, till he finds one to accept him, this guaranty becomes weak indeed. But even this guaranty will not exist, for so long as people are willing to employ unlicensed practitioners the law will never be enforced.

In support of this assertion, I appeal to experience, under circumstances more favorable to success than now exist. The experiment has been tried and failed.

Previous to 1830, only one class of medical practitioners was recognized by law, and a law similar to this was in force. By the Revised Statutes "every person not authorized by law, who for any fee or reward shall practice physic or surgery within this State, shall be incapable of recovery, by suit, any debt arising from such practice, and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both."

By a law passed April 7th, 1830, the penalty was abolished in the case of persons "using or applying for the benefit of sick persons any roots barks or herbs, the produce of the United States," but the disability from collecting fees was continued.

By a law passed May 6th, 1844, the penalties and disabilities were repealed as to all persons offering to practice "except in cases of mal-practice or gross ignorance or immoral conduct in such practice."

While the law restricting practice was in force, irregular practitioners defied the law with impunity, and found patients to employ them all the more because they claimed to be persecuted, not because they suffered any inconvenience from the law, but rather to attract public notice and sympathy; the "root doctors" besieged the legislature every year till, in 1830, the penalty was established so far as related to them. Afterwards they continued to agitate for the removal of the disability to collect fees, and were joined by the homœopathists and others, till, in 1844, all penalties and disabilities were removed from all offering to practise medicine.

This repeal leaving the practise of medicine and surgery free to all was well received by the profession who had experienced the evils of the former law, and has since worked well in practice; any man may now call himself doctor and offer to practise, people understand that this furnishes no guaranty of skill or honesty and look into the antecedents of candidates for practice; and though a large number continue to employ uneducated men, it is because they prefer such.

So long as people are willing to employ irregular practitioners, so long will candidates for their patronage present themselves. No penal legislation will stop this, nor will this bill, if it becomes a law, remain for many years. Clairvoyants, dealers in patent medicines, bone-setters and others will ask to be relieved from its operation, not so much as a means of relief, for they will never suffer from its penalties, but as a means of advertising themselves as a persecuted class, and in a few years, after doing no good, and some mischief, the law will be repealed. The experiment failed thirty years ago, and will be more sure to fail now, for as the Legislature by this law admits two sets of what were once illegal practitioners, why should it not admit more?

I do not mean to say that it is not desirable that the practice of medicine should be exclusively in the hands of educated, skillful and honest men. I deplore the evils which this bill seeks to remove as much as the authors, but do not agree with them as to the proper remedy. It is an important truth, too little understood that there are many wrongs which cannot be made right by legislation. I deplore the defects of some religious teachings and practices of which I disapprove, but I would not have the State try to put a stop to them. Penal legislation to protect men against their own folly will never succeed in this country.

I think, therefore, that it will be better for the public and for the medical profession that the law should remain as it is."

Senate Bill, not Printed.

An Act to extend the jurisdiction of the Board of Health of the city of Brooklyn, in times of epidemic or pestilence throughout the county of Kings.

This bill conflicts with section 2 of Article 10 of the State Constitution, in conferring upon officers of the city of Brooklyn, jurisdiction to perform official acts in the several towns of Kings county.

Assembly Bill, not Printed.

An Act to amend the charter of the city of Brooklyn.

The bill provides an unusual method of appointing city assessors by two different commissions composed of city officers. Also for the *appointment* of police justices (instead of *election* by the people) by a commission of city officers, a mode not contemplated in the State Constitution.

Assembly Bill 208.

An Act to amend section three of chapter 533 of Laws of 1867, entitled "An act for the relief of the Van Brunt street and Erie Basin Rail Road Company" (Brooklyn).

Increases railroad fare on city railroad against what I think was a contract with city, on acceptance of franchise.

Senate Bill 529.

An Act to provide for the settlement of claims against the city and county of New York, not embraced within the provisions of chapters nine and 29 of the Laws of 1872, and to facilitate the settlement and payment of claims under said chapters.

See letters of Attorney General and corporation counsel of New York city, adverse to the bill on file in executive chamber.

Senate Bill 345.

An Act to repeal chapter 261 of the Laws of 1850, entitled "An act to provide for the better education of the children of the several Orphan Asylums in this State other than in the city of New York," passed April 10th, 1850.

These asylums have for many years received a share in the distribution of certain school money, which this act proposes to deprive them of, and for which I think sufficient reasons are not shown.

Senate Bill 437.

An Act to establish a Board of Health, in and for the city of Brooklyn and county of Kings.

This Bill provides for the appointment of a Board of Health, to consist of four members. Two members of this board are to be appointed by certain city officers; the president of the Police Board (appointed by another commission), to constitute a third member of the Board, and the mayor of the city (the only elective member), to constitute the fourth member of the Board.

With an appointing power liable to constant change, the efficiency and stability of a Health Commission thus constituted, may be seriously questioned.

The third and ninth sections of the bill apply certain provisions of the Metropolitan Sanitary Act of 1866, which was repealed as to

the city of Brooklyn, by chapter 381, Laws of 1870. The act of 1870 also revived the provisions of the city charter, in relation to the Health Board of the city, in existence prior to 1866.

The reasons adduced for a new Health bill, are not in my opinion sufficient to warrant my approval of this bill.

Senate Bill 410.

An Act in relation to expenses in opening streets and for local improvements, in the city of New York.

This bill does not tend to promote economy in expenditures, or equity in awards and assessments in cases of street openings and local improvements.

It also violates a well established principle, in transferring nearly the entire necessary costs included in opening streets, avenues, etc., from the property actually benefited, to general taxation.

For further objections in detail, see letter from corporation counsel, dated June 3d, 1872, on file.

LIST OF PARDONS,

COMMUTATIONS AND REPRIEVES GRANTED BY THE GOVERNOR DURING THE YEAR 1869.

January 8th, 1869 — Burdett Goodale, convicted June 5th, 1868, of grand larceny; Tioga county; term one year.

Recommended by judge, district attorney, Hon. Wheeler H. Bristol and others.

In the opinion of the judge the evidence did not warrant the verdict. The prisoner is offered immediate employment in the county.

February 1st — John De Lany, convicted June 22d, 1868, of larceny; Cayuga county; term one year.

Recommended by judge, district attorney, Hon. Josiah T. Miller, Homer N. Lockwood, Edward Burt, and other leading citizens of Cayuga county, who state that, previous to the offense, prisoner's conduct had been good, and that the sentence was pronounced under misconception of the facts. De Lany's former employer agrees to take him at once again into his service.

February 15th — Daniel W. Rowland, convicted June 20, 1866, of bigamy; Oswego county; term three years.

Rowland's term would expire in four days more, by reason of his good conduct in prison.

Pardon recommended by leading citizens of Auburn, by the judge and by the prison authorities, the prisoner having exposed an attempted extensive larceny of goods manufactured at the prison.

February 20th — Jacob Orth, convicted December 7, 1867, of an attempt to commit arson, third degree; Kings county; term three years.

Judge and district attorney recommend pardon, saying that Orth was convicted on the testimony of a man who, they have since learned, is untrustworthy.

February 26th — Thomas Pleasants, convicted November 17th, 1868, of grand larceny; Kings county; term two years.

The prisoner was convicted of the larceny of a horse and cart. His witnesses were not present, and he had no proper defense. His innocence is now established by undoubted evidence. The judge, district attorney and complainant have no doubt of his innocence.

March 10th — Henry Strickland, convicted May 17th, 1868, of robbery; New York; term five years.

Recommended by Governor Bullock and the Executive Council of Massachusetts, of which State the prisoner is a resident, also by Rev. W. R. Nicholson of St. Paul's church, Boston, Mass., and Rev. W. D. Doty of All Saints church, Brooklyn. Hon. A. Oakey Hall, who was district attorney at the time of conviction, joins in the recommendation for pardon, saying that "circumstances arising since the trial preponderate for the prisoner's innocence, so as morally to establish it."

March 11th — Richard W. Towle, convicted June 23d, 1868, of forgery; Steuben county; term five years.

Recommended by many reputable citizens of Steuben county, on the ground of previous good character. The pardon is granted, however, on the statement of judge and district attorney that considerations of a public character demand it, in order that he may be used as a witness against the principal in this case, who is an old offender.

March 15th — Alonzo Woodworth, convicted October 31st, 1867, of grand larceny; Cattaraugus county; term three years and nine months.

Granted on application of the judge and district attorney, who say that, since the trial, facts have been discovered which clearly establish the prisoner's innocence.

April 17th — Howard Byron, convicted January 17th, 1868, of attempt to commit burglary, 3d degree; New York; term two years and six months.

Prisoner sixteen years old, and pardon applied for by his father, who desires to take him away from the country. Granted on condition that the prisoner leaves the country within twenty days, and does not return within two years.

Recommended by judge and district attorney, also by Hon. A. Oakey Hall, district attorney at time of conviction.

May 10th — Hiram Cowan, convicted December 23d, 1864, of forgery; Onondaga county; term five years and four months.

The prisoner's term would expire in another month. The physician of the prison states that, in his opinion, Cowan cannot live out that month in prison.

The judge who imposed the sentence, together with very many leading citizens of Onondaga county, had before this recommended a pardon.

May 19th — Charles Treadwell or Treadway, convicted June 12th, 1868, of grand larceny; Albany county; term two years.

Recommended by judge, district attorney and a large number of leading citizens of Oswego county, where Treadwell resided. The prisoner, a young man of good character, as stated by his neighbors and townsmen, took from a canal boat on which he was employed, a barrel of flour, having been told that he had the right to do so, to secure himself for wages due him. On being arrested, away from home, and friendless, he pleaded guilty of grand larceny, though he could only have been convicted, if at all, of petit larceny.

May 19th — Henry Kelly, convicted February 23d, 1866, of assault with intent to do bodily harm; New York; term five years.

Granted on the special application of Hon. A. Oakey Hall, late district attorney, who states that Kelly pleaded guilty to the charge with the understanding that he should receive a light sentence, as for simple assault and battery. Through a misunderstanding he was sentenced for five years. His co-defendant was afterward tried by a jury, and was convicted of only a simple assault.

May 19th — Patrick Mullett, convicted December 18th, 1867, of assault to do bodily harm; Niagara county; term four years and six months.

Strongly recommended by Alfred Holmes, late county judge of Niagara county, Hon. Ransom M. Skeels and many other citizens of Lockport who unite in claiming the innocence of the prisoner. Trustworthy affidavits are produced showing facts inconsistent with the prisoner's guilt. Mullett's former employers and others who for many years have known him, speak well of him. Ten members of

the jury who convicted the prisoner (one having removed from the State and another being dead) ask for his pardon.

May 19th — John Mitchell convicted February 16th, 1866, of manslaughter, second degree; Delaware county; term, four years.

Recommended by Judge Balcom, who presided at the trial, Judge Murray of the Supreme Court, who resides in Delaware county, the district attorney and other county officers, Hon. B. Griffin, and very many members of the bar, and other prominent citizens of the county; also by Judge Amasa J. Parker.

It appears from the letter of the district attorney that Mitchell, after avoiding it as long as possible, was forced into a fight which resulted in the death of the aggressor. It is a matter of doubt whether the killing was not done in self-defense.

May 27th — Asa Fuller, convicted May 7th, 1866, of manslaughter, second degree; term, seven years.

Recommended by Judge Bacon (who presided), Judge Denio, the district attorney, Hon. Ellis H. Roberts, DeWitt C. Grove, Francis Kernan, O. B. Matteson, W. B. Taylor, Joel Willard, J. T. Spriggs, and many other citizens of Utica, where the prisoner resides.

The chaplain and other officers of the prison also unite in recommending pardon, on the ground of the exemplary conduct of the prisoner since his sentence.

Before the time of the affray the prisoner had lost both his hands, one arm having been amputated at the shoulder, the other at the wrist. Prisoner was present at the affray which resulted in the manslaughter, but it was clear he did not take any active part in it.

May 27th — Daniel Leahy, convicted September 28, 1867, of robbery; Erie county; term five years.

Recommended by judge, district attorney and many prominent citizens of Buffalo.

It appears from the statement of the judge (who makes the application for pardon) and the district attorney, that the prisoner took, by force, in a drunken frolic, from the complainant, a few trifling articles of the total value of twenty-five cents. He was arrested and the property was found on him. The judge, when imposing the sentence (the shortest allowed by law), told him that if his conduct in prison was good he would try to have him pardoned at the end of one year. He has served almost two years, and his conduct has been good.

May 27th — Henry W. Brooks, convicted December 17, 1868, of bigamy; Madison county; term one year and four months.

Granted on the application of Judge Kennedy before whom prisoner was tried. The district attorney, all the county officers, and nearly all the members of the bar of Madison county join in the application.

The wife of Brooks had separated from him eleven years before, and he, an ignorant man, committed the offence without knowledge that it was a criminal act.

May 28th — Jacob H. Van Loon, convicted November 12, 1863, of robbery; Greene county; term ten years and five months.

Recommended by Judge and district attorney, and by many other reputable citizens.

The report of the district attorney shows that Van Loon was not the principal offender, but was led into the affair "after being drugged with liquor." The sentence was the shortest then allowed by law. The law having since been amended, making five years the shortest term for this crime, Judge Miller, who imposed the sentence, says the prisoner should not be kept in prison longer than five years. His conduct in confinement has been exemplary.

June 1st — William Watson, convicted March 8, 1866, of grand larceny; Jefferson county; term four years and two months.

Watson, while on a drunken frolic, took a horse and wagon which he found hitched in the street, and drove four miles to Lorraine, and left them, making no attempt to dispose of or conceal the property. A large number of citizens concur with the district attorney in asking pardon on the ground that there was no criminal intent. The prisoner has already served more than three years of his sentence.

June 1st — Patrick McArdle, convicted March 24, 1868, of assault with a deadly weapon; Oswego county; term two years and one month.

Recommended by judge, district attorney, city and county officers, Senator and members of Assembly of Oswego county, and by Honorable Cheney Ames, J. C. Churchill, H. C. Benedict, and many others, who unite in stating that McArdle's conduct had always, previous to this offense, been good, and that this crime was rather the result of carelessness than of any criminal intent.

June 1st — William Dillon, convicted May 24, 1865, of arson, third degree; Ontario county; term eight years.

Recommended strongly by a very large number of the leading citizens of Ontario county, including Honorable Myron H. Clark, W. S. Hubbell, J. H. Holmes, William W. Wright, S. H. Parker and others.

The sufferers by the fire which Dillon is alleged to have caused, have also written letters asking his pardon.

The prison officials speak in the highest terms of his conduct, and a pardon is urgently recommended by the late chaplain of the prison, and the keeper of the shop in which prisoner works, on the ground of his excellent conduct and the great service he has done by his example, and otherwise in maintaining a high degree of discipline.

June 1st — Patrick Flynn, convicted February 15th, 1864, of manslaughter, first degree; Albany county; term seven years and three months.

The prisoner and one Coburn, both boatmen, became engaged in a quarrel about a line, which was claimed by each to belong to his own boat. Coburn came on Flynn's boat, and, when ordered to leave, seized a stave; Flynn doing the same, they approached one another and both struck, Flynn's blow taking effect first, from which single blow Coburn died.

The pardon of Flynn is recommended by many citizens, and the following indorsement by the late Governor, Hon. R. E. Fenton, appears on file with the papers: "I think this man can properly be pardoned after five years from the date of his sentence." Flynn has now served more than five years.

June 7th — Martin Scheiber, convicted March 18, 1868, of false pretenses; New York; term, two years.

Recommended by Charles Van Benthuysen, Thomas Olcott, Hon. Ira Harris and others, who speak as to previous character.

This appears to have been prisoner's first and only offense; and as he only obtained some six dollars by his false representations, the punishment inflicted seems more than sufficient.

June 7th — William Watson, convicted August 5th, 1863, of robbery, first degree; New York; term ten years.

Prisoner was tried before John T. Hoffman, then Recorder. The complainant was not desirous of pressing the charge. Prisoner's

conduct had always been good. The offense, however, was technically robbery, and by the then existing law ten years was the minimum punishment. This minimum has since been reduced by law to five years, and prisoner is entitled to the benefit of it.

June 7th — Louis Baccio, convicted April 20, 1869, of rape; New York; term twelve years.

Evidence submitted to the Governor shows the conviction to have been improper. Recorder Hackett, (before whom prisoner was tried) writes: I believe that if he had been provided with counsel of his own before his trial, all the necessary testimony for his defense would have been supplied, and that the jury would have found him innocent. I believe that Baccio should be pardoned."

June 14th — James McGinness, convicted February 9, 1866, of felonious assault; Kings county; term five years and six months.

Recommended by Judge Dikeman, who imposed the sentence, Judge Troy, district attorney, and leading citizens, including Abraham Beal, representing the Prison Association.

The prisoner, but eighteen years of age, became engaged in a fight with an older and stronger man, who admitted that he was the aggressor. During the fight, McGinness cut the other with a knife in the face.

His character had always been good, and his punishment, in view of all the circumstances, has been sufficient.

June 14th — Patrick Ward, convicted February 3, 1868, of manslaughter, third degree; Montgomery county; term two years and six months.

Recommended by judge, district attorney, sheriff, and other county officers of Montgomery county, who speak in high terms of Ward's character. He, and one Haddendorf, had a quarrel, and Haddendorf raised a pitcher to strike him; Ward struck back with a stick which he held in his hand. A magistrate, who was an eye witness of the affair, refused to issue a warrant for Ward's arrest. Haddendorf, therefore, went eight or ten miles on foot to another magistrate, who also refused, after hearing his statement, to issue a warrant. It was not supposed at the time that the injury was serious; but Haddendorf slept for a few nights following in the woods, and death ensued, though whether from the wound, or from exposure, is uncertain.

The judge and district attorney now agree that the conviction, at most, should have been manslaughter in the fourth degree.

June 16th — Patrick Sheron, convicted August 13, 1863, of robbery; New York; term ten years.

He was convicted before Recorder Hoffman, and sentenced by him for the shortest term then allowed by law. Five years has since been made the shortest punishment for this grade of crime. It is believed that the prisoner should have the benefit of this change in the law. One Egan, who was convicted with Sheron, and whose case was precisely like his, was pardoned in 1864.

June 22d — Peter Killey, convicted December 20, 1864, of highway robbery; New York; term ten years and three months.

The prisoner was tried before Recorder Hoffman. The evidence against Killey was weak, and the crime, in the opinion of the recorder, was not satisfactorily proven. The Governor grants the pardon, having full recollection of the case.

June 28th — Henry J. Fenwick, convicted December 4, 1867, of grand larceny; Kings county; term two years and six months.

Recommended by judge, district attorney, and by many other reputable citizens. The prisoner, a boy eighteen years of age, whose previous character had been uniformly good, was led by a very much older person into the commission of this offence. An opportunity is now offered for him to enter into an honorable business, and his conduct in prison has been such as to lead to the belief that he is entirely reformed.

June 28th — George A. Miller, convicted January 17, 1867, of robbery; New York; term twenty years.

Recommended by district attorney, who states his belief in Miller's innocence, by Hon. William Fullerton, who was present at trial and thinks conviction not justified by evidence, and by many others. The prisoner's character was always good previous to this conviction.

June 28th — William Smith, convicted September 26, 1867, of burglary, third degree; New York; term three years and six months.

This was prisoner's first offence. He is now hopelessly ill, and has for fourteen months past been in prison hospital. His sister promises to provide for and attend him while he lives.

June 28th — Peter Wilson, convicted December 23, 1865, of burglary, third degree; Kings county; term five years.

First offense. Prisoner has been for many months an inmate of the hospital, being hopelessly crippled from a hip wound received in the late war. He has served the larger portion of his term, and his friends (responsible parties) promise to see that he is taken care of, and as soon as possible sent back to Denmark, his native country.

July 3d — Joseph Lyman, convicted May 15, 1865, of burglary, third degree; New York; term five years.

Granted, on condition that Lyman shall leave the country within a week, and return to his friends in Cuba.

The prisoner having earned full deduction allowed by law for good conduct, has but little more than a month yet to serve. His character, previous to this offense, is shown to have been good.

His father has recently died in Cuba, leaving a large estate, and the prisoner's presence is necessary to the settling of the estate.

July 6th — John Harris, convicted April 28, 1868, of larceny from person; New York; term five years.

Strongly recommended by district attorney and many leading citizens. It appears, from an examination of the case and of the affidavit of the complainant that the offense did not properly come within the statute defining "larceny from person." It was at most a petit larceny, and as such has been sufficiently punished.

July 7th — Edward Hodgdon, convicted October 29, 1860, of murder, second degree; New York; term life.

This pardon is granted after a personal examination, at the prison, by the Governor.

Recommended by Judge Gould, who presided at trial, Hon. Nelson J. Waterbury, district attorney at time of trial; Hon. John H. Anthon, assistant district attorney, G. B. Hubbell, State agent and warden; Hon. C. M. Depew, and others.

Judge Gould, in a letter, dated, January 13, 1865, said in regard to this case: "Under the law I had no discretion, and was obliged to sentence him for life. I had serious doubts of his guilt, questioning as to his intent, even if he gave the wound, and being inclined to the opinion that, even granting his intent, he was crowded into a corner by a more powerful man. I should have been quite as well pleased with a different verdict. I very seldom recommend a pardon, but in this case I would do so."

Since Hodgdon has been in prison, the minimum punishment for this grade of crime has, by law, been reduced to ten years. The prisoner has already served out more than this term, giving him the deduction allowed by law, and his conduct in prison has been uniformly good. The character of the prisoner, prior to his arrest for this crime, is shown to have been good.

July 21st — Patrick Morrisey, convicted December 12, 1868, of grand larceny; Erie county; term, three years and six months.

Recommended by judge, district attorney, Hon. A. P. Nichols, and many other citizens of Erie county.

The prisoner's previous character had been uniformly good. This offense was committed while he was intoxicated, and is not believed to have been done with any criminal intent. Immediate employment is promised for him on his release.

July 21st — John Howard convicted July 8, 1869, of robbery, first degree; New York; term five years.

It is believed that the prisoner is innocent of the crime of which he has been convicted.

His good character and reputation are vouched for by the mayor of Boston, where he has always lived. The following letter from the judge who sentenced him, and the assistant district attorney who prosecuted the case, will explain its nature.

"We deem it our duty, and an act of justice to the prisoner, John Howard, to represent to you that, in our opinion, said Howard was entirely innocent of the crime of which he was convicted by a jury at the June term last, and who recommend him to the mercy of the court, showing they also had some doubts as to his guilt. Without entering into a detailed statement herewith, we respectfully refer you to the remarks made by each of us at the time of the sentence of Howard, who was sentenced to the lowest term allowed by law. We respectfully recommend Howard to a pardon, believing him guiltless of any participation in the robbery of the complainant."

July 21st — Charles Fleming, convicted October 3d, 1865, of robbery, first degree; Erie county; term fifteen years.

Recommended by the judge who presided and the jury which convicted the prisoner, as also by Bishop Doane, Rev. J. L. Gray, Hon. D. S. Bennett, and many others. Fleming's previous character is shown to have been good, and it is represented that his entire reformation has been produced by the punishment already inflicted.

July 21st—Joseph Anderson, convicted April 8, 1867, of burglary and felonious assault, Niagara county; term ten years and three months, and

July 21st—Patrick Mulligan, convicted April 8, 1867, of burglary and felonious assault; Niagara county; term ten years and three months.

A careful examination of this case leads to the conclusion that it is a case of mistaken identity, and that the innocence of Anderson and Mulligan is clearly established.

The former good character of both prisoners is shown, and it is proved, on the testimony of many witnesses, whose character and truthfulness are vouched for by leading citizens of Lockport, that, at the time of the commission of the offense, they were in another place.

July 21st—Israel Wood, convicted October 18, 1867, of grand larceny; Kings county; term three years.

Recommended by Judge Dikeman, who imposed sentence, District Attorney Morris, Judge Troy, Hon. A. Oakey Hall, the complainant in the case, and many leading citizens.

The exemplary conduct of the prisoner, previous to this offense, is testified to by all his former employers, and by many who have known him from childhood; and the Governor, after full inquiry, thinks that punishment has been sufficient.

July 26th—Hiel Davis, convicted May 7, 1866, of manslaughter, second degree; Herkimer county; term seven years.

Recommended by the judge who presided at the trial, and a large number of respectable citizens.

The prisoners, with others, became engaged in an affray with the keeper of a tavern. Their previous character is shown to have been good. Two others connected with the affray and convicted at the same time, have heretofore been pardoned.

In view of all the facts shown to the Governor, and of good conduct in prison, evincing repentance and reformation, it is deemed advisable to remit residue of sentence.

August 11th—Henry Flomerfielt, convicted October 9, 1863, of robbery; Erie county; term ten years.

Recommended by judge, district attorney and jurors, from whose statements the offense in this case appears to have been little more than a larceny, though technically a robbery. When sentence was

passed, ten years was the shortest term for this crime; since then the minimum has been reduced to five years. The prisoner has already served almost six years, and his health is impaired. His previous character was good.

August 2d — David Welsh, convicted June 3, 1862, of robbery; Erie county; term sixteen years, and

August 30th — Michael Gleason, convicted June 3, 1862, of robbery; Erie county; term fifteen years.

These pardons are granted on the urgent recommendation of Hon. Noah Davis, who sentenced the prisoners, and who now says that their sentence was too severe. It was their first offense, and was committed while they were in a state of intoxication. The late Govenor, Hon. Reuben E. Fenton, says that it was his intention to have pardoned Welsh, but, that in the pressure of other business he overlooked it. They have already served more than seven years.

August 24th — Christopher Blake, convicted February 7, 1866, of grand larceny; New York; term five years.

On condition that prisoner leaves the country, to return to his parents in Ireland within thirty days.

Granted on urgent recommendation of all the prison officers. The prisoner is now in the hospital, suffering from extreme mental and physical debility. He was but eighteen years of age when the crime was committed, and it was his first offence.

August 24th — Patrick Conners, convicted September 24, 1863, of aiding prisoners to escape; Rensselaer county; term, ten years, and

August 24th — Edward Spain, convicted January 12, 1864, of aiding prisoners to escape; Rensselaer county; term nine years and six months.

Pardon for these men recommended by judge, district attorney, and many leading citizens, including Hon. John M. Francis, George W. Demers, Hon. Martin I. Townsend, and many others.

The following indorsement, made by Governor Fenton's clerk appears upon the papers. "The Governor thinks pardon may be granted after one-half the term has expired."

September 6th — Levi Conger, convicted March 9, 1869, of burglary and larceny; Ontario county; term, two years.

The judge and district attorney unite in stating that facts which have come to light since the trial, establish the innocence of Conger, of whose guilt they had some doubt at the time of his conviction.

The guilty party has since confessed, and stated that Conger had no connection with the crime.

Sept. 6th — John Cummings, convicted June 30th of rape; Jefferson county; term fifteen years.

This case was personally examined by the Governor at the prison. Granted, on the urgent recommendation of all the prison officials, for unusual and valuable service to the State. The prisoner has on two occasions been the means of saving the prison buildings from disastrous fires, and at another time saved, at the risk of his own, the life of the principal keeper, who had been attacked by convicts. There is also some doubt in the case as to the facts connected with the crime of which prisoner was convicted.

Sept. 6th — James Gallagher, convicted Dec. 22d, 1865, of robbery; Onondaga county; term five years and six months.

Personally examined by the Governor at the prison. Recommended by Judge Riegel, who imposed the sentence. This seems to have been rather an assault than a robbery. There is no evidence that it was made with intent to steal. The prisoner's previous character was good. He has now served almost four years.

Sept. 6th — David Duane, convicted Oct. 21st, 1863, of robbery; Erie county; term ten years.

Personally examined by the Governor at the prison. Granted on recommendation of Judge Grover, who passed the sentence. The amount taken was thirteen dollars, and there were mitigating circumstances. The shortest term which the law at that time allowed, was imposed. The minimum punishment for this crime has since been reduced to five years. Duane has been in prison six years.

September 20th — Henry Soller, convicted October 3d, 1866, of grand larceny; New York; term four years.

Recommended by district attorney, complainant, and many leading citizens. Upon the facts proved, it is doubtful if the offense was, in law, larceny. The prisoner's previous conduct had been good. His health is now poor, and arrangements have been made to put him in business in another State.

September 28 — James Cahill, convicted December 18th, 1866, of felonious assault; Niagara county; term four years and six months.

Recommended by mayor, city attorney, city treasurer, chief of police, and other city and county officers of Lockport and Niagara

county. The assault consisted in throwing a stone at a passing procession. The complainant, who was injured by the missile, now says that he is satisfied that it was not thrown by the prisoner, and asks for his pardon. Cahill had always borne a good character.

September 30th — Jacob Miller, convicted January 31st, 1861, of arson, second degree; New York; term twelve years and six months.

Recommended by judge, the fire marshal of New York, Rev. Dr. Wines, and Dr. John H. Griscom, of the Prison Association, Rev. Dr. Muhlenberg, Rev. Dr. Gallaudet, S. F. B. Morse, and many other leading citizens. The conduct of Miller in prison has been at all times most exemplary, and he has shown evidence of a thorough reformation. The judge states that the sentence was unnecessarily severe, and thinks that he should now be pardoned, having served nearly his full term.

October 13 — James Meatt, convicted November 28th, 1868, of arson, second degree; Erie county; term ten years.

Recommended by upward of fifty members of the bar of Buffalo, including H. W. Box, John Ganson, G. A. Scroggs, A. P. Nichols, and many other prominent lawyers who say that the verdict is universally believed to be unwarranted by the evidence, and that Meatt is not guilty of the crime.

A careful personal examination of the whole case by the Governor satisfies him that the evidence of the principal witness is not entitled to credit.

November 6th — Cooper Ostrander, convicted January 18, 1869, of grand larceny; Rensselaer county; term one year and three months.

On application of judge and district attorney. New evidence has been discovered which shows the innocence of the prisoner; and the judge being powerless after the sentence to grant relief on motion for a new trial, asks the Governor to issue a pardon.

November 25th — Oscar Koch, convicted February 25th, 1867, of felonious assault; New York; term five years.

From an examination of this case, the guilt of the prisoner seems doubtful. If guilty, he has already suffered a sufficient imprisonment for the crime actually committed, the sentence having been unduly severe, for it was only an assault, not an attempt to rob.

November 25th — Eugene Joiner, convicted October 3d, 1868, of forgery; Orleans county; term two years.

Recommended by judge, district attorney, complainant, and other citizens, who state that, in their opinion, the act committed by the prisoner was without criminal intent, and done in ignorance.

Joiner is eighteen years old, and is represented always to have borne a good character.

December 21st — Philip Brown, convicted February 23d, 1866, of felonious assault; New York; term five years.

Recommended by judge, district attorney, Gen. P. H. Jones, Col. M. J. Farrell, and many others, on the ground that facts which have come to light since the trial, show strong mitigating circumstances, and that the punishment imposed was excessive.

December 25th — George Scholon, convicted December 22d, 1866, of rape; Albany county; term twelve years and four months.

Recommended by judge, district attorney, Hon. W. A. Beach, George W. Demers, and others, on the ground that it is very doubtful if a rape was committed.

The complainant was a public prostitute.

December 24th — Wilbur Conley, convicted December 11th, 1868, of burglary, third degree; St. Lawrence county; term one year and six months.

Recommended by district attorney and other county officers of St. Lawrence county, who state, "That said Conley and another were out upon a hunting excursion, and, being hungry, came to a house the occupants of which were absent, and seeing a loaf of bread and a small piece butter setting in a pantry window, raised the window, and, taking out the bread and butter, sat down and ate them." The value of the property taken was about twenty-five cents. Conley was twenty-one years of age, and had always sustained a good character.

Pardons, County Jail and Penitentiary.

Penitentiary, February 27th — Henry Shreves, convicted January 19th, 1869, of petit larceny; New York; term three months.

Recommended by Hon. A. Oakey Hall, late district attorney, and by Governor Theodore F. Randolph, and Hon. John P. Stockton, of New Jersey, of which State the prisoner is a resident. It appears clearly that the conviction was had under a misapprehension of facts. The prisoner was very young and of good character.

County jail, March 23d — Michael Barry and Timothy Driscoll, convicted February 25th, 1869, of assault and battery; Madison country; term ninety days.

Granted on application of Justice Kinney, before whom prisoners were tried. Testimony elicited since the trial shows that the convicted parties were wholly innocent of the assault, the sole witness against them having been, as it now appears, an escaped convict.

Penitentiary, April 10th — Ernest Idler, convicted March 9th, 1869, assault and battery; St. Lawrence county; term six months.

Recommended by the recorder of Ogdensburg, who imposed the sentence, and many other leading citizens of St. Lawrence county, the prisoner's previous character being excellent.

Penitentiary, April 12th — Charles Rising, convicted January 26th, 1869, of disorderly conduct; Albany county; term six months.

Recommended by the committing magistrate, the county judge, the district attorney, and many respectable citizens acquainted with the facts in the case.

The prisoner's offense consisted in not supporting his family, which, by a special law, applicable only to the town of Watervliet, may be punished as a misdemeanor. The magistrate states that facts unknown at the time of commitment, have since come to his knowledge, which constrain him to ask for the pardon of Rising.

Penitentiary, April 15th — Mary Cannon, convicted April 30, 1869, of assault; Rensselaer county; term sixty days.

Recommended by the committing magistrate, who stated that he believed that the conviction in this case was erroneous. The prisoner appears to have been an industrious, sober and peaceable woman.

Penitentiary, May 6th — Adam Rhinehart (colored), convicted April 1st, 1869, of petit larceny; New York; term four months.

Recommended by Rev. John Murray Forbes, Fanny Beckwith,

Isaac Bell, John Bigelow, and others, who testify to previous good character of the prisoner and to their belief in his innocence.

Penitentiary, May 18th — Heymer H. Bancker, convicted January 17th, 1868, of grand larceny; New York; term five years.

Recommended by Judge Russell, who sentenced the prisoner, Rev. Henry Ward Beecher, Dr. Gallaudet, Marshall O. Roberts, Orlando L. Stewart, and others.

Bancker, during the absence of his sister (his only near relative) in Europe, entered into the service of the complainant. He was led into evil associations, and, under influence of older persons, stole from his employer a small sum of money, he being at the time under fifteen years of age. He afterward served with credit in the navy for nearly two years before he was indicted. His conduct, except in this one instance, had been very good.

Penitentiary, May 18th — George W. Tonis, convicted April 15, 1869, of petit larceny; Monroe county; term ninety days.

Granted on condition that the prisoner be immediately transferred to the Rochester city hospital, it being satisfactorily shown that he was very ill with consumption.

Penitentiary, May 27th — George E. Blowers, convicted September 2, 1868, of grand larceny; Wyoming county; term one year.

Recommended by district attorney, county judge and other county officers, members of the bar and many of the citizens of Wyoming county. The prisoner found a pocket-book which had been dropped by the complainant in a stage-coach, and, being advised that he had a right to do so, kept it. He was not yet twenty years of age and had previously borne a good character.

Penitentiary, May 29th — Thomas Seabury, convicted March 23, 1869, of petit larceny; New York; term six months.

Recommended by Judge Dowling, who imposed sentence, and by many prominent citizens of New York.

Seabury committed this, his first offense, under the pressure of threatened starvation for himself and family. Property of the value of twelve dollars was stolen and at once pawned for bread. He is now offered employment.

Penitentiary, June 2d — Edward Lewis, convicted March 5, 1869, of attempted burglary, third degree; New York; term one year.

It appears that some months ago and before the alleged offence, the prisoner received a severe blow on the head, since which he has not, in the opinion of several physicians, who testify, been of sound mind. Hon. Samuel B. Garvin, district attorney, says: "From all I can learn of the case, I am satisfied it is a proper case for a pardon. He is upwards of sixty years of age, and has heretofore borne a good character. I have also great doubts of his sanity.

County Jail, July 6th — Elizabeth Burrows (colored), convicted July 1, 1869, of petit larceny; Orange county; term sixty days.

Recommended by the justice who imposed the sentence, by the complainant and other reputable citizens. The physician of the jail certifies that the life of the prisoner as well as that of her infant child, but three weeks old, is endangered by the confinement.

Penitentiary, August 4th — Mary Dwyer, convicted July 1st, 1869, of petit larceny; New York; term, six months.

Recommended by A. Beal, agent of Prison Association and others. The prisoner was convicted on the unsupported testimony of a girl but four years of age. Previous good character is shown. Upon the report of Mr. Beal, who made careful examination, the Governor is satisfied that prisoner was not guilty.

Penitentiary, August 25th — George W. Ball, convicted August 2d, 1866, of grand larceny; New York; term two years.

Strongly recommended by judge, district attorney, complainant and all his fellow employees. The larceny consisted in the overdrawing of his account to a small amount by the prisoner, who was cashier in a New York mercantile house. Shortly after overdrawing, he had a difficulty with his employer and was discharged. He at once informed his employer that the account was overdrawn, and on being arrested plead guilty of grand larceny, although there is doubt, on the facts, of guilty intent. Recorder Hackett says that if he had understood the facts he would have suspended sentence.

Penitentiary, Sept 6th — Amelia McGoff, convicted January 22d, 1867, of burglary, second degree; Monroe county; term three years and six months.

Granted on condition that the prisoner be at once removed to St. Mary's or some other hospital where she may be properly cared for. Recommended by superintendent and physician of penitentiary, who state that prisoner is in advanced stage of consumption with no hope

of recovery, and that her friends wish to remove her to St. Mary's hospital. (In this case, the prisoner died an hour before the pardon was received at the Penitentiary).

Penitentiary, Sept. 15th — Joseph Whelon, convicted July 24th, 1869, of assault and battery; Onondaga county; term six months.

Recommended by committing magistrate. This was prisoner's first offense, and he has a wife and two children depending on him for support, who are in great distress.

Penitentiary, October 9th — George Soule, convicted October 4th, 1869, of assault and battery; Erie county; term thirty days.

Granted on application of Judge Vanderpoel, who imposed the sentence, and who now states that Soule was erroneously convicted, concurred in by district attorney and superintendent of police.

County Jail, November 9th — Frederick Eames, convicted September —, 1869, of assault and battery; Queens county; term, four months.

Recommended by county judge, and many reputable citizens of Hempstead. where prisoner resides, and where the offense was committed. Eames is shown to have been, prior to this offense, a sober, honest and industrious citizen. He has a large family greatly suffering from want of his support.

Penitentiary, December 1st — Peter Quinn, Jr., convicted December 6th, 1867, of robbery; Kings county; term five years.

Recommended by judge, district attorney, Mayor Kalbfleisch, Hon. Henry C. Murphy, and others. The prisoner is represented to be a mere lad, of weak intellect, and the case, though a technical robbery, was but little, if anything, more than petit larceny.

Penitentiary, December 20th — Sarah Ellsworth, convicted July 10th, 1869, of disorderly conduct; St. Lawrence county; term one year.

Pardon granted on condition that prisoner be at once removed to the hospital of the Sisters of Charity. Recommended by the superintendent and physician of the penitentiary. The prisoner is fourteen years old, and the serious condition of her health demands the change.

Commutations.

May 27th — Charles S. Chase, convicted July 14th, 1865, of grand larceny; New York; term five years; commuted to four years.

Recommended by Hon. A. C. Beach, James A. Bell, and many other citizens of Watertown, where Chase had always resided.

They represent that he had always borne a reputable character, and that he was beside himself with liquor, in a strange city, when the crime was committed. He has earned full time for good conduct in prison.

May 27th — Yates Esmond, convicted June 11th, 1867, of burglary, third degree; New York; term five years; commuted to two years.

Previous character of prisoner highly spoken of by those who have known him from childhood. This was his first offence. The physician of the prison reports that Esmond is in the hospital with abdominal dropsy, and that he cannot live long; that he cannot under any circumstances recover; but that if released, a change of climate and surroundings may prolong his life several years.

May 27th — Edward Burns, convicted December 15th, 1864, of robbery, first degree; New York; term ten years and six months; commuted to four years and nine months.

Prisoner was sentenced by Recorder Hoffman, who stated at the time that there were palliating circumstances in the case, but that the great frequency of the crime of robbery, at that time rendered necessary, for example's sake, a severe sentence. The sentence as commuted is believed sufficient for the crime committed.

May 27th — Edward Fitzgerald, convicted December 17th, 1864, of burglary, first degree; Kings county; term ten years; commuted to five years.

Recommended by judge, district attorney, Hon. Wm. D. Veeder and a large number of prominent citizens of Brooklyn and by A. Beal, agent of the Prison Association.

It appears by the letter of the district attorney, that Fitzgerald, whose character had up to this time been very good, was led by others into this crime and made merely their tool, his mind being weak and easily influenced.

May 27th — Alfred Bender, convicted November 17th, 1865, of arson, third degree; Genesee county; term six years and eleven months; commuted to four years and six months.

Subject to such further deduction as may be earned by good conduct in prison. An immediate pardon in this case was strongly urged by a very large number of the leading citizens of Genesee county; the district attorney has also repeatedly urged a pardon, stating that Bender was drawn into the crime without any realizing sense of its enormity, and that he is a mere boy, who had before this borne an excellent character.

May 27th — Eugene Bassett, convicted April 14th, 1866, of robbery; Steuben county; term eight years; commuted to three years and six months.

Recommended by the district attorney and other county officers of Steuben county, and by many leading citizens.

The prisoner, whose previous good character is shown, was led into the commission of this crime by an older man, who was the principal offender.

June 1st — John Slavin, convicted September 27th, 1855, of robbery, first degree; Albany county; term fifteen years; commuted to five years, with the further deduction allowed by law for good conduct in prison.

Recommended by the judge, district attorney and many prominent citizens.

The prisoner and one Curley, were both convicted of the same offence, on the same testimony. Slavin was tried in September, 1865, and sentenced to fifteen years imprisonment, while Curley, who was not tried till the following March, was sentenced for only seven and a half years. Judge Clute, who sentenced the prisoner, says: "Slavin ought not, certainly, to suffer a longer imprisonment than Curley."

Curley's sentence was commuted by Governor Fenton, to two years and a half, and the following indorsement in reference thereto is found on the papers in this case: "I have commuted the sentence of Daniel Curley to one-third of his term, and I think Slavin should receive, at least, a proportionate reduction of his sentence if his conduct in prison remains good."

June 1st — William G. Wright, convicted January 29, 1869, of forgery, fourth degree; New York; term five years; commuted to one year.

Recommended by Rev. J. Hendrick and a large number of reputable citizens of Steuben county (Wright's home), because of his good character previous to this offense, and the belief that the punishment already inflicted would answer the ends of justice and secure the reform of the prisoner. This is the first offence, and his pastor says of him: "The subject of this petition has, until this occurrence, maintained an unblemished reputation, and has been distinguished as showing toward his mother all that filial regard which would be expected from a kind, faithful and affectionate son."

June 1st — Alexander McDougall, convicted, July 19th, 1865, of grand larceny; Kings county; term five years; commuted to four years.

Recommended by Hon. W. A. Henry, attorney-general of Nova Scotia, and very many leading officials and citizens residing at Cape George, Nova Scotia, where McDougall has always lived.

This is the prisoner's first offense, his former blameless character being clearly shown; and his aged parents are now in great distress and want, by reason of his imprisonment. He has earned full deduction by his good conduct in prison, so that the commutation now granted takes but three months from his sentence.

June 1st — Hugh O'Hara, convicted April 8th, 1867, of grand larceny; Niagara county; term four years; commuted to two years and six months.

Recommended by Hon. Richard Crowley and many other citizens of Niagara county, on account of the enfeebled condition, in body and mind, of the prisoner, and of the reasonable doubt that seems to exist of his guilt, the evidence against him having been purely circumstantial.

Dr. Button reports that O'Hara is partially paralyzed and unable to do any work; also that his mind is greatly enfeebled.

June 1st — Michael Moynehan, convicted February 19th, 1862, of murder; Chemung county; term life; commuted to ten years.

Strongly recommended by judge, district attorney, Hon. John I. Nicks, Hon. E. L. Patrick and very many other leading citizens of Chemung county. Judge Campbell, who presided at the trial, recommends commutation on the ground of the extreme youth of Moynehan, and that he was engaged in a drunken row led on by older men, and says: "The killing was clearly not premeditated." The prisoner was sixteen years old when the crime was committed.

June 15th — John Samuels, convicted July, 8th, 1861, of manslaughter, first degree; New York; term, fifteen years; commuted to ten years.

Prisoner was sentenced by Recorder Hoffman, on his own plea of guilty of manslaughter, offered by advice of counsel.

He was a sailor, and the night of the manslaughter was his first night ashore after a long cruise.

He fell into bad company, and, while under the influence of liquor, killed one of his companions with a knife which was lying in the room. There was good reason to believe that the witnesses told only one side of the story, and that most unfavorable to the prisoner, who had been greatly provoked and ill treated, so much so as to make him, in his then condition, almost insane.

The Governor recollects distinctly the case, and his resolve at the time of pronouncing sentence, that, if the prisoner's conduct in prison should be good, he would endeavor to secure for him a commutation of sentence.

June 28th — Seba Darrin, convicted February 20th, 1867, of burglary; Steuben county; term five years and three months; commuted to two years and six months.

Pardon in this case was strongly urged by judge and district attorney. The burglary consisted in breaking into a house of ill fame by the prisoner and taking from the mistress a pistol, with which she was threatening him. The circumstances of the case repel the presumption of any intention to rob.

July 1st — Morris O'Gorman, convicted October 24th, 1867, of forgery, third degree; confession; New York; term four years; commuted to two years.

Pardon strongly recommended by Judge Barnard, Hon. Orison Blunt, John Bruce and many other leading citizens. The crime was committed while the prisoner was greatly intoxicated, and consisted in presenting a forged order for five gallons of varnish. Previous character is shown to have been good.

July 2d — James Geehan, convictsd April 7th, 1865, of robbery; Kings County; term ten years; commuted to five years.

Ten years was the shortest term for this crime when Geehan was sentenced. The law has since been changed, making five years the shortest term, which in this case was ample. Previous good character shown.

July 8th — Thomas Corcoran, convicted April 11th, 1867, of burglary third degree, and grand larceny; Rensselaer county; term, five years; commuted to two years and six months, with the further deduction allowed by law for good conduct in prison.

Pardon recommended by Judge Robertson, who imposed the sentence, Judge Romeyn and many other respectable citizens of Troy. The previous character of Corcoran is shown to have been good. Judge Robertson states that he now thinks the punishment imposed by him was too severe, and that a pardon should be granted.

September 15th — John Smith, convicted October 4th, 1865, of rape; Erie county; term twenty years; commuted to five years.

Pardon strongly urged by judge, district attorney, jurors and complainants, also by Hon. D. S. Bennett and other leading citizens of Buffalo. A personal examination of the prisoner was had by the Governor in a recent visit to the prison.

The circumstances of the case were such, in the Governor's opinion, as to make the punishmont, as above commuted, amply sufficient.

Sept. 27th — James Carroll, convicted July 6th, 1860, of arson, 1st degree; New York; term life; commuted to ten years.

Recommended by district attorney, the chaplain and physician of the prison, Hon. Homer A. Nelson and others.

Fire Marshal Baker, who procured the conviction, says the prisoner, who was young, was led into this crime by his employer, and on this ground he recommended his pardon.

When the prisoner was sentenced no punishment less than life was allowed by law for this grade of crime. Since that time the law has been amended making ten years the minimum.

November 30th — David Burke, convicted October, 22d, 1869, of murder; Queens county; sentenced to be executed December 10, 1869; commuted to imprisonment for life.

The prisoner was tried twice, the first jury having failed to agree. Judge Gilbert who presided at the first, and Judge Joseph F. Barnard, who presided at the second trial, unite in recomending the commutation.

December 14th — Benjamin Teachout, convicted September 15th, 1869, of murder; Wyoming county; sentenced to be executed December 25th, 1869; committed to imprisonment for life.

Evidence discovered since the trial creates just enough doubt whether the jury would have convicted the prisoner, with this additional evidence before them, to make it unwise to inflict the death penalty. Judge Noah Davis, who presided, very strongly urges a commutation, stating that he believes a new trial on the ground of newly discovered evidence, would have been granted by the court if it had had the power.

The district attorney, Hon. A. P. Laning (who represented the attorney-general), the county judge, sheriff, and nearly all the jurors, besides many members of the bar of Wyoming county, unite in recommending commutation.

Reprieves.

June 1st — Joseph Messner, convicted April, 1869, of murder; Monroe county; sentenced to be executed June 4th, 1869; respited to June 18th, 1869.

Granted to allow counsel time to sue out writ of error and make application for stay of proceedings.

November 30th — Owen Hand, convicted October 18th, 1869, of murder; Kings county; sentenced December 3, 1869; respited to December 17th, 1869.

STATEMENT OF PARDONS AND COMMUTATIONS OF PUNISHMENT GRANTED BY THE GOVERNOR DURING THE YEAR 1870.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, *February* 3, 1871.

TO THE LEGISLATURE:

The Constitution requires that the Governor "shall annually communicate to the Legislature each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve."

I have considered, during the past year, more than one thousand applications for pardon and commutation, made to me either by the convicts in person when I visited the prisons or by written petition. Eighty-five pardons, thirty-four commutations and one reprieve have been granted.

I send a statement of pardons, reprieves and commutations granted, with the particulars required by the Constitution; and although under no obligation so to do, I have thought proper, for the information of the Legislature and the people, to give, in addition, the reasons which induced me, in each case, to relieve the convict from the penalties of the law.

JOHN T. HOFFMAN.

Pardons — State Prisons.

January 12th, 1870 — Max Goltz, convicted December 21, 1866, of attempt to commit burglary, second degree; term five years; county of New York.

Granted on condition that the prisoner should leave the country for his home in Prussia within thirty days.

Recommended by chaplain and other prison officers, also by Isaac Bell, Commissioner of Charities and Corrections in the city of New York, and others.

There is some doubt of guilty intent. The prisoner has served more than three years of his term, during all of which time his conduct has been good. Prisoner left immediately for his home in Europe.

January 29th — John Dwyer, convicted December 4th, 1867, of manslaughter, third degree, on plea of guilty; term three years and nine months; county of Essex.

Recommended by the district attorney and other county officers, by Hon. A. C. Hand and many other citizens, including the clergymen, lawyers, editors and physicians of Elizabethtown. All the facts were not disclosed to the court, and it clearly appears that if he had been tried he could have been convicted (if at all) only of manslaughter, fourth degree, the punishment for which is limited to two years. He has already served more than that time.

February 7th — William Scharffenberg, convicted September 21, 1855, of murder, sentenced to be hung May 19, 1856; commuted to imprisonment for life in 1856; county of New York.

The prisoner was convicted of murder, the jury recommending him to mercy. He was sentenced and sentence commuted. Application was made to Governor Seymour for a pardon in 1864, and he indorsed on the papers his decision, as follows: "I think the convict should go free at the end of ten years from the time of his sentence." At the time of his conviction the crime of murder was not divided, as it is now, into two degrees.

The judge certifies that under existing statutes a conviction only of murder in the second degree could have been obtained, and the prisoner would have been sentenced for ten years. The prisoner has been confined nearly fourteen years, during all which time his conduct has been irreproachable.

In view of all the facts, justice and mercy alike demand his release. Immediately on his discharge he went to his parents in Germany.

February 8th — Lewis Ostrander, convicted January 19th, 1867, of mayhem; term seven years and three months; county of Oswego.

Recommended by judge, district attorney, jury, complainant and many reputable citizens of Oswego county, on the ground that the sentence was, under all the circumstances, too severe.

February 8th — Peter Quigley and John Roach, convicted February 15, 1868, of larceny from person; term four years and three months; county of Onondaga.

Granted on application of Judge Morgan, who tried the prisoners, and of the late district attorney, who prosecuted them. Facts have come out since the trial which show that the conviction was erroneous and the prisoners innocent.

February 17th — George J. Collins, convicted October 19th, 1865, of robbery; term ten years; county of Kings.

Recommended by the judge, by Mr. Beal, agent of the Prison Association, by the former employer of the prisoner and others; also by the prison physician, who certifies that the prisoner is suffering from heart disease and cannot live if kept in confinement. Though technically a robbery, the case did not call for such severe punishment. Sentence as for larceny only would have been sufficient.

February 28th — Alexander Renand, convicted June 28th, 1867, of rape; term twenty years; county of Kings.

On condition that the prisoner shall leave the United States for Russia, within ten days after his release and never return.

Recommended by the Russian minister at Washington, personally and officially.

Formal request made by the general government through Hon. Hamilton Fish, Secretary of State, for the pardon, as an act of courtesy to the Russian government. As such, granted.

April 7th — William Welsh, convicted January 14th, 1870, of attempt to commit burglary, third degree; term two years, county of New York.

Granted on the special application of the judge and district attorney, who unite in saying that there was no guilty intent on part of prisoner.

April 22d — Ralph W. Hall, convicted December 14th, 1867, of arson, second degree; term seven years; county of Madison.

The prison physician telegraphs that prisoner is ill beyond all hope of recovery, and that he cannot probably live a week.

His wife, in attendance on him at the prison, asks that her husband may be permitted to die outside the prison walls. The convict died eight days after his release.

May 19th. — Miles Dean, convicted April 9th, 1867, of rape; term fifteen years; county of Yates.

Recommended by district attorney, county officers, Senators Wood and Harpending, who are both acquainted with the circumstances of the case, and by many citizens. The character of the testimony given on the trial, together with facts since come to light, raise grave doubts of the prisoner's guilt.

May 19th. — Thomas Rigney, convicted February 25th, 1867, of robbery; term six years and three months; county of Oneida.

Recommended by judge, district attorney, chief of police of Utica, Horatio Seymour, James McQuade, mayor of Utica, and many other citizens. The prisoner was led into the crime by others who have escaped all punishment. He has now served more than half his term. His previous character was good. His former employer offers to take him at once into his employ.

May 20th. — Frank H. Dean, convicted May 6th, 1869, of grand larceny; term three years and six months; county of New York.

On condition that he leaves the State within thirty days, and does not return within one year.

Recommended by N. D. Morgan and other leading citizens of New York. The prisoner is promised a home and immediate employment on a farm with his relatives in Ohio.

Granted in consideration of youth and previous good character.

May 21st. — John Edward Schaefer, convicted January 21st, 1868, of forgery, third degree; term five years; county of New York.

Prisoner obtained from the Citizens' Savings Bank the sum of thirty-five dollars by a forgery. It was his first offense of any kind, previous good character being shown. The officers and directors of the savings bank ask that he may be pardoned, on ground of extraordinary severity of sentence. He has now served about half his term.

May 21st. — Giles O. Rood, convicted March 19th, 1869, of grand larceny; term two years and three months; county of Cortland.

Application for pardon made by Judge Smith, who tried the prisoner, and concurred in by many citizens. The prisoner, it was claimed, found on the highway, a pocket-book containing money and did not account for it to the owner when he found him out, but kept it. He denied the charge; and it appears that in a civil suit

against him to recover the money the jury found a verdict in his favor. He was afterward convicted as for larceny. The judge declares that he did not believe the prisoner had any criminal intent when he appropriated the money.

May 21st.—Patrick Short, Jr., convicted March 27th, 1867, of assault with intent to kill; term ten years and one month; county of Erie.

Recommended by judge and district attorney, also by Judge Masten, Verplanck and Clinton, by A. M. Clapp, D. S. Bennett, G. A. Scroggs, John Ganson, James Humphrey, A. P. Nichols, Joseph Warren, and many other leading citizens of Buffalo. The present and the late officers of the prison and many citizens of Auburn also strongly recommended a pardon for his excellent conduct, and for valuable services to the State in detecting and preventing attempted frauds on the State, on two occasions preventing insurrections, and especially for meritorious efforts at the time of the late fire at the prison, by which efforts great loss was prevented.

May 31st—James Brady, convicted March 22d, 1869, of rape; term ten years and three months; county of Seneca.

Recommended by judge and district attorney. The prisoner was very young and was led on by older persons. The judge states that at time of trial the complainant was supposed to be a virtuous and respectable woman, but that it has since transpired that she was a common prostitute. Brady was a year in jail before his trial. The more than two years' imprisonment already suffered, is sufficient punishment for what was proved against him.

May 31st—William Gleason, convicted April 3d, 1865, of manslaughter, second degree; term seven years; county of Ulster.

Urgently recommended by district attorney, Hon. George Beach Hon. P. J. Flynn, and many others, on the ground that there is grave doubt of the measure of prisoner's guilt. Previous good character is shown. The party connected with the manslaughter, believed to be most to blame, escaped and has never been arrested. Gleason has, by exemplary conduct, earned the full deduction allowed by law, and has but seven months to serve.

May 31st—Joseph Childs, convicted July 2d, 1869, of grand larceny; term three years; county of Columbia.

Granted on recommendation of judge and district attorney. Upon facts admitted, it is difficult to see how the offence could have been adjudged larceny. It was not larceny.

June 1st — Timothy Manning, convicted December 15th, 1865, of robbery, first degree; term nineteen years and six months; county of Albany.

Recomended by judge, district attorney, Recorder Rosendale and many others. Prisoner was a returned soldier, and there was nothing in the facts of this case to justify the extraordinarily severe punishment imposed. The prisoner has now served more than a five years' term, less deduction earned for good conduct.

June 6th — Peter Dennis, convicted June 15th, 1869, of assault with intent to kill; term five years; county of Clinton.

Granted on representations, made in person by reputable citizens of Clinton county, and on a personal examination of the case, during the annual visit to the Clinton prison. The prisoner, an old and infirm man, of excellent previous character, became involved in a quarrel with a younger man, at least equally in fault; during the struggle that ensued, the prisoner being closely pressed, inflicted a very slight wound with a pocket knife he had in his hand. It is doubtful if he should have been convicted at all.

June 14th — Julius B. Cochrane, convicted October 24th, 1861, of assault to rob; term fifteen years; county of Queens.

Recommended by district attorney, by the complainant, and by the chaplain, and other prison officers. He is pronounced one of the best men in prison. The sentence was a very severe one. He has served ten years, less legal deduction for good conduct.

June 18th — Michael Doyle, convicted August 5th, 1863, of robbery, first degree; term, fifteen years; county of New York.

Doyle was convicted before Recorder Hoffman. The case itself was not an aggravated one, amd the sentence was made unusually severe on account of the peculiar condition of affairs then existing which seemed to require it as a warning to others. Prisoner has now served, allowing for good conduct, considerably more than half his term. The prison authorities say that his conduct is unexceptionable.

June 21st — Jeremiah Clifford, convicted June 3d, 1862, of murder; term life; county of Clinton.

Case personally examined by the Governor at the prison. Recommended by the district attorney, by many citizens, including jurors, by Rev, J. A. Canfield, the late chaplain, and by the present officers of the prison. The prisoner was a soldier, and while crazed by liquor, under the influence of which he had been for several days, killed a companion and friend. There was no quarrel between them, and the killing was wholly without motive, and it is believed that the prisoner was not conscious of the act he committed. His previous character was good. The district attorney says, that he thinks Clifford, if he had been properly defended, would not have been convicted of murder, but that he was entirely without means or friends. He has served an imprisonment of ten years, less the legal deduction for good conduct.

June 27th — Thomas Luther, convicted September, 1856, of murder; sentence, to be hung; commuted, October 25, 1856, to imprisonment for life; county of Herkimer.

Urgently recommended by Judge Owen, district attorney at the time of the trial, Judge Robert Earl of the Court of Appeals, and many citizens of Herkimer county. The district attorney says that he has become possessed of testimony since the trial which, if given at the time, would have reduced the crime to the grade of manslaughter. His confinement of nearly fourteen years has destroyed his health. All the prison officers, many ex-officers, and many citizens of Auburn, Hon. E. P. Ross, and others, strongly urge a pardon on the ground of unusual merit in the conduct of Luther at the prison. Mr. Tyler, of Auburn, offers him immediate employment.

July 13th — John Collins, convicted March 3d, 1869, of carrying slung shot; term one year and fine of $500; county of New York.

The prisoner has now remained in confinement four months beyond the time for which he was sentenced, and is unable to pay the fine. It is not proper that he should remain indefinitely in prison, and pardon is granted to extent of remission of the fine.

July 22d — Cornelius O. Myres, convicted October 11th, 1869, of grand larceny; term one year; county of Saratoga.

The prisoner recently exposed and prevented, at the risk of his own life, a plot of convicts to murder a keeper and escape. Pardon granted to reward him. His character previous to his conviction was good. He has less than two months to serve.

July 25th — William Weyburn, convicted December 21st, 1867, of arson; term five years; county of Erie.

The judge and district attorney both expressed doubts of the prisoner's guilt, and recommend his pardon. His health is very poor, and longer confinement would so aggrevate his disease (enlargement of the heart) that his life would be endangered.

July 26th — Charles L. Howe and William L. Shaw, convicted January 11th, 1869, of attempt to commit burglary, third degree; term two years and six months; county of New York.

There is in this case sufficient doubt of guilt to demand executive interferenoe. The complainant has become satisfied that the prisoners are innocent and that no burglary was in fact attempted.

July 26th — Sophronia Baxter, convicted February 15th, 1866, of arson; term seven years and three months; county of Chautauqua.

Pardon asked for by the prison physician, the principal and assistant matrons of the female department of Sing Sing prison, and by the district attorney and leading citizens of Chautauqua county. The prisoner had once been insane, and longer confinement threatens permanent insanity.

August 17th — Joseph Peake, convicted October 24th, 1867, of grand larceny; term five years; county of Cortland.

Recommended by judge and district attorney. Previous character of prisoner shown to have been good. The prison physician says he is very ill with consumption, and cannot probably live through the winter.

August 18th — John Williams, convicted October 15th, 1868, of grand larceny; term five years; county of New York.

Case personally examined by the Governor on his visit to the prison. It was the prisoner's first offence, and he has now served nearly two years. He is suffering from disease of the heart and lungs. Prison physician pronounces him incurable. His mother asks his discharge that she may care for him.

September 14th — Charles M. Brown, convicted July 10th, 1865, of burglary, first degree; term ten years; county of Kings.

Recommended by judge, district attorney and many leading citizens of Brooklyn. It was a first offence, and the prisoner has given

evidence of thorough reformation. He is offered a home and permanent employment in another State.

September 19th — Robert Corbin, convicted February 23d, 1869, of manslaughter, third degree; term two years and two months; county of Chenango.

The prisoner was, at the time of the homicide, a farmer of excellent character, considerably past middle age, and the homicide occurred in a quarrel about possession of land.

The prison physician reports that his mind is rapidly failing; that continued confinement will produce perfect and permanent dementia; and that, if released and placed under favorable circumstances ontside, he may recover. Upon this ground, and in order that he may be taken care of by his family, the pardon is granted.

September 22d — P. J. Flaharty and John Cummings, convicted October, 1863, of robbery; term ten years; county of Richmond.

Personally examined by the Governor, on his visit to the prison. The prisoners were convicted with two others, who it appears, were pardoned after serving fifteen months of their term. They were soldiers in camp on Staten Island, and their offence, though technically robbery, was probably little more than disorderly conduct, committed when intoxicated. Their previous character was good. The frequency of such cases at the time rendered severe punishment necessary by way of example.

Their conduct in prison has been uniformly good, and their punishment already too prolonged for the actual offence.

Oct. 31st— Charles Wicker, convicted November 19th, 1869, of robbery; term seven years; county of New York.

Recommended by Hon. Robert C. Hutchings, who, as assistant district attorney, conducted the prosecution, and by many leading citizens.

The doubts of the prisoner's guilt are so grave that Mr. Hutchings deems it his duty to ask that pardon may issue.

November 1st — John Killeher, convicted December 14th, 1866, of robbery; term five years and six months; county of Erie.

Recommended by the judge, members of the jury, sheriff and leading citizens of Buffalo. It was a first offence, and his conduct in prison has been excellent. Sheehan, convicted of same offence at same time, was pardoned in 1868.

November 17th — Frank Finnegan, convicted February 6th, 1868, of larceny; term three years and six months; county of Chautauqua.

First offence; pardon granted for purpose of allowing friends of prisoner to take him home before death, the prison physician reporting that he has but a few days to live.

The prisoner died four days after leaving prison.

November 18th — William R. Haight, convicted September 28th, 1869, of attempt to commit larceny from the person; term two years and six months; county of Cattaraugus.

Granted on condition that the prisoner shall leave the State, with his father, who applied for pardon, and shall not return within two years.

The application for pardon is favored by the judge and district attorney, who say that, in view of possible error in the conviction and of the previous character of prisoner, they think a pardon should be granted.

The father of Haight promises to take him to his house in Chicago, and give him immediate employment.

November 25th — James Russell, convicted May 27th, 1865, of robbery; term ten years; county of Onondaga.

Recommended by district attorney and by many citizens of Syracuse; also by Abraham Beal, agent of the Prison Association. The circumstances of the case were not such as to demand so long a term of imprisonment.

November 26th — John W. Reidenbach, convicted February 7th, 1868, of sodomy; term nine years and eight months; county of Kings.

Personal examination at prison. From a full and careful investigation of this case the Governor is satisfied this conviction was wrong. Circumstances which have come to light since the trial, render it probable that the conviction was the result of a conspiracy on the part of persons interested in getting Reidenbach out of the way.

November 28th — William A. Thayer, convicted October 24th, 1866, of attempt to commit arson, second degree; term five years; county of Erie.

Thayer's time, by reason of his good conduct in prison, will expire in January, 1871, two months hence. He is very low with con-

sumption, and, in the opinion of the physician and officers of the prison, cannot live out his term. His relatives wish to take charge of him. His previous character has been good.

December 7th — Emma Metz, convicted December 14th, 1869, of grand larceny; term four years and six months; county of New York.

On condition that she shall leave the United States for her home in Germany within ten days after her release and shall not return within five years. The prisoner was led into the crime by older and more experienced persons. She is now in failing health and her pardon is urged by Mr. Beal, agent of the Prison Association, and by Le Grand B. Cannon, the complainant, who offers to pay her passage and expenses back to her home in Germany.

December 6th — Henry Tate, convicted July 26th, 1870, of grand larceny; term one year; county of Erie.

Recommended by judge, district attorney, Hon. A. P. Laning and other leading citizens of Buffalo. The evidence shows that the offence was a mere trespass, not a larceny. This view of the case is now taken by both judge and district attorney. Previous character good.

December 7th — Jacob H. Brill, convicted November 17th, 1865, of arson, third degree; term six years and eleven months; county of Genesee.

The prisoner has served over five years. His pardon is asked for by Judge Marvin, who imposed the sentence, and by Mr. Tyrrell, district attorney at the time of conviction; also by D. D. Waite, editor of the Republican Advocate; Henry Todd, editor of the Spirit of the Times; Tracy Pardee, president of the First National Bank; H. N. Howard, president of the National Bank of Genesee; Hon. Henry J. Glowacki, E. C. Walker, George Bowen, Seth Wakeman, and many others, all residents of Batavia where the crime was committed. The prison chaplain also recommends a pardon.

December 9th — Hugh D. Hood, or Hugh Hoole, convicted February 26th, 1868, of larceny; term five years and four months; county of Queens.

Recommended by Abraham Beal, agent of the Prison Association, Hon. John Stanton Gould, Rev. George F. Seymour, and many others. The prisoner is now in very feeble health, and, as represented by Mr. Beal, is on the verge of insanity by reason of his confinement.

December 9th — John Kingston, convicted October 16, 1860, of robbery; term five years; county of Erie.

Recommended by judge and district attorney, who state that evidence has been produced since the trial which, if known at the time, would in their opinion, have resulted in an acquittal. The prisoner's co-defendant, at a subsequent trial, was found "not guilty." Many leading citizens join in the petition.

December 10th — Patrick Holland, convicted March 6th, 1867, of robbery; term ten years; county of Kings.

Granted on petition of the mayor of Brooklyn and others. Concurred in by the district attorney and senators Henry C. Murphy and James F. Pierce. It is alleged that there is very great doubt of the prisoner's guilt. The main question on the trial was one of identity, and another person, since convicted of another offence, has declared himself guilty of this. That Holland's previous conduct was unexceptionable is clearly established.

December 27th — William Barry, convicted March 8th, 1870, of assault with intent to kill; term three years and three months; county of St. Lawrence.

In an affray, in which it is quite clear both parties were to blame, prisoner inflicted a slight wound on complainant with a pocket knife, There had been no previous quarrel, and the complainant now joins in the petition for pardon made by many citizens of St. Lawrence county. The prisoner's wife is ill with consumption and destitute of means of support. His previous character had been good.

December 27th — Michael Hagan, convicted June, 1855, of murder; sentenced to be hung; commuted to imprisonment for life, July 24th, eighteen hundred and fifty-five; county of Orange.

Personal examination at the prison. The facts developed on the trial were such that the judge and district attorney united in a request to the Governor that the prisoner might not be executed, and the sentence was commuted. At a later date, many years ago, the judge (Hon. John W. Brown, of Newburgh,) and the district attorney (Hon. C. H. Winfield) wrote, advising an immediate and unconditional pardon. The prisoner has always asserted his innocence. He has now been in prison more than fifteen years, during all of which time his conduct has been uniformly quiet, orderly and submissive; so that not even a rebuke from the prison officers has ever been necessary. They plead earnestly for his discharge, declar-

ing that its effect upon the general discipline of the prison would be very beneficial.

December 29th — George Chappell, convicted May 26th, 1864, of robbery; term fifteen years; county of Orleans.

Granted on application of Hon. D. B. McNeil, Inspector of State Prisons, Allen Ross, agent and warden, and the other prison officers.

The physician of the prison certifies that the prisoner is low with consumption, and that continued confinement would soon cause death.

Pardons — County Jail and Penitentiary.

January 4th, 1870 — James H. Young, convicted December, 1869, of vagrancy; term 100 days; county of Onondaga.

Recommended by Police Justice Corbett, who imposed the sentence, by Judge Riegel, county judge, and by Hon. Leroy Morgan, justice of the Supreme Court, who certify that the prisoner was convicted under a misapprehension of the facts in the case.

January 25th — John Higgins, convicted September 13th, 1869, of assault and battery; term one year; county of Kings.

Recommended by complainant and judge, also by the mayor of Brooklyn, by Hon. Samuel T. Maddox, and others.

February 8th — Mary Oakes, convicted February, 1870, of bigamy; term one year; county of Erie.

Granted on application of Judge Clinton, and the district attorney, who state that the prisoner, a young, inexperienced and ignorant woman, who had been deserted by her husband, did not know she was committing a crime. She was legally guilty, but an object for sympathy rather than punishment.

February 9th — George Shields, convicted October 2d, 1869, of larceny; term one year; county of Kings.

The judge and district attorney recommend pardon, believing the appropriation of property was without criminal intent. Previous good character is shown.

February 15th — John Malone, convicted November, 1868, of manslaughter, fourth degree; term one year, and a fine of $150; county of Rensselaer.

Recommended by the judge, district attorney, and many reputable citizens. The prisoner was attacked while engaged at his business, and having once escaped from the attacking party and resumed his occupation, was again seized and thrown down. During the second attack he struck the man who seized him with his shovel, from which blow death ensued six months afterward. He should have been acquitted.

Malone was very ill, and the jail physician certifies that longer confinement would be likely to preclude all hope of recovery.

March 3d — Ida A. Hall, convicted March 1st, 1870, of petit larceny; term ten days; county of Herkimer.

Recommended by Hon. Robert Earl and many other citizens of Herkimer county. The prisoner is a child twelve years old, whose character is said by her teacher to have been good. It was very wrong to imprison her at all.

March 10th — John McGinness, convicted August 1st, 1869, of assault and battery; term one year; county of Kings.

Recommended by complainant and many citizens, also by the physician to the penitentiary, who certifies that the health of the prisoner is such that his life will be endangered by longer confinement.

April 15th — Michael Post, convicted March 14th, 1870, of assault and battery; term four months; county of Monroe.

Strongly urged by Judge Fuller, who tried the prisoner, also by the late county judge and many others, on the ground that the conviction was improper. Good character shown.

April 20th — Ottaway Lapoint, convicted November, 1869, of petit larceny; term one hundred and eighty days; county of Onondaga.

Recommended by justice, also by the physician and inspectors of the penitentiary, because the prisoner is very ill with consumption and cannot live out the remainder of his term. Previous good character proved.

May 14th — James Brogan, convicted April 19th, 1870, of assault and battery and drunkeness; term four months on first charge; sixty days on the last; county of Monroe.

Recommended by the committing magistrate, who says that since sentence was passed he has learned that this was prisoner's first offence, he having always before borne a good character.

May 21st — George Thompson, convicted February 23d, 1870, of petit larceny; term six months; county of Kings.

Recommended by judge, district attorney and committing magistrate. The prisoner had always borne a good character, is very young, and was led into this affair by bad company.

May 21st — Hugh Wilson, convicted May 7th, 1867, of assault with intent to kill; term five years; county of Monroe.

On condition that he be removed to Canada within thirty days, not to return within two years.

Recommended by judge and by many citizens; also, by the warden and physician of the penitentiary, who state that the prisoner is becoming insane, and will probably become permanently so, if longer confined. His friends promise to remove him to a farm in Canada. Previous good character certified to by those who know him.

May 23d — William Agan or Aiken, convicted May 13th, 1870, of disorderly conduct; term three months; county of Schenectady.

Recommended by justice, district attorney, sheriff, Senator Thayer and others. The justice states that since the conviction he has become possessed of information which shows that the conviction was erroneous.

May 23d — Ellen Starr, convicted January 13th, 1866, of burglary and larceny; term seven years and six months; county of Chautauqua.

Recommended by Judge Grover, who tried the prisoner, and by the district attorney who prosecuted her; also, by the present district attorney and many citizens, and by the officers of the penitentiary. The judge and district attorney say that the prisoner was very young when she committed this crime, and under evil influences and surroundings, from which she will hereafter be free.

June 20th — George Seitz, convicted May 26th, 1870, of assault and battery; term four months; county of Monroe.

Application of district attorney, Hon. Jarvis Lord, Hon. Lewis Selye and other leading citizens, who state that the prisoner had

previously borne an excellent character, and that there was doubt as to the justice of his conviction. Seitz is sixteen years old, and is the sole support of aged parents.

June 20th — John Krans, convicted June 17th, 1869, of felonious assault; term two years; county of Ulster.

Recommended by judge, by Hon. Jacob Hardenburgh, and by many citizens of Ulster county. Krans is represented as an old man who had always sustained a good character. One year's punishment sufficient.

June 21st — William Smith, convicted December 16th, 1869, of manslaughter, fourth degree; term six months and $100 fine; county of Erie.

The object of this pardon is only to remit the fine, which the prisoner is unable to pay, his term having expired. Recommended by Hon. Thomas G. Alvord, Col. James P. Foster and others.

July 15th — Thomas Dowd, convicted by plea of guilty, November 15th, 1869, of burglary, second degree; term two years; county of Albany.

Granted on application of district attorney Peckham, who says he is satisfied a conviction of petit larceny only would have been more in accordance with facts of case, and punishment is too severe.

July 22d — James King, convicted July 15th, 1870, of grand larceny; term one year; county of Kings.

Pardon applied for by Judge Troy, who sentenced the prisoner. He states that it is a case of technical guilt merely; that King is a poor, broken down man. He has friends who will care for him, and is not a fit subject for a prison.

July 22d — George Chapman, convicted April 12th, 1870, of assault and battery; term six months; county of Monroe.

The Superintendent of the Penitentiary states that prisoner is dying with consumption, and has friends who will take care of him.

July 28th — Jacob Simon, convicted January 24th, 1870, of receiving stolen goods; term three years; county of Kings.

Recommended by the district attorney, and many leading citizens of Brooklyn. The prisoner's previous character is shown to have been good. His conviction was obtained solely upon the testimony

of the thief. From a careful examination of the case, there seems to be great doubt of guilt.

August 3d — Thomas Hayes, convicted July 6th, 1870, of assault and battery; term four months and ten days; county of Queens.

The prisoner is an escaped lunatic from the Kings county asylum, and when released will be returned there.

August 4th — John Phelan, convicted May 24th, 1870, of petit larceny; term six months; county of New York.

Granted on application of the prosecutor, Rev. Thomas Mooney, in consideration of the prisoner's previous character and in the belief that the punishment already inflicted, answers the ends of justice.

August 17th — Sarah Crawford, convicted May 24th, 1870, of petit larceny; term six months; county of New York.

Recommended by the committing magistrate and others. The sentence was too severe, the larceny being of a very trifling amount.

September 1st — John Brennan, convicted May 6th, 1870, of assault and battery; term one year; county of Kings.

Recommended by district attorney, complainant and many respectable citizens, who say that the prisoner is a man of good character; that he has several motherless children dependent upon him, and that his business is being ruined by his imprisonment.

September 1st — William H. Chapman, convicted June 23d, 1870, of assault and battery; sentenced to pay a fine of $200, or to be confined in the county jail until paid, not exceeding eight months; county of Cayuga.

Prisoner is unable to pay the fine. His pardon is asked for by the judge, district attorney, sheriff and citizens, for the reason that he has lately exposed and prevented a desperate plot on the part of his fellow prisoners to escape jail.

October 4th — George Pollman, convicted July 15th, 1870, of breach of peace and resisting an officer; term six months; county of Onondaga.

Recommended by the judge, complainant, arresting officer, and many of the most reputable citizens of Syracuse, in consideration of the extreme ill health of the prisoner.

November 11th — Horace T. Sprague, convicted March 23d, 1870, of burglary; term one year and six months; county of Albany.

Recommended by the judge, District Attorney Peckham, Erastus Corning, Jr., and Chapin &Foster, the prisoner's former employers. Sprague is a young man, who was led into this his first offence, by evil associates. A sick father, a brother and two younger sisters are dependent upon him for support. His character has heretofore been good, and his former employers are ready to take him back at once into their employ.

November 17th — Andrew Oliver, convicted March 19, 1870, of burglary, third degree; term one year; county of Albany.

Recommended by the district attorney and many citizens. Prisoner's previous character was good. This was his first offence. A wife and two children depend solely upon him for support. His former employers offer him immediate employment.

December 7th — Simeon V. N. Hamilton, convicted January, 1870, of illegal voting; now awaiting sentence; county of Tioga.

Hamilton was, in 1857, when sixteen years of age, convicted of a felony and sentenced to Auburn prison for two years, his term expiring when he was still under nineteen. He voted at the general election in November, 1868, never having been restored to citizenship, for which he was arrested and convicted, as above.

An appeal was made, the judgment of the court below affirmed, and the convict is now awaiting sentence.

It is proved clearly to the Governor (such proof being excluded on legal grounds on the trial) that he had been advised by respectable counsel, that, having been convicted while a minor, he had not lost thereby the right of suffrage, and that on account of age he was entitled to vote just as if he had not been convicted; that he did so vote without question or challenge at prior elections, and that he voted in good faith and without felonious intent. His character has been good since his release from prison, eleven years ago. He has a family, and is established in business.

December 17th — Charles A. Wilson, convicted November 11th, 1870, of larceny; term three months; county of Erie.

Recommended by the committing magistrate and by the superintendent of police, information received since the conviction proving the innocence of the prisoner.

December 27th — John Short, convicted March 28th, 1870, of selling liquor without a license; term three months and $100 fine; county of Jefferson.

Appeal was taken, and in September the decision of the court below was affirmed, prisoner in the meantime having been released on bail.

It clearly appears that the jury drew lots for a verdict. The district attorney says: "The evidence was very weak indeed, and, without doubt, the jury gambled for a verdict."

Commutations.

January 5th — John McCue, convicted February 23d, 1860; manslaughter, first degree; term nineteen years and six months; county of New York; commuted to ten years.

Recommended by Judge Ingraham, the presiding judge, who states that, in view of the circumstances of the case, he thinks the punishment has already been sufficient. The prisoner's previous character was good, and his conduct in prison has been exemplary. The chaplain represents that he is in failing health, and cannot survive much longer confinement.

January 13th — Thomas Chappel, convicted January 21st, 1869; burglary and larceny; term three years and six months; county of Orleans; commuted to one year.

Recommended by Sanford E. Church, George W. Miller, H. D. Tucker, late district attorney, and other lawyers present at the trial. The members of the jury also recommend a pardon. The prisoner's previous character is stated to have been good, and his health is represented to be such that confinement for his full term would endanger his life.

January 14th — Hiram C. Powers, convicted December, 1869; murder; sentenced to be hung February 4th, 1870; county of Lewis; commuted to imprisonment for life.

Recommended by judge, district attorney and jury; also, by the physicians, clergymen, members of the bar and many others of Lowville, who state that Powers is of so weak mind as to be almost insane or idiotic. Dr. Gray, of the Utica Insane Asylum, after a personal examination, reports that the prisoner, though not insane,

may be properly classed as an imbecile, or so nearly so as to be an unfit subject for the infliction of the highest penalty of the law.

March 3d — James Blake, convicted April 10th, 1869, grand larceny; term two years; county of Kings; commuted to one year.

Recommended by judge and district attorney. The prisoner was very young; it was his first offence, and he now seems to be truly penitent. The judge says: "When I sentenced him for two years I determined, if his behavior was good, to recommend him to pardon after one year."

March 28th — Thomas Pinkerton, convicted October 5th, 1866, manslaughter, second degree; term seven years, county of Ulster; commuted to three years and six months.

Recommended by county judge, district attorney, and many prominent citizens. Prisoner had always been known as an industrious and sober man, and had been for a long time employed in a responsible position. His wife became grossly intemperate. One day, coming home from his work, he found her very much intoxicated in his house in company with a straggling beggar. In a moment of anger he struck her, and so injured her that she died. Her death was probably the result of the blow and the intoxication combined. The prisoner has the good opinion of the prison officials, and has been an object of general sympathy. Employment in his old position is offered him on his discharge.

May 14th — Adolph Phillips, convicted April 28th, 1869, grand larceny; term three years; county of New York; commuted to one year and six months, with further deduction allowed by law for good conduct.

The larceny was of books from the rooms of the Mercantile Library Association. The prisoner's previous character was good. His pardon is asked by the officers and members of the association and by the district attorney.

May 19th — Nelson Slater, convicted October 25th, 1860, rape; term life; county of Wayne.

Commuted to ten years.

Recommended by district attorney, county officers and prison officials. In view of all the circumstances of the case, ten years is ample punishment.

May 19th — George W. Hallifax, convicted October 2d, 1868, of burglary, first degree; term five years; county of Niagara.

Commuted to two years and six months, with further deduction allowed by law for good conduct in prison. Also,

May 19th — Herman Hallifax; convicted October 2d, 1868, burglary, first degree; term five years; county of Niagara.

Commuted to two years, with further deduction allowed by law for good conduct in prison.

Pardon in these cases is recommended by Judge Lamont, of the Supreme Court, the present and the late county judges of Niagara county, by Hon. R. M. Skeels, Hon. George C. Greene and many other reputable and leading citizens. The previous character of the prisoners had been unimpeachable, and it is shown that they were enticed into the commission of this offence by an old and cunning offender, who escaped punishment.

May 19th — Fisk Wallace, convicted February 20th, 1866, burglary and grand larceny; term fourteen years; county of St. Lawrence.

Commuted to five years, with deduction allowed by law for good conduct in prison.

Recommended by Judge James, who sentenced prisoner, and by many citizens of St. Lawrence county. The prisoner at the time of conviction was a young lad, barely sixteen years old, and it seems clear that he was led into the commission of this offence by a person older than himself. Previous character good.

May 19th — James Scanlon, convicted March 3d, 1866, robbery; term seven years and three months; county of Livingston.

Commuted to five years, with further deduction allowed by law for good conduct in prison.

Prisoner was convicted with another, who was sent for five years, The cases were the same, and no reason appears for a longer sentence in this case than in the other.

May 20th — Patrick Callahan, convicted June 11th, 1868, of murder; sentenced to be hung; county of Rensselaer; commuted July 1st, 1868, to five years in Clinton prison; commuted to two years.

Pardon recommended by Hon. John A. Griswold, Hon. Martin I. Townsend, and many other leading citizens of Troy. Commutation or pardon recommended by judge and district attorney. The offense

of Callahan arose from an excess of zeal as private watchman in protecting, as he supposed, the property of his employers. Though he was technically guilty, there was an entire absence of that guilty intent which would justify a long imprisonment.

May 21st — Michael Quinn, convicted November 30th, 1868, of robbery; term five years; county of Queens; commuted to two years, with deduction for good conduct. Also,

May 21st — James E. Hagan, convicted November 30th, 1868, of robbery; term two years and six months; county of Queens; commuted to two years, with deduction for good conduct.

Application for pardon made by Judge Armstrong, who imposed sentence, and concurred in by district attorney and many citizens. Previous good character shown. The judge says that the offence, though technically a robbery, was really a drunken frolic, and that the complainant even did not consider it an intended robbery. The prisoners, while grossly intoxicated, stopped a man with a team in a very public place on the highway, and compelled him to give them a dollar for a goose, which they alleged he had killed.

May 31st — Edward Dunn, convicted December 22d, 1866, of rape; term fourteen years and four months; county of Albany; commuted to four years, with the further deduction allowed by law for good conduct in prison. Also,

May 31st — William Carty, convicted December 24th, 1866, of rape; term fifteen years and four months; county of Albany; commuted to four years, with further deduction allowed by law for good conduct in prison.

Recommended by judge, district attorney, and many citizens. The complainant was a public prostitute. George Scholan, convicted of same offence, was pardoned December 24th, 1869, he having been sentenced for a somewhat shorter term.

June 6th — Louis Koppel, convicted June 12th, 1867, of grand larceny; term four years and six months; county of New York; commuted to three years.

Granted on condition that prisoner shall return to his home in Germany within five days after his liberation. The prisoner was a young man, but a short time in the country. His character, here and at home, had been very good. Becoming impoverished he committed this, his only crime. His pardon is strongly urged by those

connected with the prison, on account of his exemplary conduct there.

His parents in Germany are in a position to care for him and secure him honorable employment, and they promise to do so.

June 10th — Patrick Kirley, convicted April 12th, 1867, of assault with intent to kill; term five years and two months; county of Steuben; commuted to three years and eight months, with legal deduction for good conduct.

Pardon recommended by district attorney and many citizens of Steuben county. In view of the circumstances of the case and the previous character of the prisoner, the sentence imposed seems excessive.

July 15th — Fergus McSweeney, convicted August 7th, 1868, of assault to harm; term five years; county of New York; commuted to two years.

Recommended by A. Beal, agent of the Prison Association. The previous excellent character of the prisoner for industry, sobriety and integrity is attested by many reputable citizens, in whose employ he had been. The assault was committed under great provocation, and two years is punishment enough for the offence.

August 15th — Thomas Sheridan, convicted July 7th, 1870, of murder; sentenced to be hung August 19th, 1870; county of New York; commuted to imprisonment for life.

Recommended by judge, district attorney and jury, on the ground of mitigating circumstances. The special reason for commutation, however, is that the jury state now, as they stated at the time sentence was pronounced, that they rendered a verdict of guilty, with a recommendation to mercy, with the distinct understanding and belief that such a verdict would necessarily prevent the execution of the prisoner.

August 18th — Charles Roberts, convicted October 14th, 1867, of burglary, third degree; term four years and six months; county of New York; commuted to three years.

At the request of Abraham Beal, agent of the Prison Association, this commutation is granted on account of the strong mitigating circumstances of the case.

September 19th — Sarah Wood and Sarah Weeks, convicted October 4th, 1866, of arson; term seven years; county of Dutchess; commuted to four years.

Recommended by judge, prosecuting attorney, complainant, and many citizens, who state that the prisoners were very young and inexperienced, and that they were led into this crime by more guilty persons. They are both now in very ill health, and much longer imprisonment would endanger their lives. They will be properly cared for on their release.

October 10th. — John Kernback, convicted July 1st, 1869, of burglary; term three years; county of Erie; commuted to one year and six months, with legal deduction for good conduct.

Recommended by district attorney, also by Hon. S. Scheu, Hon. G. J. Bamler, Michael Lang, and many other leading citizens of Buffalo. The prisoner, whose previous good character is proved, entered, while intoxicated, a saloon where he had lately been employed, and appropriated liquor and segars to the value of two dollars. His health is now, as shown by prison report, very poor. The sentence was too severe for the offense committed.

November 10th. — Hattie Francis, convicted December, 1869, of keeping a disorderly house; term one year in county jail and $200 fine; county of Saratoga; commuted to immediate discharge on payment of fine.

One month is deducted from sentence in this case on recommendation of the judge, district attorney, and many leading citizens of Rensselaer and Saratoga counties. Had she been sent to a State prison or penitentiary she would have, under the law, earned this time by good conduct.

November 10th. — George Carey, convicted April 8th, 1870, of murder; sentenced to be hung November 25th, 1870; county of Onondaga; commuted to imprisonment for life.

Granted on recommendation of judge and district attorney. Dr. Gray of the State lunatic asylum, after an examination of the prisoner, says: "I do not think he has the mental ability to realize or comprehend the nature or responsibility of his crime."

November 11th. — James Herring, convicted December 16th, 1867, of rape; term five years and six months; county of Orange; commuted to three years.

Recommended by the judge, district attorney, and many respectable citizens. An examination of all the facts, shows this to be a proper case for commutation.

November 16th — Michael Drumgool, convicted March 22d, 1869, of rape; term fifteen years and three months; county of Seneca. Also,

November 16th — Andrew Saxton, convicted March 32d, 1869, of rape; term ten years and three months; county of Seneca; commuted to two years.

Recommended by the judge, district attorney, and many leading citizens. Facts which have come to light since the trial, greatly change the nature of the offence. The judge says, that had he known these facts at the time of trial, his sentence would have been different.

November 16th — Daniel Burdick, convicted October 14th, 1870, of murder; sentenced to be hung November 25th, 1870; county of Cattaraugus; commuted to imprisonment for life.

The jury, who deliberated several hours (and several of whom, it appears, were for some time in favor of a verdict of guilty of manslaughter), recommended the prisoner to mercy. The attorney-general, who conducted the case for the people, and the district attorney also join in the recommendation. A careful examination of the case shows that the recommendation of the jury should be heeded, and the prisoner's life spared.

December 3d — George H. Peterson (colored), convicted June 26th, 1868, of assault with a deadly weapon; term, five years; county of New York; commuted to two years and six months.

The prisoner has consumption, and the confinement is hastening his death. On an examination of the case, the punishment imposed seems, in view of all the circumstauces, to have been excessive.

December 7th — William S. Young, convicted August 10th, 1865, of robbery, first degree; term fifteen years; county of Livingston. Also,

December 17th — Charles Capron, convicted August 10th, 1865, of robbery, first degree; term fifteen years; county of Livingston; commuted to seven years and six months, with legal deduction for good conduct.

Young, with three others, was convicted of robbery, the particulars of which he afterwards confessed. They all (as well as Capron, who was convicted as accessory) received a sentence of fifteen years. The facts disclosed show clearly that discrimination should have

been made. Judge T. A. Johnson, who imposed the sentence, and the district attorney, advise executive clemency in both cases. The complainant also asks for Young's pardon.

December 17th — Owen Hand, convicted October 18th, 1869, of murder (appealed and conviction affirmed); sentenced to be hung February 3d, 1871; county of Kings; commuted to imprisonment for life.

Granted on the recommendation of the judges of the Court of Appeals, who certify to the Governor, through the chief judge, that, although the verdict was warranted by the evidence, and no error in law appears on the record, yet the case belongs to that class of homicides in which a reasonable doubt may be properly indulged as to the felonious intention to kill, which is indispensable to constitute the crime of murder in the first degree. After this expression of opinion, from such a source, the Governor did not feel justified in allowing the prisoner's life to be taken.

Reprieve.

December 15th — Walter Graham, convicted October 27th, 1870, of murder; sentenced to be hung December 21st, 1870; county of Wayne; respited until January 18th, 1871.

Granted to enable prisoner to have his case reviewed on a writ of error.

STATEMENT OF PARDONS AND COMMUTATIONS OF PUNISHMENT GRANTED BY THE GOVERNOR DURING THE YEAR 1871.

Pardons — State Prison.

January 9th, 1871 — Julian Lefleure, convicted July 28, 1870, of grand larceny; term two years; county of Albany.

The prisoner took from the pocket-book of a man who was sleeping in the room with him, two fifty dollar bills, leaving six other bills in the book. He evidently mistook the bills which he abstracted for five dollar bills, and intended to take no greater amount. He was an industrious man, of previous good character, a stone-cutter by trade, out of work, a long distance from home, and destitute. The prison officials speak of him in high terms, and unite in recommending pardon.

January 25th — Cornelius McNally, convicted September 27, 1869, of assault with deadly weapon; term seven years; county of New York.

Granted on application of the district attorney.

It has transpired since the trial, that the two most important witnesses for the people testified under false names, and committed perjury. The assistant district attorney, who prosecuted the case, says the conviction was clearly wrong.

February 14th — Squire E. Cole, convicted December 17, 1868, of grand larceny; term two years and six months; county of Lewis.

Recommended by the present and the late district attorney of Lewis county, and by many citizens. Previous good character is shown. The amount of property taken was small, and the prisoner has served out all his sentence but one month. His pardon is now asked by the district attorney that he may be used as a witness in an important criminal trial.

March 7th — Thomas S. Cassidy, convicted April 3, 1868, of grand larceny; term five years; county of Kings.

The prisoner's previous character and associations had been good. He was a stranger in the city in which he was convicted, and the

court knew nothing of his past life. He was sentenced for the longest term allowed by law. He has served nearly three years, during most of which time he has been sick in the hospital. Immediate employment is promised for him out of the State by his friends.

March 23d — David D. Thomas, convicted December 20, 1870, of grand larceny; term one year; county of New York.

Recommended by the district attorney and many reputable citizens. Prisoner is sick with consumption. The district attorney and the magistrate before whom the preliminary examination was held both believe now that his guilt is doubtful.

May 2d — John Barry, convicted May 8, 1866; of burglary, first degree; term seven years and four months; county of Monroe.

The prisoner was very young at the time of his conviction, and, it is alleged, gives evidence of thorough reformation. He has served (allowing for good conduct) all his term but one year. His associate, who seems to have been equally guilty, was pardoned three years ago by Governor Fenton.

May 3d — Edward Nolan, convicted January 19, 1866, of burglary; term twenty years; county of New York.

Upon an examination of the evidence, it is very clear that the sentence in this case was excessive. The crime was hardly more than an attempt at grand larceny by prisoner while intoxicated. His conduct while in prison has been good, and he has been confined over five years.

May 3d — James McDevitt, convicted December 23, 1869, of burglary, third degree; term two years and three months; county of Broome.

Granted on recommendation of the district attorney, who states that he has grave doubts of the prisoner's guilt.

May 13th — Edward Jacobs, convicted March 7, 1870, of grand larceny; term three years; county of New york.

Granted on application of Hon. J. R. Fellows, assistant district attorney, who prosecuted the case, and who now says: "Circumstances developed since the trial seem to demonstrate that Jacobs was not guilty of the larceny."

May 24th — Thomas Brennan, convicted March 1, 1870, of robbery; term six years and four months; county of Queens.

Recommended by judge and district attorney, by the county officers of Queens county, the village officers of Flushing, Hon. R. B. Roosevelt, E. A. Lawrence, Rev. James O'Beirne, Rev. J. C. Smith, and many other citizens. The previous good character of the prisoner is fully shown. Usually temperate and industrious, he committed the offence while intoxicated. The judge and district attorney strongly urged a pardon.

June 2d — James Willis, convicted February 2d, 1869, of rape; term seven years and six months; county of Kings.

Recommended by Judge Chumasero, Hon. Henry L. Fish and many other citizens of Rochester, the home of Willis. Developments since the trial make it clear that a conviction of rape should not have been had. The prisoner, whose previous character was good, was convicted upon the unsupported testimony of a woman of bad repute, whose real character was not known to court or district attorney at time of trial.

June 2d — Charles A. Gay, convicted June 23d, 1865, of robbery, first degree; term ten years; county of New York.

Tried before Recorder Hoffman. The Governor has a distinct recollection of the case, and after a recent personal interview with the convict at the prison, concludes it right to remit the residue of the sentence. The district attorney and many others recommend a pardon. The prisoner's family are about to remove to the far west, and will take him with them and care for him.

June 5th — Henry Bargy, convicted January 28th, 1868, of burglary and grand larceny; term three years and six months; county of Jefferson.

Strongly recommended by Lieut.-Governor Beach and many other citizens of Jefferson county. It seems to be the almost unanimous opinion of the bar in that county, that the conviction was improper. The judge who presided at the trial says, "there was, in my judgment, grave doubt as to the guilt of the prisoner."

June 5th — Nathaniel Grundy, convicted October 17th, 1863, of robbery; term fifteen years; county of Rensselaer.

The prison physician reports that the convict has a cancer in his stomach and cannot live long, for which reason he recommends a pardon. J. H. Colby, who was district attorney at time of conviction, says, under date of August 24th, 1868, "he has been more

than sufficiently punished for the offence whereof he was sentenced." The prisoner has a sister who is able and willing to take care of him.

June 12th — Peter La Beau, convicted February 21st, 1865, of administering poison to kill; term ten years and two months; county of St. Lawrence.

Recommended by Judge James, who presided at the trial, and by many members of the bar of St. Lawrence county. The judge states that he had, at the time of trial, "great doubt of the prisoner's guilt, and since then, this doubt has been strengthened."

June 13th — Lucio Audretti, convicted December 7th, 1870, of assault with deadly weapon; term one year and six months; county of New York; on condition that he be at once removed to an asylum for the insane.

The prisoner is now, and probably was at the time the offense was committed, insane.

June 15th — Abner Hall, convicted September 17, 1867, of rape; term twenty years; county of Saratoga.

The prisoner is at the point of death, with consumption, and a pardon is granted to allow his sister to take him home to die.

June 17th — Michael Quirk, convicted December 19, 1868, of burglary and larceny; term four years and six months; county of Cayuga.

Recommended by judge and district attorney, who say that, considering all the circumstances of the case, they think the sentence was too severe. Gen. McDougall, of Auburn, under whose command the prisoner served four years during the late war, speaks well of him, and recommends his pardon, and agrees that Quirk shall be sent West, where he will be furnished with employment.

June 23d — Patrick Donahue, convicted July 6, 1870, of robbery; term five years; county of Herkimer.

Strongly recommended by the judge, and by the late district attorney, who conducted the prosecution. They state that grave doubts exist of the prisoner's guilt.

July 10th — Edward T. Smith, convicted November 21, 1870, of burglary, third degree, and petit larceny; term one year; county of Rensselaer.

Recommended by judge and district attorney. The prison physician reports that the convict is in a dying condition. His mother pleads for pardon, that he may go home to die.

July 14th — William Michael, convicted June 12, 1863, of burglary; term fifteen years; county of Rensselaer.

Recommended by the district attorney who prosecuted the prisoner, by F. B. Hubbell, and many other leading citizens of Troy; by all the prison officers, and many others. Michael's co-defendant, equally guilty with him, and older, was pardoned, after serving less than two years, by Governor Seymour. Michael has now served more than eight years, and gives good evidence of a thorough reformation. He was only seventeen years of age when sentenced.

July 14th — George Van De Bogart, convicted November 26, 1870, of bigamy; term two years; county of Schenectady.

Recommended by judge and district attorney. The judge (Rosekrans) says that, at the time of trial, he had doubts whether conviction was proper, and that, in view of facts which have come to his knowledge since, his doubts are strengthened. He says: "I have concluded to do what I think I have never done before, in any case, and that is to say I think justice will be done by granting a pardon."

July 4th — James McGuire, convicted November 15, 1865, of arson, third degree; term seven years; county of Monroe.

Term expires in one month, deduction for good conduct having been earned. Pardon recommended by judge and prosecuting district attorney. The judge says: "From developments made since the trial, some doubts have been thrown upon his guilt. I think he is a fit subject for executive clemency."

July 14th — Edward Ducray, convicted January 22, 1868, of burglary, second degree; term eight years; county of New York.

On application and urgent recommendation of ex-Judge N. B. Morse, of Kings county, who certifies to good conduct of prisoner. The evidence of guilt was very slight, and Judge Russell, who imposed the sentence, says that from circumstances which came to his knowledge after the trial, he believed prisoner was wrongfully convicted.

August 1st — Henry Kooh, convicted May 27, 1869, of manslaughter, third degree; term four years; county of Chautauqua.

Granted on application of jurors and many citizens of Dunkirk. The district attorney says that Koch had always been a quiet, peaceable man, of whom no one had known any harm, while the party killed was at least equally in fault with prisoner, and had long been the terror of all good citizens.

August 1st — Richard White, convicted December 23, 1868, of robbery; term five years and four months; county of Broome.

Pardon asked for by the county judge, district attorney, sheriff, chief of police, and many prominent citizens of Binghamton. The district attorney says he thinks that prisoner was guilty of only petit larceny, if anything, and that the judge who presided at the trial (since dead) believed him innocent of all crime.

August 2d — Michael Welch, convicted May 27th, 1865, of grand larceny and burglary, third degree; term ten years; county of Onondaga.

On personal application of Dr. Button, late physician to the prison, and recommended by judge and district attorney, who say that the sentence was too severe, and that the two associates of Welch, equally guilty, received but five years sentence. The prisoner has now served more than six years.

August 25th — Harvey Palmer, convicted March 20th, 1869, of burglary and grand larceny; term three years and one month; county of Oneida.

On application of judge, district attorney and complainant. The district attorney wishes to use the prisoner as a witness in an important criminal case. He has served more than half his term.

August 25th — Albert Butterfield, convicted June 15th, 1868, of robbery; term ten years; county of Ontario.

Twice tried. First trial, jury failed to agree. On second trial he was convicted and recommended to the mercy of the court. Pardon is now recommended by district attorney, sheriff, Hon. Charles J. Folger of the Court of Appeals (who thinks the sentence was excessive), by W. W. Wright, W. H. Lamport, Hon. George W. Nicholas, by all the town and village authorities in Geneva, and many other citizens of Ontario county.

August 29th — Robert Birdsall, convicted January 12th, 1871, of burglary, third degree; term two years and six months; county of Otsego.

Granted in consideration of prisoner's extreme youth and on application of judge, district attorney, complainant, and many other respectable citizens of Otsego county. Birdsall's previous character is shown to have been excellent, and he was led into this, his first offence, by evil associates.

August 30th — Thomas Coleman, convicted October 7th, 1868, of robbery; term five years; county of Erie.

Recommended by the district attorney, and by Abraham Beal, agent of Prison Association. The offence was hardly more than petit larceny, and the punishment has been severe.

September 10th — Charles D. Valton, convicted December 19th, 1867, of grand larceny; term five years; county of Kings.

On condition that he leave the country within five days, not to return within one year.

Granted on recommendation of Judge Dikeman, who imposed the sentence, and of Abraham Beal, S. S. Powell, Hon. Richard Schell, and many others.

The prisoner's health is rapidly failing. (His sister took him to Cuba immediately after his release.)

October 3d — Leonard Munn, *alias* De Mond, convicted January 26, 1869, of rape; term seven years and six months; county of Dutchess.

Colored man. Granted on application of judge and district attorney, who state that they are satisfied now that the complainant, the sole witness, was utterly untrustworthy, and that the prisoner should not have been convicted.

October 10th — Michael Isaacs, convicted April 26th, 1870, of rape; term ten years; county of Suffolk. Also,

October 10th — Isaac Goldstone, or Goldstein, convicted April 26th, 1870, of rape; county of Suffolk.

Recommended by judge, district attorney, and many others. At the time of the trial complainant was supposed to be (and represented herself to be) a person of good character. It has since transpired that she had served a term of imprisonment for a felony; that her character was very bad, and that she is unworthy of belief. The judge and district attorney say that if these facts had been known at the time of trial, the prisoners would have been acquitted.

October 10th — William H. Harrison, convicted June 10th, 1870, of grand larceny; term one year; county of Montgomery.

The prisoner pleaded guilty, and was used as a witness for the people against another criminal, under promise of the district attorney (concurred in by the judge), that he should not be imprisoned, and that they would apply for pardon. To that end he was, on this day (October 10th), 1871, sentenced *pro forma*, and the judge and district attorney unite in asking a pardon.

October 11th — Josiah H. Hulse, convicted March 24th, 1870, of robbery, first degree; term five years; county of Suffolk.

Recommended by judge, district attorney, Hon. Henry A. Reeves, and many other citizens. There seems to be reasonable doubt of guilt. The complainant, and sole witness for the people, was a man of bad character, while the prisoner's character had been good.

October 18th — Thomas C. Williams, convicted April 5th, 1871, of grand larceny; term five years; county of New York.

This case was brought to the personal attention of the Governor by the prison officers on his annual visit to the prison. The prisoner is without friends in this part of the country. A careful examination of the facts and a report from the police authorities, satisfy the Governor that he is not guilty.

October 24th — August Mettle, convicted April 11th, 1871, of assault to harm; term four years; county of New York.

It appears, upon careful examination, that the prisoner was violently assaulted and in defending himself, inflicted a slight flesh wound upon the aggressor with his pocket knife. The use of his knife was perhaps not justifiable, but the case did not call for severe punishment.

October 31 — John J. Underwood, convicted May 12th, 1870, of burglary, third degree; term three years; county of New York.

The prisoner is ill with consumption and has but a short time to live. His friends desire that he should die outside of prison walls. The Sisters of Mercy offer to care for him in their hospital in New York.

November 2d — Hugh Courtney, convicted November 26, 1867, of rape; term twenty years; county of New York.

Personal examination was made in this case by the Governor, on his annual visit to the prison. All the prison officers speak in favor-

able terms of the convict, and say that he is one of the best men under their charge. He has a destitute family, which he could, if at liberty, comfortably support. The complainant unites with the prisoner's wife in the application for pardon.

November 9th — Benjamin Teachout, convicted September 15, 1869, of murder; sentenced to be hanged December 24, 1869; commuted to imprisonment for life, December 14, 1869; county of Wyoming.

Teachout, charged with poisoning his wife, was convicted of murder, and sentenced to death. While under sentence, new evidence was discovered in his behalf. The presiding judge, Hon. Noah Davis, wrote to the Governor at that time that "he felt bound to say that the new facts elicted would, if they had been proved upon the trial; have had an important bearing on the issue, and that a motion for a new trial, on the ground of newly discovered evidence, would have been granted, if the court had possessed that power; that evidence, if brought before the jury, might have thrown into the case such doubts as to the guilt of the accused as to have resulted in acquittal." The sentence was therefore commuted to imprisonment for life, to enable a more thorough examination of the case to be made. Since the commutation, the prisoner has become very feeble, and his mind so much impaired as to render it advisable to confine him in the asylum for insane convicts. The physician to the asylum reports that he is now better, and his daughter and son-in-law ask to be allowed to take him to their home, in Michigan.

November 9th — John Moran, convicted September 7, 1869, of forgery and uttering a false note; term five years; county of Lewis.

The prisoner forged and passed a note for forty dollars. He has, by overwork in the prison, earned that amount, and repaid the defrauded party, with interest. He seems very penitent, and his conduct in prison is reported to have been excellent. The judge and a large number of reputable citizens petition for his pardon.

November 9th — James Lynn, convicted October 16, 1869, of robbery; term five years; county of Erie.

Recommended by the sheriff and county clerk of Erie county; also by Hon. A. P. Nichols, Hon. William Williams, and many other citizens. The foreman and most of the members of the jury which convicted him also urge a pardon. It was a first offence, and previous good character was shown.

November 9th — Thomas Bates, convicted January 27, 1871, of seduction under promise of marriage; term two years and six months; county of Oswego.

After a careful examination it seems clear that the conviction was erroneous.

November 21st — Thomas W. Moore, convicted November 14th, 1870, of robbery, first degree; term twelve years and six months; county of New York.

Recommended by Governor Jewell, ex-Governor English and many citizens of Connecticut. The prisoner was convicted on the unsupported testimony of the complainant. His previous character is shown to have been very good. He was a stranger in New York. and had no one at the trial to testify as to his character. The members of the jury which convicted him say that if the proof of good character, which is now submitted, had been brought before them, the result would have been different. They urge a pardon.

November 21st — William Dunne, convicted March 30th, 1869, of attempt to rob; term four years and seven months; county of Kings.

Recommended by judge and district attorney, and by many citizens of Kings county. The district attorney says that, if facts which have transpired since the trial had been known at that time, the prisoner could only have been convicted, if at all, of a simple assault. Previous good character is shown.

December 2d — Philip Vigilious, convicted February 6, 1869, of arson, second degree; term seven years and six months; county of Kings.

Proofs of identity and motive are so slight in this case that the conviction seems likely to have been erronous. This view is concurred in by the district attorney and by Hon. Henry A. Moore, who assisted in the prosecution. They, together with a large number of the citizens of Brooklyn, recommend a pardon.

December 4th — Benjamin Fennell, convicted March 17th, 1870, of larceny from the person; term three years; county of Broome.

Recommended by the district attorney, who states that there is some doubt of the prisoner's guilt, and that he was always before considered an honest man, and that he has a dependent family. The

value of the property taken was about fifteen dollars. The convict has already been more than twenty months in prison.

December 12th — John Latham, convicted November 26, 1869, of assault to kill; term four years; county of Oneida.

Strongly recommended by Judge Bacon, who presided at the trial, by Hon. Francis Kernan, and many other citizens of Utica. The prisoner's equally guilty comrades escaped with the short sentences of eight and nine months in the penitentiary.

December 13th — Michael Fernandez, convicted July 1, 1869, of assault to kill; term ten years; county of Kings. On condition that he leave the country within five days, not to return within one year.

Recommended by judge and all the jurors; also by R. W. Cameron. W. B. Duncan, Lewis Benjamin, and many other citizens of New York. From the evidence it appears that the prisoner was not the attacking party in the altercation, and, in view of all the facts, the sentence seems excessive. An uncle of the convict, living in Australia, has forwarded passage money for him, and agrees to adopt him and care for him there.

December 15th — Gilbert H. Vanhouten, convicted April 24, 1871, of perjury; term five years; county of Chemung.

Recommended by judge, district attorney, John Murdock, J. B. White and many citizens of Chemung county. Prisoner is seventy-three years old and a cripple. The physician to the prison reports him insane for the past month. Pardon is granted to enable his relations to give him proper care.

Pardons — County Jail and Penitentiary.

January 9th, 1871 — Catherine Daly, convicted September 13, 1870, of assault to do bodily harm; term one year; county of Kings.

Recommended by judge, district attorney, jurors and complainant. The prisoner, during an altercation between her husband and the

complainant, in a moment of excitement, seized a knife which was lying near, and inflicted a slight wound. Her previous character was good. She has three small children at home, who need her care.

January 27th — Charles O'Reilly, convicted December 21, 1870, of assault and battery; term six months; county of New York.

Recommended by judge, complainant, and others; also by superintendent and physician of the penitentiary, who state that the prisoner has incipient consumption, and that it would endanger his life to serve out the sentence. Previous character is shown to have been good.

January 28th — John Richter, convicted May 19, 1870, of assault and battery; term one year; county of Kings.

Recommended by judge and district attorney. The judge says both parties were equally to blame at the beginning of the quarrel, and that but little injury was inflicted by prisoner. The punishment already suffered seems ample for the offence committed. The prisoner has a large family of children depending upon him for support, who are now, by reason of his imprisonment, entirely destitute.

March 1st — Charles Robinson, convicted February 25, 1871, of larceny; term three months; county of Schoharie.

Pardon applied for by committing magistrate and complainant. It is clearly shown that the conviction was erroneous.

March 4th — John Lawlor, convicted October 28th, 1870, of assault and battery; term one year; county of Kings.

It clearly appears from the statement of judge and district attorney that the assault was committed under great provocation, and, although not legally justifiable, did not call for severe punishment. The prisoner is an old man of excellent character, and his pardon is asked for by the district attorney and several respectable citizens.

March 13d — John McDonald, convicted September 13, 1870, of petit larceny (two offences); term one year; county of Albany.

Recommended by committing magistrate and many reputable citizens. The prisoner, whose previous good character is fully established, became intoxicated, and took two saws, belonging to different workmen in the same shop in which he worked. The magistrate

says he is satisfied he imposed too long a sentence. He recommends an immediate pardon. Employment is offered McDonald at once.

April 1st — John McCarthy, convicted January 2, 1871, of assault and battery; term six months; county of Onondaga.

Recommended by justice, complainant, and citizens; also by the superintendent of the penitentiary, who certifies that the prisoner is very ill with consumption, and has but a few days to live. His wife desires that he should be brought home to die.

April 4th — John J. Heroy, convicted April 20th, 1870, of burglary, third degree; term one year and five months; county of Duchess.

Recommended by judge, district attorney and many citizens, in consideration of the youth and previous good character of the prisoner, who has now served all his term but four months.

April 25th — David Meyer, convicted April 6th, 1871, of assault and battery; term three months; county of Erie.

Recommended by justice who imposed the sentence and by many other citizens. The justice says if he had been aware of all the circumstances, that he would only have fined the prisoner.

April 28th — Frank Kerston, convicted September 20th, 1869, of forgery, third degree; term four years, eleven months and twenty-nine days; county of Kings.

Pardon applied for by Judge Troy, who imposed the sentence, and recommended by Dr. Neallis, and many others. The prisoner is quite young and very ill with consumption. His parents are able and willing to care for him.

May 2d — Conrad Lambley, convicted April 11th, 1871, of assault to rob; term six months; county of New York.

Recommended by the district attorney and many other citizens. An examination of the evidence satisfies me that he should not have been convicted.

May 2d. — William Kennedy, convicted July 2d, 1869, of assault to rape; term four years eleven months and twenty-nine days; county of Kings.

Recommended by judge and district attorney, who say that they have great doubt of prisoner's guilt. Previous good character is shown.

May 3d — Edward Egnor, convicted February 24th, 1871, of petit larceny; term one hundred and twenty days; county of Wayne.

Recommended by the justice, complainant and many citizens of Wayne county, including Hon. A. S. Wood, B. S. Booth and others. The justice states that circumstances, arising since the conviction, satisfy him that a pardon should be granted. Good character is established.

May 3d — Alfred J. Willis and Robert Nicholson, convicted February 26th, 1870, of burglary, first degree; term five years and one month; county of Oswego.

Recommended by the district attorney and the complainant, also by the sheriff, county clerk and other county officers, by the Mayor of Oswego, by Hon. D. C. Littlejohn, D. G. Fort, Delos De Wolf, and many other citizens. The prisoners are both boys, and the burglary consisted in entering the house of the uncle of one of them. Their youth and previous good character are mainly urged as reasons why pardon should issue.

May 25th — Charles N. Parsons, convicted May 22d, 1870, of bigamy; term two years; county of Albany.

Granted on condition that he shall at once leave the State, and not return within two years. The prisoner is of weak mind, and is seriously ill. He is very young, and has always, heretofore, borne a good character. He has served half his term. His friends agree to place him on a farm in the west, and to care for him.

June 1st — James Quinlan, convicted May 9th, 1871, of assault and battery; term six months; county of Richmond.

Recommended by the committing magistrate and district attorney on the ground that facts, ascertained since the trial, show the punishment to have been excessive. The prisoner is in poor health.

June 16th — Barney Mac, convicted April 29th, 1871, of assault and battery; term six months; county of Onondaga.

Pardon applied for by the police justice who imposed the sentence. He states that he is now satisfied that the prisoner is innocent.

June 26th — John Hauser, convicted June 3d, 1871, of assault and battery; term ninety days; county of Monroe.

Recommended by the committing magistrate, who says if he had known all the facts which have since come to light, the sentence would not have been imposed. Complainant also recommends a pardon.

July 10th — Thomas Howard, convicted May 24, 1871, of petit larceny; term three months; county of Cattaraugus.

Recommended by justice and district attorney. The prisoner is but nine years old, and should never have been sent to the county jail.

July 26th — Christopher Weatherwax and Charles Sager, convicted January, 1871, of assault; term one year; county of Schenectady.

Recommended by judge, district attorney, county officers, and members of the bar of Schenectady county. The judge says he is satisfied the sentence was too severe.

August 30th — Mary Moisey, convicted May 31, 1871, of vagrancy; term six months; county of Albany.

Prisoner is a woman of general good character, and the wife of a respectable laborer and mother of several children. She was found intoxicated (it is claimed drugged) in the street, and sentenced for vagrancy. Her neighbors ask for her discharge, and the committing magistrate concurs.

August 30th — Henry Priddy, convicted January 18, 1871, of burglary, third degree, and petit larceny; term one year; county of Kings.

Recommended by Abraham Beal, agent of the Prison Association, after a personal investigation, and by the judge and district attorney. It seems clear that there was no felonious intent.

September 9th — Thomas Cassidy, convicted June, 1871, of breaking jail; term six months; county of Ulster.

Granted on application of judge, district attorney, sheriff, and other county officers. The punishment already suffered has been sufficient.

September 12th — John Nurtney, convicted February 9, 1871, of larceny from the person; term one year and six months; county of Albany. Also,

September 12th — Barney Vanderhoof, convicted February 9, 1871, of larceny from the person; term one year; county of Albany.

Recommended by judge and district attorney, who say that a conviction for simple petit larceny would have been more in accordance with the facts of the case. Both prisoners have heretofore borne a good character. They have been confined more than seven months.

October 16th — William P. Kennedy, convicted October 6, 1869, of assault to harm; term four years eleven months and twenty-nine days; county of Kings.

Recommended by district attorney, by Hon. Thomas Kinsella and by many other citizens. No motive was alleged for the assault, and the complainant, who was sole witness, was afterward shown to be a bad character and was imprisoned for a felony. The prisoner, on the other hand, as stated by the district attorney, was an industrious man and bore a good character. The district attorney says, "I am clearly of the opinion that Kennedy should be pardoned."

October 25th — George Crandall, convicted March 18th, 1870, of arson, fourth degree; term two years and three months; county of Seneca.

The physician to the penitentiary reports that the prisoner, a boy of seventeen years, is dying with consumption and can live but a few days longer. His friends wish to take him home to die.

November 21st — James Fitzhugh, convicted August 21st, 1871, of assault and battery; term six months and fifty dollars fine; county of Monroe.

Recommended by the committing magistrate and many others. Circumstances which have come to light since the trial establish the prisoner's innocence. The justice says, "I am now satisfied, from further developments, that the men assaulted were trying to rob the prisoner."

November 28th — Harietta Tyerry, convicted January 18th, 1871, of grand larceny; term one year and six months; county of Chautauqua.

Recommended by judge, district attorney, officers of the penitentiary, Hon. Lorenzo Morris, and many other citizens of the vicinity where the crime was committed. The prisoner's previous character

is shown to have been without blemish. She is an English woman of education and possesses ample means for her maintenance. Her mind is evidently unsound. The superintendent of the penitentiary reports that her health is very much impaired. Her friends will remove her to England, at once, upon her release.

November 28th — Michael Hughes, convicted July 25, 1871, of larceny; term six months; county of New York.

The prisoner, whose character has heretofore been good, took less than a ton of coal from his employers (The Lehigh Coal Company). The officers of that company and many other citizens now ask his release.

Commutations.

February 1st, 1871 — James H. Watson, convicted July 12, 1870, of petit larceny; term six months and $100 fine; county of Albany.

Commuted to six months and fifty dollars fine.

Recommended by the recorder of Albany and others. The prisoner has served the six months and nineteen days, and is able to pay only fifty dollars of the fine.

April 22d — William Kelly, convicted May 18, 1868, of robbery; term twenty years; county of New York.

Commuted to three years on application of prisoner's mother.

He was very young, and this was his first offense. Abundant testimony of previous good character is furnished. The sentence was unduly severe.

May 3d — Peter Hay, convicted March 18, 1869, of grand larceny; term four years and seven months; county of Kings.

Commuted to two years and six months.

Pardon recommended by Judge Troy, who imposed the sentence, and by other citizens. The prisoner is very young, and has always borne a good character. Two years and six months is sufficient punishment.

May 3d — John Lynch and James Hammond, convicted March 23, 1869, of burglary, third degree; term three years and six months; county of Oswego.

Commuted to two years and six months.

Recommended by the late district attorney (who procured the conviction), the present district attorney, the complainants and many citizens of Oswego county (the recorder, who imposed the sentence, being dead), on the ground of the youth of the prisoners, and their previous good character.

May 10th — David S. Downing, convicted September 15, 1865, of robbery; term ten years; county of Saratoga.

Commuted to seven years. Pardon was strongly urged in this case by the district attorney, by complainant, and many citizens, on the ground that the sentence was unduly severe. The application for pardon denied, but commutation granted.

June 5th — Robert A. Lee, convicted July 11, 1870, of attempted grand larceny; term two years; county of New York.

Commuted to one year. The prisoner admits his guilt, but it was his first offense. His family is left in very destitute circumstances by reason of his imprisonment. If the judge had known all the facts, he would have probably imposed the lowest penalty of the law, one year.

June 15th — George Williams, convicted August 10, 1867, of grand larceny; term five years; county of New York.

Commuted to four years and six months. Recommended by the complainant and many other citizens. The prisoner is in feeble health.

June 16th — Thomas Lynch or Hughes, convicted February 8, 1870, of burglary, third degree; term five years; county of Albany.

Commuted to one year and six months.

Pardon recommended by E. L. Fursman, Thomas Neary, and other citizens of Troy, where the prisoner lived. They, together with the superintendent of police, and others, certify to his former good character. The offence committed, though technically a burglary, was little more than larceny of a small amount, and might better have been so considered.

July 11th — Frederick Crandall, convicted June 20th, 1867, of arson, third degree; term seven years; county of Jefferson.

Commuted to five years.

The prisoner is an old man, and quite feeble, of previous good character, who is charged with having set fire to his own building to defraud an insurance company. His conduct in prison has been excellent, and his pardon, in view of his age and poor health, is urged by the officers of the insurance company which was interested, and also by the district attorney, and many citizens.

July 14th — Charles H. Newton, convicted April 14th, 1866, of robbery; term twelve years; county of Steuben.

Commuted to seven years.

Recommended by county judge, district attorney, complainant, and many others. The official reports state, that subsequent information in regard to the character of the prisoner, shows that the sentence was more severe than it would have been had the court been duly informed.

July 14th — William Manogue, convicted February 11th, 1868, of robbery; term nineteen years and three months; county of Erie.

Commuted to five years.

Granted on application of the prison officers, as a reward for saving the life of a keeper, who was attacked by other convicts.

July 14th — Alfred W. Alexander, convicted June 22d, 1869, of grand larceny; term three years; county of New York.

Commuted to two years and six months.

On condition that the prisoner shall leave the State, for New Orleans, where his parents, who will care for him, reside, within five days after his release. Prisoner was of former good character, and committed the offence when away from home, destitute of money.

July 14th — John Bixman, convicted January 20, 1870, of grand larceny; term two years and six months; county of Chautauqua.

Commuted to one year and six months.

Recommended by judge, district attorney, complainant, and many citizens. Prisoner is fifty-one years old, and has hitherto borne a good character, except that he was occasionally intemperate. He was led into the crime while under the influence of liquor.

August 1st — Francis Sullivan, convicted June 22d, 1868, of assault to kill; term seven years; county of Cayuga.

Commuted to three years and three months.

Recommended by judge, district attorney and the chaplain of the prison, on the ground that the sentence was too severe, and that his conduct in prison has been most exemplary. He has a father living in another State who will take him home and care for him.

August 26th — Michael Quinn, convicted December 22d, 1869, of burglary, first degree; term five years and three months; county of Broome.

Commuted to two years.

Recommended by all the prison officers as a reward for saving, at the risk of his own life, the life of a keeper who was attacked with a knife by another convict.

September 15th — Cassius M. Andrew, convicted January 29th, 1869, of forgery; term five years and three months; county of Erie.

Commuted to two years and eight months.

Granted on the application of Governor Fairchild, Senator Carpenter, Judge Lyon, Willard Merrill, and S. F. Potter, of Wisconsin, Rev. J. P. Rice and R. H. Tighe, of New Jersey, and many other respectable citizens of both States.

The prisoner entered the army when a mere boy, and was honorably discharged, but he had become demoralized by bad company and, while intoxicated, committed this his first offense. At the time of trial, the officials were not aware of the previous character and name of the prisoner and his antecedents. He belongs to an estimable family of Wisconsin.

October 3d — Joseph Lawrence, Lester White, Ira Lawrence and Nelson Lawrence, convicted March 14th, 1871, of assault to commit manslaughter; sentenced to pay a fine of five hundred dollars each; county of St. Lawrence.

Commuted to payment of a fine of three hundred and fifty dollars each.

Granted on recommendation of the judge who imposed the sentence, the district attorney, and many citizens. The prisoners are unable to pay the whole fine.

October 18th — James Connors, convicted January 30th, 1868, of robbery, first degree; term nineteen years and six months; county of Oswego.

Commuted to four years.

Recommended by Delos De Wolf, A. P. Grant, A. S. Page, and many other citizens of Oswego county; also by prominent lawyers, and by the members of the jury which convicted him. He did not belong to the criminal classes. This was his first offense, and the sentence was very severe. He has a family dependent upon him for support.

October 30th — Frederick T. Baker and William H. Kendall, convicted September 3, 1869, of burglary, third degree; term five years; county of Tioga.

Commuted to two years and six months.

Strongly urged by county judge, district attorney, and other county officers; also by Hon. T. I. Chatfield, W. Smyth, T. C. Platt, S. S. Truman, and many other citizens of Tioga county. Judge Balcom, who sentenced the prisoners, and the late district attorney who conducted the prosecution, also join in the recommendation.

November 2d — Henry W. Howe, convicted December 31, 1870, of seduction under promise of marriage; term two years; county of Niagara.

Commuted to one year.

Recommended by the judge and many members of the bar, and other citizens of Niagara county. This case did not call for severe punishment.

November 23d — Edward H. Philbrick, convicted June 18, 1868, of assault to rob; term seven years; county of Erie.

Commuted to four years.

Recommended by the district attorney and many reputable citizens. The prisoner's previous character was good, and he was very young when the offense was committed. The district attorney also states that, by a mistake, the sentence imposed was in excess of what the law allows.

November 28th — Seraphine Crevier, convicted October 20, 1871, of murder; sentenced to be hanged December 13th, 1871; county of Essex.

Commuted to imprisonment in Clinton prison during the term of his natural life.

The prisoner, while under the influence of liquor, became engaged in an affray with several persons. Who, originated the affray, does not clearly appear. While in pursuit of one of the parties, and under great excitement, he stabbed one of his friends, with whom he had had no quarrel, and toward whom he bore no malice. There seems to be in the case a lack of the deliberation or premeditation which would justify an infliction of the law's highest penalty. A commutation of sentence is recommended by Judge James, who presided at the trial, by the county judge, the associate justices, the jury, the coroner, the county officers, by Hon. Robert S. Hale, and a very large number of others, among the best citizens of Essex county. Indeed, there seems to be but one opinion as to the propriety of a commutation, in the neighborhood where the crime was committed.

The Supervisors of Essex county, by a formal and unanimous resolution, ask a commutation.

The district attorney says the prisoner's previous character was good.

December 2d — Charles Bloss, convicted June 17th 1869, of burglary; term five years, county of Onondaga.

Commuted to two years and six months.

Pardon recommended by the district attorney, by the mayor of Syracuse, by police justice Corbett, and many other citizens. The superintendent and chaplain of the penitentiary also strongly urged a pardon on the ground of good conduct and reformation of the prisoner and his feeble health.

He was very young at the time the offense was committed, and now seems to be reformed. The inspectors of the penitentiary formally recommend a pardon.

December 18th — John P. Newcomb, convicted January 10th, 1871, of attempt to commit grand larceny; term two years, county of New York.

Commuted to one year.

Recommended by the complainant and also by the county judge, district attorney, and other county officers of Rensselaer county, where prisoner formerly resided. The prisoner had always borne a good character before this offence.

Reprieves.

January 12th, 1871 — Walter Graham, convicted October 27th, 1870, of murder; sentenced to be hung December 21st, 1870; respited December 15th, 1870, until January 18th, 1871; county of Wayne.

Reprieved until February 1st, 1871.

Granted to allow time for settling a bill of exceptions.

February 14th — John Thomas (colored), convicted December 28th, 1870, of murder; sentenced to be hung February 17th, 1871, county of New York.

Reprieved until Friday, March 10th, 1871.

Granted to allow the prisoner to have his case reviewed on a writ of error.

August 29th — Isaac V. W. Buckhout, convicted July, 1871, of murder; sentenced to be hung September 1st, 1871; county of Westchester.

Reprieved until September 15th, 1871, to enable inquiry to be made into mental condition of prisoner. Drs. Gray, Mosher and White were directed to make an examination.

December 11th — James E. Kelley, convicted October 23, 1871, of murder; sentenced to be hung December 15, 1871; county of Erie.

Reprieved until January 12, 1872.

Granted to allow time for a further examination of the case.

December 11th — John Stephen Gemehle, convicted October, 1871, of murder; sentenced to be hung December 15, 1871; county of Erie.

Reprieved until January 12, 1872.

Granted on application of judge and district attorney, to allow prisoner to have his case reviewed on a writ of error, the Superior Court, in which conviction was had, doubting its power to grant stay of proceedings.

STATEMENT OF PARDONS AND COMMUTATIONS OF PUNISHMENT GRANTED BY THE GOVERNOR DURING THE YEAR 1872; COMPLETE TO FIRST OF DECEMBER.

Pardons — State Prison.

January 3d, 1872 — Joseph Campbell, convicted, January 3d, 1870, of arson, 3d degree; term five years; county of Rensselaer.

Strongly recommended by judge, district attorney, Edward Tracey, Rev. A. B. Whipple and many other prominent residents of the vicinity where the crime was committed. The judge and district attorney concur in saying that even if he was guilty, of which there seems to be considerable doubt, his punishment has been sufficient. His conduct in prison has been uniformly good.

January 5th — Stephen Fitzsimmons, convicted November 12th 1869, of robbery; term five years; county of New York.

Recommended by the complainant, also by Horace Greeley, Charles A. Dana, E. C. Salisbury and many other citizens. The prisoner, was a newsboy, aged sixteen, whose previous character had been good. The proof was not clear and grave doubts of his guilt are expressed. Immediate employment is offered to him.

January 12th — William G. Tripp, convicted January 12th, 1871, of burglary, 3d degree; term two years and six months; county of Otsego.

Recommended by county judge, district attorney and many citizens on the ground of extreme youth of the prisoner, and excessive punishment. In view of the nature of the burglary, and of what has since appeared to have been its purpose, the demands of justice seem to be met by the punishment already inflicted; and the boy has been taught, it is believed, a sufficient lesson.

January 18th — James Stuart Gwynne, convicted, February 19th, 1871, of bigamy; term five years; county of New York.

Upon the evidence in the case it is impossible to say that the verdict was not right; yet there is reason to believe that the prosecu

tion was aided, if not instigated, by parties who had private, rather than public, ends to accomplish. From the facts developed in the very voluminous papers submitted, a year's imprisonment would seem sufficient punishment, especially as the prisoner is in feeble health. Mr. Sullivan, the assistant district attorney who prosecuted the case, agrees that it is a proper one for executive clemency.

January 18th — John A. Hayes, alias John E. Hughes, convicted, November 28th, 1870, of burglary; term five years; county of Wyoming.

This was the prisoner's first offence, previous good character being shown. The prison physician reports that he is in the advanced stage of consumption, and has not long to live. Pardon is granted to allow him to be taken home to die.

February 2d — Patrick Riley, convicted January 12th, 1869, of arson; term ten years; county of Ulster.

Recommended by Hon. F. L. Laflin, E. C. Whittaker, and many other citizens of Ulster county. There is so much doubt of guilt in this case that a pardon is demanded by justice. The Judge (Hon. C. R. Ingalls) says: "I was not, at the time of the trial, entirely satisfied that Riley was guilty, and, if the statute had allowed, would have imposed a much more moderate sentence. He did not appear to me to be a bad man."

February 7th — George A. Phillips, convicted December 12th, 1870, of burglary and larceny; term one year and six months; county of Ontario.

Pardon strongly urged by the judge and district attorney, also by J. P. Faurot, H. O. Cheesbro, N. B. Briggs, and many others. The offense was rather an act of mere mischief than of criminal intent.

February 8th — George H. Corey, convicted October 27th, 1869, of grand larceny; term three years; county of Warren.

Recommended by county judge, district attorney and many others. The prisoner, who has served, allowing deduction for good conduct, all his term but four months, has received an injury in the prison and cannot, in the opinion of the physician, live out his term. His friends are ready to care for him, while he lives. Previous good character shown.

February 13th — William Okell, convicted July 5th, 1871, of receiving stolen goods; term five years; county of New York.

Recommended by the foreman and eight others of the jurors, also by G. Hilton Scribner, Secretary of State, D. C. Hays, Presidcn of the Union Bank of New York city; William B. Clarke, late president of the Board of Brokers; F. P. James, William M. Parks, H. F. Morgan, Homer Morgan, W. H. Hewitt, of Banks for Savings, Richard Schell, Henry G. Stebbins, Edmund H. Miller, Shepard Knapp, A. W. Greenleaf, M. A. Wheelock, Charles Jenkins and many others, bankers and brokers, most of whom have known the prisoner for many years, and who have examined the case and assert their belief in his innocence. One of the main witnesses, without whose testimony no conviction could probably have been had, was as it now appears, upon careful enquiry, unworthy of credit unless corroborated. He had been under arrest, and had made statements entirely at variance with those made at the trial.

Prisoner's case was prejudiced, no doubt, by his failure to appear as a witness on his own behalf. Hon. John Sedgwick (now Judge of the Superior Court), who was his counsel, writes as follows: "I was responsible for that, for I advised against it as I never knew such a want of power to convey in words a fact or an opinion. It was almost as bad as if he were inarticulate."

Prisoner is fifty-four years of age. His character has always been above suspicion. His health is poor, and the circumstances of his family are peculiarly distressing.

March 1st — John Reagle, convicted June 22d, 1871, sentenced Dec. 16th, 1870, of arson; term ten years; county of Erie.

The prisoner was twice tried, the first jury failing to agree. An important witness for the defense, who was sworn upon the first trial, was prevented by illness from appearing at the next. There is sufficient doubt of guilt to warrant a pardon, which is strongly recommended by Judges Barker and Marvin, of the Supreme Court, who presided at the respective trials, by the associate justices, by the district attorney and his assistant, by Senator Lewis, who was present at the trial, and by a very large number of respectable citizens of Erie county, comprising, as stated by the judges, district attorney and sheriff, almost every one of prominence or respectability in the neighborhood of the home of Reagle, and the place where the crime is alleged to have been committed.

These recommendations are founded upon the belief of the persons making them in the innocence of the prisoner. Judge Barker says that he believes the conviction was erroneous, and that Reagle is innocent. Judge Marvin says he would have been satisfied with

a verdict of not guilty and that a pardon ought to be granted. The associate justices, the district attorney, senator Lewis, and others, testify that the general impression is that Reagle is innocent and that this belief is entertained most strongly by those, lawyers and others, who were present at the trial as also by all who know the prisoner or are familiar with the evidence. The previous excellent character of Reagle is fully established.

March 2d — Thomas Conniff, convicted February 17th, 1870, of burglary, 3d degree; term two years and six months; county of New York.

It is the prisoner's first offence and his term has nearly expired. He is in the last stage of consumption, and pardon is granted to enable him to be cared for at home.

March 4th — Hugh McShane, convicted October 19th, 1870, of grand larceny, (confession); term three years; county of New York.

Recommended by the complainant, by Hon. Thomas Kinsella, Sinclair Tousey and others. Prisoner collected some money for his employer, fell into bad company, became intoxicated and spent or lost the money. He was indicted for grand larceny and pleaded guilty. His offence was, perhaps, in law, embezzlement; it clearly was not grand larceny, and the punishment imposed was excessive.

He had been for years in the service of his employer, serving him faithfully and honestly, and the same employer now offers to take him back and restore him to his old position.

March 8th — James McDermott, convicted December 23d, 1870, of burglary 3d degree, term two years and four months; county of Erie.

On condition that the prisoner be taken to the St. Joseph's College, Rhinecliff, New York, and remain under its charge during the unexpired portion of his sentence. McDermott was but fifteen years old when he committed the offense, and his pardon is now recommended by the Judge, district attorney, Rev. P. A. Maloy, and many other well known citizens of Buffalo.

March 18th — Michael Beck, convicted December, 3d 1866, of grand larceny, term eight years; county of Queens.

Recommended by Judge and District attorney, also by Elias J. Beach, Charles G. Covert, Francis McKenna, N. Wyckoff, Samuel Smith, H. M. Bliss, and many other citizens of Queens county.

The prisoner has served more than five years of his term and his conduct has been excellent. The prison physician says that Beck is, by nature, a man of small and feeble intellect and that he has been failing, both physically and mentally, for some time past. He is now very low in the Hospital, but might regain his health if restored to liberty. His parents, who are old and respected residents of Queens county, agree to send him immediately to the far west in charge of relatives.

April 30th — Nathan Tripp, convicted July 13th, 1868, sentenced Sept. 17th, 1869, of burglary and larceny, term seven years; county of Jefferson.

An examination of this case leaves a doubt of the prisoner's guilt. If guilty, the punishment already inflicted is, in view of previous good character, sufficient for the nature of the case. The district attorney who conducted the prosecution concurs in this view, and recommends a pardon, as do a very large number of leading citizens who are conversant with the circumstances of the case.

May 13th — Alonzo Green, convicted March 3d, 1871, of grand larceny; term two years and six months; county of New York.

Prisoner is insane and was at the time of the commission of the offense. He is released to enable his friends to place him in a private asylum.

June 3d — Andrew Blanchard, convicted, November 26th, 1870, of Bigamy; term, three years, county of Schenectady.

Recommended by the judge and district attorney, also by the county officers of Schenectady county and many others. The prisoner, whose previous good character is fully established, had separated from his first wife on a written agreement, and claimed that he believed he had a right to marry again. It is probable that he had no guilty intent, but violated the law through ignorance.

June 3d — David H. Anderkirk, convicted October 7th, 1871, of forgery; term one year; county of Cattaraugus.

Recommended by the judge and district attorney, also by the complainant and the citizens of the vicinity where Anderkirk lives and where the crime was committed. It is shown that the prisoner had always borne a good character, having never before been charged with any offense, and the nature of the case was not such as to demand much punishment, the amount of the forgery being trifling. His parents are old and feeble and dependent upon him for support.

June 8th — Patrick H. Shinness, convicted October 21st, 1861, of murder 2d degree; term life; county of Kings.

Strongly urged by all the prison officers, as also by the late officers of the prison and by many citizens. The prisoner has served nearly a fifteen year's sentence, allowing deduction for good conduct, and during all that time he has been conspicuous for his excellent conduct and for his service to the State, so much so, that for many years the successive boards of officers have urged his pardon upon that ground. It is believed that a pardon now, will beneficially affect the discipline of the prison by rewarding, in a notable case, unusual excellence of conduct.

June 8th — Patrick Toomey, convicted May 2d, 1871, of manslaughter 4th degree; term two years; county of New York.

Recommended by many well known citizens. The prisoner, a police officer, whose previous character was without stain, used more violence than was absolutely necessary in making an arrest, and the death of the person arrested, who had been very intemperate, resulted probably as much from his own diseased condition as from any thing else.

June 10th — David Silvernail, convicted December 14th, 1869, of burglary 3d degree; term three years; county of Onondaga.

Recommended by judge, district attorney and warden of prison. The prisoner has served all his time but two months, and is promised immediate employment if released now.

June 12th — Michael Monahan, convicted October 20th, 1871, of attempt to rape; term five years; county of New York.

It seems clear to the Governor, after a careful examination of the whole case, that the prisoner was not guilty. He had always been of good repute.

June 15th — Tracy P. Burdick, convicted November 9th, 1869, of forgery; term three years; county of Jefferson.

The prisoner has served, if deduction for good conduct be counted, all his term except twenty three days. His conduct in prison has been most exemplary and the prison officers recommend his pardon as do the complainant, sheriff and other officers of Jefferson county. Previous good character established.

June 15th — Harrison Stearns, convicted June 27th, 1870, of rape; term ten years; county of Clinton.

The prisoner, whose previous good character is shown, was convicted upon the unsupported testimony of a woman proved to have been of notoriously bad character.

June 18th — William Burns, convicted January 2, 1872, of burglary 3d degree; term one year and six months; county of New York.

Recommended by judge, district attorney and many reputable citizens. The prisoner, whose previous reputation was good, is very young and of weak mind, and was led into this offense by older persons. His mother is now very ill and in destitute circumstances.

June 24th — James Keenan, convicted June 26, 1870, of felonious assault; term ten years; county of New York.

The assault in this case was committed under great excitement, upon P. J. Meehan, an associate in the organization of which both were members. Meehan and many others now sue for prisoner's pardon. He has always been a peaceable and orderly man. His father, who lives in Ireland, is in failing health, and the prisoner is to leave the country immediately.

June 24th — Horace Jordan, convicted March 25, 1870, of grand larceny; term four years; county of Saratoga.

Recommended by the judge, the present and the late district attorney, the county officers of Saratoga county, the village officers of Saratoga Springs, the members of the bar and many prominent citizens. The district attorney says the sentence was greatly in excess of what the nature of the case called for. The prison officers speak very highly of the prisoner and recommended his pardon. He is in failing health, and longer confinement would be likely to endanger his life.

July 12th — George Weber, convicted March 27, 1872, of embezzlement; term one year; county of New York.

Granted in consideration of previous good character and on the urgent recommendation of the complainant, M. L. Schepp, whom illness prevented from being present at the trial, else the sentence would doubtless have been less severe, if not altogether suspended. The prisoner was in the tombs thirty days before trial, and has been sufficiently punished.

July 12th — Lemuel Ross, convicted, May 30th, 1871, of arson 3d degree; term four years; county of Westchester.

Recommended by the Chief of Police, other village officers and many leading citizens of Sing Sing, where the offence was alleged to have been committed, who assert their firm belief in the innocence of the prisoner. He was convicted at a time of much excitement about fires, and there is great doubt now of his guilt.

July 12th — Jeremiah McDaniels, convicted January 25th, 1861, of burglary 1st degree, and burglary 3d degree (2 indictments). Term twenty years and three and one half months; county of Orange.

Personal examination at the prison. Upon a careful examination there seems to be no error in the record. If there be none, the sentence was in excess of what the law authorized. If the sentence had been fifteen years, the prisoner would have gained his discharge by good conduct, before this time. His conduct has been exemplary during his more than eleven years of imprisonment.

July 12th — Thomas Goss, convicted, October 27th 1871, of burglary, term five years; county of Onondaga.

Recommended by judge, District attorney, and many officials and citizens of Onondaga county; a careful examination of the case leads to the belief that the prisoner was not guilty.

July 29th — Dominick Helms, convicted, December 2d, 1865, of robbery 1st degree. Term fourteen years and six months; county of Ulster.

Recommended by Hon. J. H. Tuthill, and many other residents of Ulster county. Circumstances have come to light, since the trial, which throw strong doubts on the prisoner's guilt and which if shown on the trial, might have secured his acquital. The judge concurs in this view of the case and recommends a pardon.

July 29th — Martha West, convicted, May 26th, 1870, of grand larceny, term four years; county of New York.

Recommended by O. L. Swift, O. Stillman, W. H. Bartlett, G. D. Bemus, and many other prominent citizens.

The prisoner's health is failing, and her conduct in prison has been unexceptional.

Her offence was stealing a silk dress, and the more than two years imprisonment already suffered seems enough.

August 3th — John Konavan and Patrick McCarthy, convicted, January 2d, 1872, of grand larceny, term one year; county of New York.

Pardon applied for by Judge Ingraham, who presided at the trial, and who states that circumstances, disclosed since the conviction, make it probable that it was a case of mistaken identity and that the prisoners were innocent.

August 21st — John Kelly, convicted, June 28th, 1871, of manslaughter, 2d degree; term five years; county of Kings.

Recommended by judge and district attorney. An examination of the testimony before the coroner's jury makes it clear that the prisoner should not have been convicted. He had no trial but was advised to plead guilty and did so plead.

August 21st — Thomas Howard, convicted, January 8th, 1866, of burglary, 1st degree; term fifteen years; county of New York.

Granted on special application of Dr. Dimon, physician of Auburn Prison. Prisoner is ill with tubercular consumption and cannot recover. He has already been confined more than six and a half years. Complainant unites in the application for pardon.

August 23d — John Daly, convicted, December 16th, 1870, of burglary, 3d degree; term three years and six months; county of Chemung.

Recommended by the county judge, the present and the late district attorney, by Hon. Lucius Robinson, Hon. William T. Post, Hon. John Murdock, Hon. E. P. Hart, James Dunn, F. H. Atkinson and other leading citizens who are familiar with the facts in the case. It appears from the papers and testimony in this case that the offense (technically burglary) was not committed with intent to steal. The prisoner, during an altercation with a relative, forced his way through a closed door, for the purpose of assaulting him. The offense committed grew out of a family feud, and the year and eight months for which he has already served is a sufficient punishment.

September 6th — William H. Stearns, alias George A. Abbott, convicted, April 21st, 1871, of forgery, 3d degree; term three years and six months; county of New York.

Recommended by Rev. Dr. S. I. Prime, Charles Tracy, Esq., John C. Havermeyer and others. The prisoner was confined twenty-one months in the city prison before his sentence. The police au-

thorities speak well of his character prior to this offence. He disclosed valuable information before his conviction and for this leniency was promised him. His health is very poor.

September 13th — Charles Johnson, convicted, March 28th, 1872, of grand larceny; term three years and six months; county of Washington.

Recommended by judge, district attorney, sheriff, and other county officers and prominent citizens, on the ground of doubt as to prisoner's guilt.

September 14th — Frederick Schaffer, convicted, October 20th, 1865, of murder, 2d degree; term thirty years; county of Erie.

Judge Daniels, who presided at the trial, applies for Schaffer's pardon, and states the facts in the case which show quite clearly that the crime committed was manslaughter, not murder.

The judge, in imposing sentence, promised the prisoner favorable intervention of the authorities, if his conduct in prison should be good. It has been good, his health is very poor, and he has now (allowance being made for good conduct) suffered the longest term of imprisonment prescribed for manslaughter.

October 2d — John McGuinness, convicted, March 21st, 1871, of grand larceny; term three years; county of New York.

District Attorney Garvin writes, "from various things that have come to my knowledge lately, I am inclined to think him innocent and, for that reason, recommend his pardon." His conduct in prison has been excellent.

October 2d — William Tully, convicted, March 26th, 1872, of grand larceny; term four years and nine months; county of New York.

Application for pardon is made by the Adams Express Company who were the complainants, and prisoner's employers. He had, until in this instance he yielded to a great temptation, been faithful and honest. Immediate employment is promised him. Application granted in consideration of this, and of prisoner's youth and former good character.

October 2d — Charles Linden, convicted October, 1865, of robbery; term fifteen years and eight months; county of Niagara.

The prisoner has, by continued good conduct, enlisted the interest and sympathy of the agent and warden of the prison. This was his

first offense. He has already had a very severe punishment. He has learned a trade and there is good reason to believe he will follow it industriously, if a pardon is granted. His aged mother will take him to her friends in the west.

October 12th — Philip Sheridan, convicted March 2d, 1870, of arson, 3d degree; term three years and six months; county of Queens.

Examined personally at the prison by the Governor.

The prisoner is an old man in the last stage of consumption. Pardon is granted that he may be taken in charge by his family.

October 12th — James Lane, convicted October 20th, 1870, of rape; term ten years; county of New York.

Prisoner was convicted on the unsupported testimony of a woman who very soon afterwards was herself convicted of larceny and sent to the penitentiary. There is so much doubt of guilt as to call for a pardon.

October 12th — Francis C. Kenyon and John Laughlin, convicted March 11th, 1869, of robbery and larceny from the person. Kenyon's term nine years and six months. Laughlin's term five years and six months; county of Onondaga.

Recommended by judge, district attorney, warden of prison and many others. The complainant, upon whose testimony prisoners were convicted, was afterwards shown to be entirely unworthy of credit.

October 15th — Matilda C. Seeley, convicted October 21st, 1870, of grand larceny; term two years and six months; county of New York.

The prisoner, formerly a woman of position and character, and of more than usual accomplishments, is now, mentally and physically, a wreck. Her term has nearly expired and the "Isaac T. Hopper Home," through Mrs. Catharine E. Van Cortlandt, offer to take care of her if she is pardoned.

October 23d — Leonard Harrington, convicted February 1st, 1871, of grand larceny; term two years and six months; county of Erie.

Granted on application of judge, district attorney and many others, on the ground that they are now satisfied the sentence was too severe

in view of the nature of the case and the circumstances surrounding it; the prisoner's previous reputation was unexceptional.

November 2d — Charles Pike, convicted, March 13th, 1871, of assault with a dangerous weapon; term two years; county of Rensselaer.

Recommended by the district attorney and leading citizens of Troy, where prisoner lives. It was a first offense and pardon is granted that the prisoner may obtain work (which is promised him) before the winter sets in, and thus contribute to the support of his mother, a widow. His term would expire in January.

November 2d — George Banks, convicted, October 18th, 1871, of grand larceny; term five years; county of New York.

Granted on application of the district attorney and Dr. Moreau Morris, in consideration of the youth and extreme ill health of the prisoner whose life would be endangered by long confinement. He will, at once, leave for England with his mother.

November 2d — James Patterson, convicted, June 23d, 1865, of murder 2d degree; term life; county of Jefferson.

Personal examination at the prison. Pardon recommended by Judge Mullin, who presided at the trial, by Lieut. Gov. A. C. Beach and by many others. Prisoner, under advice of counsel, pleaded guilty. He was a private soldier in the United States army, and, during a fracas in Watertown, by order of his superior officer, (one Meagher) he fired the shot which killed the deceased. He had taken no part in the fracas, but supposed he was bound to obey the order of his commanding officer. The officer who gave the order was tried and convicted only of manslaughter in the fourth degree, and was sentenced to two years imprisonment. After he had served about one year, he was pardoned by Governor Fenton on the recommendation of Major General Dix, Bradley Winslow and others. It is unjust that the private soldier, who simply obeyed his order, should suffer longer imprisonment.

November 7th — William Norton, convicted, October 10th, 1870, of petit larceny from the person; term five years; county of New York.

The sum taken was seventeen dollars. This was a first offence, the prisoner having always borne a good reputation. Pardon is granted on recommendation of prison authorities for conspicuous

fidelity and faithfulness to duty during the late revolt. He will be at once taken to England by his friends, where his parents are able and willing to care for him.

November 13th — James R. Lee, convicted, April 22d, 1870, of burglary; term five years; county of Duchess.

Personal examination by Governor at prison. The presiding judge, the district attorney who prosecuted the case, and the present district attorney, all concur in saying that they now think Lee should not have been convicted and ought to be pardoned.

A careful examination on my own part leads to the belief that the conviction was erroneous.

November 18th — Rufus B. Stillman, convicted, October 24th, 1871, of forgery, term two years; county of Cortland.

Recommended by judge, district attorney and sheriff of Cortland county, also by the late Hon. John A. Griswold of Troy, in whose employ the prisoner had been, and many others who speak in high terms of his general reputation, which had been unblemished until the commission of this offense.

He was made intoxicated and while in that condition, was induced by another person to utter a forged check. He has a sick wife and several children without means of support. His punishment has been sufficient.

November 18th — John Connolly, convicted, March 9th, 1871, of burglary 3d degree, and petit larceny; term three years; county of Rensselaer.

The property stolen was valued at eight dollars. The evidence would not seem to have warranted a conviction. The prisoner, however, pleaded guilty. He was a mere lad and the district attorney says that, on careful enquiry, he has learned that the plea was made with the understanding that he would be sent to the House of Refuge but that the district attorney (now dead) probably overlooked it and the boy was sent, instead, to prison for three years, more than half of which time he has served. Messrs. Warren, Colby, McConihe, Gleason, McKeon and others of Troy unite in the application for pardon. The detective who made the arrest says he knows nothing against the prisoner's previous character.

November 19th — William Disbrow, convicted, September 18th, 1866, of burglary 1st degree; term ten years; county of Montgomery.

Recommended by judge, district attorney, and complainant, also by Rev. W. Frothingham and other prominent citizens of Montgomery county. Prisoner pleaded guilty and gave valuable information to the authorities under assurance of clemency. The sentence of one associate was commuted by Governor Fenton. Another to whom a new trial was granted by the Court of Appeals, was released. Prisoner's conduct in prison has been excellent and he seems thoroughly reformed. Immediate employment is offered him.

November 22d — Joseph Eden, convicted, September 5th, 1870, of arson 2d degree, and robbery; term twelve years; county of Queens.

The prisoner became insane shortly after his conviction and was transferred to the asylum for insane convicts, where he has since remained. The prison authorities recommend a pardon, as does Dr. Wilkie, Superintendent of the asylum, who says that the prisoner has partially recovered but that, if he remains in confinement, it is to be feared that he will relapse into his former condition; that of a raving maniac. The prisoner has a brother in Colorado who is able and willing to properly care and provide for him. He will be taken there at once.

November 25th — Paul Smith, convicted, November 21st, 1870, of forgery 3d degree; term five years; county of New York.

The prisoner is a young man of previous good character. He confessed his guilt and received a severe sentence. His conduct in prison has been good. His parents in Germany are respectable people and able to care for him. His mother is ill and cannot long live. Oswald Ottendorfer, his former employer, solicits the pardon and promises to send him home to Germany by the next steamer.

November 26th — William Brown, convicted, April 12th, 1872, of grand larceny; term one year; county of New York.

Granted on petition of the sister of the prisoner, concurred in by many citizens. Previous good character shown. The prisoner's mother, on a recent visit to the prison to see her son, just after leaving him, was run over by the cars and killed. His health is poor and he suffers under great depression caused by his mother's death. It is believed, that, if he is discharged he can be cured and reclaimed. Mr. Robert Turley, machinist, offers him immediate employment.

Pardons — County Jail and Penitentiary.

January 2d — Marx Levy, convicted December 23d, 1871, of indecent assault; term two months and $50 fine; county of New York.

An examination of the case shows the prisoner's guilt to be doubtful. No conviction should have been had. Previous good character is established.

January 3d — Charles W. Traver, convicted February 14th, 1870, of burglary, 3d degree; term five years; county of Ulster.

Granted on recommendation of Gen. Amos Pilsbury, Superintendent of the Penitentiary, who says that the prisoner is dying with consumption and that he can live but a few days. His mother is anxious to take him home, and care for him while he lives.

January 4th — Charles Garrippi, convicted December 1st, 1870, of assault and battery; term three months; county of Oneida.

The prisoner is very ill, and longer confinement would endanger his life.

January 12th — William Rockwell, convicted January 3d, 1872, of assault and battery; term six months; county of Monroe.

Granted on application of the committing magistrate, county judge and other county officers, and the mayor and other city officers of Rochester. The nature of the assault was so trivial that no imprisonment should have been imposed. Previous good conduct shown.

January 13th — Isaac Bauman, convicted November 14th, 1871, of indecent assault and battery; term one year; county of New York.

An examination of the evidence and the officers' reports in this case, makes it apparent that the conviction was erroneous and the prisoner innocent. Previous good character established.

February 16th — Marcus Francis, convicted February 3d, 1872, of petit larceny; term sixty days; county of Ontario.

Granted at the request of the committing magistrate, county judge, district attorney and many citizens. There was no felonious intent, and no conviction should have been had.

February 19th — James Martin, convicted January 19th, 1871, of burglary, 3d degree; term four years, eleven months and twenty nine days; county of Kings.

The penitentiary physician says that the prisoner has valvular disease of the heart, and will not live in prison, but that he may recover, if removed. The judge and district attorney recommend a pardon on the merits of the case, without reference to the prisoner's illness.

The judge says that, if he had known all the facts at the time of trial, the sentence would have been much lighter. Previous good character is shown.

February 20th — John Qualey, convicted December 20th, 1871, of assault and battery; term eight months; county of Erie.

Granted on application of the physician to the penitentiary who says that the prisoner is very low with typhoid fever, and cannot live unless released at once. The penitentiary hospital is not finished and the convict is, therefore, of necessity, kept in the cell. The judge concurs.

March 21st — John Bell, convicted March 1st, 1871, of larceny; term two years; county of Erie.

Recommended by the district attorney, the complainant, Hon. D. N. Lockwood, Hon. George H. Pendleton, of Ohio, and others. There is no doubt that prisoner was led into this trouble by bad company. He was a stranger in the city, but seventeen years of age. Had evidence been produced to indicate his former character, the sentence would have been less severe.

He has served half his term; sufficient for the nature of the case; and his conduct has been excellent. His relatives will take him to Ohio and prepare him for business.

April 2d — James Emery, convicted October 24th, 1871, of manslaughter, 4th degree; term one year; county of Erie.

Recommended by the mayor of Buffalo, by the prosecuting district attorney and his assistant, by the physician to the penitentiary and by many citizens. The homicide was the result of an accident, and the prisoner is rapidly failing in health.

April 15th — Michael Melig or Melia, convicted December 9th, 1871, of petit larceny; term six months; county of New York.

There is some doubt of guilt in this case and the official reports show that the prisoner had always been a hard-working, honest man. In view of his good character, even if guilty, he has already been punished enough.

May 8th — Dennis Brady, convicted March 7th, 1872, of assault and battery; term three months; county of New York.

The offense was a very trival one, and did not demand much punishment. The prisoner was an old friend of the complainant who now asks for a pardon. Recorder Hackett, before whom conviction was had, recommends clemency.

May 22d — Seth Wilbur Payne, convicted March 9th, 1872, of libel; term four months; county of Oneida.

Granted on recommendation of Judge Doolittle against whom the libel was uttered; also recommended by many leading citizens; previous good character is shown, and a full and satisfactory retraction is made.

June 1st — Maurice Flanahan, convicted May 18th, 1870, of grand larceny; term four years, eleven months and 29 days; county of Kings.

Recommended by the district attorney and the complainant; previous good character is shown. The prisoner's health is rapidly failing, and longer confinement would endanger his life.

June 1st — Henry Donohue, convicted September 14th, 1870, of burglary, 3d degree; term four years, eleven months and 29 days; county of Kings.

The prisoner is very low with consumption, and is pardoned that he may be taken home to die. He was under sixteen years of age when convicted.

June 15th — John Coleman, convicted April 4th, 1872, drunkenness; term three months; county of Tompkins.

The prisoner has served all his term but twenty days; he is in the last stage of consumption, and the physician of the penitentiary reports that he cannot live out his term. His parents desire to take him home to die.

July 12th — Frederick D. Gritman, convicted May 27th, 1872, of assault and battery; term six months; county of Westchester.

The sentence was too severe for the nature of the case. The family of the prisoner is in very destitute circumstances.

July 29th — Charles Vroman, convicted June 25th, 1872, of assault and battery; term three months; county of Schoharie.

Recommended by the committing magistrate, also by Hon. S. L. Mayham and many other prominent citizens of Schoharie county. The prisoner is a colored boy only twelve years of age.

The sentence was clearly excessive. The justice says he would have sentenced him for fifteen days, but for the fact that he could not be sent to the penitentiary for a less period than three months.

August 5th — Harry Willard, alias Harry William, convicted January, 1871, of grand larceny; term four years; county of Albany.

The prisoner is partially insane, and pardon is granted on condition that he be taken to his home in Ohio by his mother, and properly cared for.

August 5th — Franklin Wheeler, convicted June 24th, 1871, of grand larceny; term two years; county of Oswego.

The offense committed, hardly constituted grand larceny. Two accomplices, equally guilty, were tried later and only fined thirty-five dollars. The prisoner has served more than half his term, and his conduct has been good.

Angust 21st — Harry Haywood, convicted June 27th, 1872, of petit larceny; term four months; county of New York.

Granted on application of complainant. The property taken was worth four dollars. It is doubtful whether, in law, it was larceny at all. The boy was of previous good character and was in the city prison for six weeks before trial. His punishment, in any view of the case, was excessive.

September 9th — Edward Kelly, convicted May 21st, 1872, of assault and battery; term six months; county of Albany.

It appears from the facts submitted that the party assaulted was as much at fault as the prisoner.

The prisoner has a family dependent upon him for support. Messrs. H. Q. Hawley and Sons bear testimony to his previous good character, and agree to give him regular employment upon his release.

September 13th — Barney McManama, convicted July 24th, 1872, of assault and battery; term six months and fifty dollars fine; county of Onondaga.

The prisoner's innocence is established by affidavit, and by letters from the county judge and the police justice.

October 4th — Andrew Connolly, convicted June 1st, 1872, of having in his possession a dangerous weapon; term six months; county of New York.

The prisoner was never in any difficulty before, and his previous character is shown to have always been good. There is not the slightest evidence that he intended to use the weapon.

October 28th — John Williams, convicted January 7th, 1859, of burglary, 3d degree (two indictments); term six years; county of Albany.

On condition that he leave the State, immediately in charge of his friends.

Granted on application of the district attorney, detective Hale and many others. The prisoner has served more than half his term and has been in the hospital for more than a year past with a diseased collar bone. He has a brother in Cincinnati, who will take care of him.

October 29th — Richard Kinney, convicted May 7th, 1872, of outraging public decency; term one year; county of Albany.

Prisoner's health is very poor, and pardon is granted that his friends may properly care for him.

November 11th — John F. McPaul, convicted January 2d, 1872, of grand larceny; term one year; county of New York.

An examination of the testimony in this case shows great doubt of the prisoner's guilt. He ought not to have been convicted. Judge Ingraham, who presided at the trial, says he was not satisfied with the verdict: that he imposed the shortest sentence allowed by the law, and that he thinks the case deserves the favorable consideration of the Governor.

Commutations.

January 3d — Jacob Jackle, convicted, January 20th, 1870, of receiving stolen property; term three years and six months; county of Chautauqua.

Commuted to two years.

Pardon recommended by Police Justice McDonough, John S. Russell and many leading citizens of Dunkirk where the offence is alleged to have been committed. The principal in the affair, on whose testimony alone the prisoner was convicted, served only one year and six months. The prisoner had always borne an unblemished character and, if guilty, of which some doubt is expressed, two years imprisonment is enough.

January 3d — William Roach and Patrick Quinlan, convicted, March 26th, 1867, of robbery, 1st degree; term ten years and three months; county of Niagara.

Commuted to five years.

Pardon recommended by Hon. George D. Lamont, Justice of the Supreme Court, who sentenced the prisoners; also by Rev. Hugh Mulholland, Hon. Richard Crowley, United States District Attorney, the city officers of Lockport, the county officers of Niagara county and by many prominent citizens. Previous good character is shown and, under all the circumstances, five years is enough punishment for this case. Judge Lamont, under date of November 26th, 1870, says, "I hope you may see it in the line of your duty to pardon them."

January 4th — James E. Kelly, convicted, October 23d, 1871, of murder, sentenced to be hanged December 15th, 1871, respited December 11th, 1871, until January 12th, 1872; county of Erie.

Commuted to imprisonment for life.

Recommended by judge, district attorney and jurors, also by Judge Sheldon, Senator Lewis, Joseph Warren, Dr. Rochester, Dr. Elisha Harris and very many citizens of Buffalo. The murder was committed without any apparent object or motive. The deceased was a perfect stranger to Kelly; they had had no difficulty of any kind. Kelly had been drinking for many days, if not weeks. Up to the time of the commission of this crime he had borne a good character; was a quiet, peaceable man.

The judge says that, in his opinion, a conviction of manslaughter would have been much more consistent with a proper understanding of the testimony than was the conviction of murder. He says further, "I am of the opinion that the sentence should be commuted." The district attorney and the jury concur in this.

February 15th — Nelson M. Knickerbocker, convicted June 29th, 1869, of burglary; term five years; county of Saratoga.

Commuted to two years and eight months.

The prisoner was of previous good character, and it is claimed that he is innocent of the charge of which he was convicted.

Without entering into that question, however, the punishment, as commuted, is sufficient under all the circumstances. The prisoner's health has become very much impaired and the prison officers earnestly urge his pardon, in which the judge and district attorney concur, as do also many other officials and citizens.

March 13th — Thomas McGrath, convicted December 13th, 1871, of assault and battery; term three months and $150 fine; county of Rensselaer.

Fine remitted.

The prisoner's term has expired, and he is unable to pay the fine. Its remission is recommended by the sheriff of Rensselaer county and by other citizens.

March 28th — Thomas Waters, convicted December 17th, 1867, of assault to kill; term eight years and eight months; county of Albany.

Commuted to five years and two months, with the further deduction allowed by law for good conduct in prison.

Recommended by the judge, the district attorney who procured the conviction, Hon. Henry Smith, the chief of police of Albany, and many others. It was the prisoner's first offense and the sentence was, under all the circumstances, severe. He is now threatened with insanity by reason of his confinement, and the prison physician thinks that, unless soon released, his insanity will become permanent, while, if released, he will recover and be able to support his family.

April 6th — Asa Armstrong, convicted May 11th, 1870, of assault to do bodily harm; term four years; county of Monroe.

Commuted to two years.

Pardon recommended by judge, district attorney and many reputable citizens of Rochester. The prisoner had always borne an excellent character and committed the offense while in a state of intoxication and at the instigation of others. Mr. James H. Kelly offers to furnish him employment at once, upon his release.

April 9th — Herman Voss, convicted December 7th, 1870, of forgery 3d degree; term three years; county of New York.

Commuted to one year and six months, with further deduction allowed by law for good conduct in prison.

Pardon recommended by complainant, district attorney and prison officers. The prisoner had always borne an irreproachable character and it is probable that he was not aware of the crime he was committing. His health is very feeble and the officers say that if he remains in confinement he will probably not live out his term. He has a home and friends in Germany, who have sent him money to enable him to return to them; which he will do immediately upon his release.

June 1st — Michael Dwyer and Charles Manahan, convicted, December 17th, 1870, of larceny from the person, term two years and six months; county of Onondaga.

Commuted to one year and six months.

Pardon recommended by the judge, by the present and the late district attorney, by Hon. Thomas G. Alvord, Col. J. M. Strong and very many other well-known citizens of Syracuse, where the crime was committed and where the prisoners live. The judge says it is doubtful whether there was any criminal intent. A small amount was taken from a companion in the day time when they were all intoxicated.

June 8th — John Maxwell, convicted, April 30th, 1872, of murder, sentenced to be hung June 21st, 1872; county of Madison.

Commuted to imprisonment for life.

The prisoner was found guilty with a written recommendation by the jury to mercy. The judge recommends a commutation, as do many citizens. The circumstances of the case are such, as not to call for the highest penalty of the law.

June 11th — Eugene A. Perry, convicted, September 21st, 1866, of grand larceny (three indictments); term thirteen years; county of Onondaga.

Commuted to seven years with further legal deduction for good conduct in prison.

Judge Mullin, who imposed the sentence, the district attorney who prosecuted the case, and many leading citizens of Syracuse recommend clemency on the ground that the punishment was greater than the circumstances of the case demanded.

June 11th — Zenas A. Gates, convicted, October 5th, 1869, of burglary, 2d degree; term five years; county of Cattaraugus.

Commuted to three years.

Pardon strongly recommended by judge and district attorney, also by a large number of leading citizens of Cattaraugus County.

The offense was not an aggravated one, and a lighter punishment would have been sufficient. The prisoner does not belong to the criminal class, and he has a helpless family dependent upon him for support.

June 11th — Arthur Quinn, convicted August 8th, 1871, of grand larceny; term two years and six months; county of New York.

Commuted to one year.

Recommended by the complainant and many citizens. The prisoner had always borne a good character and committed this offense while under the influence of liquor. His employer, against whom the offense was committed, says he has known Quinn from infancy and that he was always an honest, hard-working boy; that this was his first offense, and that it was due entirely to intoxication.

June 11th — Edward Malcher, convicted December 16th, 1870, of forgery, 3d degree; term three years; county of Onondaga.

Commuted to one year and six months.

The judge and district attorney unite with many citizens of Onondaga county in recommending a pardon in this case. The prisoner, a young man of good connections who had never before been charged with any offence, forged an order for twenty dollars. The judge says "I recommend the pardon of Edward Malcher on the ground that the offense was not very serious in its character, and that he has been sufficiently punished."

June 12th — Luke Coniff, convicted December 15th, 1871 of, rioting; term six months and $200 fine; county of Rensselaer.

Fine remitted.

Recommended by the judge and district attorney, also by many citizens of Greenbush, where the offense was committed, including those who were active in procuring the conviction. The prisoner has no means with which to pay the fine.

June 12th — Anthony McCoy, convicted August 10, 1865, of robbery, 1st degree; term fifteen years and six months; county of Livingston.

Commuted to eight years, with further legal deduction for good conduct in prison.

Recommended by the judge and by many citizens, also by the agent and warden of the prison, and by all the prison officers on the ground of the unusual excellence of the prisoner's conduct during his imprisonment. The sentence was a very severe one, and the two associates of McCoy were commuted to seven years and six months each and are now at liberty. His previous character is shown to have been good.

June 10th — Thomas Golden, convicted May 18, 1866, of robbery; term ten years; county of New York.

Commutted to seven years and six months, with further legal deduction for good conduct in prison.

Granted on recommendation of the prison officers on account of the unusual excellence of the prisoner's character and conduct in prison, and with a view to encourage and promote like conduct in other prisoners.

June 15th — James Sewall, convicted October 11th, 1871, of murder; sentence death on warrant of the Governor (chapter 410, Laws of 1860); county of Clinton. Also,

June 15th — Marion L. Hall and Patrick Brady, convicted February 8th, 1852, of murder; sentence death on warrant of the Governor (chapter 410, Laws of 1860); county of Clinton. Also,

June 15th — Moses Lowenberg, convicted January 4th, 1862, of murder; sentence death on warrant of the Governor (chapter 410, Laws of 1860); county of New York. Also,

June 15th — Harvey Doane, convicted April 11th, 1862, of murder; sentence death on warrant of the Governor (chapter 410, Laws of 1860); county of Madison.

Each of the five above named convicts commuted to imprisonment for life. The law under which they were sentenced was soon after-

ward repealed and no Governor has deemed it proper to issue the warrant for their execution. Commutation to life is now granted to make the punishment definite, and in form what it is in fact.

June 17th — Clay Matthews, convicted January 13th, 1870, of robbery; term seven years and three months; county of Fulton.

Commuted to two years and six months.

Recommended by Judge James, who presided at the trial of the prisoner, whose previous good character is fully shown. At the most, the offense was not of such a character as to demand so severe a punishment.

June 17th — Virgil A. Krepps, convicted March 30th, 1869, of assault to kill; term eight years and seven months; county of Kings.

Commuted to four years, with further legal deduction for good conduct in prison.

Pardon in this case was recommended by the district attorney, the complainant and many reputable citizens.

The prisoner had always borne an excellent character and at the time of this offense was laboring under great excitement, amounting almost to insanity.

June 19th — Frank Miller, convicted July 10th, 1871, of grand larceny; term two years; county of Montgomery.

Commuted to one year.

Pardon recommended by judge, district attorney, county officers of Montgomery county and many leading citizens. The prisoner, whose previous character had been good, committed a technical larceny while intoxicated. It was not an aggravated case, and one year's imprisonment is enough.

June 20th — Arthur Brooks, convicted June 24th, 1871, of grand larceny; term two years; county of Oswego.

Commuted to one year.

Recommended by the judge and county officers of Oswego county, also by all the leading citizens of the town in which the offense was committed, and where prisoner lived. The offense was not an aggravated one, and previous good character is shown. The presiding judge says that he wished only to impose a sentence of one year, but was overruled by his two associate justices.

June 24th — William Powers, convicted October 20th, 1863, of burglary 1st degree; term twenty years; county of Kings.

Commuted to eleven years and six months, with further legal deduction for good conduct in prison.

Granted on recommendation of the prison officers in consideration of the unusual excellence of the prisoner's conduct, and in the belief that a thorough reformation has been made in his character.

June 24th — John Nicholson, convicted October 13th, 1868, of robbery; term five years; county of Erie.

Commuted to four years and six months, with further legal deduction for good conduct in prison.

This deduction of six months from the sentence imposed by the court is made on the recommendation of the complainant, the chaplain of the prison and others, in consideration of the excellent conduct in prison, and the apparent reformation of the prisoner.

June 29th — Robert Anderson, convicted February 11th, 1868, of robbery; term ten years and three months; county of Erie.

Commuted to five years and six months, with further legal deduction for good conduct in prison.

Granted on application of Allen Ross, agent and warden of the prison, for unusual excellence of conduct during his imprisonment, and especially for marked services in sustaining the officers during the late revolt. A reward for such services is beneficial to the discipline of the prison.

September 6th — Frederick Strubby, convicted Oct. 17th, 1871, of embezzlement; term three years and six months; county of New York.

Commuted to one year, with further legal deduction for good conduct in prison.

Recommended by Christian Schwarzwaelder, Oswald Ottendorfer, and other well known citizens of New York city. The complainant also asks for the pardon of the prisoner, and testifies to his good character previous to this offense. The prisoner has a large and helpless family dependent upon him for support. The circumstances of the case did not demand so severe a sentence.

September 11th — Austin Looker, convicted October 15th, 1871, of burglary and petit larceny; term two years; county of Oswego.

Commuted to one year, with further legal deduction for good conduct in prison.

Recommended by judge and district attorney, also by the county officers of Oswego county and by Hon. Delos DeWolf, Willard Johnson and many other prominent citizens.

The prisoner, a youth, was led into this, his first offense, by an older associate who escaped punishment. Had the facts, which have since come to light, been made known on the trial, a shorter sentence would have been imposed. The parents of the prisoner are able and willing to take care of him.

October 12th — Henry Allen, convicted April 11th, 1871, of burglary, 3d degree; term four years and six months; county of New York.

Commuted to two years, with further legal deduction for good conduct in prison.

Granted on application of Rev. E. McGlynn, of St. Stephen's Church, New York city, in consideration of the prisoner's youth, his previous good character, and the fact that he was acting under the influence of an older and stronger minded man in attempting to commit the crime, which attempt was not successful.

October 12th — Charles E. Strotter, convicted December 19th, 1871, of grand larceny; term two years and six months; county of New York.

Commuted to one year, with further legal deduction for good conduct in prison.

Granted on application of Senator Weissman, W. S. Yard, Julius W. Geyer, Nicholas Schults, Henry Clausen, Henry W. Nieman and many other prominent citizens and business men of New York. The prisoner has always borne an excellent character. In view of his youth, punishment of one year is sufficient.

October 15th — Michael Powers, convicted June 19th, 1871, of grand larceny; term four years; county of New York.

Commuted to one year and six months, with further legal deduction for good conduct in prison.

Recommended by the district attorney, who prosecuted the case, who now furnishes satisfactory evidence that the prisoner, who was only sixteen years old when convicted, has always been a good boy up to the time of this offense. An older associate, equally guilty and of bad repute, only received a two year's sentence. A discrimination should have been made in favor of Powers, not against him.

October 15th — William H. Rockfeller, convicted May 15th, 1868, of burglary, 2d degree; term seven years; county of Oswego.

Commuted to five years, with further legal deduction for good conduct in prison.

The offense committed was nothing more than larceny, and the punishment was too severe.

October 19th — John Malone, convicted October 8th, 1869, of robbery, 1st degree; term seven years and six months; county of Columbia.

Commuted to three years and six months, with further deduction for good conduct in prison.

Pardon recommended by district attorney, by Hon. B. Ray and many other reputable citizens. The evidence against the prisoner was very untrustworthy. He was in company with one Provost, a notorious character, who was convicted of the same offense and Malone's conviction unquestionably rested very much upon the fact of his having been seen in this man's company. His previous character has been good and, under all the circumstances, the punishment, as commuted, is enough.

November 8th — Warren Latting, convicted December 29th, 1866, of robbery; term fifteen years and six months; county of Ontario.

Committed to seven years and three months, with further legal deduction for good conduct in prison.

Pardon recommended by the present county judge, by the district attorney, by Hon. H. O. Chesebro, J. J. Mattison, editor of the *Ontario Repository*, the surrogate, sheriff and other county officers and prominent citizens of Ontario county.

Prisoner's associate in the crime pleaded guilty and received only a five years' sentence. Not so great a discrimination, if any, should have been made against Latting, whose health is now very poor.

November 13th — Ezekiel C. Wysham, convicted January 2d, 1872, of grand larceny; term two years and six months; county of New York.

Commuted to one year, with further legal deduction for good conduct in prison.

Granted on application of his former employers, who were the complainants. The prisoner, when intoxicated, appropriated to his own use thirty dollars which came into his possession. He confessed

his guilt. His former character was good and he has a family dependent upon him for support. Under the circumstances, one year is enough.

November 18th — James Smith, convicted November, 1872, of assault and battery; term $250 fine or one year's imprisonment; county of Albany.

Commuted to twenty-five dollars fine or sixty days imprisonment.

Pardon recommended by judge, chief of police, complainant and many others. The prisoner, a hard working, industrious young man who had never before been arrested, committed a technical assault on an officer and, having pleaded guilty, the court could not impose a lighter sentence.

November 19th — Charles Borst, convicted, September 3d, 1872, of assault and battery; term $250 fine, or one year's imprisonment; county of Albany.

Commuted to three months.

The prisoner committed a technical assault on an officer, pleaded guilty, and received the lightest sentence allowed by law. The court, now recommend his commutation to three months. Capt. Brennan of the police force and the complainant join in the application.

November 25th — James D. Allen, convicted, February 24th, 1871, of burglary 3d degree; term three years and six months; county of New York.

Commuted to two years, with further legal deduction for good conduct in prison.

Pardon recommended by the complainant and the assistant district attorney who prosecuted the case. The amount of property taken was small, and the prisoner made confession and restitution. A special report from the police authorities shows that he has always borne a good character for industry and integrity. Several former employers testify to his good character. His conduct in prison has been excellent.

November 25th — Marinus Bates, convicted, January 27th, 1871, of burglary, 3d degree; term four years and six months; county of Oswego.

Commuted to two years, with further legal deduction for good conduct in prison.

Pardon recommended by Lieut. Governor Beach, by the sheriff of Oswego county, the complainant and many prominent citizens.

The prisoner, while under the influence of liquor, broke through the window of a store in the house in which he lived and took a few articles of trifling value, which he gave up the next morning. He had acquired the habit of drinking in the army, but aside from that his character was good.

His uncle, a clergyman, will take charge of him when released.

November 29th — Martin McDonald, convicted October 23d, 1872, of malicious mischief; term six months; county of Saratoga.

Commuted to two months.

Granted on the statement and petition of Hon. William T. Odell, John W. Thompson, Thomas Noxon, George G. Scott, George L. Thompson, E. C. Clarke, Jr., H. A. Mann, E. H. Chapman, George W. Chapman, John Wait, James W. Horton, Hiro Jones, David Maxwell and Police Justice McLean. The boy undoubtedly deserved punishment but, in view of his good character and the circumstances attending the offense, it is clear the sentence was much too severe.

November 29th — Morris Ready, convicted October 23d, 1872, of malicious mischief; term six months; county of Saratoga.

Commuted to two months.

The prisoner was convicted of the same offense with McDonald, and commutation is granted for the reason stated above in his case.

Reprieve.

September 24th — John Gaffney, convicted August 3d, 1872, of murder; sentenced to be hanged September 27th, 1872; county of Erie.

Reprieved until Friday, October 18th, 1872.

Granted on recommendation of judge and district attorney, to allow time to investigate questions presented in bill of exceptions.

APPENDIX.

LETTER

ON THE

NINETY-FOURTH ANNIVERSARY OF OUR INDEPENDENCE.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, JUNE 29, 1871.

To the Council of Sachems of the Tammany Society:

I have received your invitation to be present at the celebration of the coming Fourth of July, at Tammany Hall. I regret very much that other engagements, entered into before I received your invitation, put it out of my power to comply therewith.

You do well in calling attention to the fact that again now, as on the great Fourth of July of 1776, the vital question is pressed upon the American people whether they shall be governed by force or will govern themselves.

Our recent civil strife led to a great concentration of administrative power in the Federal government; but as the war was temporary and out of the ordinary course of events, so this extraordinary exertion of power should have been temporary and promptly abandoned so soon as the war ceased. In the revolutionary struggle of our forefathers George Washington was for a time invested with powers almost, if not absolutely, dictatorial. The moment actual war ceased this greatest of military chiefs gave up his commission, divested himself of power, and left all political questions to be settled by the free and peaceful deliberations of the people. The whole civilized world, its monarchs, its statesmen, its scholars, its people, looked with awe upon the simple grandeur of America's hero. To-day the world at large does reverence to his memory, as to no other name among those who have controlled the political destinies of men. The

human race takes pride in him; shall we, his own countrymen, surrender our faith in his wisdom?

Our great civil war ended six years ago; the deliberations of our people are not yet free. Powers have been lately conferred, under a law of Congress, upon the American President, which ought not to be intrusted to any man, and which no man is good enough or wise enough to wield. At his own discretion he may, under this wicked law, suspend, in any portion of the country, North, South, East or West, all the lawful rights of its citizens and govern it by military force, subject to no restraint but that of his own will — a power less limited, less guarded, more absolute than that conferred upon President Lincoln in the time of actual war.

The great political question now before us is whether, in the future, we are to be the subjects of what is commonly called a strong government, or shall continue to be, as heretofore, a strong people. All political power pertains of right to the people; whatever is conferred on the government is so much taken from them. What many men call a strong government (meaning one of extended, unlimited powers) necessarily implies a weakened people. The two — "a strong government" and a strong people — cannot exist together. This question, of whether we shall make the government strong or keep the people strong, is one that always underlies our party divisions, but is at times presented more boldly and distinctly than at others. It was plainly presented at the revolution of 1776. The advocates of a strong government lost. It was again sharply presented in the contest which brought Mr. Jefferson into the Presidency, when also the advocates of a strong government were put down. It is again as sharply presented to us to-day; and whatever questions of lesser and more temporary importance may have divided the American people on other occasions, it is their duty now to consider, above all things, whether the absorption of all power into the central government, which is going on at a fearful rate, is consistent with the permanent welfare of the people or even with the permanent strength and endurance of the government itself.

It has been proved that this great Union of ours cannot be torn asunder. It is clear, too, that the rights of States are rights within the Union, safest in the Union, best protected by the peaceful remedies provided by the Constitution. If, however, we abandon the wholesome principles which controlled in the construction of our Union, a decay more fatal than violence must supervene. This vast continent can no more be well governed, in all things, by one central authority at Washington, than was the whole of Europe well gov-

erned from Rome in the days of the Roman empire. The results would be, now as then, loss of character and vigor in the people, and sooner or later the breaking down of the government itself. The Constitution of the United States made a wise distribution of powers between the Federal and the State governments. The Federal government must fail to fulfill its proper duties if it undertakes to discharge, in addition to its own, the functions of the State governments. Having too much to do, it will do nothing well.

We have a shining instance before our eyes, to-day, in the case of imperial France. In that great empire centralization has been complete. Municipalities and provinces were governed from the capital, not by their own people. General and local affairs alike were administered by the one central authority. For twenty years past, all this centralized power has been in the hands of one strong, able man. On the surface, things appeared to be going on smoothly and prosperously, so much so that some Americans, not firm in their faith in our own system of government, have been weak enough to contrast our political condition unfavorably with that of France under Napoleon. The real worth of this centralized administration has recently been put to the test. When the day came for the French government to exert its utmost strength, it was found to be weak and rotten, utterly incapable of protecting the people from the invader, while the people, unused to self-reliance, were equally incapable of defending themselves.

Contrast the helplessness of France in this great crisis, with what we were capable of at the outbreak of our recent civil war. We had always lived under what was called a weak central government, limited in its powers, with few duties devolved upon it. Before the war, the mass of our people never saw an official of the central government except in the person of the village post-master. The so-called strong governments of Europe sneered at our central authority, as being utterly helpless for any great crisis. Our civil war proved that ours was, in fact, the strongest government in the world. It was strong because it had not, by absorbing all power into itself, weakened the people. It had not, by undertaking to do everything for them, rendered the people incapable of doing anything for themselves. On the contrary, our people having been left to govern themselves in their several neighborhoods, to take care of their local affairs for themselves, were perfectly self-reliant when the general government was, for a time, at the first outbreak of war, cut off from all communication with the country. Preparations to meet the crisis went on just as promptly without the orders

of the government. A committee of citizens in your city raised some millions of money for immediate expenditure in war preparations. One distinguished citizen of our State, the late General Wadsworth, opened wide his private purse and bought, on his own account, loads of provisions, which he shipped to Washington, to meet what he knew would be a pressing need of the Government. When the central authorities were again in free communication with the country, they found that just what they would have ordered to be done, had been done by the people without orders. To the discomfiture of those who had sneered at its helplessness, our Government was found to be very strong; its strength was real, not apparent; its strength had been well preserved, for it had been left in the guardianship of the people. All through the terrific contest the effective work of procuring recruits for the Union army was done by the people themselves, in their town meetings, and through their local authorities. It is my belief that if, at the outbreak of our great civil war, we had been living for any time under a strongly centralized government, and had had that, with a great show of strength, as our only reliance, we should have failed to preserve the Union.

Those among us who are advocating what they call a stronger central government are urging a policy which leads inevitably to weakness. A disregard of the healthful rules prescribed by the founders of the Republic must end in decay. What we need to insure to our glorious Union long life and prosperity, is that we should keep this people strong, by limiting the action of government to its simple, necessary duties. The government, too, will then be strong in its simplicity and in its secure reliance upon a free people.

Under a system which seeks, by one central agency, to look after everything in every part of our extended country, nothing will be looked after. The public service must necessarily become more and more corrupt; for watchfulness over the countless host of subordinate officers will be an impossible task. One of the most effective measures to-day toward a much needed civil service reform would be to simplify our tax laws, both those which regulate the tariff and those relating to the internal revenue, and thereby to reduce the officers engaged in their enforcement to a number that can be well watched.

It is right that the practice of celebrating the Fourth of July should be kept up by the Tammany Society, founded as it was for the purpose of resisting efforts made, soon after its formation, to divert our government from its true principles and practice. You

will celebrate the day, I am sure, not as mere partisans, but as Americans, claiming sympathy with and from all who have faith in the Constitution and pride in the past history of our land, and all who are ready to guard the American system of government as well from decay as assault. It is essential, especially at this time, that our people should be reminded at what cost our free government was established, what vigilance on the part of great leaders it has required to preserve it, from time to time, and that they should be reminded, also, that we here have, in fact, the guardianship of the cause of popular freedom for the whole human race. No event could occur that would be more disgraceful in the history of man than that we, with our eminent advantages and with this great trust in our hands, should suffer free government to be lost on this continent, and should imitate here the bad examples found in the Old World, making one man and his will supreme over the people and their rights.

We should not omit on this occasion, to recall to our memory the illustrious administrations of Jefferson and Jackson, who, when called at different periods in our history to the Presidency, although themselves clothed with the extensive powers legitimately belonging to that high office, and having, each of them, an extraordinary degree of personal influence resulting from the confidence and attachment of the people, abstained from taking advantage thereof to enlarge their own powers; but, on the contrary, devoted themselves to restore the proper limits upon both the executive and legislative departments of the Federal government, which had been, in many respects, overlooked and disregarded by their predecessors. We shall best do honor to the memory of these two great statesmen, by ourselves renewing the work in which they were so earnest, restraining unwise and improvident legislation, restoring simplicity and consequent purity in the administration of Federal affairs, combating the disposition of Congress to meddle with matters outside of their jurisdiction, lessening the burdens of taxation, and putting the government once more on the safe track pointed out in the chart left to us by the wise founders of the Republic.

The acceptance or non-acceptance of certain amendments which have recently been made a part of the Constitution of the United States is not a practical question. The civil status of the colored man is established, and he is in actual possession of the right of suffrage. The task before us is to save the Constitution, as a whole. To save it, as it is, requires our best efforts. The question of the day is whether we are to live under a constitution at all, which shall

be construed by an impartial court, so as to limit and restrain, as it was intended to do, legislative and executive power alike, or under a hollow form of a constitution, interpreted according to the expediency of the hour by Congress itself, such interpretation being enforced by an unrestrained executive. The danger is imminent that we may lose sight of the principles upon which this government is founded, and which constitute its vital force—principles which gave to the Republic great prosperity before the war, and in war saved it from dissolution.

Very truly yours,

JOHN T. HOFFMAN.

SPEECH

AT THE

UNVEILING OF THE STATUE TO S. F. B. MORSE, IN CENTRAL PARK, NEW YORK CITY, JUNE 10, 1871.

LADIES AND GENTLEMEN:

We are met to witness the completion of a statue erected in honor of an American citizen, who is still living. In the most conspicuous and the most beautiful of the public grounds of the chief city of this Western hemisphere, this statue of Samuel F. B. Morse shall stand for ages. The enduring material of which it is made may, in the long lapse of time, crumble; yet his name will not be lost to the memory of man. By his own works he has secured for it immortality. So long as language lasts, his name will be spoken and honored. The faculty of speaking is the gift whereby God has favored man above his other creatures. By it we are enabled to utter to our neighbor our wants, our sufferings, our sympathies, every idea and feeling which arises within us. Anxious to pay to his memory its highest honors, the world has sought, during all history, to discover the name of the inventor of the alphabet. By means of the alphabet we were empowered to speak to the eye as well as to the ear, and to transport to the most remote parts of the earth the utterances of mind and heart, in visible and lasting form. Hours, days, weeks, months may elapse before that which we would have spoken to our absent friends, if at our side, can reach its destination; but, thanks to the alphabet, it reaches them, at last, fresh and in perfect keeping. The Creator blessed man by giving him the power of language; and through the alphabet how greatly has the blessing been expanded! By it the dead of ages past speak to us to-day, in their written utterances; and by it we speak to generations yet unborn. Centuries and centuries passed away, and this great expansion of the means of intelligent communication was all the improvement to which human invention was equal. In our day a new era has dawned. Again, for the second time in the history of

the world, the power of language is increased by human agency. Thanks to Samuel F. B. Morse, men speak to one another now, though separated by the width of the earth, with the lightning's speed and as if standing face to face. If the inventor of the alphabet be deserving of the highest honors, so is he whose great achievement marks this present epoch in the history of language — the inventor of the electric telegraph. We intend that, so far as in us lies, the men who come after us shall be at no loss to discover his name, for want of the recorded testimony of his contemporaries. In doing him, during his life, the extraordinary honor which we are met this day to make complete, we contribute little to his well earned glory. Nevertheless, the people of this great city, represented by their Mayor, and the people of two States — the State of his birth and the State of his adoption — uniting in this ceremonial in the persons of their chosen chief magistrates, find great gratification for themselves in this opportunity to testify their appreciation of the honor and the benefits which he has conferred on them and on the country. The Governor of Massachusetts, the native State of Morse, will now unveil the statue, and then William Cullen Bryant will speak to you as he only can speak. How fitting that he — who having before him the letters of the ancient alphabet which Cadmus brought into Greece, has, by his great translation, enabled all English-speaking men to realize to-day, in their own tongue, the power and genius of Homer — should be our leader on this occasion in paying a just tribute to one who is his friend, and who, like himself, has, from the pursuits of private life, cast real and enduring lustre upon the American name!

ERRATA.

The following bills, disapproved after adjournment of the Legislature in 1871, *are omitted in their proper place:*

An Act in relation to removing wall benches and constructing vertical and slope walls between Butternut Creek Feeder and Lock Forty-Seven of the Erie Canal.

NOT APPROVED — Same reasons as against bill in relation to the doubling of the locks on the Western Division. (See page 265).

An Act to amend an act entitled "An act to provide for the improvement of the navigation of the Racket river, and of the hydraulic power thereon, and to check freshets therein, passed April 2d, 1869.

NOT APPROVED — Amended on last day of session unexpectedly to parties whose private interests were affected and without a chance of their being heard.

An Act to amend an act entitled "An act to authorize the town of Wilna, in the county of Jefferson; the town of Diana, in the county of Lewis; and the town of Edwards, in the county of St. Lawrence, to issue bonds and subscribe and take, for said towns, capital stock in the Black river and St. Lawrence Railway Company," passed April 2d, 1868.

NOT APPROVED — Repeals a condition under which subscriptions were originally made, and is unjust to tax payers.

An Act to provide for a special election to fill the vacancy in the Sixteenth Assembly District of the county of New York, caused by the resignation of James Irving.

NOT APPROVED — No necessity for bill; resignation being made about close of session, and no extra session to be called.

Page 254: Veto of act to incorporate the Lake George Baptist Association erroneously inserted, the Bill having been signed.

Page 139: For *Storen* read *Storer*.

Page 377: For *Section*, fourth line from bottom of page, read *See*.

Page 389: Line 12, 118,000 should be 188,000.

INDEX.

ACADEMIES AND COLLEGES,
Cortland Academy, veto of act in aid of, 72.
Hungerford Collegiate Institute, veto of act in aid of, 59.
Jordan Academy and Free School District No. 4, veto of act relative to, 61.
St. John's College, veto of charter of, 259.
Williamsville Academy, veto of act for sale of real estate, 257.

ADDRESSES,
Morse, S. F. B., unveiling of statue, 519.
New Capitol, address at laying of corner stone, 267.

AGRICULTURAL AND DRIVING PARK ASSOCIATIONS,
Lenox, veto of charter of, 352.
Saratoga, veto of act to provide for paying debts of, 146.
Washington Park, veto of charter of, 392.

ALBANY,
Excelsior Temple of Honor, No. 23, veto of charter, 43.
Fire Commissioners, veto of act fixing salary of, 253.
Lands under Water, veto of act releasing, 139.
Loan & Trust Co., veto of charter of, 262.
New Capitol, address at laying corner stone, 267.
Police Department, veto of act relating to, 347.
Sixpenny Savings Bank, veto of charter, 262.
United States building in, veto of act providing for, 350.

ANNUAL MESSAGES,
To Legislature of 1869, 1.
To Legislature of 1870, 76.
To Legislature of 1871, 172.
To Legislature of 1872, 274.
(*See also Special Messages*).

ASSEMBLY, MEMBER OF,
Veto of act to fill vacancy of James Irving, 521.

ASSESSMENT AND TAXATION,
Brooklyn, appointment of assessors in, 406.
Chautauqua County, collection of taxes in, veto of act for, 253.
Cohoes, confirming act of assessors of, veto of, 151.
Columbia County, veto of act for correction of assessments in, 72.

ASSESSMENT AND TAXATION,
Essex County, veto of act for assessing certain lands in, 155.
Franklin County, veto of act relating to non-resident road taxes, 374.
Hamilton and Warren, non-resident highway tax, veto of act relating to, 346.
Industrial Exhibition Company, veto of acts exempting lands from 253, 375.
Jamaica, assessment of damages for taking private lands, veto of act relative to, 68.
Malone, assessors of, veto of act to increase compensation, 138.
New York city, special message in relation to, in, 315.
New York city, veto of act for relief of Cornelia Townsend from, 343.
Oswegatchie, veto of act relative to assessment rolls in, 67, 217.
Oswego, valuation of certain lands in, veto of act to fix, 146.
Special Messages, in relation to, 199, 329.
State Assessors, increase in number, veto of act for, 254.
Westchester County, relief from illegal taxation, veto of act for, 210.

ASYLUMS AND HOSPITALS.
Harlem Hospital, veto of charter of, 247.
Homœopathic Insane Asylum, veto of act to raise fund for, 254.
Jefferson Medical University, veto of act to establish, 259.
Orphan Asylums, veto of act relating to school moneys for, 407.

ATTORNEY GENERAL.
Opinion of, upon bill for appointment of Judges to hold certain courts, 384.

AVENUES AND HIGHWAYS.
Brooklyn, improvement of certain streets, veto of act authorizing, 256.
Brooklyn, veto of act for improving Banker street, 152.
Brooklyn, veto of act for improving Fourth street, 151.
Brooklyn, veto of act for improving North Second street, 70.
Brooklyn, veto of act for opening Pratt street, 154.
Browns Tract, road from Lewis County to, veto of act, 149.
Buffalo, to confirm laying out of Genesee street, veto of act for, 143.
Buffalo Plank road, improvement of West part of, veto of act for, 151.
Carthage to Lake Champlain, veto of act for repair of, 240.
Ellicott, veto of act for improvements of roads in, 37.
Essex and Hamilton, veto of act relating to non-resident taxes in, 259.
Florence, bounds of highways in, veto of act for location of, 140.
Fowler, veto of act for constructing highway in, 155.
Franklin County, veto of act establishing road district, in, 374.
Goshen, opening of highway in, veto of act for, 148.
Gouverneur, veto of John Street highway act, 58.
Great Valley, encroachments at R. R. crossing, veto of act,, relative to, 121.
Greenburgh and Scarsdale, veto of act for improving in, 251.
Hamburgh, veto of act to fix bail of highway overseers, 69.
Hamilton county, veto of act amendatory of highway act of 1867, 62.
Jay, separate district in, veto of act authorizing, 254.

AVENUES AND HIGHWAYS,
Lowville, tax for, in, veto of act authorizing, 242.
Mamaroneck avenue, veto of act relating to, 380.
Mount Pleasant, veto of act authorizing construction of, 252.
Mount Pleasant, veto of act for improving Railroad avenue in, 256.
Newtown, opening of in, veto of acts providing for, 156, 252.
New York City, regulating certain streets in veto of act for, 249.
New York City, veto of act altering, public drive, 71.
New York City, veto of act relating to opening, etc., of, 143.
New York City, veto of West Street widening act, 70.
Oneida River Road, (Schroeppel) veto of charter of, 144.
Opening of Highways, veto of general act for, 252.
Phillipstown, opening of highway, veto of act authorizing, 249.
Piseco Lake to Claflin's Tannery, veto of act to construct, 394.
Port Richmond, improvement of, veto of act authorizing, 252.
Repair of, veto of general act to raise money for, 252.
Richmond County, laying out of avenues in, veto of act for, 157.
Rockland Lake, veto of act for improvement of, at, 259.
Rossville road, veto of act for extension of, 260.
Southampton, veto of act discontinuing, 255.
Stony Creek to Wells town, veto of act to open road, 71.
Unadilla, sidewalks in, veto of amendatory act, 150.
Wayne County, improvement of, in veto of act for, 254.
Westchester and Richmond Counties, veto of act relating to highway labor in, 257.
Westchester, Fordham and Pelham Avenue, veto of act relative to, 120, 397.
Worcester, separate road district in, veto of act for, 157.
Yonkers and Eastchester, veto of act for completion of, 402.

BANKS.
Commercial Trust and Banking Company, veto of charter of, 261.
International Trust and Banking Company, veto of charter of, 261.
New York Real Estate Banking Company, veto of charter of, 236.
Security, Brooklyn, veto of, charter of, 144.
(*See also Saving Banks*).

BARRELS,
Size of, for packing fruit, veto of act fixing, 156.

BENEFIT SOCIETIES.
(*See Benevolent, etc.*)

BENEVOLENT, CHARITABLE AND LITERARY SOCIETIES.
American Mutual Association, veto of charter of, 154.
Cascade Association, Little Falls, veto of charter of, 208.
Excelsior Temple of Honor No. 23, veto of charter of, 48.
Harlem Hospital, veto of charter of, 247.
Journeymen Pork Butchers Union, N. Y., veto of charter of, 252.
Lockport Home for the Friendless, veto of act relating to, 395.
Mental and Moral Improvement Society Irvington, veto of charter of, 157.

BENEVOLENT, CHARITABLE AND LITERARY SOCIETIES,
National Mutual Benefit Association, veto of charter of, 130.
Peabody, Mutual Benefit Company, veto of charter of, 129.
Peoples Mutual Benefit Association, veto of charter of, 249.
St. John's College, veto of charter of, 259.
United States Mutual Benefit Company, veto of charter of, 127.

BRIBERY,
Special Message, recommending legislation as to, 197.

BRIDGES,
Addison, veto of act providing for re-building of, in, 41.
Binghamton, preservation of, veto of act for, 113.
Carroll, veto of act to raise money for, 73.
Chemung and Tioga Company, veto of charter of, 143.
Cuyler, veto of Tioughnioga river bridge act, 58.
Ellicott, veto of act relating to, in, 37.
Ellisburgh, veto of act authorizing construction of, in, 75.
Fort Edward, road bridge at, veto of act for, 349.
General Act to raise money for, veto of, 252.
Genesee River, bridge between Genesee and Leicester, veto of act relating to, 231.
Glen's Falls Feeder, veto of act for construction of, at, 395.
Great Sodus Bay, veto of act levying tax for, at, 148.
Havana, bridge over Fall Street, veto of act for construction of, 250
Mechanicsville Company, veto of charter, 255.
N. Y. and Long Island Company, veto of act amending charter, 69.
Phœnix, veto of act for protection of, at, 111.
Salmon river, bridge at Fort Covington, veto of act for, 37.
Saratoga, veto of act for farm bridge in, 395.
Staten Island Company, veto of charter of, 69.
Syracuse, swing bridge, veto of act providing for, 248.
Wayne County, repair of, in, veto of act for, 254.
Wellsville, tax for, in, veto of act for, 237.
Whitehall, canal farm bridge, veto of act authorizing, 117.

BROOKLYN, CITY OF.
Assessors, veto of act for appointment of, 406.
Banker Street, improvement of, veto of act for, 152.
City Charter, veto of amendment of, 406.
Court House property, veto of act to clear, 400.
Excise board, veto of act to reorganize, 381.
Female vagrants, drunkards, etc., veto of act concerning, 255.
Fourth Street, improvement of, veto of act for, 151.
Gas Meters, inspector of, veto of act providing, 213.
Grand Street Savings Bank, veto of charter of, 262
Green Point Ferry, veto of act relating to running of, 256.
Health Board, veto of acts relating to, 407, 406.
Map of, alteration of, veto of act for, 256.
Nassau Loan and Security Company, veto of charter of, 261.
Nassau Savings Bank, veto of charter of, 143.

BROOKLYN, CITY OF,
North Second Street improvement act, veto of, 70.
Police Courts in, veto of acts relating to, 406, 402.
Pratt Street, opening of, veto of act for, 154.
St. John's College, veto of charter of, 259.
Security Bank, veto of charter of, 144.
Van Brunt Street and Erie Basin R. R., veto of act increasing fare, 407.
Washington Savings Bank, veto of charter of, 262.

CANAL BOARD,
(*See Canals*).

CANAL BRIDGES,
(*See Bridges*).

CANAL CLAIMS,
(*See Canal damages*).

CANAL COMMISSIONERS,
(*See Canals*).

CANAL DAMAGES,
Anthony, Peter W., claim for, veto of, 139.
Backer, Esther, claim for, veto of, 139.
Becker, George, claim for, veto of, 139.
Benson, Benjamin, claim for, veto of, 139.
Bissell, Edwin B., claim for, veto of, 139.
Blood, John D., claim for, veto of, 139
Burrows, Roswell T., claim for, veto of, 139.
Carney, James, and others, claim for veto of, 139.
Christian Church, Tonawanda, claim for, veto of, 139.
Clark, Erskine G., claim for, veto of, 139.
Cotter, Daniel, claim for, veto of, 139.
Cutler, Stillman, claim for, veto of, 139.
Davis, Guy, claim for, veto of, 139.
Fitzpatrick, John, claim for, veto of, 122.
Flood, Jeremiah, claim for, veto of, 139.
Frantz, Ferdinard, claim for, veto of, 237.
Fraser, Charles E., and others, claim for, veto of, 139.
Grattan, Patrick, and others, claim for, veto of, 149.
Green, Charles H., and others, claim for, veto of, 139.
Hendricks, George, and others, claim for, veto of, 139.
Howard, George, claim for, veto of, 394.
Jackson, Noble, and others, claim for, veto of, 139.
Loveland, Joseph D., and others, claim for, veto of, 139.
McGuire, Thomas, claim for, veto of, 139.
Reynolds, Valentine, and others, claim for, veto of, 139.
Robinson, Peter, heirs of, claim for, veto of, 255.
Sackett, Wm. A., claim for, veto of, 264.
Schaub Jacob, claim for, veto of, 255.
Seymour, Henry J., claim for, veto of, 139.
Smith, Charles, and others, claim for, veto of, 139.
Smith, Charles C., claim for, veto of, 139.

CANAL DAMAGES,
Snook, Clark, claim for, veto of, 141.
Storer, Michael, and others, claim for, veto of, 139.
Syracuse City, claim for, veto of, 139.
White Aaron, claim for, veto of, 139.
Williams, George, and others, claim for, veto of, 139.
Wright, Luther, and others, claims for, veto of, 139, 263.

CANALS.
Canal Boats, injury to, on, veto of act for relief of Ferdinand Frantz, 237.
Canal Boats, veto of act relating to registry of liens upon, 400.
Canal Commissioners, veto of act to give additional power to, 263.
Cayuga and Seneca, veto of act authorizing Culvert at Waterloo, 259.
Chenango, veto of act relating to contract for work upon, 399.
Erie, improvement of, near Butternut Creek Feeder, veto of act for, 521.
Erie, veto of act relating to doubling locks on Western division of, 265.
Superintendents of repairs on, veto of act to abolish, 263,

CEMETERIES.
Barnes Corners Association, veto of charter of, 154.
Cayuga and Jefferson Counties, veto of act for acquiring lands for, 124.
Cherry Creek, veto of act relating to, 254.
Clarkson, veto of charter of, 249.
Evan's Mills, veto of act to raise money for fencing, 141.
Frewsburgh Association, veto of charter of, 153.
Lyons, veto of act providing annual tax for, 153.
New Baltimore, veto of charter of, 393.
Oneida County, veto of act for acquiring lands for, 158.
Quincy Association, purchase of lands, veto of act for, 393.
Quincy Association, veto of charter of, 393,

CHARITABLE SOCIETIES.
(*See Benevolent and Charitable*).

CITIES.
Auburn, veto of act enlarging boundaries of, 229.
Binghamton, charter amended as to schools, veto of, 396.
Brooklyn, veto of act to amend charter, 406.
Cohoes, amendment of charter as to schools, veto of, 158.
New York, elections in, veto of acts relating to, 372. 387.
New York, veto of charter of, 353, 391.
Rome, charter amended as to recorder, veto of, 394.
Watertown, veto of act amending charter, 400.

CLAIMS.
Calrow, Richard, Jr., veto of act for relief of, 142.
De Graff, Simon and others, audit of, veto of act for, 231.
Ferris, Robert M., veto of act for payment of bounty to heirs of, 248.
Frantz, Ferdinand, veto of claim of, 237.
Howard, George, veto of act for relief of, 394.
Humphrey, John M., veto of land claim of, 145.
New York City, audit of, special message relating to, 323.
New York city, veto of act for settlement of, 407.

CODE OF PROCEDURE,
Amendment of, veto of act for, 158, 263.

COIN,
Payment of State debt in, recommendation for, 108.

COLLEGES,
(*See Academies*).

COMMUTATIONS OF SENTENCE,
(*See Pardons*).

CONCEALED WEAPONS,
Veto of act relative to, 398.

CONGRESSIONAL APPORTIONMENT,
Veto of act dividing State into districts, 388.

CONVICTS,
Commutation of sentence for good conduct, veto of amendatory act, 68.
Kings County, sentence of, in, veto of act relating to, 402.
Pardon of, Governor's message relating to, 409, 434, 460, 483.

CORONERS,
Erie County, veto of act providing of, for election, by districts, 130.

COUNTY CLERKS,
Monroe County, veto of act authorizing assistant deputies in, 202.
New York, veto of act relating to docketing of judgments, etc., by, 398.
Offices of, closing of, on holidays, veto of act for, 218.
Queens County, new indices for, veto of act for, 233.

COUNTY TREASURERS,
Oneida and Schoharie Counties, veto of act in relation to salary of, 115.
Rensselaer County, veto of act increasing salary of, 254.
Ulster County, veto of act relating to fees of, 399.

COURT HOUSES,
Kings County, veto of act to clear and regulate property, 400.

COURTS,
Brooklyn, Police Courts, veto of act relating to, 402, 406.
Code of Procedure, veto of acts amending, 263, 158.
Curtis, George M., Special Message recommending removal of, 332.
Kings County, attendants &c., for, veto of acts providing, 261, 402.
Kings County, sentence of convicts, by, veto of act relating to, 402.
Kings County, veto of act to provide Deputy Clerk in General Sessions, 398.
McCunn, John H., special message recommending removal of, 331.
New York city, additional Clerks for district courts, veto of act for, 212.
Oyer and Terminer, holding of courts and assignment of judges, veto of act for, 382.
Prindle Horace G., special message recommending removal of, 332.
Rome, veto of act increasing salary of Recorder, 394.
Utica, veto of act increasing salary of Recorder, 336.

DEPOSIT COMPANIES,
(*See Safe Deposit*).

DISTRICT ATTORNEYS,
Washington County, veto of act providing for Assistant, 110.

DOCKS AND PIERS,
Albany, veto of act releasing lands under water, 139.
Bashford Georgiana, veto of act confirming patents for, 119.
Carter, Julian, and others, veto of act authorizing erection of, by, 118.
Chamberlain, Wm., and others, veto of act confirming patents for, 119.
Oswego Company, veto of charter of, 63.

DOGS,
Rockland County, veto of act to restrain running at large of, in, 70.

DOWER,
Recovery of, veto of act in relation to, 394.

DRAINAGE,
Cicero and Clay, veto of special act for, in, 156.
General Act, veto of amendment of, 153, 400.

DRIVING PARK ASSOCIATIONS,
(*See Agricultural Societies*).

ELECTIONS,
New York City, veto of acts relating to, in, 372, 387.

EMIGRATION, COMMISSIONERS OF,
Veto of act creating board of, 401.

ESCHEATS,
Baldwin, Timothy, Jr., veto of act releasing State title to, 376.

EXCISE,
Brooklyn Board of, veto of acts for reorganization of, 381, 396.
General Excise law, veto of acts amending, 396, 397.
Indian Reservations, veto of act regulating sale of liquors upon, 74.
Licences, veto of act relating to revocation of, 72.
Liquors, sale of, veto of act providing for a vote on, 397.

FERRY COMPANIES,
Green Point, act in relation to ferry boats of, veto of, 256.

FIRE, HOOK AND LADDER COMPANIES, ETC.,
Albany, Salary of Fire Commissioners, veto of act giving, 253.
Cascade Fire Company No. 1, Little Falls, veto of charter of, 154, 208.
Dunkirk, purchase of fire engine, veto of act authorizing, 255.
Eagle Hose Company, No. 2, Buffalo, veto of charter of, 157.
Flatbush Fire Company, veto of act for purchase of hose for, 140.
Monhagen Hose Co., No. 1, Middletown, veto of charter of, 261.
Ours Hose Company, No. 4, Elmira, veto of charter of, 44.
Protection Hose, No. 3, Binghamton, veto of charter of, 146.
Protectives, No. 1, Rochester, veto of act amending charter, 251.
Rescue Hook and Ladder Company No. 1, Bath, veto of charter of, 44.

FIRE INSURANCE,
(*See Insurance*).

GAME LAWS,
General act, veto of amendatory acts, 397, 366, 207.

GAS LIGHT COMPANIES,
Frontier, Watertown, veto of charter of, 145.
Gloversville, veto of charter of, 252.
New York City, veto of charter of company in, 146.

GAS METERS,
Inspection of, etc., veto of amending act, 213.

HALLS AND HALL ASSOCIATIONS,
Hopkinton, veto of act levying tax in, for, 235.
Newark, veto of act providing for public hall in, 144.

HIGHWAYS,
(*See Avenues and Highways*).

HOOK AND LADDER COMPANIES,
(*See Fire, Hook and Ladder*).

HOSPITALS,
(*See Asylums*).

HOTEL COMPANIES,
Associated, veto of act amending charter of, 256.

IMPROVEMENT COMPANIES,
Baywood Land, veto of charter of, 250.
International, veto of charter of, 263.
National, veto of charter of, 260,

INDIANS,
Allegany and Cattaraugus reservations, veto of act relating to sale of liquors in, 74.
Seneca Nation, veto of act confirming leases to, 257.
Skenandoah, Christine, veto of act to settle claims of heirs of, 141.

INSANE,
Homœpathic Asylum, Middletown, veto of act concerning, 254.
New York city, veto of act relative to, in, 248.
Saratoga County, removal of, to Co. Poor House, veto of act for, 140.

INSURANCE COMPANIES,
American Popular Life, veto of act amending charter of, 156.
Bethlehem Mutual, veto of act to ratify proceedings of, 68.
Foreign companies, veto of act in relation to, 160.
Insurer's Indemnity Company, veto of act amending charter of, 260.
Life companies, veto of act to restore reserve of, 397.
Mutual Fire, New York city, veto of act amending charter of, 243.
North and East Greenbush, veto of act extending provisions as to, 116.
People's Mutual Benefit, veto of charter of, 249.

INSURANCE COMPANIES,
Progress Health, veto of charter of, 254.
Republic Life and Trust company, veto of charter of, 257.
Saratoga county Mutual Fire, veto of act to revise charter of, 157.
Town Companies, veto of amendatory act, 400.

INTEMPERANCE,
(*See Excise*).

JUSTICES OF THE PEACE,
Deer Park, election of additional, in, veto of act for, 158, 209.
Greig, veto of act confirming election of Wm. Seymour, in, 373.
Lowville, filling of vacancies of, in, 39.
Vacancies in office of, veto of act for filling, 56.
Verona, election of additional, in, veto of act for, 249.

LANDS UNDER WATER,
(*See Docks*).

LEGAL NOTICES,
Publication of, veto of act relating to, 400.

LETTERS,
On ninety-fourth Anniversary of Independence, 513.

LIFE AND HEALTH INSURANCE,
(*See Insurance*).

LIFE SAVING STATION, (LONG ISLAND),
Veto of act to provide sites for, 394.

LIQUORS, SALE OF,
(*See Excise*).

LITERARY SOCIETIES,
(*See Benevolent, etc.*).

LOAN AND TRUST COMPANIES,
Albany, veto of charter of, 262.
Anglo-America, veto of charter of, 262.
Bankers, New York City, veto of charter of, 262.
City, (New York City,) veto of act amending charter of, 257.
Commercial Trust and Banking, veto of charter of, 261.
Continental, veto of charter of, 261.
Co-operative Savings and Loan, veto of charter of, 259.
Eagle Trust, veto of charter of, 262.
Equitable, veto of charter of, 261.
International Improvement, veto of charter of, 263.
International Trust and Banking, veto of charter of, 261.
Island City Trust, veto of charter of, 262.
Johnstown, veto of charter of, 262.
Knickerbocker, New York City, veto of charter of, 230.
Manhattan Indemnity and Loan, veto of charter of, 261.
Manhattan, New York City, veto of charter of, 395.

LOAN AND TRUST COMPANIES,
Mutual Loan and Depositors' Institution, N. Y. City, veto of charter of, 143.
Mutual Trust Institution, veto of charter of, 262.
Nassau Loan and Security, veto of charter of, 261.
National Security and Trust Company, veto of charter of, 261.
New York City Life, Policy and Guaranty, veto of charter of, 262.
New York Musical Instrument Saving and Loan Society, veto of charter of, 218.
New York State, veto of charter of, 258.
Phoenix Trust, New York City, veto of charter of, 262.
Republic Life Insurance and Trust Company, veto of charter of, 257.
Safe and Trust Company, Buffalo, veto of charter of, 395.
South Brooklyn, veto of charter of, 261.
Workingmen's Friendly Society, veto of charter of, 249.

LOCK-UPS AND VILLAGE PRISONS,
Charlotte, veto of act authorizing erection of, 152.
Medina, veto of act authorizing erection of, 206.

LUNATICS,
(*See Insane*).

MANUFACTURING AND MINING COMPANIES,
Dairymen's Association, veto of charter of, 392.
General act for formation of, veto of amending acts, 146, 256, 393.
Hopkinton Manufacturing Company, veto of act for relief of, 127.
Knox Railway Clamp Company, veto of act to change name, 156.
Smith & Parmelee Gold Company, veto of act authorizing issue of preferred stock, 373.

MARKETS,
New York city, veto of act for erection of, in 21st ward of, 71.
New York city, veto of act for erection of, in 13th ward of, 138.

MECHANICS' LIENS.
New York city, veto of act amending lien law, 149.

MEDICAL LAWS,
General act relative to, veto of, 403.
Jefferson Medical University, veto of charter of, 259.
Medical Profession, Standard of, veto of act to elevate, 150.
Medicine, prescriptions for, veto of act relating to, 248.
Physic and Surgery, veto of act concerning practice of, 258.

MESSAGES OF GOVERNOR,
(*See Annual Messages and Special Messages*).

METROPOLITAN POLICE BOARD, NEW YORK CITY,
President pro tempore of, veto of act authorizing, 40.
Steam boilers, inspection of, veto of act conferring power upon, 74.

MILITARY,
(*See Soldiers*).

MILITARY BOUNTY,
Ferris, Robert M., veto of act to provide payment of, to heirs of, 248.

MINING COMPANIES,
(*See Manufacturing*).

MINORS,
Better protection of, veto of amendatory act, 138.

MORTGAGES,
Canal Boats, veto of act relating to liens on, 400.
Richmond County, satisfaction of, veto of act for recording of, in, 247.
Surplus moneys, veto of act amending act of 1868, in relation to, on foreclosure of, 70.

MUNICIPAL CORPORATIONS,
Officers and agents of, protection from fraud by, veto of act for, 336.

MUSICAL SOCIETIES,
(*See Social, etc.*).

NEW YORK CITY,
Anglo American Loan and Trust Company, veto of charter of, 262.
Arcade Railroad, veto of charter of, 163.
Associated Hotel Company, veto of act amending charter of, 256.
Association of the Bar, veto of charter of, 151.
Avenue C. Railroad, veto of act authorizing extension of, 55.
Avenues, Streets, &c., veto of act relating to opening of, 143.
Banker's Loan and Trust Company, veto of charter of, 262.
Central Park, veto of act altering drive in, 71.
Central Savings Bank, veto of act reviving charter of, 233.
Charter of city, veto of, 353, 391.
City Loan and Trust Company, veto of act amending charter, 257.
Claims and Salaries, audit and payment of, special message concerning, 323.
Claims, settlement of, veto of act relating to, 407.
Commercial Credit Guaranty Company, veto of charter of, 153.
Commercial Travellers' Association, veto of charter of, 260.
Commercial Trust and Banking Company, veto of charter of, 261.
Commissioners of Emigration, veto of act creating board of, 401.
Consolidation of City and County Government, veto of act for, 399.
Contagious diseases, veto of act to prevent spread of, 248.
Continental Loan and Trust Company, veto of charter of, 261.
Corn Exchange, Warehouse Company, veto of charter of, 148.
County and City Government, veto of act to consolidate, 399.
Curtis, George M., special message recommending removal of, as Judge in, 332.
District Courts, additional Clerks for, veto of act for, 212.
Eighth Ward Savings Bank, veto of charter, 149.
Elections in, veto of acts relating to, 372, 387.
Equitable Loan and Trust Company, veto of charter of, 261.
Expressmen's Savings Bank, veto of charter of, 249.
Farmers' and Mechanics' Savings Bank, veto of charter of, 262.
Fifth Avenue Savings Bank, veto of charter of, 74, 145.

NEW YORK CITY,
Financial Condition of, special message relating to, 315.
Forty-Second and Grand Ferry R. R., veto of act authorizing extension of track in West 34th Street, 256.
Fulton Savings Bank, veto of charter of, 245.
Gas Light Company, veto of charter of, 146.
Gas Meters, Deputy Inspectors of, veto of act authorizing, 213.
Green Point Ferry, veto of act relating to, 256.
Harlem Hospital, veto of charter of, 247.
Harlem Yacht Club, veto of charter of, 69.
Health, better protection of, veto of act for, 247.
Industrial Exhibition Company, veto of act exempting lands of, from taxation, 253, 375.
Insane, Idiots, etc., veto of act relative to, 248.
Insurers' Indemnity Company, veto of act amending charter, 260.
Ione Yacht Club, veto of charter of, 151.
Irving, James, veto of act to fill vacancy of, as Member of Assembly, 521.
Journeyman Pork Butchers' Union Benevolent Society, veto of charter of, 252.
Judgments and decrees, veto of act for docketing of, 398.
Knickerbocker Loan and Trust Company, veto of charter of, 230.
Leaf tobacco, veto of act regulating sale of, 373.
Life, Policy, Guaranty, Loan and Trust Company, veto of charter of, 262.
Local Government of, veto of act reorganizing, 391, 253.
McCunn, John H., special message recommending removal of, as Judge in, 332.
Manhattan Indemnity and Loan Company, veto of charter of, 261.
Manhattan Loan and Trust Company, veto of charter of, 395.
Manure, deposit of, veto of act in relation to, 247.
Map or plan of, veto of act for alteration of, 143.
Market in 13th Ward, veto of act authorizing, 138.
Market in 21st Ward, veto of act authorizing, 71.
Mechanics' lien law, veto of act amending, 149.
Metropolitan Nautical Institute, veto of charter of, 251.
Metropolitan Police Board, veto of act authorizing president pro tempore of, 40.
Mutual Fire Insurance Company, veto of act amending charter of, 243.
Mutual Loan and Depositors Institution, veto of charter of, 143.
National Book Exchange, veto of charter of, 251.
National Improvement Company, veto of charter of, 260.
National Mutual Benefit Association, veto of charter of, 130.
New Charter for, veto of, 353, 391.
New York Advertising Company, veto of charter of, 153.
New York and Long Island Bridge Company, veto of act amending charter of, 69.
New York Annuity Company, veto of charter of, 158.
New York Coal Exchange, veto of charter of, 258.
New York Rail Road Company, veto of charter of, 75, 326.
New York Real Estate Banking Company, veto of charter of, 236.

NEW YORK CITY,
New York State Loan and Trust Company, veto of act amending charter of, 258.
Oyer and Terminer, veto of act relating to stenographic notes of, 253.
Peabody Mutual Benefit Company, veto of charter of, 129.
People's Mutual Benefit Association, veto of charter of, 249.
Phœnix Trust Company, veto of charter of, 262.
Pneumatic Tube Railway, veto of acts relating to, 219, 378.
Progress Health Insurance Company, veto of charter of, 254.
Railroad in 125th Street, veto of charter of, 46.
Register's Office, closing of, on holidays, veto of act for, 218.
Republic Life Insurance and Trust Company, veto of charter of, 257.
Seventeenth Ward Savings Bank, veto of charter of, 262.
State Arsenal in, veto of act relating to claim of Richard Calrow, Jr., 142.
Steam boilers, veto of act relating to inspection of, 74.
Stock Exchange, veto of acts to establish, 140, 263.
Streets in, veto of act relating to opening of, 408.
Streets in, veto of act to provide for improvement of, 249.
Townsend, Cornelia, veto of act for relief of, from assessment, 343.
Vagrants in, veto of act concerning, 252.
West Street, veto of act for widening of, 70.
Workingmen's Friendly Society, veto of charter of, 249.

NUISANCES,
Prevention of, near public schools, veto of act for, 72.

PARDONS AND COMMUTATIONS,
Report of reasons for pardons granted in 1869, 409.
Report of reasons for pardons granted in 1870, 434.
Report of reasons for pardons granted in 1871, 460.
Report of reasons for pardons granted in 1872, 483.

PARKS,
New York city, Central Park, veto of act altering public drive, 71.
New York city, opening of certain, veto of act concerning, 143.
Richmond county, to authorize laying out of, in, 153.

PATENT RIGHTS,
Sale of, to prevent fraud in, veto of acts, 255, 394.

PIERS,
(*See Docks*).

PLANK ROADS,
Buffalo, veto of act for improving part of road, 151.
Webster, veto of act to extend charter of, 125.
White's Corners and Buffalo, veto of act to extend charter of, 122

POLICE,
Albany Police Commission, veto of act relating to, 347.
Metropolitan, veto of acts relating to, 40, 74.
Richmond county, veto of act to establish, 402.

POOR,
Albany, veto of act conferring power on Overseer of, 396.
Destitute emigrants, veto of act relating to support of, 401.
Erie County, veto of act relating to, in, 399.
Lockport Home for Friendless, veto of act for support of, in, 395.
Rensselaer County, veto of act relating to support of, in, 259.
Saratoga county, care of insane persons in Poor House, veto of act for, 140.
Schenectady County, veto of act confirming election of superintendent of, 334.

PRISONS,
(*See State Prisons and Lock-ups*).

PUBLIC OFFICERS,
Fraud and embezzlement by, protection from, veto of act for, 336.

RAILROADS,
Adirondack, veto of act authorizing bonding of Clifton for, 152.
Adirondack, veto of acts in aid of, 130, 264.
Allegany and other counties, veto of railroad bonding act for, 73.
Arcade Railway, New York city, veto of charter of, 163.
Black River and St. Lawrence, veto of bonding act for, 521.
Bonding Act (General), veto of amendatory acts, 145, 152, 250.
Buffalo and Washington, veto of act for acquiring right of way in Olean, 69.
Buffalo and Washington, veto of act in aid of, 135.
Buffalo, Corry and Pittsburgh, veto of act to extend, 399.
Carthage, Watertown and Sacketts Harbor, veto of act in aid of, 136.
Cattaraugus, veto of act in aid of, 137.
Easton, town of, veto of act to authorize bonding for, 126.
Great Valley, veto of act to prevent encroachments of highways by, 121.
Hector, veto of act authorizing part of town to bond for, 155.
Hunter & Jewett, towns of, veto of act to authorize bonding for, 250.
Matteawan to Fishkill, veto of act amending charter of, 144.
New York and Oswego Midland, veto of acts in aid of, 136, 264.
New York city, tracks in West 34th street, veto of act authorizing, 256.
New York city, veto of Avenue C., extension act, 55.
New York city, veto of charter of 125th street railroad in, 46.
New York Rail Road Company, veto of charter of, 75, 326.
Owego, veto of charter of, 252.
Paris, election of Commissioners in, veto of act for, 150.
Pine Hill, tunnel, veto of act in aid of construction of, 136.
Pneumatic tube, New York city, veto of acts relating to, 219, 378.
Queensbury, veto of act authorizing loan to, for, 150.
Schoharie Valley, veto of act to facilitate extension of, 69.
Staten Island North Side, veto of charter of, 247.
Unfinished railroads, veto of act in aid of, 264.
Union Village and Johnsonville, veto of bonding act for, 126.

RAILROADS,
Utica and Black river, veto of bonding act for, 76.
Utica, Chenango and Cortland, veto of act for extension of, 340.
Whitehall and Plattsburgh, veto of acts in aid of, 50, 136.

RECORDERS,
Rome, veto of act increasing salary of, 394.
Utica, veto of act increasing salary of, 336.

RELIGIOUS CORPORATIONS AND SOCIETIES.
American and Foreign Bible Society, veto of act relating to, 250.
Genesee Annual Conference, veto of act amending charter of, 70.
Guilderland, Reformed Church, veto of act allowing sale of lands of, 158.
Northville, veto of act authorizing M. E. Church to convey lands, 342.
Perry, 1st Presbyterian Church, veto of act authorizing sale of real estate of, 36.
Poughkeepsie, 1st Congregational Church, veto of act changing name of, 339.
Tompkinsville M. E. Church, veto of act changing name of, 204.

REPRIEVES,
(*See Pardons*).

RIVERS AND STREAMS, IMPROVEMENT OF,
Indian River, veto of act declaring a public highway, 250.
Mill Brook, veto of act for improvement of, 74.
Oswegatchie river, veto of act for erecting breakwater on, 253.
Oswego river, channel of, veto of act to restore, 73.
Racket river, veto of act for improving, 521.

ROADS,
(*See Avenues and Highways*).

RURAL CEMETERIES,
(*See Cemeteries*).

SAFE DEPOSIT COMPANIES,
International Employment Guaranty, veto of charter of, 261.
Rochester, veto of act amending charter of, 395.
Safe Deposit and Trust Company, Buffalo, veto of charter of, 395.

SAVINGS BANKS,
Central, New York City, veto of act reviving charter of, 233.
Co-operative Savings and Loan Association, veto of charter of, 259.
Eighth Ward, New York City, veto of charter of, 149.
Expressmen's New York City, veto of charter of, 249.
Farmers' and Mechanics,' New York City, veto of charter of, 262.
Farmers' and Mechanics,' Schenectady, veto of charter of, 145.
Fifth Avenue, veto of charter of, 74, 145.
Fulton, New York City, veto of charter of, 245.
Gleneida, veto of charter of, 235.
Gloversville, veto of charter of, 255.
Grand Street, Brooklyn, veto of charter of, 262.
Hamilton, veto of act amending charter of, 154.

SAVINGS BANKS,
Haverstraw, veto of charter of, 154.
Jamestown, veto of charter of, 254.
Long Island City, veto of charter of, 262.
Mechanics', Troy, veto of charter of, 262.
Nassau, Brooklyn, veto of charter of, 143.
Port Chester, veto of act amending charter of, 344.
Port Richmond, veto of charter of, 262.
Railroad Bonds, veto of act authorizing investments in, by, 152.
Seventeenth Ward, New York city, veto of charter of, 262.
Sixpenny, Albany, veto of, charter of, 262.
Southern Tier, Elmira, veto of act amending charter of, 246.
Washington, Brooklyn, veto of, charter of, 262.

SCHOOLS,
Benton, veto of act for erection of school house in, 257.
Binghamton, amendment of charter, veto of, 396.
Castleton, Richmond Co., District No. 4, veto of act for building school-house, in, 201.
Clarence, veto of act for levying tax in, etc., 377.
Deerpark, veto of act authorizing Board of Education to license teachers, 258.
Elbridge, free school district No. 4, veto of act relative to, 61.
Huntington, sale of school-house, veto of act for, 397.
Johnstown, Union graded school, veto of act to establish, 65.
Madrid, veto of act authorizing District No. 1, to borrow money, 248.
Newburgh, veto of act relating to, 398.
Niagara, term of trustees of District No. 7, veto of act charging, 155.
Nuisances, prevention of, near public schools, veto of act for, 72.
Orphan Asylums, veto of act relating to education in, 407.
Saratoga Springs, veto of amendatory school act, 140.
Troy, veto of act to organize school board in, 399.
White Plains, veto of act for consolidation of, in, 141.

SHERIFFS,
Offices of, closing of, on holidays, veto of act for, 218.

SOCIAL AND RECREATIVE CLUBS AND SOCIETIES.
Canton Lodge, No. 558, Good Templars, veto of charter of, 154.
Excelsior Temple of Honor, No. 23, Albany, veto of charter of, 43.
General Act, extended to detective societies, veto of, 393.
Harlem Yacht Club, veto of charter of, 69.
Idlewild Temperance Association, Cornwall, veto of charter of, 233.
Immaculate Conception Total Abstinence Beneficial Society, Yonkers, veto of charter of, 249.
Ione Yacht Club, veto of charter of, 151.
New York Musical Instrument Saving and Loan Society, veto of charter of, 218.
Teutonia Singing Society, Winfield, veto of charter of, 261.

SOLDIERS,
St. Lawrence County, veto of act for erection of Monument for, in, 123.
Soldiers' Home, Albany, special message recommending appropriation for, 34.
Veteran Association Corcoran Irish Legion, veto of charter of, 260.

SPECIAL MESSAGES,
Acts of the Legislature, interpolations in and alterations of, Special Message relating to 325.
Assessment and Taxation, in relation to, 199, 329.
Bribery, recommending amendment of constitution as to, 197.
Curtis, George M., special message recommending removal of, as Judge, 332.
McCunn, John H., special message recommending removal of, as Judge, 332.
Morse, Samuel F. B., special message on death of, 331.
New York city, audit and payment of claims in, special message on, 323.
New York city, financial condition, of relating to, 315.
Pardons, reports to Legislature concerning, 409, 434, 460, 483.
Prindle, Horace G., special message recommending removal of, as, Judge, 331.
Soldiers' Home, recommending appropriation for, 34.
State debt, payment in coin, recommendation for, 108.
State Prison accomodations, relative to, 33.
Statues for National Capitol, special message relating to, 330.
Villages, recommending general act for incorporation of, 107.

SPEECHES.
New Capitol, laying of Corner Stone of, Address at, 267.
Unveiling of Morse's Statue, speech on occasion of, 519.

STATE ASSESSORS,
Veto of act to increase number of, 254.

STATE DEBT,
Payment of, in coin, message recommending, 108.

STATE PAPER,
Publication of certain notices in counties, veto of, 400.

STATE PRISONS,
General Act in relation to, veto of amendments, 255, 398.
Purchases and sales by, veto of act relating to, 398.
Special Message, recommending erecting of new prison, 33.
(*See also Pardons*).

STENOGRAPHERS,
Code of Procedure, veto of act relating to, 158.
New York City, compensation of, in courts of Oyer and Terminer, veto of, 253.
Onondaga County, appointment of, in, veto of act for, 250.
Surrogates' Courts, 2d and 3d, Districts, veto of act for employment, 241.

STREETS,
(*See Avenues and Highways*).

SUPERVISORS,
Albany County, veto of act relating to salary of, 124.
Oneida County, veto of act relating to salary of, 250.
Owego, election of additional number, in, veto of act for, 59.

SURROGATES,
Courts of, veto of act relating to costs in, 260.
Stenographers in Courts, in 2d and 3d Districts, veto of act authorizing 241.
Wills, proof of, &c., veto of amending act, 396.

TAXATION,
(*See Assessment*).

TEMPERANCE SOCIETIES,
(*See Social, &c.*).

TOWN HALLS,
(*See Halls*).

TOWN MEETINGS,
Hempstead, veto of special act in relation to, 74.
Lenox, election of Town Auditors at, veto of act for, 341.
Newtown, veto of act to hold, by districts, in, 152.
Newtown, veto of Special Act relating to, in, 350.
Sodus, veto of act to hold, by districts, in, 45.

TRANSPORTATION COMPANIES,
Buffalo and N. Y. Oil Tankage, veto of charter of, 393.

TRUST COMPANIES,
(*See Loan Companies*).

TUNNELS,
N. Y. Company, veto of acts relating to, 262, 398.
Pine Hill, veto of act in aid of, 136.

TURNPIKE ROADS,
Buffalo and Williamsville McAdam Road, veto of act amending charter of, 142.
East Hamburgh, veto of act to extend charter of, 123.
Great Western, veto of act relating to tolls of, 138.
Guilderland Center, veto of charter of, 260.
Otisville and Wurtsboro, veto of act to establish tolls on, 148.
Pawling and Beekman, veto of act amending charter of, 148.

UNION SCHOOLS,
(*See Schools*).

UNITED STATES DEPOSIT FUND,
Jefferson County, veto of act for investment of, 401.

VAGRANTS,
Brooklyn, veto of act concerning certain females, in, 255.
N. Y. City, veto of amendatory act concerning, in, 252.

VETOES OVERRULED,
Albany Police Commission, veto of act relating to, 347.
Congressional apportionment, veto of act relating to, 388.

VILLAGES,
Adams, veto of act In aid of Collegiate Institute, 59.
Akron, veto of act relating to boundaries of, 394.
Canastota, veto of act amending charter of, 155.
Charlotte, lock-up and police office for, veto of act providing for, 152.
Chateaugay, veto of charter of, 57.
Clyde, veto of charter of, 158.
Copenhagen, veto of charter of, 158.
DeRuyter, veto of act amending charter of, 156.
General act for incorporation of, veto of act amending, 261.
Geneva, veto of, charter of, 158.
Gouverneur, veto of John Street highway act, 58.
Hart's Falls, veto of act changing name of, 261.
Incorporation of, Message recommending general act for, 107.
Jamaica, veto of act conferring certain powers on trustees of, 68.
Malone, veto of act to increase pay of assessors in, 138.
Memphis, veto of charter of, 261.
Mohawk, veto of act amending charter of, 250.
New Hartford, veto of charter of, 141.
Owego, veto of charter of, 59.
Palatine Bridge, veto of act amending charter of, 151.

WAREHOUSE COMPANIES,
Commercial Exchange, veto of charter of, 148.
Fire Proof, veto of act amending charter of, 251.
Port Morris, veto of charter of, 250.
United States Commission and Storage Company, veto of charter of, 249.

WATER WORKS,
Clyde, veto of charter of, 73.
Granite Lake Company, Saratoga Springs, veto of charter of, 204.
Little Valley, veto of charter of, 215.
Nyack, veto of, charter of, 396.
Richmond County, veto of act to secure supply of water, in 395.
South Hill, Ithaca, veto of charter of, 244.

YACHT CLUBS,
(*See Social, etc.*).