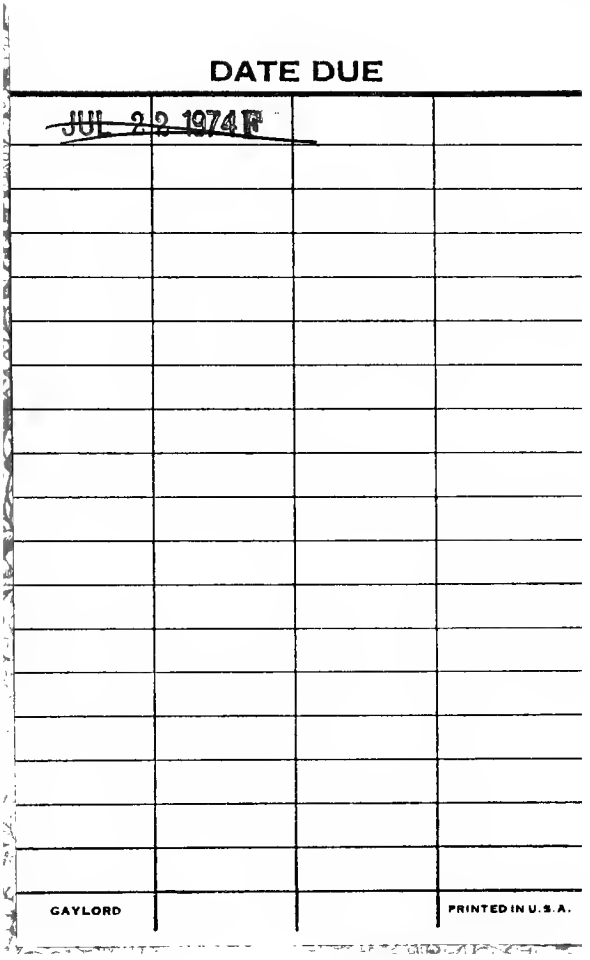

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STATE OF NEW YORK,
EXECUTIVE CHAMBER,
ALBANY.

August 17, 1897.

G. W. Harris, Esq.,

Ithaca, N. Y.

Dear Sir:-

It gives me pleasure to send you herewith, a copy of the public papers of Governor Morton for 1895, for the Cornell University Library.

STATE OF NEW YORK

PUBLIC PAPERS

OF

LEVI P. MORTON

GOVERNOR

1895

ALBANY:
WEED-PARSONS PRINTING COMPANY, PRINTERS
1895

PUBLIC PAPERS

OF

GOVERNOR MORTON

ANNUAL MESSAGE

STATE OF NEW YORK

Executive Chamber

Albany, January 2, 1895

TO THE LEGISLATURE:

In submitting to the Legislature of New York my first annual message, I am profoundly impressed with a sense of the far-reaching responsibility that devolves to-day upon both the legislative and executive branches of our State Government. The complete control of both of these divisions of the public power and authority has been transferred from one political party to another, and this transference of authority has been made in the hope and firm reliance of the people who ordained and wrought the change, that great benefit would inure to the whole Commonwealth from the new order of things. To realize this aspiration of the sovereign people should,

apart from all partisan motives, attract and gratify the highest ambition of which we are capable, and stimulate us to the furthest effort of human exertion.

The duties and obligations with which we are charged are this year more than ordinarily important and onerous. The new legislation which is required to give effect to the labors of the Constitutional Convention is of essential importance. The closest care will be demanded that no hasty, incomplete or ill-advised measures be enacted, otherwise the work and purpose of the Convention may be embarrassed and possibly nullified for a year. Indeed, the work of framing and perfecting the laws made necessary by the amendments to the Constitution is likely to prove so exacting, laborious and comprehensive that I regard it as my duty to recommend the most prompt action, so that by the end of your session the purposes of the people will have been fully accomplished and wrought out, through your energetic and intelligent labors.

Executive Power and Duty

The chief duty of the Governor of the State of New York is "to take care that the laws are faithfully executed." The framers of American Constitutions, National and State, have always kept in view the principle of separation between the legislative, executive and judicial branches of the government. But there always have been certain points where

these coördinate branches have met and crossed each other. The State Constitution imposes upon the Chief Executive certain responsibilities with reference to legislation. He is required to take the initiative in legislative proceedings by that provision which charges him with the duty of communicating by message to the Legislature, at every session, the condition of the State and recommending to their attention such matters as he shall deem expedient. When the Leglslature has enacted a measure, the Governor must pass judgment upon it by giving or withholding his official approval. He thus finds himself, in a certain way, involved with both the beginning and the ending of all important legislation. But it is my conviction that the Governor should never interfere with the work of the Legislature beyond the precise line which his constitutional duty and obligation warrant. The veto power, as it is commonly called, is one that should be exercised with great care and only when the interests of the State are in question. The Chief Executive should never use it as an instrument to aid in impressing or imposing his will upon the Legislature, nor should it be invoked to serve personal or partisan ends.

The first duty of my official life is that of communicating to the Legislature the condition of the State and recommending such legislation as seems to be advisable. That duty is entered upon by me with great diffidence, because I feel that in your respective

houses are many legislators who must have a wider knowledge, gathered from their long experience, than I can be assumed to possess regarding the affairs of this great commonwealth.

Taxation and the Finances

I congratulate you and the people whom you represent that we commence the new year under favoring auspices. The business outlook is much improved as compared with its condition a year ago. The worst of the "hard times" have apparently passed away, and we may reasonably hope that during the ensuing year we will be blessed with a fair degree of prosperity. The finances of this State are in excellent condition. There is no State indebtedness whatever, while the permanent funds, including the United States Deposit Fund, aggregate $9,210,394.30 of principal. The Comptroller informs me that the amount realized from the transfer tax (otherwise known as the inheritance tax) during the last fiscal year was $1,688,954.24, and from the corporation and organization taxes $1,796,640.87, making a total of $3,484,585.11. The amount of the transfer tax was much less than was received last year, but it should be borne in mind that last year's receipts were greatly augmented by taxes paid upon some very large estates and were very much greater than in any other year since the tax went into operation. The State realized however during the last year more than half

a million dollars in excess of the average of the eight preceding years. It is quite evident that this tax will not for years to come yield more than $2,000,000 annually.

The amount realized from taxes on corporations was also somewhat less than it was during the fiscal year ending in 1893. This falling off was doubtless attributable to the business depression by which the revenues and income of corporations was unfavorably affected, but the shrinkage would have been much greater had the Comptroller been less diligent and efficient. It has been the policy of the State for nearly a decade to relieve the people so far as possible from direct taxation for State purposes. There is but little prospect that the present indirect tax laws will bring into the treasury more than $4,000,000 annually, for a long time to come, leaving from $8,000,000 to $10,000,000 to be raised each year by direct taxation. I recommend the Legislature to devise ways and means, if practicable, for the enlargement of the field of direct taxation, but any effort in that direction should be based upon equitable principles and great care should be taken that the burdens placed upon business enterprise are not too heavy.

The rate last year was $2\frac{18}{100}$ mills on the dollar, as against $2\frac{58}{100}$ the year before. It is made up as follows: For the general fund, $\frac{55}{100}$; for extraordinary repairs on the canals, $\frac{15}{100}$; for maintenance and ordinary repairs on the canals, $\frac{21}{100}$; for the free school

fund, $\frac{95}{100}$, and for the maintenance of State hospitals for the insane, $\frac{38}{100}$. Leaving out the last item, which was not included in the State tax levy until 1893, the rate last year was the lowest in the history of the State, with the exception of the rate in 1891, when, owing to peculiar circumstances to which I refer elsewhere in this document, nothing was raised for the general fund.

The State's Financial Needs

The condition of the fiscal affairs of the State is such as to demand the serious attention of the Legislature. The assumption by the State of the care of the indigent insane, and the creation and maintenance of numerous expensive commissions, are the chief causes which make remedial legislation for the treasury necessary. Under the present system, the tax levy made in any one year is not available until the middle of April in the following year, while most of the appropriations made in the same year become available very soon after the passage of the act. In other words, a large part of the moneys required for the maintenance of the State Government for any one year is expended before any portion of the tax levied to meet such expenditures reaches the treasury. As an illustration, I may say that I learned from the Comptroller that $6,284,849 of the tax levy of 1894 will have been expended before a dollar of the tax will have reached the treasury.

This feature of the State's business has always been a source of embarrassment to its fiscal officers, and in 1883 the Comptroller recommended that a surplus of $1,000,000 be created for the purpose of tiding the treasury over the non-tax-receiving period between October first and April fifteenth. This recommendation was adopted, and the million dollar surplus raised; but in 1891 the party in power deemed it expedient to fix a low tax rate, in the face of heavy expenditures, and as a result the million dollar reserve was included among the available assets of the treasury. But even the absorption of this surplus would not have saved the treasury from a deficit in that year, had it not been that the $2,213,000 received from the United States Government was also taken and used. Simultaneously with this absorption, or perversion, of the surplus fund, the Legislature passed various measures which, in their ultimate effect, would tend to augment the expenses of the State, notably the State-care-of-the-insane Act, under the provisions of which the counties of New York and Kings propose to transfer from themselves to the State a burden of over a million and a quarter of dollars, annually expended for the care of the insane.

Since 1891, it has been with the greatest difficulty that the current expenses of the government have been provided for during the six and a half months from October first to April fifteenth, and when

unusual conditions have arisen, as in the present year, it has been necessary for the State to become a large borrower.

The necessity for a surplus was pressing before the State assumed the care of the insane, October 1, 1893; but with the enormous monthly payments called for by the State-care-of-the-insane Act, a surplus now seems indispensable to a proper maintenance of the State Government. Moreover, it is expected that New York and Kings counties will this year transfer the care of their indigent insane to the State, as they have a perfect right to do, in which case the expense of caring for the insane will be doubled. As matters now stand, nearly $900,000 are annually advanced from the treasury under the State-care-of-the-insane Act before a single dollar of the tax levied for the support of the insane reaches the treasury.

In view of this condition of affairs, I respectfully recommend that the tax levy for the care of the insane be so adjusted as to yield a surplus of one million and a half of dollars. I would also recommend that such legal safeguards be thrown about this surplus that it will be impossible to use it for any other purpose than the one for which it was created.

When dealing with this subject it would doubtless be well also to amend the laws so as to set a uniform date or period within which all county treas-

uries shall be required to forward their tax collections to the State treasury. While the bulk of the payments are now made on and before April first, the treasurers of some of the wealthiest counties in the State have fallen into the questionable practice of withholding the funds until July or August. The public good requires that this laxity shall be promptly remedied and prohibited.

The Need of Public Economy

I especially desire to call attention to the great and growing demand for the most rigid economy in the management of the different departments of our State Government. From year to year, and especially during the past twelve or thirteen years, these expenses have grown until the burden is becoming grievous and unbearable to our citizens. Indirect forms of levying taxes have been resorted to, with the idea of relieving or shifting the burden of taxation, but the remedy, and the only remedy, to relieve the people and the industries of this State from the burdens now felt so severely is by the practice of reasonable and just economy in all State expenditures.

While I think a great reduction in expenditures could, without injury to the public service, be secured in all the departments of the State, I feel that a greater extravagance arises from the multiplicity of "commissions," which have increased so

rapidly in number and expense since about the year 1880. From an expenditure for the duties covered by these commissions of less than $4,000 in 1880, we have seen a growth from year to year, until the cost of these commissions alone amounted last year to nearly a million and a quarter of dollars. Some of these commissions are unnecessary, and should be abolished. Some of them should be consolidated with or made bureaus of correlative departments of the State Government, and by such consolidation a very material reduction in the expense of their operation could be secured.

I understand that last year an investigation of some of these commissions was undertaken by the Joint Committee — the Ways and Means of the Assembly, and the Finance of the Senate. That inquiry was prosecuted as far as possible during the session of the Legislature, but owing to the great pressure of other labors at the end of the session, it was impossible to complete the work, or to prepare and pass all of the necessary remedial legislation. I think the sentiment of the people is more decided now than ever before that some radical change should be made on the lines above suggested. It is our duty to pay attention to this demand. The carrying out of this reform must be accomplished by the Legislature. I would recommend therefore that a committee be appointed in such manner as may seem to the Legislature wise, fully authorized

and empowered to investigate and report the expense of carrying on the various departments of the State, so that the people may be thoroughly informed as to the expenditures that are necessary and those that are unnecessary; and that such committee be authorized, after due investigation, to report such remedial measures to the Legislature as may seem fit and proper. The appointment of this committee as early in the session as practicable appears to be desirable, so that the work shall be begun early, and the legislation necessary to carry out the recommendations of the committee passed at this session.

The New Capitol

I call your especial attention to the question of the completion of the New Capitol. In 1890 work was recommenced on this great edifice, after a cessation of several years. The Commissioner of the New Capitol then estimated that the building could be completed for something less than $2,300,000. About $18,400,000 had then already been expended upon it. The Legislature finally concluded to finish the structure and made an appropriation for that purpose. Succeeding Legislatures have taken measures in the same direction, with the result that appropriations aggregating more than $3,000,000 have been made since the estimate above mentioned. The people are thoroughly tired of this

seemingly endless drain upon the treasury. It is time that decisive steps be taken to prosecute this work to a close in the very near future, and within a reasonable limit of expenditure. While the Commissioner of the New Capitol is entitled to great credit for the excellent quality of the work that has been done under his supervision, there is a general feeling that the amount of money that is being expended is entirely too great. I suggest that the Legislature procure, from the Commissioner and other competent authorities, specifications of the work necessary to complete the building, together with estimates as to the cost, with the view that, if deemed advisable, the work be completed by contract.

The Constitutional Amendments

The principal matters in respect of which the amendments of the Constitution impose an immediate duty upon the Legislature seem to me to be the following:

1 The new judiciary article (article VI) requires the Legislature to divide the State into four judicial departments, in each one of which is to sit a branch of the new appellate division of the Supreme Court. The abolition of the criminal courts of Oyer and Terminer and Courts of Sessions and of the civil Circuit Courts, and of the Court of Common Pleas and the Superior Court in New York, the City

Court of Brooklyn and the Superior Court of Buffalo, require a careful revision and modification of the great number of statutes, so as to adapt them to the new system. This is particularly important in regard to criminal jurisdiction. The transfer of the jurisdiction of the nine existing General Terms to the new apellate divisions and the changes in the jurisdiction of the Court of Appeals and of the right of appeal to that court, require extensive changes in the statutes upon those subjects.

In order to take over the business of these Superior City Courts with their numerous clerks, offices and records, legislation will be necessary to enable the county clerks of the respective counties to undertake and carry on the business. The records of the Court of Common Pleas extend over a period of about 200 years, and are of great importance and value and should be carefully provided for. All of this work must be completed at this session of the Legislature, because the new courts are required to go into operation on the 1st of January, 1896. The necessity of early and sustained action on this subject is therefore apparent.

It is of special importance that the division of the State into four judicial departments should be made at the earliest date possible, in order that I may discharge the duty which the Constitution imposes upon the Governor, of designating the justices of the Supreme Court, who shall consti-

tute the appellate divisions in the several departments. It is important that these justices should be selected and assigned before the legislative session closes, so that they may consult together and advise the Legislature as to what action, on its part, is necessary for the successful inauguration of the new system. As the justices are to have the responsibility of making a practical working court, their advice and assistance should be had in respect to the perfection of the details, while there is still time for their views to receive practical and effective attention.

2 Section 2 of article XII of the revised Constitution requires that the Legislature shall provide for the giving of public notice and opportunity of a public hearing, concerning every special city law, in every city to which it relates, before the mayor of such city accepts or refuses to accept the bill. Such provision seems to be prerequisite to the passing of special city laws, and as a number of new laws are by general consent urgently and speedily required for the city of New York, the provision for hearings before the mayor ought to be made by the Legislature at the earliest possible date. Provision is made in this section for the classification of cities into three legislative classes, on the basis of the latest official enumeration of their populations. Your attention is required to give this amendment its intended effect.

3 The Penal Code of this State contains numerous and apparently sufficient provisions against gambling. Among these provisions, section 351 makes poolselling and bookmaking upon races criminal offenses. By chapter 479 of the Laws of 1887 (commonly known as the Ives Pool bill), the Legislature exempted from the operation of the above-mentioned section the race tracks and grounds of incorporated racing associations during thirty days of each year, and thus permitted, upon those tracks and grounds alone, the acts which remain criminal in all other parts of this State. The revised Constitution, section 9 of article 1, adds to the old provision against lotteries a provision that neither poolselling, bookmaking, nor any other kind of gambling, shall hereafter be authorized or allowed within this State, and requires the Legislature to pass appropriate laws to prevent offenses against any of the provisions aimed at the race-track gambling permitted by the statute of 1887, above mentioned. The Legislature, in obedience to the will of the people thus expressed, should without delay, expunge the obnoxious law from the statute books.

4 The provisions of law establishing Civil Service boards and examinations in this State have hitherto had only legislative and constitutional sanction. The Court of Appeals has held that, in view of the express powers conferred by the Constitution upon the Superintendent of Public Works and the Super-

intendent of State Prisons, the Legislature had no authority to subject the appointments made by those officers to Civil Service rules. It is believed that the Civil Service provision authorized in the revised Constitution as section 9 of article V, obviates this difficulty and permits the Legislature to extend the Civil Service rules to the State prisons, the canals and other public works of the State.

5 Upon a separate submission of section 10 of article VII the people have, by a majority of about 115,000, much larger than that cast for any other amendment, declared their will that the canals shall be improved in such manner as the Legislature shall provide by law.

6 The new provision of section 1 of article IX requires the Legislature to provide for the maintenance and support of a system of free common schools, wherein all the children of the State may be educated. That is now far from being the case, and the Legislature ought to take immediate steps to fulfill this mandate. Special investigation should be made to ascertain what children may be cut off from educational facilities by force of the new provision of section 4 of article IX.

7 Section 29 of article III requires the Legislature to provide by law for the occupation and employment of prisoners in the State prisons, and as the same section prohibits the continuance of the present system of employment after the 1st of January, 1897,

no time should be lost in considering how the Legislature shall obey this mandate.

8 The prohibition against selling the Onondaga Salt Springs has been abrogated. These springs are a constant source of useless and therefore, unjustifiable expense to the State, and the disposition to be made of them ought to be promptly considered and determined.

9 Extensive improvements in the agricultural regions of the State are understood to be waiting only for the Legislature to give effect to the new provision in section 7 of article 1, which provides for the passage of general drainage laws, to which I make reference elsewhere.

10 The new provisions contained in sections 11 to 15 of article VIII require the Legislature to provide for a general system of visitation and inspection of charitable institutions, insane asylums and prisons, and for the regulation of public aid to charitable and correctional institutions, wholly or partly under private control. These requirements are aimed at grave existing abuses and should be promptly complied with.

Reform Legislation for New York City

A Power of Removal bill, as a means of securing better government in cities, is demanded by a large part of the people. This requirement has been undoubtedly accentuated, if not originated, by the

exposure of wholesale corrupt practices and administrative abuses in the municipal departments of the city of New York. These have been brought to the public notice in so conspicuous a manner that no characterization from me is needed, to deepen the impression they have wrought in the public mind, that prompt and radical measures for their correction are imperative. And this sentiment exists not merely in the metropolis, but among the people of the State who have, by an expression most unusual in its volume, evinced their reprobation of these systematized official crimes, and have brought into the places of authority men especially selected for the work of eradicating the evils so everwhelmingly condemned by the power of the suffrage at the recent election. The Legislature no doubt recognizes that one of its most solemn and imperative duties will be to coöperate with the representatives of reform sentiment and action in New York city and conform its legislative acts to the desires of the people at the earliest possible day. A Power of Removal bill for the city of New York, placing in the hands of the mayor absolute and unquestionable authority to remove any of the appointive officers of the city government and to appoint their successors, is an immediate requirement at your hands. The special committee of the Senate, known as the Lexow Committee, which has been investigating the city departments for some months past, will doubtless submit

its report to the Legislature early in the present month, and is expected also to recommend various measures or plans for needed reform. In the meantime, the duty is incumbent on you, under the expressed will of the people of the metropolis, to give to the mayor of New York the requisite power of removal and appointment, without waiting for the full details of the reform plan. I deem it proper, however, to counsel wisdom and calm discretion when dealing with this question, so that the dominant and responsible political party may be credited with a lofty purpose and not charged with a lust for what are regarded as the "spoils of victory."

The Greater New York

Last year the Legislature enacted a law submitting to the voters of New York, Brooklyn and adjacent cities the question of bringing all their populations into one great municipality. The people of the cities involved in the proposition have declared by popular vote in favor of this consolidation, and it now becomes the duty of the Legislature to take such further steps as are necessary to carry their wishes into effect. The framing of a charter for a city of more than three millions of people is a comprehensive, delicate and important task; one that should not be entered upon without careful and serious preparation. It is doubtful whether the Legislature, in view of the many duties that will

press upon it during the coming season, will be able to fully perform this labor. I suggest therefore that a commission be at once created, to be composed of the most capable citizens of the various localities interested, and to be charged with the power and the duty of framing a charter and reporting the same to the present Legislature, if such a plan can be drafted and submitted before the session closes.

The Election Laws

One of the most important subjects which you will be called upon to consider is that of improving our election laws. The people are vitally interested in honest elections. There is an imperative public demand that the ballot-box shall be made to register so far as possible the free and uncorrupted will of the legal voters. This State was the first that attempted a thorough reformation of the elective system, but owing to differences between the legislative and executive branches of the government upon the subject, nothing was accomplished until 1890, when the present ballot law was placed upon the statute books. That law is generally conceded to be very inadequate, and the opinion is almost universal that it should be radically changed. While it has to a certain extent secured secrecy of the ballot, it has been the source of evils that have almost counterbalanced its good results. The experience

of several years has made it very clear that the system of providing a separate ballot for each group of nominations is cumbersome and unsatisfactory. The "blanket" ballot, so called, which has been successfully used in many States of the Union, should in my judgment be adopted in this State without further delay. Without intending to dictate as to the particular form, I think it proper to suggest that it would be well to provide for party symbols, and for printing the names of each group of candidates in parallel columns, each under its appropriate symbol and party or political designation. That was the form of ballot provided for in the bill which passed the Legislature at the last session, and it seems to meet with general approval. The bill was vetoed, not because of its form however but because it did not permit the use of the blanket paster. This kind of ballot has been used for years in a number of the States with gratifying results.

It is my belief that the use of the "blanket paster" ballot should be at once prohibited, for through its instrumentality the purpose of the law has been to a large extent defeated. It can not be claimed that the "paster" is necessary, because it has never been used in those other States which have adopted the Australian system of voting. There is a question whether the use of "pasters" containing the names of individual candidates, whose names are not printed in the official ballot, is not both proper

and necessary so as to preserve the constitutional rights of illiterate voters. It is not necessary for me to suggest that nothing should be left undone that will secure to every citizen his right of suffrage. The State of New York is also entitled to the credit of having taken the lead in placing upon the statute books a strong law against corrupt practices at election. That law, which is a part of the State's Penal Code, has been strengthened from time to time, so that it is now one of the best statutes of the kind in the country. But there is one particular in which this law seems to be defective. While it requires every candidate for public office to file a sworn statement of his disbursements of money for election expenses, it omits to require similar statements from political committees. This I regard as a very serious defect, and one that should be remedied without delay.

The revised Constitution, article 2, section VII, very wisely provides that, to be entitled to vote, a person must have been a citizen for ninety days before election. As a result of this provision it will not hereafter be necessary to set apart a fifth day for registration in the cities of the State, and I recommend that the election law be amended in conformity with this modification.

As amended the Constitution makes the duty of the Legislature very plain in respect to the registration of voters. By section 4, article II, it is provided

that in cities and villages having 5,000 inhabitants or more, voters shall be registered upon personal application only. This makes it necessary to extend the personal registration requirements, which now apply only to cities, to all villages which contain 5,000 or more. The section referred to exempts citizens in cities or villages of less than 5,000 inhabitants from such personal registration.

Another important amendment bearing upon the subject of elections is embodied in section 6 of the same article which requires equal representation of the two great political parties in all boards of registration and election. In this respect however the Legislature of 1894 anticipated the action of the Convention by passing an act providing for bi-partisan election boards.

The State Canals

The improvement and administration of the State canals should command most careful and enlightened attention at the present session. Since the inception of that great enterprise, the Erie canal, more than three quarters of a century ago, the people of this State have continually recognized the impetus it has given to the general progress and commercial prosperity of the commonwealth. It has been a prime factor in the establishment and maintenance of the commercial eminence of the port of New York. When the canal was constructed and for many years

afterward, there were no railways to compete with this great waterway, and the natural products of practically the whole of the then limited new country, to the north and west of this State, found by this channel their way to the markets of the world. The canal has now for its competitors five of the most perfect trunk-line systems of railway in the world, administered and operated by master-minds and backed by enormous capital, the security of which lies in the maintenance of a successful rivalry. And while the railways have made steady and rapid progress on the line of improved methods and inventions, the system of operating the canal is scarcely changed. As a consequence largely of these diverse conditions the tonnage of the canal has shown a continuous decrease during the last few years, and for the year just closed the tonnage was the smallest since 1859. In the past season the railways have carried 49.45 per cent. of the total amount of grain delivered at the port of New York, and the canals 50.1 per cent. For the eleven months to November thirtieth, Baltimore exported about 15,000,000 bushels, or nearly one-half as much grain as New York, while Baltimore, Philadelphia, Boston and Montreal, together, exported 36,155,396 bushels, of which a large amount could have been diverted to New York for export if the canals could have furnished the necessary accommodation at a low rate of cost. Assuming that on terminal charges, freight

and handling, five cents is earned from every bushel of grain that passes through this State, $1,807,770 were by this diversion lost to the people employed in this State upon a product in transit, which was neither raised nor consumed within our borders. The question of deepening the canals, the Erie to nine feet and the Champlain to seven feet, will come before you this session, and will, I trust, receive the serious consideration which the great importance of the subject deserves. While it is true that the railways of our own State are active rivals of the canal, statistics show that these rail lines have not carried all of the freight not borne by the canals, but that other railways, States and ports have been growing opulent and important in handling the rich burdens which might have been in great part controlled for our own commercial advantage. The Dominion of Canada too has expended and is still expending vast sums in governmental aid to the canals of that country, and is also an active competitor against our canal system as well as against our railways. It is unnecessary to submit here the statistics which go to show the danger that threatens the commerce of our State. These details will come before you in the official annual report of the Superintendent of Public Works. It is my duty however to emphasize the lesson which these figures teach, and to urge upon you the need of prompt and statesmanlike action in providing for the improvement of the

canals and their administration upon a sound business basis, unmixed with political or other subordinate purposes and policies.

Agricultural Drainage

There is one provision of the revised Constitution in which many farmers of the State are greatly interested. Under the old Constitution a doubt existed as to the power of the Legislature to provide a method by which owners of agricultural lands could construct necessary ditches, for the drainage of their own lands across the lands of others. As a consequence those who owned low or swamp lands, or lands upon which in certain seasons the surface waters settled, have been compelled in many instances to suffer great hardships, because they could not conduct the water across a neighbor's premises even by paying a just compensation for the privilege. This right is given by section 7, article 1 of the new Constitution, and I recommend that the Legislature pass an act at an early day that will provide a speedy and economical means of relief for those who are interested in the matter.

Roads and Highways

The subject of good roads is one which merits thoughtful attention at your hands, for it is year by year becoming of larger importance in the public eye. Nearly all of the various State Legislatures

which will be in session during this year will be engaged in efforts to secure practical results, in the direction of selecting approved methods, though on a variety of lines or theories. The information obtained by the Office of Road Inquiry, a bureau of the Federal Department of Agriculture, and which has had correspondence on the subject with all of the State Governments, is that wide divergence of opinion exists on the whole question, and it is feared that it may in consequence be difficult to secure sound practical results. Not less than half a dozen plans are in effect or contemplation, a fact that is undoubtedly regretable, and it would seem desirable that the Empire State should, with its characteristic progressiveness, be a leader in the establishment of an acceptable system of road improvement, extension and maintenance. The advocates of road improvement in several States are urging the establishment of a temporary joint commission, by the respective Legislatures, such commission to include, besides members of both legislative houses, representatives of road improvement organizations. If this plan is adopted by a number of the State Legislatures, the Federal Office of Road Inquiry proposes to act as a medium of communication between them, as well as a source of information. I think that the Legislature might, by a committee, put itself into communication with the National and State authorities on the subject, and acquire all available information as

to plans and experiments, with a view to obtaining good roads, constructed on wise and economical principles, throughout the State.

Convict Labor

The constitutional amendment, which takes effect two years hence, forbidding the State to employ convicts at the State and county prisons, jails and reformatories in any industrial arts or useful occupations the products of which may come into competition with the work or products of the people, imposes a grave duty upon the law-making power. No condition is so subversive of both moral and physical discipline, especially among bodies of men under punitive restraint, as that of idleness, and the restriction now imposed upon their occupation will render it no easy task to provide employment within the law, and to make the convicts yield an appreciable proportion of the cost of their maintenance. If their services can be legally applied to the building and improvement of roads and highways, the manufacture of clothing and other articles, the raising of food supplies on State farms and other like pursuits, all for use in State institutions, the solution of the problem may be less difficult than it now appears to be. The character of the laws framed to accomplish this end will be closely scrutinized by the people, and should be such as to relieve the industrial workers and their employers from the competi-

tion of prison labor, against which they have for years past so earnestly protested.

The Civil Service Laws

The Civil Service Laws of the State have been powerfully reinforced by the adoption of an amendment to the organic law, recognizing this great reform principle and extending its operation. The law-making authority is required to give effect to these provisions. It may be well considered whether the prudent and consistent extension and perfection of the system will not exert a most beneficial effect in averting and rendering impossible many of the corrupt and otherwise reprehensible practices which have of late scandalized so many branches of the public service. Under this constitutional recognition the Civil Service Laws will become applicable to municipal and county officials and employees, as well as to State employees. The same section also gives recognition to the principle that honorably discharged soldiers and sailors of the civil war shall be entitled to preference in appointment and promotion from the eligible lists, without reference to their standing on any such list from which the appointment or promotion may be made.

The Bank Department

The great increase in the resources of the various institutions supervised by the Bank Department dur-

ing the last decade entitles it to special mention. Ten years ago the total resources of these institutions were a little over $845,000,000. To-day, by reason of the increase in the number and business of banks of deposit, savings banks and trust companies, together with the building and loan associations and foreign mortgage companies, which were placed under the supervision of the department in 1890, there appears to be an increase in resources of about $580,000,000, making a total of $1,425,000,000.

In the revision and reënactment of the Banking Laws in 1892, many valuable amendments were made; but there are several amendments which might still be made with the effect of further improving the law. For instance, as the law now reads a bank may commence business by paying in fifty per cent. of its capital stock — the balance to be paid in in installments of ten per cent. at the end of each succeeding month, until it is fully paid. Experience has shown that the remaining portion of the capital stock is not paid in as provided by law, and more or less confusion arises over the payment of the remaining half. I am of the opinion that the whole capital stock should be actually paid up before the new bank is authorized to commence business. A number of banking institutions have been forced into bankruptcy for one or all of the following causes, to wit: The loose method by which officers and employees of a bank may borrow money from the

institution, upon their own motion, such amount as they may desire; the loaning of funds by a bank upon the security of its own capital stock; and the tendency of so many banks to pay out their profits in dividends, rather than to create a reasonable surplus fund with which to meet inevitable losses.

I would recommend that the Banking Law be so amended that the officers having the physical control of the funds of a bank should not be allowed to loan money to themselves, but that their applications for loans should be submitted to the board of directors, and the consent of a majority of such board should be required precisely as general customers procure loans. Also that banks should be required to accumulate a reasonable surplus fund or go out of business, and that they should be prohibited from loaning money upon the security of their own capital stock.

Savings Banks

There not a few instances in this State where savings banks and banks of discount are located in the same room, and are controlled by the same management; at one desk the savings bank officers receive deposits; at another desk close by the discount bank receives and pays out moneys. The board of trustees of the one institution is composed mainly, if not wholly, of the directors of the other, so that when trouble arises to the one, the other is also invariably involved. At least

two instances have occurred within the last two years where discount banks have suspended, and savings banks doing business in the same room have been forced into failure for the reason that their entire available funds were "tied up" in their suspended bank. This condition of affairs demands prompt rectification. Each banking institution should be independent of the other, and the available funds of savings banks should be deposited in such a manner as to be beyond the perils which may involve the discount banks.

PUBLIC INSTRUCTION

It is a matter for congratulation that the leadership of New York State in educational affairs is everywhere recognized. Her present system of supervision and examinations is uplifting the calling of the teacher, giving more assurance of employment to those well qualified, and insuring to the public a more adequate return for the liberal expenditure that has always honorably distinguished the Empire State. Buildings, equipment, library and apparatus do not make a school. It is upon the fitness of the teacher that our educational system depends for its results. Toward this end our State is making unexampled progress. Our normal schools, teachers' institutes and teachers' training classes are growing in efficiency and are disseminating a professional spirit which reaches the smallest country schools. Corres-

ponding progress appears along the distinctly different line of higher education. Particularly by concentrating in a responsible body the supervision and control of higher institutions of learning and professional preparation, the public interests are more adequately protected. It is recommended that the Legislature provide liberally but with economic discretion for the carrying on of the system of public education.

The State Insurance Department

The business of insurance has reached such vast proportions within this State and the interests involved in its proper conduct are so vital to the welfare of our citizens, that the placing of it under the controlling supervision of the State, as was done in 1859, was a matter of public policy, the propriety of which can not be well questioned at this time. It is supervised under the authority of laws that I think still need considerable amendment and revision. In 1892 a revision of these laws was undertaken and in a manner accomplished, but the statutes relating to the supervision of the business of insurance still need radical amendment in many respects, and it seems proper to suggest such legislation as may result in the enactment of laws governing the regulation by the State of this business, the intelligent supervision of which is so essential to the best interests of the people of the State.

The revision of 1892 was accomplished through the medium of a commission appointed to revise the Insurance Law, as well as other laws. The scheme of revision contemplated more particularly the codification and rearrangment of such laws relating to insurance as existed at the time. The result has been that the law is practically the reënactment of old statutes, which under changed conditions, brought about by the development and progress of this business, are in numerous instances unfitted to deal intelligently or effectively with this interest as it should be dealt with.

The Dependent Insane

The State Commission in Lunacy reports that while the reduction in expenses for maintenance of the State hospitals for the insane, for the first year under the new system, amounted to $275,000, exclusive of the expenditure of surplus funds, as compared with the last year's expenditures under the old system, there will be a deficiency of income amounting to $219,000. This arises from the insufficiency of the appropriation, and you will be called upon to provide for this shortage in addition to the usual tax for maintenance. For the next fiscal year, the gross sum to be raised therefore will be about $1,800,000, exclusive of the amount necessary to provide for additional buildings, repairs and improvements. Examination shows that for the past eight

years the appropriations for buildings, repairs and improvements alone have averaged more than $1,000,000 per year. Careful inquiry into the subject leads to the conclusion that with a more judicious plan of both appropriation and expenditure, one-half of this annual amount would have been ample for the purpose. But so long as the practice exists of making separate appropriations for each institution, without consideration of the needs of the State as a whole, such excessive expenditures are likely to result. It is therefore suggested that in lieu of this unbusinesslike method, the annual tax for maintenance be increased to a sum sufficient to provide for the needs of all the State hospitals, including additional accommodations for the annual increase in the number of inmates as well as for repairs and improvements, and that this gross appropriation be apportioned and expended among the various hospitals under the law controlling the ordinary expenditures for care and support. These laws have yielded good results by reducing materially the cost of caring for the dependent insane and at the same time insuring to them every necessary comfort and attention. The large appropriations of the past have enabled the Commissioners to extend the building accomodations, so that, including those now in course of erection, no additional buildings will be required for some years to come, and the immediate needs will only require the furnishing of about three

hundred beds to accommodate the estimated increase of inmates. This will involve a comparatively small outlay, for if the buildings are erected on the present State hospital grounds (as contemplated by the act of 1890) the cost should not exceed $550 *per capita*, the sum prescribed in the act referred to, including furniture and fixtures. This course must be followed if economy in the care of the insane is to be observed. The expenditure for this purpose is already one of the largest items in the State budget, and if the counties of New York and Kings adopt the course expected, by asking to be relieved of the care of their insane, the annual appropriation for the maintenance of the indigent insane will exceed in amount the appropriation for any other single department. of the State government. It will approximate $3,500,000 to $4,000,000. It is of course conceded that the two counties last named have the perfect right to turn over their insane to the care of the State, and the dictates of humanity and justice favor the transfer. The total number of insane in the various institutions of the State is nearly 20,000, of whom about 9,000 are in the asylums of New York and Kings counties. During the past year the last of the insane remaining in the poor-houses of the various counties and towns have been transferred to the State hospitals, under the operation of the State-care-of-the-insane act.

Maintenance of State Charities

The new and enlarged duties imposed upon the State Board of Charities by the fourteenth section of the eighth article of the revised Constitution calls in my judgment for immediate action on the part of the Legislature, to enable that board properly to discharge those duties. Payments by the several civil divisions of the State to charitable, eleemosynary, correctional and reformatory institutions, either wholly or partly under private control, can not hereafter be made for any inmate of any such institution who is not received and retained therein pursuant to rules established by the State Board of Charities. The evident object of this provision was to secure, through the instrumentality of the board, the effectual prevention of any payments for sectarian objects. To accomplish this purpose the existing machinery of the State Board of Charities is wholly inadequate, and a suitable act should be passed making it the duty of the board to appoint inspectors of these institutions, regulating the manner of making such payments as prescribed by the Constitution and containing such other provisions as in your judgment shall tend to secure the most economical and intelligent care of such inmates and carry this new and important provision of the Constitution into effectual operation.

State Forestry

The preservation of the forest domain of the State is a subject of deep concern to the whole community, involving as it does the preservation of the natural sources of water supply. Peculiar significance was given to this question in the recent Constitutional Convention, by the fact that the amendment providing for the keeping of the forest reservations forever as wild forest lands was urged by important commercial interests, and was the only amendment that was adopted without dissent. Due attention should be given to the necessary legislation to carry the will of the people into effect. The carrying out of these provisions will also tend to the preservation of game birds and animals on the public lands, a subject worthy of legislative attention, especially with respect to the advisability of prohibiting the use of dogs in the hunting of deer. The decimation of herds does not result from killing by the dogs, but the hunted animals almost invariably take refuge in the numerous lakes, ponds and brooks, where they are so helpless that they fall victims to other hunters who lie in wait for easy captures.

The State Troops

The proper maintenance of the military and naval forces of the State is a matter which it is necessary for me to impress upon you with more than ordinary

directness. The National Guard of New York is conceded to be second to none, and it must not be allowed to deteriorate. There is one respect in which the State troops, both military and naval, and the officers commanding them, begin to seriously feel their inefficiency, and that is, the inferiority of their weapons. The State authorities will, within a year at the furthest, have to give serious and business-like attention to the matter of supplying the Guard with arms of modern pattern, adapted to the requirements of the plan of warfare which their new tactical manœuvres contemplate and were devised to meet.

With these suggestions and recommendations, I commit to your hands the laborious duty of framing and enacting the legislation needed by the State at this session. I doubt not that candor, honesty, discretion and industry will governor your deliberations, and that the result will win the approval of the people.

LEVI P. MORTON

ASSIGNMENT OF EX-JUSTICE BARNARD TO DUTY IN THE SUPREME COURT

STATE OF NEW YORK
Executive Chamber

WHEREAS, The term of office of the Honorable Joseph F. Barnard a Justice of the Supreme Court in and for the Second Judicial District having been abridged on the thirty-first day of December, 1893, by the limitation of age prescribed by section twelve of article six of the Constitution; and he prior to said date having served ten years as said Justice and having thereby become entitled to continue to receive the compensation established by law for the remainder of the term for which he was elected, to wit, until the thirty-first day of December, 1899, which said compensation is now being received by him; and he consenting to be assigned by the Governor to any duty in the Supreme Court while his compensation is so continued; and it appearing to my satisfaction that the public interest requires it;

Therefore, By virtue of the power conferred upon me by section twelve of article six of the Constitution and upon filing his written consent thereto, I do hereby assign the Honorable Joseph F. Barnard to any duty in the Supreme Court which he might lawfully have performed if his term of office had not

been abridged as aforesaid for and during the term ending December thirty-first, 1896.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this twelfth day of January in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUDGE BARNARD TO EXTRAORDINARY SPECIAL TERMS IN THE SECOND JUDICIAL DISTRICT

STATE OF NEW YORK
Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it;

Therefore, In accordance with the statute in such case made and provided I do hereby appoint extraordinary Special Terms of the Supreme Court to be held at the court-house in the city of Poughkeepsie in the county of Dutchess on Saturday the second day of February, 1895, and on each and every Saturday thereafter at ten o'clock in the forenoon for and during the term ending December thirty-first, 1896; said Special Terms to be continued so long as

may be necessary for the disposal of the business that may be brought before them; and I do hereby designate and assign to hold each of said extraordinary Special Terms of the Supreme Court the Honorable Joseph F. Barnard a Justice of the Supreme Court whose term of office has been abridged, pursuant to the provision of section twelve of article six of the Constitution, but who with his consent has been by me assigned to duty in the Supreme Court for the term above stated. And I do further direct that notice of the appointment aforesaid be given by publication of this order once in each week for two weeks prior to said second day of February, 1895, in the Brooklyn Eagle a newspaper published in the city of Brooklyn and in the Poughkeepsie News-Press and in the Poughkeepsie Eagle newspapers published in the city of Poughkeepsie and on filing a copy thereof on or before the twenty-first day of January, instant, in the office of the clerk of each county in the Second Judicial District.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twelfth day of January in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE WARD TO THE GENERAL TERM OF THE FIFTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with the statute in such case made and provided the Honorable Hamilton Ward a Justice of the Supreme Court of the Eighth Judicial District is hereby designated as Associate Justice of the General Term for the Fifth Department of the Supreme Court, to fill the vacancy caused by the resignation of the Honorable Albert Haight and for the remainder of the term as such Associate Justice for which Judge Haight was last designated.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this sixteenth day of January in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

APPROVAL OF THE REMOVAL FROM OFFICE OF EXCISE COMMISSIONERS FOR QUEENS COUNTY

STATE OF NEW YORK
Executive Chamber

In the matter of the removal of Michael Doyle, Frank P. Krug and John F. McGowan from the office of Excise Commissioner of the town of Newtown in the county of Queens—Approval of Order of Removal.

WHEREAS, The county judge of the county of Queens, by an order made on the sixteenth day of January, 1895, has removed from the office of Excise Commissioner of the town of Newtown in said county of Queens, Michael Doyle, Frank P. Krug and John F. McGowan, ıfter having allowed them an opportunity to be heard and has filed with me for my approval as required by law a statement of his reasons for such removal together with the minutes of the proceedings therein; and

WHEREAS, After a careful examination of the reasons presented by said county judge I have come to the conclusion that the said removal was proper and justifiable;

Now Therefore It is ordered that the removal of the said Excise Commissioners be and the same is hereby approved.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-ninth day of January in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE VAN BRUNT AS PRESIDING JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Charles H. Van Brunt of the city and county of New York a Justice of the Supreme Court of the First Judicial District is hereby designated as Presiding Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31st, 1897.

Given under my hand and the Privy Seal of the State at the Capitol in the city of

Albany this twenty-first day of February
[L. S.] in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE BARRETT AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable George C. Barrett of the city and county of New York a Justice of the Supreme Court of the First Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31st, 1899.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE INGRAHAM AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT.

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable George L. Ingraham of the city and county of New York a Justice of the Supreme Court of the First Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE PATTERSON AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Edward Patterson of the city and county of New York a Justice of the Supreme Court of the First Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE O BRIEN AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Morgan J. O'Brien of the city and county of New York a Justice of the Supreme Court of the First Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31st, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE DWIGHT AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Charles C. Dwight of the city of Auburn a Justice of the Supreme Court of the Seventh Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31st, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE WILLIAMS AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION OF THE FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

In accordance with section two of article six of the Constitution the Honorable Pardon C. Williams of the city of Watertown a Justice of the Supreme Court of the Fifth Judicial District is hereby designated as Associate Justice of the Appellate Division of the Supreme Court in and for the First Judicial Department for the term ending December 31, 1897.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

VETO OF ASSEMBLY BILL INTRODUCTORY No. 151 TO PROVIDE A STATE ARMORY AT OGDENSBURG

STATE OF NEW YORK
Executive Chamber
Albany, February 28, 1895

TO THE ASSEMBLY:

Assembly bill, introductory number 151, providing for the erection of a State Armory in the city of Ogdensburg, St Lawrence county, is herewith returned without the Executive approval.

This Armory is designed for the use of the Fortieth Separate Company, located in the city of Ogdensburg. The present company was organized March 1, 1894. It has for many years been the policy of the State not to construct armories for the use of separate companies until the usefulness of such organizations has been demonstrated by a longer period of existence than this company has enjoyed, and this of itself is a sufficient reason why this armory should not be built at this time. The Adjutant-General reports that this company is showing an excellent degree of discipline and efficiency, and that it is one of the best in the State taking into consideration its brief existence, and without in any way reflecting upon the organization, I am disposed to approve the policy above indicated.

I desire also in this connection to call the attention of the Legislature to the large number of bills now pending asking for appropriations for the completion or repair of armories and for the erection of new buildings.

Nearly all of these bills have been favorably reported by the committees of the two houses to which they have been referred, and many of them have been passed by at least one branch of the Legislature.

Bills are now pending providing for repairs of various armories and making appropriations therefor as follows:

At Olean	$7,000
At Amsterdam	10,000
At Niagara	11,500
At Glens Falls	10,000
At Poughkeepsie	7,250
At Albany	16,000
At Brooklyn	75,000
Total	$136,750

Several of these estimated requirements are not strictly for repairs, but are rather what appear to be appropriations necessary for the completion of armories, the erection of which has been provided for by recent legislation, but the original appropriations for which seem to have been insufficient.

I cannot refrain from expressing disapproval of this method of constructing public buildings. The system which permits the State to enter upon the erection of a building, the plans, details and specifications for which are so faulty and deficient that before the building can be occupied additional appropriations must be provided for its completion, certainly leads to extravagance and is not in accord with good business methods. The plans and specifications for all buildings of this character should be carefully prepared and sufficiently in detail to insure the erection and completion of the building, furnished and equipped, and within the amount appropriated therefor. In no other way can the State exercise intelligent supervision over its expenditures or be readily aware of the amounts it is investing in its various institutions. If necessary to accomplish that end, each law appropriating money for the erection of buildings of this class should contain a provision that no part of the appropriation therein made shall be available until the officer responsible for that particular department and its administration shall file in the office of the Comptroller a copy of the plans and specifications for the erection of the building, together with his certificate that the same can be constructed, ready for occupancy in all its particulars, within the amount of these specific appropriations.

There are also pending in the Legislature bills providing for the erection of new armories as follows:

At Schenectady	$70,000
At Mohawk	25,000
At Whitehall	32,000
At Hudson	70,000
At Walton	15,000
At Rochester	100,000
At Buffalo	400,000
At Brooklyn	350,000
Total	$1,062,000

These together with the bill herewith returned aggregate over $1,100,000, and with those making provisions for the repairs of armories, aggregate over one and one-quarter million dollars. Certainly the best interests of the National Guard cannot be conserved by such excessive appropriations in any one year. I am not unmindful of the great service which the National Guard is rendering to the State. It has often proved its efficiency, and its services, rendered invariably at great personal sacrifice on the part of its members, have been of inestimable value to the prosperity and business interests of the State. Nor do I overlook the fact that under the present drill regulations, embodying the so-called "extended order" evolutions, a greater area is needed

for drill manœuvres than was formerly required. It is as well however to remember that even now a military board at Washington is revising and modifying these new drill regulations, and that a newer system of drill may be promulgated which will not require so great a space for evolutions. I am reasonably sure that no discreet friend of the Guard would advocate large increases of appropriations for that department in these times of business depression.

What has been said with reference to the pending appropriations for repairing and erecting armories applies with equal force to the bills now before the Legislature relating to the Normal School and State hospital buildings. The demands upon the treasury for Normal School buildings already presented to your body aggregate over $442,000, while the State is committed by the legislation of 1893 to the erection of still another Normal School building at Jamaica, the appropriation for which was made in that year, and the site for which has been recently approved by the proper State officers. This will involve the expenditure of upwards of $100,000 in addition to the amount above stated; while I am also advised that the estimates for State hospitals already presented to your body aggregate $1,795,000.

I am confident that the appropriations asked for on behalf of the Normal schools and State hospitals

are largely in excess of the just and proper necessities of these institutions.

The great majority of the tax-payers of the State feel the burden of taxation more grievous to bear at this time than ever before in their business experience. The condition of the times calls for more than ordinary care and economy. No appropriations which can be deferred without injury to the interests of the State should be made in a season of such commercial and monetary depression. I cannot too strongly urge the necessity of the strictest economy. I sincerely hope that the record of the Legislature, so promising and hopeful in other respects, will not be marred by what appears to be a tendency toward extravagance in the matter of appropriations, for it will be largely measured by this standard.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILL INTRODUCTORY No. 304 TO PROVIDE A NEW POLICE FOR WEST TROY — APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, March 1, 1895

Memorandum filed with Assembly bill introductory number 304 *entitled "An act to organize and establish a new police for the village of West Troy"— Approved*

This act provides for the election of four police commissioners in the village of West Troy at the village election to be held on the first Wednesday in March, 1895, and is intended to create what is called a "bi-partisan police board." By the act, each elector may vote for two police commissioners, and the two persons receiving the highest number of votes are to be deemed elected as two of such commissioners. It also provides for the canvass of the votes within ten days after the election by the village trustees, who are required to declare "duly elected" the two persons receiving the highest number of votes. Provision is made for the appointment of the remaining commissioners as follows:

"The said trustees shall, immediately thereafter, appoint the two additional commissioners of police,

who shall hold office for the same term as the commissioners elected, and which commissioners so to be appointed shall be those two persons who shall have received the highest number of votes next to the two persons who shall have been elected such commissioners of police, and which commissioners so to be appointed shall belong to and be of the same political faith and opinion on State and national issues as one or the other of the two political parties which, at the last preceding election for State officers, shall have cast the greatest and next to the greatest number of votes in said village, but they shall not belong to the same political party nor be of the same political faith and opinion on State and national issues as the commissioners who shall have been elected. If the two commissioners elected belong to different political parties, the commissioners appointed shall be the two candidates for commissioners not elected and receiving the highest and next to the highest number of votes, respectively, and belonging to different political parties."

This provision seems to me objectionable, but in view of the exigency of the impending election and the impossibility of amending the act before the election must be held, I have concluded not to ask the recall and amendment of the bill, but approve it in its present form, with the hope and recommendation that the law be amended at an early date so as to eliminate the objectionable features of the present bill.

Under the provisions of this bill it is quite possible that candidates receiving a less number of votes would be entitled to the appointment as against others who receive a greater number of votes. The act does not require the appointment of those who receive the next highest number of votes in all cases, but limits the appointment to members of the political faith casting the greatest or the next greatest number of votes on State and national issues at the preceding general election. Third party candidates, or candidates upon a citizens' or independent ticket, would not under this provision be entitled to appointment, although receiving a greater number of votes than other candidates belonging to one of the great political parties, but the candidates of the principal parties would be entitled to the offices without regard to the number of votes which they might have received.

If this construction of the bill is correct, it does not embody the principle of home rule and can scarcely be called popular government. The Constitution provides that local officers shall either be elected by the electors or appointed by local authorities. This method of appointment, which excludes candidates who may possibly have received a greater number of votes and confines the appointment to candidates belonging to a particular party without regard to the number of votes which they may have received, is a very doubtful compliance with the pro-

visions of the Constitution. The so called appointment leaves no discretion to the appointing officers and is in no sense an exercise of discretion.

By this method, the trustees making the appointment have no choice. If bi-partisan boards of police commissioners or other local governing boards are deemed necessary in the administration of local government, provision should be made for ascertaining and respecting the will of the people in their choice of officers. This can be very easily accomplished by providing that no elector shall vote for more than two canditates, and that the four candidates receiving the highest number of votes shall be declared elected. This will provide for minority representation and will permit candidates receiving the highest number of votes to occupy the positions to which they may be chosen by the people. The vote of the village upon State and national issues at the last preceding general election can scarcely be of much consequence in determining questions of merely local administration. Local issues are usually quite different, and the people should be allowed to express their will, and their will should be respected, without regard to their votes at a prior election upon other broader and different issues.

It seems to me like a plain violation of the principle of home rule to limit the selection of police commissioners to members of the two great political parties without regard to local interests, and without

regard to local temporary organizations which may be formed for the purpose of carrying into effect local policies which the people may deem important.

I am informed that the Assembly recently adopted a resolution unanimously declaring its adhesion to the principle of home rule for the various municipalities of the State, and that municipal officers (other than inspectors of election) should be elected by the people or appointed by the mayors or other elected officers of each municipality. It seems to me that the Legislature should adhere to this principle, and in all legislation affecting municipalities provision should be made for home rule in its broadest sense by permitting the people to express their will freely on public questions and by permitting them to choose their own officers without regard to the issues or the existence of political parties at any previous time.

LEVI P. MORTON

SUPPLEMENTAL MEMORANDUM OF DATE MARCH 2, 1895

There seems to be a misapprehension as to the scope of the memorandum filed with the bill relating to a bi-partisan police board in the village of West Troy, and the memorandum seems to have been construed as an indirect criticism or disapproval of the scheme of bi-partisan police.

No such criticism or disapproval was intended by the memoradum, and it is not fairly capable of any such construction. It was only intended to point out an apparent defect in the method of selecting commissioners, and to call attention to the fact that the political parties existing in November and the vote cast at that time upon state and national issues, were to be taken as the basis of selection of police commissioners, instead of the issues and the votes and the parties existing in the municipality at the time the police commissioners are elected.

The condition of parties in November should not in my judgment be taken as a criterion for the selection of officers of a merely local character several months afterward, and candidates representing local issues should not be deprived of office while receiving more votes than other candidates, simply because they do not belong to one of the two great political parties into which the State or Nation may have been divided months before; and the object of the memorandum was simply to suggest that, if bi-partisan boards are to be elected, the result should be allowed, to fairly express and represent the then existing sentiment on municipal questions.

LEVI P. MORTON

VETO OF ASSEMBLY BILL NO. 580 TO PROVIDE FOR AN ARMORY AT WHITEHALL

STATE OF NEW YORK
Executive Chamber
Albany, March 6, 1895

TO THE LEGISLATURE:

Assembly bill printed number 580 entitled "An Act providing for the erection of a State armory in the village of Whitehall, Washington county, the acquisition of a site therefor, and making an appropriation for building said armory," is herewith returned without approval. On February 28 last I returned without my approval Assembly bill introductory number 151 providing for the erection of an armory in the city of Ogdensburg.

This bill is of similar character and is also returned without approval for the general reasons set forth in my message accompanying the Ogdensburg bill.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILL No. 33 TO PROVIDE A STATE NORMAL SCHOOL BUILDING AT GENESEO — APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, March 14, 1895

Memorandum filed with Assembly bill number 33 *entitled "An act for the erection, at the State Normal and Training School at Geneseo, New York, of a new building to be used for the scientific department and other purposes, and also an additional separate building for a furnace and boiler house for heating the several buildings of said school, and making an appropriation therefor"— Approved*

This bill appropriates $75, 000 for certain enlargements and repairs of the Normal School at Geneseo. I have already signed a bill appropriating $50,000 for completing a Normal School at Oneonta. There is now awaiting my action another bill appropriating $19,850 for repairs on the Normal School at Brockport. These three bills for completion, enlargement and improvement of Normal Schools aggregate $144,850. This is a large sum to be appropriated in any one year for the repairing of Normal School buildings. I am informed that the appropriations for these three schools are the most

necessary of any required this year for these objects. There are yet pending appropriation bills in addition to the above for new Normal Schools and for repair and improvements of existing buildings, aggregating $455,000. There should be moderation in times like the present in expenditure for purposes of this kind. The objects sought to be obtained by the other bills that I have mentioned are doubtless worthy, and perhaps the expenditures recommended are in some degree necessary, but I think the expenditure provided for in those bills should be postponed until another year, unless necessary for preservation of property. While all the Normal Schools have done good work in the promotion of education, I think it is generally conceded that the State has gone as far as it should go at present in expenditures for their extension.

In my veto of Assembly bill number 583, known as the Ogdensburg Armory Bill, attention was called to the need of economy.

The reasons which prompted that message impel me to call attention to the large expenditures asked for Normal Schools, and to suggest that no further appropriations be made at this session except for the special purposes herein indicated.

LEVI P. MORTON

MESSAGE TO THE LEGISLATURE RELATING TO THE CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK

STATE OF NEW YORK
Executive Chamber
Albany, March 15, 1895

TO THE LEGISLATURE:

I have the honor to call your attention to the correspondence from the Honorable Secretary of War, a copy of which is transmitted herewith, relating to the dedication of the Chickamauga and Chattanooga National Military Park on the 19th and 20th of September next, on the scene of those two memorable engagements. Under an act of Congress approved December 15, 1894, the Secretary of War is charged with the direction of the ceremonies, and is instructed to invite the President, the Congress, the Supreme Court and other federal officers, the General of the Army, the Admiral of the Navy, the Governors of the several States and their staffs, with such further representation from the States as the Legislatures may think proper to authorize, and the survivors of the several armies engaged in the battles. For the defrayal of the attendant expense, the sum of $20,000 was appropriated, but no part of this is applicable to the payment of expenses of State representatives.

It appears to be fitting and proper that the State of New York should be adequately represented and take official part on so impressive an occasion. In the battles of the Chattanooga campaign there were engaged fourteen regiments of infantry and two batteries of artillery from this State, a total of about six thousand men, and the State is honorably represented by its heroic dead in the National Cemetery at Chattanooga. The engagements include the fights at Wauhatchie, Lookout Valley, Lookout Mountain, Missionary Ridge, Peavine Creek and Ringgold Gap.

I respectfully submit the subject to your honorable body for such legislation as you may deem necessary to provide a proper official participation in the dedication ceremonies and the appropriation of a reasonable sum to meet the necessary expense of such representation.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILL No. 779 FOR THE RELIEF OF TIOGA COUNTY — APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, March 23, 1895

Memorandum filed with Assembly bill number 779 *entitled "An Act to reimburse Tioga county for the disbursements in connection with the Lehigh Valley Railroad strike in the year eighteen hundred and ninety-two" — Approved*

This bill provides for the audit by the Comptroller and the payment by the Treasurer of the disbursements made by the County of Tioga in connection with calling out the National Guard in the strike upon the Lehigh Valley Railroad in the year 1892, the amount to be paid not to exceed four thousand dollars.

It appears that in the month of August, 1892, a strike occurred on the Lehigh Valley Railroad at Waverly in the county of Tioga, and that it assumed proportions beyond the control of the sheriff by the ordinary means at his command. Availing himself of the authority given by statute, he called upon the Sixth Battery and the Twentieth Separate Company of the National Guard, located at Binghamton, to assist in preserving peace and protecting

property. Both of these military companies responded to the calls and went to Waverly, the scene of the disturbance, on the 19th of August and remained until the 26th when order was substantially restored and the troops were withdrawn.

It further appears that the strikers were non-residents, coming from a point in the State of Pennsylvania on the line of the Lehigh Valley Railroad, and created the disturbance at Waverly which necessitated calling out the troops. The expenses of the strike were paid by the county of Tioga which now seeks reimbursement from the State.

Ordinarily it is the duty of the county to maintain peace and good order and protect property within its limits, and if it fails through its proper officers and citizens to do this, it may be held liable for damages sustained in consequence of its neglect. In behalf of this bill it is claimed that this strike was of such a character as to make an exception to the general rules and to warrant the State in reimbursing the county for expenses actually incurred. The exception is based upon the fact that the persons who precipitated and carried on this strike were non-residents, and that the same rule should not be applied in this case as in cases where the persons creating the disturbance are citizens and residents of the county.

It appears that in this instance the county of Tioga was invaded by a body of men from another

State, who violated the laws of this State by creating a riot and interfering with the possession and enjoyment of property. Under such circumstances I think the expense of maintaining the peace and protecting property should not be borne exclusively by the county, but that it is a matter in which the entire State has an interest, and the State as a whole should contribute some portion at least of the expense. The total expense incurred and paid by the county of Tioga in connection with this strike was much more than the sum asked by this bill and I think it only reasonable that the State should contribute the amount asked here or so much thereof as may be audited by the Comptroller, and for that reason I have decided to approve the bill.

LEVI P. MORTON

MESSAGE TO THE LEGISLATURE RELATING TO THE INFERIOR CRIMINAL COURTS AND THE POLICE OF NEW YORK CITY

STATE OF NEW YORK
Executive Chamber
Albany, March 25, 1895

TO THE LEGISLATURE:

The Constitution of the State makes it my imperative duty to recommend to the Legislature from time to time such measures as I may deem expedient

In obedience therefore to that mandate, I call the attention of the Senate and Assembly to a matter which I regard as being of the highest present importance, namely, the reorganization of the inferior criminal courts of New York city. Ten weeks have elaped since a bill having this object in view was introduced concurrently in both houses of the Legislature, but the measure has not yet been passed by either house. The session is fast drawing to a close and unless prompt action is taken upon it there is danger that it may fail to become a law. Such a result would be a public misfortune. There has been no measure before this Legislature which more deeply interests the people of New York city. It is widely perhaps generally believed that in some of the present police courts there is to-day a practical denial of justice.

This belief is strikingly sustained in the report made by a committee appointed to investigate certain departments of New York city, commonly known as "The Lexow Committee." It is there charged that "a very important reason why the police have been able to carry on and successfully perpetrate their reprehensible practices is that at least some of the police justices have apparently worked in sympathy and collusion with them." Again it is stated that, because of the maladministration that prevails in those courts, "the poor and needy were unable to obtain redress or relief from the oppression

or the tyranny of the police," and that "their path to justice was completely blocked."

These are serious charges and seem to be largely supported by public opinion in the city of New York. They invite the careful consideration of the law-making power and call for a speedy remedy. It is to these inferior criminal courts, the very sources of the administration of criminal justice, that the poor especially look for protection from oppression and wrong. When these fountains of justice are polluted the evil results to the people are beyond calculation. The bill to which reference is made was introduced in the Senate by the chairman of the investigating committee above-mentioned, presumably as the result of the inquiry which made that committee so familiar with matters needing the corrective action of the Legislature. Its object is to create an improved system of inferior criminal courts, and conformably to give the people a new board of police magistrates. This legislation is a necessary step toward municipal reform. It is supplementary to the Power of Removal bill already passed and which was recommended specially in my first message to the Legislature. The language used in that paper on this subject is as follows: "A power of removal bill for the city of New York, placing in the hands of the Mayor absolute and unquestionable authority to remove any of the appointive officers of the city government and to

appoint their successors, is an immediate requirement at your hands." I am convinced that this power of removal already conferred should not be limited to administrative officers, but that it is equally important that it should be made to apply to the police justices. A doubt has been expressed as to the constitutionality of this bill, but that doubt has been practically resolved in its favor by the recently published opinions of some of the most eminent and learned lawyers in New York city.

I desire also to call attention to the need of prompt reorganization of the Police Department of New York city. In the testimony before the Lexow committee it was charged that many members of the police force, among them officers of high grade, were not only blackmailers and extortioners but were actively in league with the criminal classes. It is generally believed that the extent of these alleged corrupt practices has not yet been fully revealed. The law-abiding classes are naturally uneasy under such a condition of things and knock impatiently at the doors of the Legislature for relief. They demand that police officers who have betrayed their trusts or used their great power oppressively shall be ascertained and dismissed without unnecessary delay, and the Legislature is asked to provide the method of relief. It is apparent that this request should be heeded and such legislation enacted as will meet the emergency.

I therefore recommend the early passage of the Police Magistrates bill, so-called, and of a measure that will place in proper hands the power to reorganize and regenerate the Police Department of the metropolis.

LEVI P. MORTON

MEMORANDUM FILED WITH SENATE BILL No. 327, RELATING TO GUARANTORS AND SURETIES — APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, March 28, 1895

Memorandum filed with Senate bill number 327, *entitled "An act to amend chapter* 720 *of the laws of* 1893, *relative to guarantors and sureties" — Approved*

This bill as its title indicates seeks to amend chapter 720 of the laws of 1893, relative to guarantors and sureties. That act authorizes the acceptance and approval of official bonds where the conditions thereof "are guaranteed solely by a corporation incorporated under the laws of this State, and authorized under its charter to execute the same, or to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts, other than insurance policies,

and to execute or guarantee bonds and undertakings required or permitted in all actions or proceedings, or by law allowed."

The amendment consists in inserting after the word "State" the words "or authorized to do business under the laws of this State."

The present law limits suretyship in these cases to domestic corporations, and the evident intention of the proposed amendment is to permit foreign corporations to do the same business in this State. The practice of permitting bonds to be executed by companies seems to have originated in 1881, when an act was passed (chapter 486) entitled "An act to facilitate the giving of bonds required by law." By this act official bonds might be approved whenever "guaranteed by a company duly organized or authorized to do business under the laws of this State, and authorized to guarantee the fidelity of persons holding places of public or private trust," and no discrimination was made between domestic and foreign corporations. The act was amended in 1885, but the provision quoted above was not affected by the amendment. This statute remained in force until the general revision of the insurance law — chapter 690 of the laws of 1892 — when it was repealed, and no provision was enacted as a substitute for it except that by subdivision four of section seventy of the insurance law corporations were authorized for the purpose of "guaranteeing the

fidelity of persons holding places of public or private trust," and also " guaranteeing the performance of contracts, other than insurance policies, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings, or by law allowed."

As a consequence of the repeal of the act of 1881, courts were not expressly authorized to approve bonds guaranteed by this class of corporations, but this omission was supplied by chapter 720 of the laws of 1893, which was probably intended as a substitute for the act of 1881, except in the limitation of corporations authorized to guarantee bonds; and it was also probably intended to supply an omission in the insurance law, because the language of subdivision four already quoted is specifically used in the law of 1893, defining the general powers of corporations which were permitted to guarantee official bonds.

The amendment proposed by this bill restores the law to its condition prior to October 1, 1892, when the repeal by the insurance law took effect.

It has long been our policy to permit foreign insurance companies to do business in this State, and the insurance law provides for the authorization of such companies by the superintendent of insurance upon the certificate of the attorney-general. Without this amendment, foreign insurance companies organized for the purpose indicated in subdivision 4

of section 70 of the insurance law, above quoted, could be authorized to do business in this State and could do a limited business, but bonds guaranteed by them could not be accepted and approved by the courts, officers or bodies described in chapter 720 of the laws of 1893.

No satisfactory reason has been given why the policy of the State expressed in the act of 1881 and continued until October, 1892, was changed by the act of 1893, or why the business of guaranteeing official bonds should be confined exclusively to domestic corporations. It is not claimed that there were any abuses under the former practice, or that any losses were sustained in consequence of bonds guaranteed by foreign companies, and it seems inconsistent with the general policy of the State to make an exception against corporations in this particular class of cases.

Objection is made to this bill that it should only permit business to be done here by corporations organized under the laws of those States which permit equal privileges to New York corporations. Our insurance law now contains provisions for reciprocal requirements so far as concern depositing securities, or for the payment of taxes, fines or penalties, or certificates of authority or license fees, and directs the superintendent of insurance in the case of foreign corporations to require the same deposit, and the payment of an amount for taxes, etc., equal to the

amount of such charges and payments imposed by the laws of such other State upon the insurance corporations of this State.

Whether any other State will permit a New York corporation to do business within its territory upon an equal basis with its own corporations is a matter of State policy.

In general this State has granted equal privileges to all corporations, whether domestic or foreign, and it seems to me that in this instance, instead of requiring other States to first enact laws to admit our corporations to equal privileges, it is wiser to continue the general policy and permit foreign corporations of the class indicated in this bill to do business here, without discrimination against any State.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILL No. 592 AMENDING THE CHARTER OF MOUNT VERNON—APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, March 30, 1895

Memorandum filed with Assembly bill number 592 *entitled "An act to amend chapter* 182 *of the laws of* 1892, *entitled 'An act to incorporate the city of Mount Vernon, as amended by section* 2 *of chapter* 10 *of the laws of* 1894,' *entitled 'An act to amend chapter* 182 *of the laws of* 1892,' *entitled 'An act to incorporate the city of Mount Vernon'" — Approved*

This bill seeks to amend the charter of the city of Mount Vernon in several respects relative to the schools of that city. One of the amendments proposed clothes the board of education with exclusive power to license teachers. The existing law makes it the duty of the board to license teachers, but only upon the recommendation of the superintendent of the schools of the city. By the amendment this recommendation is dispensed with, and objection has been made to the bill that the matter of licensing teachers should not be left exclusively to the board. It is claimed that the superintendent should have some power in the choice of teachers, inasmuch as he is

charged with the general responsibility of the schools of the city, and that he should not be compelled to use teachers objectionable to him or whom he may think incompetent, and that such a division of responsibility and power as will perhaps result from this amendment will not be for the best interests of the schools. By the charter the superintendent is appointed by the board of education and has general charge of the schools of the city. The city schools are not subject to the jurisdiction of the school commissioner, nor it seems are the teachers subject to examinations which may be prepared by the superintendent of public instruction. I think the policy of giving boards of education power to determine the qualifications of teachers and to grant licenses is objectionable. It is contrary to the general policy of the State which seeks to provide a uniform system of examinations and licensing teachers. Examinations are prepared by the department of public instruction, and the superintendent has general control of the whole subject. I think the best interests of the State demand this policy. I am informed that there are several school districts in the State where licenses are granted by the board of education or other local officers, independent of the commissioner or superintendent of public instruction. I think it would be well to provide a uniform system for the entire State, and that a general law should be enacted which will place the responsibility, the duty

and the power of prescribing the qualifications of teachers in the hands of the school officers charged with the general management of the schools, rather than in the hands of local boards.

Aside from the amendment relating to the licensing of teachers, this bill contains proposed amendments to the charter which are quite important and seem desirable, and I have decided to approve the bill for the sake of these amendments but without intending to approve a general policy of permitting boards of education to determine the qualifications of teachers, and with the hope that legislation may be enacted at an early day repealing or amending existing laws which confer upon boards of education the power to license teachers.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILL No. 1709 GIVING THE BOARD OF CLAIMS JURISDICTION IN CASE OF LINUS JONES PECK & CO.—BECAME A LAW WITHOUT THE GOVERNOR'S SIGNATURE

STATE OF NEW YORK
Executive Chamber
Albany, April 6, 1895

Memorandnm filed with Assembly bill number 1709 *entitled "An act to authorize the Board of Claims to hear, audit and determine the claim of Linus Jones Peck & Company, or the survivor of said firm, for stone delivered and for cutting stone in performance of two certain contracts made by said firm with the State for furnishing the stone and cutting the same for the erection of the buildings of the Buffalo State Asylum for the Insane, and to make an award thereon."*

This claim has once been heard by the Board of Claims and an award was made by the board against the State in favor of the claimant for $35,878.78. This was in 1890. The State appealed from the award to the Court of Appeals, which court reversed the award on the ground that incompetent evidence was admitted and also on the ground that the claim was barred by the statute of limitations, and a new trial

was ordered before the Board of Claims. There was no second trial, but in September, 1893, the claim was dismissed by the board by default upon motion of the Attorney-General.

The object of this bill is to permit the claimant to again present the claim to the board and have a new hearing of the entire matter. Ordinarily one presentation and hearing of a claim is all that a claimant can reasonably demand, but in this instance it appears that the claimant is prepared to present important additional evidence upon all the issues involved in the claim, and inasmuch as the board upon the former trial found that the State was actually indebted to the claimant for some amount, and that the award was not reversed upon the merits, it seems only reasonable that the claimant should have another opportunity to be heard.

I am therefore constrained to adopt the view of this matter manifested by the legislature in passing this bill, and permit it to become a law.

LEVI P. MORTON

PROCLAMATION OF THE PUBLIC SCHOOLS CENTENNIAL

STATE OF NEW YORK

Executive Chamber

A century of magnificent achievement in public education in this State will be completed on Tuesday next, April 9th, the anniversary of the signing by Governor George Clinton of chapter 75 of the laws of 1795 entitled "An act for the encouragement of schools," passed by the legislature of that year upon the Governor's recommendation.

The commanding position held by our State in commerce, manufactures, science, the arts, agriculture and in educational progress, is largely the result of the wise and liberal policy of our successive State administrations toward the common schools.

One hundred years of energetic and successful educational effort has followed that important measure and bears abundant testimony to the wise discernment of the first Governor of the Commonwealth and to the loyalty of the people who supported his purpose in making the first generous provision for carrying his views into effect.

If we of to-day emulate that devotion to the instruction of our youth which characterized the founders of the system and makes this anniversary conspicuous in our annals, those who follow in the

century to come will write our names, as we now write those of 1795, with grateful remembrance in the history of education in the State of New York. It will increase the regard in which those who laid the foundations of our educational system are held if on Tuesday next we commemorate in some fitting manner their services and recount the blessings reaped from their labors.

I therefore recommend to all principals, teachers and others in authority in the schools, academies and colleges throughout the State, that they devote some portion of that day to appropriate exercises by the pupils, their officers and friends, in recognition of this important anniversary.

Done at the Capitol in the city of Albany this sixth day of April in the year of our [L S] Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

MESSAGE RELATING TO THE COTTON STATES AND INTERNATIONAL EXPOSITION

STATE OF NEW YORK
Executive Chamber
Albany, April 11, 1895

TO THE LEGISLATURE:

The Governor of Georgia has addressed letters to the governors of the several States and territories calling their attention to the Cotton States and International Exposition, which is to be held at Atlanta, Georgia, from September 18 to December 31, 1895, and inviting the states and territories to make exhibits of their resources and products and to send a liberal representation of their people. The scope of this exposition is neither sectional nor national but is intended to be international, it also having received the approval of congress to that end. The governments of Argentina, Paraguay, Guatemala, Venezuela, Chili, Nicaragua, Honduras and Bolivia have already signified their intention to participate. Exhibits will also be forwarded from Austro-Hungary, Italy, France, England and Germany. The correspondence which has been addressed to me as chief executive of this State is transmitted herewith for your information.

The State of New York is specially invited to avail herself of this opportunity for the display of

her commercial and manufacturing interests, and already many of her representative commercial and industrial firms and interests have been awarded space for their exhibits. The enterprise has been in course of preparation for many months past.

In view of the great progress of industrial and commercial establishment and activity in the south during the past few years, this movement on the part of her enterprising citizens is one to be especially commended. It is requested that the State provide officially for representation by a commission, with state headquarters at the fair.

I submit the question of providing for such representation to the wisdom and discretion of the legislature suggesting however that a reasonable sum of money be appropriated to cover the cost of maintaining a headquarters building and defray the necessary expenses of such a commission, consisting of men and women, as it may seem proper to authorize.

LEVI P. MORTON

ORDER DIRECTING THAT CERTAIN NUISANCES IN KINGS COUNTY BE ABATED

STATE OF NEW YORK

Executive Chamber

WHEREAS, complaint was made to the Governor of the State of New York during the year 1894 by the citizens and residents of the town of Newtown and the city of Brooklyn relating to the existence of public nuisances on or near Newtown creek, jeopardizing the health and comfort of the people in the vicinity thereof, and the Honorable Roswell P. Flower, Governor of the State of New York, did thereupon on the 2d day of August, 1894 pursuant to chapter 661 of the laws of 1893, require, order and direct the State Board of Health to examine into the alleged nuisances and to report the result thereof; and

WHEREAS, said State Board of Health examined into the matter of the alleged nuisances pursuant to such order and reported the result of such examination to the Governor in writing, dated December 4, 1894, which report was filed in the office of the secretary of state December 11, 1894, and the Governor did approve said report, and did thereupon on the 11th day of December, 1894, issue a proclamation or order declaring the matters complained of

public nuisances, and did order the same to be abated, changed or removed, the matters of nuisance and the orders relating to abating the same, as contained in such proclamation, being in the words following:

"A nuisance which is a menace to public health exists at Newtown creek and its vicinity:—

"First. By the condition of Newtown creek itself. The water of this creek for almost its entire length is dark colored and offensive, by reason of sewage which it contains in suspension and solution. The bottom and banks of said creek are covered with thick, black, foul-smelling mud, consisting largely of precipitated sewage and other organic matter. Large areas of this mud are exposed everywhere at low tide. This condition is caused, (a) by precipitation of sewage which is poured into the waters of the creek by the public sewers which drain large areas of Brooklyn and Long Island City; (b) by precipitation of effluent refuse of manufacturing establishments located on the banks of said creek.

"A very considerable factor in the present condition of the creek bottom has been the discharge for years of the refuse products from the oil works, a number of which are situated on the banks of the creek. The discharge of effluent matter from two establishments, which discharge is now continuing, has caused the conditions described in said report at the places where the drains of said establishments

empty into the creek. The establishments are Fleischmann's Eastern Distilling Company and Peter Cooper's glue factory.

"Second. A continuous nuisance of a serious character is caused, (a) by Hildebrandt's works, located on Furman's island, just north of Wissel's offal dock. This is a small, wooden structure, where blood and animal refuse matter are treated in an open kettle; (b) by the following rendering establishments: Preston's Fertilizer and Rendering Works, Peter Van Idersteine, Jr.'s Rendering Works, F. A. Van Idersteine's Rendering Works, Fred. Heffner's Fat Rendering Works. These rendering establishments depend upon the water of the creek for water supply to furnish their condensers. The latter are used to condense the gases and vapors given off during the process of rendering. These gases and vapors, condensed and held in solution and in suspension in the water, are discharged into the creek with the discharge from said condensers. The creek water is utterly unfit for this purpose, and the creek itself is unfit to receive such discharge, which, under the conditions now existing thereat, is a source of nuisance that can only be abated by closing the rendering works named in this section, or by a radical change in the present method of disposing of the gases in question. The latter, under the circumstances, is not practicable.

"Third. The night soil boat, controlled and operated under contract with the city of Brooklyn, has

not been removed and emptied at sufficiently frequent intervals to meet the requirements of its use. The offal dock, also operated by Contractor Wissel, is not kept in a cleanly condition.

"In order to improve the sanitary condition of Newtown creek and its surroundings so as to remove all menace to public health, and to the end that the nuisances above set forth may be abated, changed and removed,

"*It is hereby ordered*, that all offensive drainage from manufacturing establishments be discharged into sewers which empty directly into the East river, and that Long Island City and the city of Brooklyn, and the authorities of each of said cities named, be enjoined and prohibited from discharging public sewers directly or indirectly into Newtown creek.

"*And I do hereby order and direct* that the city of Long Island City and the city of Brooklyn, and the public authorities of said cities be, and the same are, hereby prohibited from discharging public sewers of said cities or sewage of any kind, directly or indirectly, from said cities, into Newtown creek.

"Second. In relation to the factories that are offensive, or that are liable to become so,

"*It is hereby ordered* that the business conducted at the Hildebrandt factory be forthwith discontinued, and that the business conducted at Preston's Fertilizer and Rendering Works, Peter Van Idersteine, Jr.'s Fat Rendering Works, F. A. Van Idersteine's Fat

Rendering Works and Fred. Heffner's Fat Rendering Works be discontinued within ninety days from January 1, 1895.

"Third. No fat rendering shall be allowed upon Newtown creek and the same is hereby prohibited, except within such distance of the East river as to use without difficulty the waters of said East river for condensing purposes, or some source other than Newtown creek, and for the discharge of the water from the condensers; and no such fat rendering shall hereafter be allowed unless done in tight tanks, with the most approved apparatus for properly disposing of the offensive gases and vapors given off in the process of rendering; and that fat rendering upon Newtown creek be, and the same is, hereby prohibited.

"Fourth. That the night-soil boat operated by said Wissel be removed at frequent intervals, and be properly disinfected.

"Fifth. That the offal dock operated by Wissel be enclosed by a high, closely-boarded fence, and the material received at said offal dock be properly disinfected and removed daily.

"Sixth. That the Eastern Distilling Company, operated by one Fleischmann, shall forthwith dredge the bulkhead where the drain from their works discharges into Newtown creek;

"Or that said nuisances be fully abated and removed."

AND WHEREAS, I am informed that no steps have been taken to comply with the requirements of said proclamation, and numerous complaints have been recently made to me concerning the continuance of those nuisances,

I do therefore pursuant to the provisions of chapter 661 of the Laws of 1893, order the persons and corporations hereinabove named to abate the nuisances hereinbefore set forth within ten days from the service of this precept upon them, and in case of failure so to do, I direct and require the district attorney and sheriff of Kings county to take the necessary legal measures to execute such orders and cause them to be obeyed.

Given under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twelfth day of April in the year of our Lord one thousand eight hundred and ninety-five.

[L S]

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

PROCLAMATION OF REWARD FOR THE CAPTURE OF OLIVER CURTIS PERRY, AN ESCAPED CONVICT

STATE OF NEW YORK
Executive Chamber
Albany, April 13, 1895

WHEREAS, I am duly informed that on the night of April 10, 1895, one Oliver Curtis Perry, a convict confined in the State Hospital for Insane Criminals at Mátteawan, made his escape with other convicts from said place of confinement; and

WHEREAS, The superintendent of State Prisons has requested me to offer a suitable reward for the capture and delivery to the proper authorities of said convict;

Now therefore in compliance with said request and by virtue of the authority vested in me under the Constitution and laws of the State, I do hereby offer a reward of one thousand dollars to be paid for the capture and return of said Oliver Curtis Perry to the superintendent of the State Hospital for Insane Criminals at Matteawan.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this thirteenth day of April in the year of our Lord one thousand eight hundred and ninety-five

LEVI P. MORTON

By the Governor:
ASHLEY W. COLE
Private Secretary

THE CIVIL SERVICE — CLASSIFICATION OF POSITIONS IN THE STATE PRISONS AND DEPARTMENT OF PUBLIC WORKS

Positions not Classified

All persons appointed by the Governor or elected by the people, and the subordinates of any such officer for whose errors or violations of duty said officer is financially responsible, and any subordinate officer who by virtue of his office has personal custody of public moneys or public securities for the safekeeping of which the head of the office is under official bonds.

Positions in Schedule A

Rule 6 The appointments to positions comprised in Schedule A may be made without examination under these rules, but such examinations may be had upon the request of the appointing officer. Appointing officers must notify the commission in writing of all appointments to such positions within five days after the same are made.

In the State Prisons:

The chaplain

In the Department of Public Works:

The assistant superintendents

The superintendents of repairs

The special agents

The financial clerk

Positions in Schedule B

Schedule B shall include all positions now existing or hereafter created, of whatever designation, which are not exempted by law or specifically designated in Schedule A, C or D, or classed as laborers.

Positions in Schedlue C

Rule 20 The positions in Schedule C may be filled by the appointing officer in his discretion in respect to the manner of examination. The discretion of the officer in such cases shall be limited as follows: (1) He may select from the three persons graded highest as the result of an open competitive examination; or (2) he may name to the commission three or more persons for competitive examination and appoint the one graded highest in such examination; or (3) he may appoint or employ any person named by him who upon a non-competitive examination shall be duly certified by the commission as qualified to discharge the duties of the position.

In the State Prisons:

The agent and warden
The clerk
The assistant clerk
The steward
The matron
The superintendent of industries
The purchasing agents, manufacturing department

The superintendent of construction, building department

The architect and foremen, building department

Positions in Schedule D

Rule 26 The positions in Schedule D must be filled by such persons as upon proper non-competitive examination shall be certified as qualified to discharge the duties of such position by an examiner or examiners selected or appointed for that purpose by the commission.

In the State Prisons:

The watchmen

The machinists

The assistant matrons

The foremen, manufacturing department

The examiners, manufacturing department

In the Department of Public Works:

The harbor masters

Positions in Schedule E

Rule 8 The positions in Schedule E shall be filled, when vacant, by the promotion of those in the service in the lower grades of the department, office or institution in which the vacancy or vacancies may occur.

In the State Prisons:

The keepers

The sergeants of the guard

POSITIONS CLASSED AS LABORERS

In the Department of Public Works:

Patrolmen, lock-tenders, watchmen, foremen, cooks, teamsters, boat-captains, boat-commanders, water-boys, pavers, feeder-tenders, carpenters, reservoir-tenders, pilots, firemen, cranemen, bridge-tenders, deckhands, painters, blacksmiths, weighmasters, divers and janitors.

Approved April 15, 1895

LEVI P. MORTON

Governor

DENIAL OF APPLICATION FOR A RESPITE IN THE CASE OF BUCHANAN

STATE OF NEW YORK

Executive Chamber

Albany, April 20, 1895

In the matter of the application of Robert W. Buchanan for a respite — Decision

An application is made for a stay of execution to enable the prisoner's counsel to make a motion for a new trial upon the ground that the evidence did not warrant the conclusion that the death of the deceased was caused by poison; and he desires time to procure the affidavits of expert witnesses in support of

that contention. It is also claimed that a new trial ought to be granted upon the ground that after the jury had retired to consider their verdict, one of their number was taken suddenly ill so that he did not and could not properly perform his duties as a juror in the case. Buchanan was convicted after a prolonged and elaborate trial, in which he was skillfully defended by experienced counsel who spared no effort to counteract and overcome the convincing proofs brought against him. All the evidence in the case was afterwards carefully considered by the Court of Appeals on the application for a new trial, and the conclusion in which all the judges concurred was that not only was the evidence sufficient to sustain the conviction but that no other verdict than that rendered was possible, consistently with the proofs adduced. Judge Gray, who wrote for the court, concludes a most thorough review of the whole case by saying: "In the presence of the grave consequences of the verdict I have sought to find the evidence of acts consistent with a probability of innocence; or some weakness in the chain of circumstances which would warrant us in saying that some were at variance with the probabilities of guilt. I am not able to find either." In view of the opinion thus expressed by the Court of Appeals, there would not appear to be any warrant for interference on the part of the executive upon the ground of insufficient evidence to sustain the verdict. With regard to the

question made as to the illness of the juror, it is sufficient to say the whole matter was carefully considered on the motion for a new trial, which was denied and the decision approved by the Court of Appeals. The prisoner does not appear to have been in any manner prejudiced by the circumstance and it furnishes no ground for the present application. Upon a careful consideration of all the questions presented there does not appear to be any reason for granting the respite, and the sentence of the court ought not therefore to be be disturbed.

LEVI P. MORTON

Governor

VETO OF ASSEMBLY BILL No. 1200 TO REORGANIZE THE CHARITIES COMMISSION OF KINGS COUNTY

STATE OF NEW YORK

Executive Chamber

Albany, May 2, 1895

TO THE ASSEMBLY:

Assembly bill number 1200 entitled "An act to provide for the reorganization of the board of charities and correction of the county of Kings and for the appointment of a commissioner thereof and subordinates of said department," is herewith returned without approval.

By chapter 491 of the laws of 1871 the superintendents of the poor of the county of Kings, five in number, were created "Commissioners of charities of the county of Kings," and were made a corporation by that name. They were charged with the management of the poor department of the county, and were given control of all buildings and property belonging to this department.

The act creating the board was amended by chapter 114 of the laws of 1874, and their powers were somewhat enlarged and their duties more specifically defined. The board was reorganized by chapter 284 of the laws of 1880, and the official designation was changed to "The commissioners of charities and correction of the county of Kings," and the number of commissioners was reduced to three. The appointment of commissioners was vested in the supervisor-at-large of Kings county. In addition to the management of the poor department, the new board was charged with the government and control of the penitentiary and the morgue of said county, and the appointment of all employees and subordinates in either institution, It was empowered to purchase all articles and supplies for the poor department and the penitentiary.

The law of 1880 does not specifically repeal either of the prior statutes, but it is inconsistent with many of their provisions and must be deemed to supercede them. The bill now under consideration aims

at a reorganization of the board of charities and corrections by terminating the office of the present commissioner on the first day of June, 1895, and providing for the appointment of one commissioner by a board composed of the supervisor-at-large, the sheriff and the county clerk of the county. The commissioner is to hold office for five years and receive a salary of eight thousand dollars per annum. The commissioner is empowered to appoint a deputy commissioner at an annual salary not to exceed six thousand dollars, and such other subordinates or officers as now are, or hereafter may be, provided by law for said department.

Objection is made to the bill on the ground that it is unconstitutional, for the reason as stated that the sheriff and county clerk cannot constitutionally be made members of such appointing board; and it is said that no attempt has been made before to vest such power in either of these officers. It appears however that in 1858 the sheriff was made a member of a board charged with the duty of appointing a commissioner of jurors of Kings county and continued to act as such until 1870; and it also appears that in 1871 the county clerk of Kings county with other officers was charged with the duty of appointing a supervisor-at-large. I do not regard the bill objectionable on constitutional grounds, for it seems that the duty imposed upon these officers of appointing a commissioner of charities and correction is

not prohibited by the Constitution. But the bill is objectionable and ought not to receive executive sanction for other reasons.

Even if there is no constitutional objection to the appointment of a commissioner by the sheriff, it is a grave question of propriety as well as of public policy whether this duty should be imposed upon him.

The functions of the sheriff and county clerk are chiefly executive, administrative and ministerial, and they cannot properly be classified as "authorities" of the county except in a limited sense. The supervisors are the governing body of the county, and are "authorities" thereof. The supervisor-at-large is an "authority" of the county within the meaning of the Constitution, article 10 section 2, which provides that county officers shall either be elected by the people or appointed by the "authorities" of the county. The power of appointment of the commission of charities and correction has been vested in the supervisor-at-large since 1880, and no complaint is made that he has not fairly performed the duties imposed upon him by law in the appointment of these commissioners.

On the first day of January, 1896, the consolidation of Kings county with the city of Brooklyn will become complete, and by the provisions of section 26 of article 3 of the Constitution the board of supervisors will then cease to exist, and the duties and powers of this board may then be devolved by the

legislature upon the common council or board of aldermen of the city. Probably the office of supervisor-at-large will also cease to exist after that date, and some provision should be made for the selection of some other officer or board to appoint the successors of the present commissioners of charities and correction.

If this bill should become a law, the office of one of the members of the appointing board will probably cease to exist on the first of January next, and the power of appointment will then be left to county officers, not elected with a view to the performance of any such duty, but for entirely different purposes.

Under the law creating the office of supervisor-at-large, this officer is made practically the mayor of the county, because to him is given the power to preside at the meetings of the board of supervisors, without any vote, but he may veto acts and resolutions passed by the board. Hence he occupies to the county the same relation substantially as the mayor of the city. He becomes the chief officer also of the county, and the most logical transfer of the power of this appointment from the supervisor-at-large would be to the mayor; and for reasons already suggested it seems incongruous to vest this power of appointment in officers like the sheriff and county clerk. If one officer is not to be trusted with this appointment, to the mayor may be given the power of nomination subject to confirmation by the common council; but the

appointment by the supervisor-at-large is not subject to confirmation now, and no good reason has been given why two other officers, or any other officer, should also be charged with the responsibility of this appointment.

For fifteen years one officer has had the power to appoint three commissioners. By this bill it is proposed to vest three officers with the power of appointing one commissioner. If any change is to be made in the present method of appointment, in view of the near consolidation of the city and county, it should be made to conform to that consolidation by continuing the appointing power after the first of January next in the hands of some city officer whose official life and functions will continue after that date.

It seems to be agreed that for many reasons a reduction of the number of commissioners from three to one is desirable; but that result can be accomplished without changing the appointing power. There seems to be no necessity of enlarging the appointing board simply to reduce the number of commissioners.

The bill under consideration seems to have been hastily drawn and is seriously defective in form as well as in its plan. It continues the designation of the board of charities and correction, although it provides for only a single officer. The bill says that there shall be "a board of charities and correction of the county of Kings; shall be hereafter known

and designated as a department of charities and correction of the county of Kings," and then that "the said department shall consist of one commissioner and a deputy commissioner and such officers or subordinates as are now or may hereafter be provided by law." A reorganization of the department could be most easily accomplished by amendments to the act of 1880 creating the department; but instead we have an independent bill which may in some respects modify the act of 1880, but without specifically repealing any part of it.

A simple method of making the change would be to amend the act of 1880 by providing for one commissioner instead of three, and providing for another method of appointment. That would leave the remainder of the statute in force, and would avoid any confusion or uncertainty as to the effect of this bill if it should become a law. For the reasons suggested I think this bill should not receive executive approval.

LEVI P. MORTON

MEMORANDUM FILED WITH ASSEMBLY BILLS Nos. 1829, 2054 and 2712, AND SENATE BILL No. 1198, TO REGULATE HORSE RACING AND TO ESTABLISH A STATE RACING COMMISSION — APPROVED

STATE OF NEW YORK
Executive Chamber
Albany, May 9, 1895

Memorandum filed with Assembly bill number 1829 *entitled "An act for the incorporation of associations for the improvement of the breed of horses and to regulate the same; and to establish a State Racing Commission"—Approved*

Assembly bill number 2054 *entitled "An act to amend section three hundred and forty-three of the Penal Code of the State of New York, as amended by chapter four hundred and twenty-eight of the laws of eighteen hundred and eighty-nine, relating to keeping gaming and betting establishments"—Approved*

Assembly bill number 2712 *entitled "An act to amend section three hundred and fifty-one of the Penal Code of the State of New York, relating to pool-selling, book-making, bets and wagers"— Approved*

Senate bill number 1198 *entitled "An act in relation to the powers and privileges of corporations heretofore formed for raising, breeding or improving the*

breed of horses, or formed or entitled to the benefits or privileges of any act for the incorporation of associations for the improvement of the breed of horses, and to regulate the same; and to establish a State Racing Commission"— Approved

These four bills provide for the formation of associations for the improvement of the breed of horses, for holding trotting or running race meetings, for a State Racing Commission, and prohibit the keeping of gaming and betting establishments, and also pool-selling, book-making, bet and wagers. All relate to the same general subject, and for that reason are here considered in one group. Several statutes relating to the same or similar subjects are by these bills repealed or amended, and this group of bills will comprise what will be known as the "Racing Law of the State."

By chapter 478 of the laws of 1887 pool-selling on race courses was legalized, and the provisions of the Penal Code relating to the subject were to be suspended during thirty days in each year, between May 15 and October 15, upon certain race grounds. This act made lawful, during the period named and upon these race tracks, that which elsewhere and during other portions of the year was treated as a crime. The act was amended by chapter 469 of the laws of 1893, and also by chapter 197 of the laws of 1894. By section nine of article one of the Constitution, as

amended in 1894, it is provided among other things that pool-selling, book-making nor any other kind of gambling shall hereafter be authorized or allowed within this State, and the legislature shall pass appropriate laws to prevent offences against any of the provisions of this section." While the principal portions of the acts above cited are probably abrogated or rendered invalid by the constitutional amendment, some portions of the laws probably remain in force, but in consequence of the constitutional amendment, a revision of the laws relating to racing and racing associations seems to be required; hence the legislation proposed by the bills now under consideration.

The first bill — that relating to the formation of racing associations — seems to be a great improvement upon the act of 1887 and contains none of the objectionable features of that bill, and the second and third bills, amending sections 343 and 351 of the Penal Code, also seem necessary to carry into effect the prohibition contained in the constitutional amendment. The fourth bill is explanatory of the first, and is made necessary also by some provisions of the general corporations law of the State which might otherwise affect associations formed under the first bill.

It seems to have been the intention of the framers of the law to provide every reasonable safeguard against gambling in connection with horse racing.

Pool-selling, book-making, recording of bets and wagers and open gambling are prohibited under penalty of imprisonment or imprisonment and fine.

The proposed legislation also seems broad enough to prohibit the transmission by telegraph or telephone of orders or commissions for the laying of wagers upon horse races; and even where private individual wagers are made between persons, no token, receipt or certificate of the making of such wager or bet, or of liability to pay over or refund the money so wagered, can be passed or exchanged between the parties, and for a violation of this provision a penalty is imposed under which the loser may recover at law the whole sum so wagered between himself and the winner. Besides, the officials in charge of or controlling the racing associations and race tracks who may connive at, or permit violation of the law in this respect, are themselves made subject to imprisonment or both imprisonment and fine equally with the persons engaged in betting; and the racing commission created by the first bill is empowered to revoke the license of the association on whose tracks or grounds the law is violated.

It was probably not intended by the constitutional amendment to prohibit racing altogether, but the evil of pool-selling and book-making had become so great that the Constitutional Convention of 1894 felt justified in recommending the adoption of a constitutional provision against it, placing these things on

the same basis as lotteries and the sale of lottery tickets, which were already included in the constitutional prohibition. By the bills under consideration the legislature has attempted to perform the duty imposed upon it by the Constitution and provide legislation which should prevent offenses against the provisions of the Constitution relating to pool-selling, book-making and gambling at horse races. Whether the object aimed at has been fully accomplished can only be determined by experience, and if this legislation shall prove inadequate or insufficient to prohibit or repress the evils mentioned, public sentiment will doubtless demand more stringent legislation in the future.

I am not unmindful of the objections which have been made to these bills by eminent citizens interested in maintaining good morals and good order, and I am in entire sympathy with the spirit of their objections. No one could deprecate more than myself any legislation which would have a tendency to increase rather than diminish gambling. But a careful consideration of these bills leads me to the conclusion that gambling at horse races will be materially lessened, if not altogether prohibited, by their provisions. At all events it seems wise that some legislation should be enacted. It does not seem proper to leave the statutes upon this subject in the uncertain condition produced by the amendment to the Constitution, and it is impracticable if not im-

possible at this stage of the legislative session to procure any other legislation than that proposed by these bills; and while they may not be satisfactory to all our people, it seems to me proper on the whole to approve them in the form recommended by the legislature.

LEVI P. MORTON

VETO OF SENATE BILL No. 536, TO AMEND THE COUNTY LAW AS TO BRIDGES

STATE OF NEW YORK

Executive Chamber

Albany, May 11, 1895

TO THE SENATE:

Senate bill number 536 entitled "An act to amend chapter eighteen of the general laws entitled 'An act in relation to counties,'" is herewith returned without approval.

The bill proposes to amend section sixty-eight of the county law, relating to bridges over county lines, by which boards of supervisors are required to provide for the care, maintenance, preservation and repair of bridges which intersect the boundary lines of counties. The present law provides that "when such bridge shall span any portion of the navigable tide-waters of this State, forming, at the point of cross-

ing, the boundary lines between two counties, such expense shall be a joint and equal charge on the two counties in which the bridge is situated," and the board of supervisors in each county is required to apportion the expenses among the towns and cities therein according to their judgment; and the statute further provides that "no such bridge shall be constructed unless authorized by resolution adopted by the board of supervisors in each of such counties."

This bill proposes to strike out the provision last quoted and insert in place thereof the following: "Provided, however, that where such a bridge is destroyed or removed a new bridge shall not be built, unless the board of supervisors of each county adopt a resolution deciding such new bridge to be necessary for the public interest, and such boards are hereby vested with exclusive power to determine the necessity of such new bridge."

It is the evident intention of the proposed amendment to deprive the courts of any power to compel boards of supervisors by mandamus to construct bridges over streams forming boundary lines, in the cases mentioned in section sixty-eight. I think legislation of this character should not be encouraged, and it seems to me very unwise to clothe administrative boards with absolute power in cases of this kind, and place them beyond the control of judicial tribunals. The duty of keeping bridges in repair is plainly administrative and mandatory, and should

not be made simply discretionary. The power and duty conferred upon boards of supervisors by the present law is in the public interest and for the public benefit; and legislation which seems expressly intended to relieve these boards from any supervision or control by the courts is I think opposed to sound public policy. If a board of supervisors should refuse to rebuild, in a proper case, a bridge which has been destroyed or removed, any citizen should have the right to invoke the aid of the court to compel the performance by the board of a public duty, and the court may be trusted to make a proper decision protecting the interests of all concerned.

LEVI P. MORTON

CERTIFICATION OF THE NECESSITY OF THE PASSAGE OF SENATE BILL No. 1455 TO CONSOLIDATE THE GOVERNMENTS OF BROOKLYN AND KINGS COUNTY

STATE OF NEW YORK
Executive Chamber
Albany, May 15, 1895

TO THE LEGISLATURE:

It appearing to my satisfaction that the public interest requires it,

Therefore, in accordance with the provisions of section fifteen of article three of the Constitution

and by virtue of the authority thereby conferred upon me I do hereby certify to the necessity of the immediate passage of Senate bill number 1455, entitled "An act to consolidate the governments of the county of Kings and the city of Brooklyn, and regulate the same."

Given under my hand and the Privy Seal of the State at the capital in the city of [L S] Albany this fifteenth day of May in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

CERTIFICATION OF THE NECESSITY OF THE PASSAGE OF SENATE BILL INTRODUCTORY No. 1373 TO REGULATE THE CIVIL SERVICE

STATE OF NEW YORK
Executive Chamber
Albany, May 15, 1895

TO THE LEGISLATURE:

It appearing to my satisfaction that the public interest requires it,

Therefore, in accordance with the provisions of section fifteen of article three of the Constitution

and by virtue of the authority thereby conferred upon me I do hereby certify to the necessity of the immediate passage of Senate bill number 1373 introductory number 383 entitled "An act to regulate and improve the Civil Service of the State of New York."

Given under my hand and the Privy Seal of the State at the capitol in the city of [L S] Albany this fifteenth day of May in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

CERTIFICATION OF THE NECESSITY OF THE PASSAGE OF ASSEMBLY BILL INTRODUCTORY No. 1752 TO PROVIDE WAYS AND MEANS FOR THE SUPPORT OF THE GOVERNMENT

STATE OF NEW YORK

Executive Chamber

Albany, May 15, 1895

TO THE LEGISLATURE:

It appearing to my satisfaction that the public interest requires it,

Therefore, in accordance with the provisions of section fifteen of article three of the Constitution

and by virtue of the authority thereby conferred upon me I do hereby certify to the necessity of the immediate passage of Assembly bill (introductory number 1752) entitled "An act to provide ways and means for the support of the government."

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this sixteenth day of May in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

CERTIFICATION OF THE NECESSITY OF THE PASSAGE OF ASSEMBLY BILL No. 2794—THE SUPPLEMENTAL SUPPLY BILL

STATE OF NEW YORK
Executive Chamber
Albany, May 15, 1895

TO THE LEGISLATURE:

It appearing to my satisfaction that the public interest requires it,

Therefore, in accordance with the provisions of section fifteen of article three of the Constitution and by virtue of the authority thereby conferred

upon me I do hereby certify to the necessity of the immediate passage of Assembly bill number 2794 (introductory number 1746), entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this fifteenth day of May in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE

Private Secretary

MATTER OF COUNTY CLERK GRIFFING—NOTICE AND SUMMONS

STATE OF NEW YORK

Executive Chamber

In the matter of the charges preferred against Orville H. Griffing, Clerk of the county of Hamilton

To ORVILLE H. GRIFFING, *Clerk of the county of Hamilton :*

You are hereby notified that charges of misconduct in office have been preferred against you and a copy of said charges is herewith served upon you.

You are hereby further notified that you will be afforded an opportunity of being heard in your defense in answer to said charges before me at the Executive Chamber in the city of Albany on Wednesday, June twelfth instant, at eleven o'clock in the forenoon.

In witness whereof I have hereunto signed my name and affixed the Privy Seal of
[L S] the State at the Capitol in the city of Albany this first day of June in the year of our Lord, one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

VETO OF ITEMS IN ASSEMBLY BILL No. 2800 — THE SUPPLY BILL

STATE OF NEW YORK
Executive Chamber
Albany, June 5, 1895

Statement of items of appropriation objected to and not approved, contained in Assembly bill number 2800 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations — Not approved

The several items herein enumerated, contained in Assembly bill number 2800 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated:

First. "For the Adjutant-General, for building of an indoor rifle range in the rear of the State armory in the city of Oswego, four thousand dollars, or so much thereof as may be necessary." This seems like an unnecessary expenditure of money at this time. Probably sufficient opportunity can be obtained for rifle practice without erecting an indoor range for this express purpose.

Second. "For compensation of the present financial clerk of the Assembly, for his attendance at the opening of the session of the legislature of 1896, the sum of three hundred dollars."

I am unable to discover any good reason for this expenditure. The legislative law provides for the attendance of certain officers of each house at the opening of the next succeeding session of the legislature and for their compensation. The financial clerk of the Assembly is not included in this number. No good reason is given why his attendance is required, or if required, why it should not have been procured by an amendment to the legislative law. The officers who are required by legislative law to attend at the opening of the succeeding legislature are to be paid the same *per diem* compensation as they were entitled to receive at the preceding session for like services. This appropriation fixes the gross sum which this clerk may receive without regard to the number of days he may attend. This would establish a precedent which would be likely to be annoying in the future. If the next Assembly should need the services of this clerk, it can employ him and pay him whatever his services may be worth.

LEVI P. MORTON

MATTER OF ANTHONY CLINCHY, INSPECTOR OF GAS METERS — NOTICE AND SUMMONS

Albany, June 6, 1895

To ANTHONY CLINCHY, *Inspector of Gas Meters, New York city:*

SIR.—You are hereby notified that charges of misconduct and malfeasance in office have been preferred against you by the sub-committee of the Senate appointed to investigate the Department of the Inspector of Gas Meters.

You are therefore required to show cause why you should not be removed from the office of Inspector of Gas Meters, and to answer the said charges within eight days after service of this order.

That you are charged by said committee with wilful neglect to perform your duty, as required by chapter 385, laws of 1893. That such violation consisted:

First. In passing and sealing meters during the year 1894, without examination by yourself or your deputies.

Second. In permitting manufacturers of gas meters to place the seal of the inspector of gas meters upon meters manufactured by them, without examination of said meters by yourself or your deputies.

Third. In permitting manufacturers of gas meters to use the seal of the inspector of gas meters upon

meters manufactured by them, without an examination of said meters by yourself or your deputies, and in charging said manufacturers a given sum per meter for the said privilege of using said seals, without examination.

In witness whereof I have signed my name and affixed the Privy Seal of the State at [L S] the Capitol in the city of Albany this sixth day of June in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

VETO OF ITEMS IN ASSEMBLY BILL No. 2810 — THE APPROPRIATION BILL

STATE OF NEW YORK
Executive Chamber
Albany, June 12, 1895

Statement of items of appropriation objected to and not approved contained in Assembly bill number 2810 entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations" — Not approved

The several items herein enumerated, contained in Assembly bill number 2810 entitled "An act

making appropriations for certain expenses of government and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated :

First. " For the Comptroller, for payment to the Panama Railway Company for taxes erroneously paid, the sum of twenty-five thousand dollars."

It appears that this company, during the years 1881, 1882, 1883 and 1884, paid into the State Treasury taxes assessed and levied upon it under the provisions of the Corporation Tax Law of 1880 and 1881. By an amendment to the tax law, passed in 1885, the liability of the company to taxation was reduced, and since then it has been taxed upon a different basis. In 1891 the Comptroller re-settled and re-adjusted the accounts of this company for taxes of 1881, 1882, 1883 and 1884, and thereupon credited the company with the sum of $94,025.85. It seems quite clear that under the tax laws of 1880 and 1881 this company was liable for the tax which it paid, and that it has no valid claim against the State for any part of such taxation, unless the re-settlement by the Comptroller creates such a claim. Assuming such re-settlement to be valid and binding upon the State, the law does not direct a re-payment of the amount to the company, but provides for a credit upon future tax; and no appropriation to refund the tax should be made, unless it be made to appear that the tax was in fact erroneously paid.

The company is now receiving the benefit of the resettlement made by the Comptroller by credit upon the tax which it is now paying annually under the provisions of law. This appropriation does not purport to be in full settlement of any claim the company may have against the State, and if it be approved, other appropriations will probably be called for hereafter. If any appropriation is to be made to refund the tax paid by this company, it should be made in a manner and in an amount which will be a full settlement of the whole matter.

Second. "The sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of moneys not otherwise appropriated, for the erection and construction by the Superintendent of Public Works, on plans prepared by the State Engineer, of a dyke or breakwater at a point on the east side of the Hudson river, north of the Albany and Greenbush bridge, beginning at the southwest corner of a dock formerly known as the Warren and Wilbur dock, and running from thence south about three hundred and fifty feet, more or less, to the dock at the foot of Ferry street, in the village of Greenbush."

There does not seem to be any public necessity for this work. It appears to be a private enterprise, and if so the expense should not be borne by the State.

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 1766 TO PROVIDE FOR LIFTING LOCKS ON THE ERIE CANAL

STATE OF NEW YORK
Executive Chamber
Albany, June 13, 1895

Memorandum filed with Assembly bill number 1765 *entitled "An act authorizing the construction and repair of lifting locks, with the necessary approaches, machinery and appliances therefor, to replace the present series of five combined twin locks on the Erie canal, in the city of Lockport, Niagara county, and making an appropriation therefor"— Not approved*

This bill provides for the construction of one pair of lifting locks of double boat length, with the necessary approaches thereto, and the necessary foundations, machinery and appliances therefor, to replace the present series of five combined twin locks on the Erie canal at Lockport, and the sum of one hundred thousand dollars, or so much thereof as may be necessary, is appropriated for the purpose specified. It is urged in behalf of the bill that the construction of this pair of lifting locks to replace the five combined twin locks at Lockport will greatly facilitate the transaction of business on the Erie canal.

By a law which took effect on the sixth of March last, provision is made for submitting to the people

of this State at the next general election the proposition whether the State shall issue bonds to an amount not to exceed nine millions of dollars for the purpose of enlarging and improving the Erie, the Champlain and the Oswego canals, and in the event of the adoption of such proposition, bonds are to be issued for the purposes indicated.

In view of this pending proposition it does not seem advisable at this time to approve the bill now under consideration, and I think the proposed improvement at Lockport should be deferred until an expression of opinion has been obtained from the people of the State upon the general question of canal enlargement. If the proposition to expend nine millions of dollars upon the canals be approved, the enlargement of the locks mentioned in this bill will probably be necessary, and the expense thereof can be paid from the fund raised by the sale of bonds authorized by the above mentioned law, and without any additional appropriation. About one million two hundred and fifty thousand dollars have already been appropriated this year for the canals, for what seem to be necessary maintenance, repairs and improvements, and I think that in view of the heavy appropriations already made, and the proposition now awaiting action by the people, the public interest requires the postponement of the contemplated improvement at Lockport.

LEVI P. MORTON

VETO OF SENATE BILL No. 423 FOR THE ERECTION OF AN ARMORY IN BUFFALO.

STATE OF NEW YORK
Executive Chamber
Albany, June 14, 1895

Memorandum filed with Senate bill number 423 *entitled "An act to provide for the acquisition of a site and the erection thereon of an armory in the city of Buffalo, for the Seventy-fourth Regiment, National Guard of the State of New York, and making an appropriation therefor"—Not approved*

The bill provides for the transfer by the city of Buffalo to the people of the State of a tract of land for the purpose of an armory site for the Seventy-fourth regiment of the National Guard, and for the erection of an armory upon such land by the State at a cost not to exceed in the aggregate the sum of four hundred thousand dollars, but the appropriation not to be available until on or after the first day of April, 1896.

In a message transmitted to the Assembly on the twenty-eighth of February last, disproving a bill providing for the erection of an armory at Ogdensburg, it was suggested that no appropriations should be made which can be deferred without injury to the interests of the State, and especially that no new

armories or normal school buildings should be erected this year. Attention was called to the fact that several bills were pending for appropriations for repairs and improvements upon armories, as well as for several new armories. Afterwards I declined to approve a bill for a new armory at Whitehall. Several appropriations have been approved for repairs and improvements upon armories, but none have thus far been approved for new armories. In view of the policy already indicated I cannot consistently approve this bill. Other bills are now pending for new armories, and an approval of this bill would require the approval of the others, and thus involve a reversal of executive policy, for which reversal no sufficient reason could be given.

It has been urged that an approval of this bill would be proper, because of the approval of a bill making an appropriation for repairs and enlargement of the armory of the Forty-seventh regiment in Brooklyn, but that appropriation was strictly in line with the policy indicated early in the late session of the legislature, that appropriations for armories should be confined to necessary repairs and improvements.

In disapproving this bill it seems proper to say that the Seventy-fourth regiment is not now without an armory, although no appropriation therefor has been made by the State — it appearing that the present armory used by this regiment was erected wholly at

the expense of the county of Erie. The pending bill provides for the transfer of the present armory to the city of Buffalo upon the completion of the new armory.

It is also urged in behalf of this bill that the facilities afforded by the present armory are inadequate, and that the best interests of the military service require a new building. This suggestion is not without force, but it can have no greater weight than a similar suggestion made in behalf of the military company at Whitehall, which has been in existence several years, and whose drill-room was destroyed by fire while that armory bill was under executive consideration.

It appears from reports of the Adjutant-General, and from information derived from other sources, that the Seventy-fourth regiment has reached a high degree of proficiency and is one of the best in the National Guard. It should probably soon be provided with additional and more adequate accommodations, and the legislature will doubtless in the near future give this matter the attention which its importance seems to demand.

LEVI P. MORTON

VETO OF SENATE BILL No. 241 TO PROVIDE FOR A STATE DAM ON THE GENESEE RIVER

STATE OF NEW YORK
Executive Chamber
Albany, June 14, 1895

Memorandum filed with Senate bill number 241 *entitled "An Act providing for the construction of a dam on the Genesee river for the purposes of the Erie canal, and for restoring to the owners of water power on the Genesee river, the water diverted by the State for canal purposes"—Not approved*

This bill provides for the erection of a dam at some point on the Genesee river for the purpose of providing a supply of water for the use of the Erie canal, and also for the use of the owners of water power upon the Genesee river. The bill does not attempt to locate the dam definitely, but requires its construction at one of the three sites referred to in the report of the State Engineer and Surveyor submitted to the Legislature January 2, 1894. The bill requires the construction of a dam fifty-eight feet in height above the stream bed, and in such manner and of such dimensions as to be capable of being extended to the height of one hundred and thirty feet. The bill makes an appropriation of $150,000, "or so much thereof as may be necessary," for the

purpose of carrying into effect the provisions of the act. Ten thousand dollars of this amount are specifically appropriated for plans and specifications of the proposed dam, leaving $140,000 for the construction of the dam itself.

The sites proposed for the dam are all in a gorge in the Genesee river near Mount Morris, and are about forty miles from the city of Rochester. If a dam is to be constructed upon the Genesee river for the purpose of water storage, this gorge is the most available place. Civil engineers and others agree that the opportunities for storing a large quantity of water at this point are unsurpassed if not unequalled. It is estimated that a dam fifty-eight feet high would store about 1,500,000,000 cubic feet of water, submerge about 406 acres of land, and cause a back flowage of about ten and one-half miles; that a dam one hundred feet high would store about 4,800,000,000 cubic feet of water, submerge about 2,090 acres of land, and cause a back flowage of about thirteen and three-quarters miles, and that a dam one hundred and thirty feet high would contain nearly 8,000,000,000 cubic feet of water, flood 2,350 acres of land and reach back about fifteen miles.

From the discussion of this topic, referred to in the bill, it appears that the cost of a dam fifty-eight feet high, at what is called the "hog back" site, would be about $850,000; at site designated as "No. 1,"

$1,200,000; at site designated as "No 2," $1,300,000, and that the expense of completing a dam fifty-eight feet high, of sufficient dimensions to be capable of being extended to a height of one hundred and thirty feet would be, at the sites above mentioned, respectively $2,100,000, $3,150,000 and $3,350,000, and to first complete a dam fifty-eight feet high, and afterwards raise it to one hundred and thirty feet, the estimated expense would be at the same sites respectively $2,500,000, $3,250,000 and $3,400,000.

These estimates are official and they show that the amount appropriated in this bill is a very small portion of the whole sum which will probably be required, if this dam is to be built at the expense of the State. While a dam at the point named is probably desirable, and will be beneficial to the residents of the Genesee valley and especially to the people of Rochester, it does not seem to me wise for the State to enter upon this expensive public work at this time. So far as concerns the value of the dam as a feeder for the Erie canal, it may be doubtful whether the condition of canal business at the present time, and the necessities of the canal itself, justify such a large expenditure. If the proposition to deepen the Erie canal to nine feet, upon which the people will vote in November next, be approved, an additional water supply will be required, and in that event the construction of this dam may be deemed necessary; but for canal purposes alone it does not seem wise to

begin the work until the people have expressed their approval of the proposition for canal enlargement. Another purpose for which the dam seems to be desired is to furnish a supply of water for use by manufacturers and others in the city of Rochester, and it is also urged in behalf of the bill that the dam will prevent floods and consequent damage to property, which have sometimes resulted from a sudden and extraordinary rise of the Genesee river.

So far as concerns the additional water power to be supplied by means of this dam in the city of Rochester, it may be fairly contended that this city should bear some portion of the expense. No provision is made for any such contribution by the city in the pending bill, and I am of the belief that if the State should determine to build such a dam upon the Genesee river, some provision should be made whereby the city of Rochester, and possibly other localities interested in the work, may contribute to the expense of construction.

The commission appointed by the Governor in April, 1892, under the concurrent resolution of the Legislature adopted in March of that year, providing for such a commission to inquire and report as to the expediency of constructing a dam upon the Genesee river for the purposes indicated, made a report to the Legislature under date of February 2, 1893, urging the importance of such a dam and recommending its construction. The State Engineer and Surveyor

has also on several occasions recommended that such a dam be built, As already suggested, if the proposition for canal enlargement be approved public sentiment may justify the construction of the dam in the Genesee river for canal purposes. If the proposition to deepen the Erie canal be not approved, the question will still remain whether a dam in this river may not be desirable for the protection of property and the increase of water power in the city of Rochester, and the expediency of engaging in this public work and the proportion of the expense thereof to be borne by the State will be proper subjects for consideration by the Legislaure. But in view of the question of general canal improvement now pending before the people, to be decided at the next election, and also in view of the fact that this bill makes no provision for any contribution toward the expense of the dam by any of the localities interested, I think it should not be approved.

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 2348 TO ESTABLISH THE MANHATTAN STATE HOSPITAL

STATE OF NEW YORK

Executive Chamber

Albany, June 15, 1895

Memorandum filed with Assembly bill number 2348 *entitled "An act for the conversion of the New York city asylums for the insane into a State hospital and to establish the Manhattan State Hospital"— Not approved*

This bill was passed by the Assembly on the eighth of May last, by the Senate on the ninth, and on the tenth a certified copy thereof was transmitted to the mayor of New York for his action, pursuant to the provisions of the Constitution. On the twenty-first the original bill properly certified was presented to me, and on the twenty-fifth the certified copy of the bill was returned by the mayor but without any certificate showing whether the city had or had not accepted the same, and also without any certificate showing that the public notice and an opportunity for a public hearing upon said bill had been given, as required by the Constitution and by chapter 9 of the Laws of 1895. The question is now presented whether this bill can properly receive executive approval, or whether it is subject to executive action

at all, and this involves a consideration of the question: First, whether the bill is one for a special city law within the meaning of section two of article twelve of the Constitution; and second, whether, being such a bill and therefore one of the class of bills required to be first submitted to the mayor for his consideration, it is subject to executive consideration without any action by the mayor.

I think it is conceded by every one who has given the matter careful consideration that this bill is a "city bill" within the meaning of the Constitution. It relates to the property of the city and provides for its transfer to the State, and it requires action by certain city officers. It is so clearly one of the class of bills which must be submitted to a city before being subject to executive consideration, that further discussion of that question is unnecessary. The question of the power of the Governor to act upon a bill is primarily one of jurisdiction; so the real question here is — has the Governor jurisdiction of this bill? The jurisdiction of the Governor to act upon a bill depends upon the existence of various conditions. One is that a bill must have received the votes of a majority of the members elected to each branch of the Legislature. Certain bills also require the presence of three-fifths of the members of each branch when the vote is taken upon their final passage; and still another class of bills cannot be properly passed without the affirmative vote of

two-thirds of the members elected to each branch of the Legislature. If either of these Constitutional requirements is lacking in a given case, the Governor has no jurisdiction to act, and an approval of such a bill by him does not make it a valid law. In addition to these jurisdictional requirements, which must be considered in the case of every bill, the Constitution as amended in 1894 imposed another jurisdictional limitation upon the power of the Governor in the case of bills which are required to be first submitted to the city to which they relate. By virtue of this new provision the Governor obtains no jurisdiction of a so-called "city bill" until it has first been submitted to the city, and is either accepted by it, or if not accepted is again passed by the legislature. The Constitution provides that "whenever any such bill is accepted as herein provided it shall be subject as are other bills to the action of the Governor." The express grant of power to act upon an accepted bill cannot be treated also as a grant by implication of the same power to act in the case of a bill not accepted. No suggestion is made that the Governor has any power to act upon the "city bill," only in case of its acceptance by the city or of its second passage by the Legislature. The Constitution contains no intimation that jurisdiction is intended to be conferred upon the Governor with equal effect, whether the bill is accepted or not accepted by cities. The Constitution evidently intended to confer upon

cities the power to determine in the first instance what laws should be enacted affecting their interests, but the Constitution reserves to the State the final sovereignty by conferring upon the Legislature the power to pass a "city bill" the second time, notwithstanding its rejection by the city; and also by conferring upon the Governor the same power to act upon such a bill so passed the second time, as if it had been accepted by the city in the first instance, but the Constitution does not give the Governor any power to make law that which the authorities of the city say shall not be law, excepting in the single instance of the second passage of the bill by the Legislature; and a "city bill" upon its first passage is not yet subject to the jurisdiction of the Governor. It is still in an initiatory condition. During the session of the Legislature such a bill may pass from an initiatory to a completed condition, but the contention that a bill rejected by a city after the adjournment of the Legislature is nevertheless subject to the action of the Governor, implies that the Governor has more power in the making of laws after an adjournment of the Legislature than while it is in session, and that the Governor in case of such a bill after adjournment has as much power as the Legislature while in session, which would not perhaps be seriously urged.

The Constitutional provision regarding submission of bills to cities should be construed so as to have

some force and effect, and the evident design of giving to a city some power to determine the character of legislation affecting it would be of no effect, and the action of a city upon a bill affecting the interests would amount merely to an expression of opinion, if the Governor has power to make a bill a law which the city has declined to accept; therefore the submission of such a bill to a city would be a mere idle ceremony.

I think a study of the development of the subject of "home rule" for cities in the Constitutional Convention of 1894 shows very clearly that it was the intention of that body to give to cities more than the mere right to express an opinion upon a pending measure, and to confer upon them a considerable degree of local government. The first proposition submitted to the Convention, on the 27th of July, entitled "To provide home rule for cities" contained elaborate provisions regulating the internal affairs of cities, and it was therein provided that "except as permitted by section 4, the Legislature shall not pass any law relating to cities, except a general law or a general city law, as to any of the following subjects"—enumerating various classes of subjects concerning city affairs. By section 4 referred to, it was provided that "laws may be passed affecting one or more of the subjects enumerated in the last preceding section, in any city, on the consent of the Mayor, or the Mayor and Common Council, given

as hereinafter provided," and after providing a special enacting clause for such bills the section further provides that "after any bill with such an enacting clause has been presented to the Governor, and before he shall act thereon, there shall be twenty days in which, as to any city of five hundred thousand inhabitants or over, according to the then last State enumeration, the Mayor of the city named in the title of the bill may consent thereto; and in which, as to any other city, the Mayor and Common Council thereof may consent thereto, but no consent shall be given until after five days' notice by publication in the newspapers designated to publish city notices, stating the title of the bill in full, and that the city officers here designated for such city are considering the question of consenting thereto. After such consent is given and presented to the Governor he shall have the same power as to such bill and the same time to act thereon as to other bills." There is no suggestion that the Governor has any power to act upon such a bill except upon the consent of the city, and no power is given to the Legislature to overrule the action of a city in declining to accept such a bill.

This "home rule" proposition was debated at great length, and was several times modified and reprinted until it was finally agreed upon in the form in which it appears in article XII of the Constitution; but throughout all the modifications of the article the design is clearly preserved to confer upon a city a

large measure of control over legislation affecting it, subject only to be overruled by the action of the Legislature itself, which provision was added in the course of the discussion of the proposition in the Convention.

It does not appear that the Mayor of New York took any action upon this bill. If the jurisdiction of the Governor depends upon the previous action of the city to be certified in the manner prescribed by the Constitution, and no such certificate accompanies the bill returned by the Mayor, the Governor acquires no more jurisdiction than he would acquire if the bill had not been returned by the Mayor at all, and it probably will not be urged that the Governor has jurisdiction of a bill which is not returned by the Mayor.

I have been strongly urged to approve this bill, but I cannot do so without over-riding what seems to me to be a plain constitutional limitation, and I am unwilling to approve a measure of which I have no constitutional jurisdiction and which by such attempted approval could not become a law, even though the measure be one of great public interest.

I deeply regret the condition produced by the failure of the Mayor to approve this bill, but I cannot in a conscientious performance of my constitutional duty, add, to the unfortunate result of the Mayor's want of action, a plain violation of the Constitution.

LEVI P. MORTON

VETOES OF ASSEMBLY BILL No. 695 TO AMEND THE SCHOOL LAW

ASSEMBLY BILL No. 1090 TO DEFINE AND ESTABLISH THE STATE FLAG

ASSEMBLY BILL No. 1414 TO AMEND THE COUNTY LAW

ASSEMBLY BILL No. 1433 TO ESTABLISH A NORMAL SCHOOL AT MILLERTON

ASSEMBLY BILL No. 1615 TO INTRODUCE THE "GOLD CURE" IN STATE PRISONS

ASSEMBLY BILL No. 1788 TO REGULATE THE PRACTICE OF HORSE-SHOEING

ASSEMBLY BILL No. 1693 TO AMEND THE VILLAGE LAW

ASSEMBLY BILL No. 1694 RELATING TO ELECTRIC LIGHTS IN VILLAGES

ASSEMBLY BILL No. 1726 TO PROVIDE FOR LIENS BY STONECUTTERS AND QUARRYMEN

ASSEMBLY BILL No. 1777 AS TO SUB-DIVIDED LAWS

ASSEMBLY BILL No. 1782 TO AMEND CHAPTER ELEVEN OF THE GENERAL LAWS

ASSEMBLY BILL No. 1898 AS TO POWERS OF THE JUSTICE OF THE PEACE OF OWASCO

ASSEMBLY BILL No. 1941 TO CREATE THE METROPOLITAN POST-GRADUATE SCHOOL OF MEDICINE

ASSEMBLY BILL No. 1977 TO GIVE THE BOARD OF CLAIMS JURISDICTION IN THE CLAIM OF JAMES M. RUSO

ASSEMBLY BILL No. 2057 TO AMEND THE GAME LAW AS TO BLACK AND OSWEGO BASS

ASSEMBLY BILL No. 2101 TO AMEND THE PENAL CODE AS TO MECHANICAL EMPLOYMENTS ON SUNDAYS

ASSEMBLY BILL No. 2264 RELATING TO BEQUESTS TO RELIGIOUS OR CHARITABLE ASSOCIATIONS

ASSEMBLY BILL No. 2342 TO AMEND THE CIVIL CODE AS TO LIS PENDENS

ASSEMBLY BILL No. 2383 TO AMEND THE COUNTY LAW AS TO COPIES

ASSEMBLY BILL No. 2494 TO REGULATE THE PRACTICE OF ARCHITECTURE

ASSEMBLY BILL No. 2496 TO FIX THE SALARIES OF THE COUNTY JUDGE AND THE SURROGATE OF ALBANY COUNTY

ASSEMBLY BILL No. 2539 TO AMEND THE COUNTY LAW AS TO HIGHWAYS

ASSEMBLY BILL No. 2564 FOR THE PROTECTION OF MECHANICS AND OTHERS

ASSEMBLY BILL No. 2567 RELATING TO RURAL CEMETERY ASSOCIATIONS

ASSEMBLY BILL No. 2571 TO AMEND THE CODE OF CIVIL PROCEDURE AS TO ENTRY OF JUDGMENT

ASSEMBLY BILL No 2601, TO PROHIBIT USE OF SAME NAME BY CORPORATIONS

ASSEMBLY BILL No. 2614 FOR A COMPANY ARMORY AT SING SING

ASSEMBLY BILL No. 2619 TO AMEND THE COUNTY LAW AS TO HIGHWAYS

ASSEMBLY BILL No. 2621 TO AMEND THE INSURANCE LAW

ASSEMBLY BILL No. 2637 TO AMEND THE CODE OF CIVIL PROCEDURE AS TO COSTS IN SURROGATES' COURTS

ASSEMBLY BILL No. 2737 TO AMEND THE STOCK CORPORATION LAW

ASSEMBLY BILL No. 2741 TO AMEND THE CODE OF CIVIL PROCEDURE AS TO EXCEPTIONS

ASSEMBLY BILL No. 2742, RELATING TO THE COUNTY CLERK OF COLUMBIA COUNTY

ASSEMBLY BILL No. 2743 RELATING TO THE SOLDIERS AND SAILORS' HOME

ASSEMBLY BILL No. 2767 TO AMEND THE SCHOOL LAW

ASSEMBLY BILL No. 2779 TO FIX THE PLACE WHERE PROPERTY SHALL BE ASSESSED

ASSEMBLY BILL No. 113 TO PROVIDE FOR A STATE ARMORY AT HUDSON

ASSEMBLY BILL No. 521 RELATING TO LEWIS AVENUE, BROOKLYN

ASSEMBLY BILL No. 1259 TO AMEND THE BROOKLYN CHARTER AS TO CITY CLERK

ASSEMBLY BILL No. 1927 TO DIVIDE THE BROOKLYN CITY WORKS DEPARTMENT INTO THREE DEPARTMENTS

ASSEMBLY BILL No. 2324 TO AMEND THE BUFFALO CHARTER

ASSEMBLY BILL No. 2694 TO INTRODUCE THE DAVIS VOTING MACHINE

ASSEMBLY BILL No. 2760 TO REGULATE TRAVEL ON ELEVATED RAILROADS

SENATE BILL No. 183 TO REGULATE THE HOURS OF LABOR ON STREET RAILROADS

SENATE BILL No. 349 TO AMEND THE PUBLIC HEALTH LAW

SENATE BILL No. 549 FOR THE ACQUISITION OF CERTAIN LANDS IN NEW YORK CITY FOR THE PUBLIC USE

SENATE BILL No. 552 TO AMEND THE STOCK CORPORATION LAW

SENATE BILL No. 770 TO PROVIDE A STATE NAUTICAL SCHOOL IN NEW YORK CITY

SENATE BILL No. 875 FOR A NORMAL SCHOOL AT JAMAICA

SENATE BILL No. 1095 TO AMEND THE CODE OF CIVIL PROCEDURE AS TO LIS PENDENS

SENATE BILL No. 1127 IN RELATION TO THE EQUALIZATION OF TAXES

SENATE BILL No. 1141 TO GIVE THE BOARD OF CLAIMS JURISDICTION IN THE CLAIM OF THE SILVERSMITHS' COMPANY

SENATE BILL No. 1159 RELATING TO WATER RATES IN VILLAGES

SENATE BILL No. 1165 TO AMEND THE COUNTY LAW AS TO HIGHWAYS

SENATE BILL No. 1174 TO RE-IMBURSE CERTAIN SUPREME COURT JUSTICES

SENATE BILL No. 1262 TO AMEND THE CHARTER OF COLLEGE POINT

SENATE BILL No. 1270 TO PROVIDE FOR MILITARY INSTRUCTION IN THE PUBLIC SCHOOLS

SENATE BILL No. 1406 FOR A NEW CANAL BRIDGE IN ROME

SENATE BILL No. 1168 TO ALTER THE STREET MAP OF TOWNS IN KINGS COUNTY

SENATE BILL No. 1322 TO AMEND THE CHARTER OF THE CITY OF NEW YORK

STATE OF NEW YORK
Executive Chamber
Albany, June 15, 1895

The following bills remaining in my hands and previously undisposed of are not approved because of defective drafting, questionable propriety or objectionable provisions:

Assembly bill number 695 entitled "An act to amend the consolidated school law in relation to the apportionment of the public moneys and the examination of teachers in special branches;"

Assembly bill number 1090 entitled "An act to amend chapter one hundred and ninety of the Laws of eighteen hundred and eighty-two, entitled 'An act to re-establish the original arms of the State of New York and to provide for the use thereof on the public seals, and to define and establish the State flag;'"

Assembly bill number 1414 entitled "An act to amend the county law relating to the collection of taxes for fire purchases in fire districts;"

Assembly bill number 1433 entitled "An act to establish a normal and training school at the village of Millerton in the county of Dutchess and to make an appropriation therefor;"

Assembly bill number 1615 entitled "An act authorizing the double-chloride of gold treatment in the State prisons of the State;"

Assembly bill number 1788 entitled "An act to regulate the practice of horse-shoeing in the cities of the State of New York having a population of five hundred thousand inhabitants or more;"

Assembly bill number 1693 entitled "An act to amend chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled 'An act for the incorporation of villages,' relating to the assessment of damages for opening and altering streets;"

Assembly bill number 1694 entitled "An act to amend chapter four hundred and fifty-two of the laws of eighteen hundred and eighty-eight, as amended by chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-three, entitled 'An act to authorize and empower the board of trustees of incorporated villages in this State to contract with the electric light companies organized under the laws of this State, for lighting the streets and public grounds of said villages;"

Assembly bill number 1726 entitled "An act allowing stonecutters, paving cutters, block-breakers and quarrymen to file notice of lien for work, labor and services rendered in excavating, cutting and dressing sandstone;"

Assembly bill number 1777 entitled "An act to enable owners of lands which have been subdivided by map into lots or plots to disclaim and abandon the subdivision thereof;"

Assembly bill number 1782 entitled "An act to amend section sixty-three of chapter three hundred and seventeen of the laws of eighteen hundred and ninety-four, entitled 'An act in relation to the public lands, constituting chapter eleven of the general laws, relating to effect of deed on rights of others;'"

Assembly bill number 1898 entitled "An act to authorize any justice of the peace of the town of Owasco, Cayuga county, to appoint special officers;"

Assembly bill number 1941 entitled "An act to create the Metropolitan Post-Graduate School of Medicine;"

Assembly bill number 1977 entitled "An act conferring jurisdiction on the Board of Claims to hear and determine the claim of James M. Ruso against the State and to make an award therefor;"

Assembly bill number 2057 entitled "An act to amend the game law relating to black and Oswego bass not to be fished for in certain waters;"

Assembly bill number 2101 entitled "An act to amend the Penal Code relating to trades, manufactures and mechanical employments on Sundays;"

Assembly bill number 2264 entitled "An act to amend chapter three hundred and sixty of the laws of eighteen hundred and sixty, entitled 'An act relating to wills, by providing that certain devises or bequests to charitable or religious societies or corporations shall be void if made within two months of the death of the testator;'"

Assembly bill number 2342 entitled "An act to amend section sixteen hundred and seventy-four of the Code of Civil Procedure of the State of New York relating to notices of pendency of action and cancellation of same;"

Assembly bill number 2383 entitled "An act to amend chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to copies, constituting chapter eighteen of the general laws;'"

Assembly bill number 2494 entitled "An act to regulate the practice of architecture;"

Assembly bill number 2496 entitled "An act to fix and establish the annual salaries of the county judge and the surrogate of Albany county, repealing section two hundred and twenty-two of chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two so far as it relates to Albany county;"

Assembly bill number 2539 entitled "An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, as amended by chapter two hundred and twelve of the laws of eighteen hundred and ninety-one and chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to highways, constituting chapter nineteen of the general laws;'"

Assembly bill number 2564 entitled "An act for the protection of mechanics and others;"

Assembly bill number 2567 entitled "An act to amend section ten of chapter one hundred and thirty-three of the laws of eighteen hundred and forty-seven, entitled 'An act authorizing the incorporation of rural cemetery associations, as amended by chapter thirty-one of the laws of eighteen hundred and seventy-seven;'"

Assembly bill number 2571 entitled "An act to amend section twelve hundred and thirty-six of the Code of Civil Procedure relating to the entry of judgment;"

Assembly bill number 2601 entitled "An act to amend the General Corporation Law, relating to prohibition of use of same name by corporations;"

Assembly bill number 2614 entitled "An act to provide for the erection and furnishing of an armory for the use of a company of the National Guard in the village of Sing Sing;"

Assembly bill number 2619 entitled "An act to amend article four of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety entitled 'An act in relation to highways,' constituting chapter nineteen of the General Laws, relating to altering, discontinuing or laying out a highway;'"

Assembly bill number 2621 entitled "An act to amend the Insurance Law;"

Assembly bill number 2637 entitled "An act to amend section two thousand five hundred and sixty-one of the Code of Civil Procedure relating to costs in Surrogate's Court;"

Assembly bill number 2737 entitled "An act to amend the Stock Corporation Law;"

Assembly bill number 2741 entitled "An act to further amend the Code of Civil Procedure relative to exceptions;"

Assembly bill number 2742 entitled "An act to repeal chapter three hundred and twenty-eight of the laws of eighteen hundred and ninety-one, entitled 'An act in relation to the keeping open the office of the clerk of the county of Columbia;'"

Assembly bill number 2743 entitled "An act exempting the State Soldiers and Sailors' Home from the provisions of chapter four hundred and one of the laws of eighteen hundred and ninety-two and all acts amendatory thereof and supplemental thereto;"

Assembly bill number 2767 entitled "An act to amend the Consolidated School Law in relation to the creation of school commissioners districts;"

Assembly bill number 2779 entitled "An act to amend sections one, two and three of chapter three hundred and forty-two of the laws of eighteen hundred and eighty-three, as amended by chapter fifty-nine of the laws of eighteen hundred and eighty-six,

entitled 'An act to fix the place in which certain property shall be assessed, and granting relief in cases of assessment in two places;'"

Assembly bill number 113 entitled "An act to provide for the erection of a State armory in the city of Hudson, Columbia county, the acquisition of a site therefor, and to make an appropriation for building said armory;"

Assembly bill number 521 entitled "An act to amend chapter five hundred and ninety-seven of the laws of eighteen hundred and ninety-four, entitled 'An act in relation to Lewis avenue in the city of Brooklyn;'"

Assembly bill number 1259 entitled "An act to amend section six of title two of chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the appointment of the city clerk;"

Assembly bill number 1927 entitled "An act to divide the department of city works of the city of Brooklyn into three departments and to define the powers of the several departments and of the several commissioners thereof;"

Assembly bill number 2324 entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one entitled 'An act to revise the charter of the city of Buffalo;'"

Assembly bill number 2694 entitled "An act to enable the towns and cities of this State to use the Davis voting machine at all elections therein;"

Assembly bill number 2760 entitled "An act to regulate public travel upon elevated railroads in cities of over one million inhabitants;"

Senate bill number 183 entitled "An act to amend chapter five hundred aud twenty-nine of the laws of eighteen hundred and eighty-seven entitled 'An act to regulate the hours of labor in the street surface and elevated railroads chartered by the State in cities of one hundred thousand inhabitants and over;'"

Senate bill number 349 entitled "An act to amend section two hundred and seven of article twelve of chapter six hundred and sixty-one of the laws of eighteen hundred and ninety-three entitled 'An act in relation to the public health, constituting chapter twenty-five of the General Laws;'"

Senate bill number 549 entitled "An act to provide for the acquisition of lands for public use between Tenth or Amsterdam avenue and Eleventh avenue and other streets in the city of New York, adjoining and in addition to the land authorized to be acquired by chapter two hundred and forty-nine of the laws of eighteen hundred and ninety, chapter one hundred and two of the laws of eighteen hundred and ninety-three and chapter seven hundred

and forty-nine of the laws of eighteen hundred and ninety-four;"

Senate bill number 552 entitled "An act to amend the Stock Corporation Law (chapter thirty-eight of General Laws);"

Senate bill number 770 entitled "An act to provide and maintain a nautical school for the State of New York and to merge therein the present nautical school maintained by the board of education of the city of New York;"

Senate bill number 875 entitled "An act making an appropriation for the erection of a normal school in the village of Jamaica;"

Senate bill number 1095 entitled "An act to amend section sixteen hundred and seventy-four of the Code of Civil Procedure of the State of New York, relating to notices of pendency of action and cancellation of same;"

Senate bill number 1127 entitled "An act in relation to the equalization of taxes;"

Senate bill number 1141 entitled "An act conferring jurisdiction upon the Board of Claims to hear, audit and determine the claim of the Silversmiths' Company against the State of New York;"

Senate bill number 1159 entitled "An act to amend chapter five hundred and seven of the laws of eighteen hundred and eighty-nine, entitled 'An act to authorize villages of the State of New York to establish water rates and collect the same;'"

Senate bill number 1165 entitled "An act to amend article one of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninèty entitled 'An act in relation to highways, constituting chapter nineteen of the general laws;'"

Senate bill number 1174 entitled "An act to provide for the reimbursement of the expenses and disbursements paid and incurred by the several justices of the Supreme Court who are designated as justices of the appellate division of that court;"

Senate bill number 1262 entitled "An act to amend the charter of the village of College Point, being chapter two hundred and fifty-nine of the laws of eighteen hundred and sixty-seven entitled 'An act to incorporate the village of College Point, Queens county,' and the acts amendatory thereof;"

Senate bill number 1270 entitled "An act to provide and encourage military instruction in the public schools;"

Senate bill number 1406 entitled "An act authorizing the construction of a new iron bridge with double driveways and sidewalks over the Erie canal at George street in the city of Rome;"

Senate bill number 1168 entitled "An act to alter the map of the commissioners appointed to lay out a plan for roads and streets in the towns of Kings county;"

Senate bill number 1322 entitled "An act to amend chapter four hundred and ten of the laws of

eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York."

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 517 TO AMEND THE SYRACUSE CHARTER AND

ASSEMBLY BILL No. 2418 FOR THE RELIEF OF THE JEWISH THEOLOGICAL SEMINARY

STATE OF NEW YORK
Executive Chamber
Albany, June 15, 1895

The following bills were not acted upon by the cities which they affect, as is required by the Constitution, and therefore are not approved:

Assembly bill number 517 entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse and to revise and amend the charter of said city;'"

Assembly bill number 2418 entitled "An act for the relief of the Jewish Theological Seminary Association of the city of New York."

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 2062 TO AMEND THE MOUNT VERNON CHARTER

ASSEMBLY BILL No. 2485 TO AUTHORIZE THE CONSTRUCTION OF BICYCLE PATHS IN NIAGARA COUNTY

ASSEMBLY BILL No. 2561 FOR WATER POWER EXPERIMENTS IN BUFFALO

SENATE BILL No. 901 TO AMEND THE MOUNT VERNON CHARTER

SENATE BILL No. 1399 FOR THE IMPROVEMENT OF CERTAIN STREETS IN TROY

STATE OF NEW YORK
Executive Chamber
Albany, June 15, 1895

The following bills were not returned by the mayors of the cities which they affect, within the fifteen days specified by the Constitution, and are therefore not approved:

Assembly bill number 2062 entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two entitled 'An act to incorporate the city of Mount Vernon;'"

Assembly bill number 2485 entitled "An act to authorize the supervisors of Niagara county to ap-

point side-path commissioners and to expend the funds raised by the taxation of 'cycles in the construction of side paths for 'cycles;"

Assembly bill number 2561 entitled "An act to permit experiments for developing the power of Niagara river at the city of Buffalo, upon plans to be approved by the State Engineer and Surveyor, known as the Mather plans;"

Senate bill number 901 entitled "An act to amend section two hundred and thirteen, title nine, chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon;'"

Senate bill number 1399 entitled "An act relative to the improvement of certain streets in the city of Troy and making provision for the payment of the expense thereof."

LEVI P. MORTON

VETO OF ASSEMBLY BILL No. 723 TO REVISE THE CHARTER OF LONG ISLAND CITY

ASSEMBLY BILL No. 905 TO AMEND THE CHARTER OF THE CITY OF TROY

ASSEMBLY BILL No. 1351 TO AMEND THE CHARTER OF THE CITY OF NEW YORK

ASSEMBLY BILL No. 1603 FOR THE RELIEF OF MARY T. BATES

ASSEMBLY BILL No. 1735 TO AMEND THE CHARTER OF THE CITY OF BROOKLYN

ASSEMBLY BILL No. 1758 MAKING AN APPROPRIATION FOR FREE PUBLIC EMPLOYMENT BUREAUS

ASSEMBLY BILL No. 1779 TO AMEND THE CHARTER OF THE CITY OF BROOKLYN

ASSEMBLY BILL No. 1816 RELATING TO JUSTICES' COURTS IN THE CITY OF ALBANY

ASSEMBLY BILL No. 1929 RELATING TO THE REGISTRATION OF PLUMBERS

ASSEMBLY BILL No. 2077 TO AMEND THE CHARTER OF THE CITY OF NEW YORK, AS TO POWERS OF THE COMMON COUNCIL

ASSEMBLY BILL No. 2301 TO AMEND THE CHARTER OF THE CITY OF NEW YORK AS TO STREET CLEANING

ASSEMBLY BILL No. 2444 TO AMEND THE CHARTER OF THE CITY OF SYRACUSE

ASSEMBLY BILL No. 2445 TO AMEND THE LAW PROVIDING FOR A DRAWBRIDGE OVER THE HARLEM RIVER

ASSEMBLY BILL No. 2446 TO AMEND THE CHARTER OF THE CITY OF NEW YORK

ASSEMBLY BILL No. 2514 RELATING TO CERTAIN ASSESSMENTS IN THE CITY OF ALBANY

ASSEMBLY BILL No. 2515 TO AMEND THE POLICE PENSION FUND LAW OF ALBANY

ASSEMBLY BILL No. 2534 TO AMEND THE CHARTER OF THE CITY OF NEW YORK AS TO THE POLICE DEPARTMENT

ASSEMBLY BILL No. 2744 RELATING TO THE PAY OF POLICE SURGEONS

ASSEMBLY BILL No. 2752 TO PROVIDE FOR A PUBLIC PARK IN THE THIRTY-FIRST WARD, BROOKLYN

ASSEMBLY BILL No. 2791 TO AMEND THE CHARTER OF THE CITY OF NEW YORK AS TO BUILDING PLANS

SENATE BILL No. 644 TO AMEND THE CHARTER OF THE CITY OF BUFFALO

SENATE BILL No. 655 TO AMEND THE CHARTER OF THE CITY OF BROOKLYN AS TO POLICE AND EXCISE

SENATE BILL No. 671 TO AMEND THE CHARTER OF THE CITY OF POUGHKEEPSIE

SENATE BILL No. 876 RELATING TO A BRIDGE OVER THE MOTT HAVEN CANAL IN THE CITY OF NEW YORK

SENATE BILL No. 892 TO PROVIDE FOR AN ADDITIONAL PARK IN THE CITY OF TROY

SENATE BILL No. 1084 TO AMEND THE CHARTER OF THE CITY OF SYRACUSE

SENATE BILL No. 1181 TO AMEND THE CHARTER OF THE CITY OF NIAGARA FALLS

SENATE BILL No. 1185 TO PROVIDE FOR STREET IMPROVEMENTS IN LONG ISLAND CITY

SENATE BILL No. 1186 TO AMEND THE CODE OF CRIMINAL PROCEDURE

SENATE BILL No. 1298 TO AMEND THE CHARTER OF THE CITY OF POUGHKEEPSIE

SENATE BILL No. 1367 TO AMEND THE CHARTER OF THE CITY OF NEW YORK

SENATE BILL No. 1387 TO AMEND THE LAW ANNEXING THE TOWN OF FLATLANDS TO BROOKLYN

STATE OF NEW YORK
Executive Chamber
Albany, June 15, 1895

The following bills were not accepted by the cities which they affect, and therefore are not approved:

Assembly bill number 723 entitled "An act to amend chapter four hundred and sixty-one of the laws of eighteen hundred and seventy-one, entitled 'An act to revise the charter of Long Island City;'"

Assembly bill number 905, entitled "An act to amend chapter six hundred and seventy of the laws of eighteen hundred and ninety-two entitled 'An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy entitled 'An act to amend an act to incorporate the city of

Troy, passed April twelve, eighteen hundred and sixteen,' and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy, and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and the other acts relating to the city of Troy and its departments, and to the inferior local courts therein;' "

Assembly bill number 1351 entitled "An act to amend section six hundred and ninety of chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' amended by chapter two hundred and sixty-two of the laws of eighteen hundred and eighty-seven and chapter three hundred and sixty-five of the laws of eighteen hundred and ninety-two, relative to park police and their appointments;"

Assembly bill number 1603 entitled "An act for the relief of Mary T. Bates;"

Assembly bill number 1735 entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to arrears;"

Assembly bill number 1758 entitled "An act to authorize the formation and maintenance of free public employment bureaus, and making appropriations therefor;"

Assembly bill number 1779 entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight entitled "An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn, relating to the powers of the Board of Audit;'"

Assembly bill number 1816 entitled "An act to amend chapter four hundred and thirty-eight of the laws of eighteen hundred and eighty-one, entitled 'An act in relation to the justices' courts of the city of Albany abolishing the fees thereof, establishing the fees of attorneys therein, increasing the jurisdiction thereof and having reference to the manner of procedure therein;'"

Assembly bill number 1929 entitled "An act to amend sections six, seven, eight, ten, eleven and thirteen of chapter six hundred and two of the laws of eighteen hundred and ninety-two entitled 'An act to secure the registration of plumbers and the supervision of plumbing and drainage in the cities of the State of New York;'"

Assembly bill number 2077 entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to

consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' relative to the powers and duties of the Common Council;"

Assembly bill number 2301 entitled "An act to amend section seven hundred and eight of chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' so as to secure the more efficicnt cleaning of the streets, avenues, public places, wharves, piers and heads of slips in said city;"

Assembly bill number 2444 entitled "An act to further amend chapter twenty-six of the laws of eighteen hundred and eighty-five entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse,' and to revise and amend the charter of said city;"

Assembly bill number 2445 entitled "An act to amend section five of chapter four hundred and thirteen of the laws of eighteen hundred and ninety-two entitled 'An act to provide for the construction of a drawbridge over the Harlem river in the city of New York and for the removal of the present bridge at Third avenue in said city,' as amended by chapter five hundred and forty of the laws of eighteen hundred and ninety-four;"

Assembly bill number 2446 entitled "An act to amend sections sixteen hundred and fifty-four and sixteen hundred and sixty-seven of chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York;'"

Assembly bill number 2514 entitled "An act to amend chapter six hundred of the laws of eighteen hundred and ninety-three entitled 'An act to reduce, confirm and levy certain assessments in the city of Albany, to provide for the payment thereof, and in relation to sales thereunder,' as amended by chapter six hundred and twenty-nine of the laws of eighteen hundred and ninety-four;"

Assembly bill number 2515 entitled "An act to amend chapter two hundred and ninety-nine of the laws of eighteen hundred and ninety-five entitled 'An act to establish a police pension fund for the city of Albany,' as amended by chapter four hundred and forty-two of the laws of eighteen hundred and eighty-six and chapter five hundred and twenty-one of the laws of eighteen hundred and eighty-seven;"

Assembly bill number 2534 entitled "An act to amend sections two hundred and fifty and two hundred and seventy-two (relating to the police department) of the New York city consolidation act of eighteen hundred and eighty-two;"

Assembly bill number 2744 entitled "An act to amend chapter seven hundred and fifty-one of the laws of eighteen hundred and ninety-four entitled 'An act to amend chapter five hundred and fifty-five of the laws of eighteen hundred and eighty-five entitled 'An act to regulate and fix the pay or compensation of members of the police force who are police surgeons or door-men in all cities of this State having, according to the last census, a population exceeding fifteen hundred thousand;' '"

Assembly bill number 2752 entitled "An act to make provision for a public park in the thirty-first ward of the city of Brooklyn, the acquisition of land for such park and the payment of all expenses connected therewith from moneys to be raised by bonds for local improvements;"

Assembly bill number 2791 entitled "An act to amend section five hundred and three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as since amended, and relating to the filing of building plans with the department of buildings of said city;"

Senate bill number 644 entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one entitled 'An act to revise the charter of the city of Buffalo;' "

Senate bill number 655 entitled "An act to amend chapter five hundred and eighty-three of the laws of eighteen hundred and eighty-eight entitled 'An act to revise and combine in a single act all existing special and local laws affecting public interests in the city of Brooklyn,' relating to the department of police and excise;"

Senate bill number 671 entitled "An act to amend the charter of the city of Poughkeepsie;"

Senate bill number 876 entitled "An act to amend chapter five hundred and forty-four of the laws of eighteen hundred and ninety-four entitled 'An act to provide for the construction of a bridge over the Mott Haven canal at One Hundred and Thirty-eighth street, in the city of New York;'"

Senate bill number 892 entitled "An act to amend chapter two hundred and sixty-seven of the laws of eighteen hundred and ninety-two entitled 'An act to create a park commission and to provide for the establishment and maintenance of one or more additional parks in the city of Troy;'"

Senate bill number 1084 entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city;'"

Senate bill number 1181 entitled "An act to amend chapter one hundred and forty-three of the

laws of eighteen hundred and ninety-two entitled 'An act to incorporate the city of Niagara Falls;'"

Senate bill number 1185 entitled "An act to provide for certain improvements in the streets, avenues, highways, boulevards and public places in Long Island City, and for the payment for the expenses thereof;"

Senate bill number 1186 entitled "An act to amend section sixty of chapter one of title six of the Code of Criminal Procedure of the State of New York;"

Senate bill number 1298 entitled "An act to amend the charter of the city of Poughkeepsie;"

Senate bill number 1367 entitled "An act to amend subdivision four of section eighty-six of chapter four hundred and ten of the laws of eighteen hundred and eighty-two entitled 'An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York;'"

Senate bill number 1383 entitled "An act to amend chapter four hundred and fifty of the laws of eighteen hundred and ninety-four entitled 'An act to provide for the annexation to the city of Brooklyn of the town of Flatlands in Kings county.'"

LEVI P. MORTON

MATTER OF THE PUBLIC NUISANCES IN CHEEKTOWAGA, ERIE COUNTY—ORDERING THE STATE BOARD OF HEALTH TO MAKE EXAMINATION

STATE OF NEW YORK
Executive Chamber
Albany, July 17, 1895

TO THE STATE BOARD OF HEALTH:

Having been presented with a petition signed by numerous residents of the city of Buffalo and town of Cheektowaga, Erie county, stating that on William street in said town of Cheektowaga there are numerous establishments carrying on the business of rendering dead animals and engaged in other transactions that create a public nuisance and menace to the health and comfort of the people residing in that vicinity and the persons compelled to travel in or near said street, and further stating that various citizens have been made sick, and that life and health in that locality have been affected in consequence of the alleged grievances set forth in the petition;

I therefore require you, in accordance with the provisions of section six of article one of the Public Health Law, to make an examination into the alleged nuisances and questions affecting the security of life

and health in the locality aforesaid, and to report the results thereof to me on or before the first day of September, 1895.

[PRIVY SEAL] LEVI P. MORTON

By the Governor

ASHLEY W. COLE

Private Secretary

MATTER OF ANTHONY CLINCHY, INSPECTOR OF GAS METERS — APPOINTMENT OF COMMISSIONER

In the matter of the charges against Anthony Clinchy, Inspector of Gas Meters — Appointment of Commissioner

Charges having been preferred against Anthony Clinchy, the Inspector of Gas Meters, by the subcommittee of the Senate of this State appointed to investigate the department of Inspector of Gas Meters, which charges were duly served upon the said inspector who has appeared in this proceeding by his counsel the Honorable William Sulzer and filed an answer therein;

I do hereby appoint SEVERYN BRUYN SHARPE, esquire, of Kingston the commissioner to take the testimony and the examination of witnesses as to the truth of said charges and to report the same to me

and also the material facts which he may deem to be established by the evidence.

It is hereby further ordered that such examination before such commissioner proceed with all convenient speed, and I hereby direct the Attorney-General of the State to conduct said inquiry and examination.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this twenty-fifth day of June in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

APPOINTMENT OF AN EXTRAORDINARY COURT OF OYER AND TERMINER FOR ALBANY COUNTY

STATE OF NEW YORK
Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore in accordance with the statute in such case made and provided, I do hereby appoint an extraordinary Court of Oyer and Terminer to be held at

the court-house in the city of Albany and county of Albany on Monday the second day of September next at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable WILLIAM RUMSEY, a justice of the Supreme Court, to hold the said extraordinary Court of Oyer and Terminer.

And I direct the district attorney of the county of Albany to issue a precept in accordance with the statute in such case made and provided directed to the sheriff of the said county of Albany, requiring him to do and perform all that may be necessary on his part in the premises.

And I do further direct that notice of such appointment be given by publication thereof once in each week for three successive weeks in the *Albany Evening Journal*, a newspaper published at Albany.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this second day of July in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

APPOINTMENT OF AN EXTRAORDINARY SPECIAL TERM OF THE SUPREME COURT TO BE HELD IN NEW YORK

STATE OF NEW YORK
Executive Chamber

IT APPEARING to my satisfaction that the public interest requires it,

Therefore in accordance with the statute in such case made and provided, I do hereby appoint an extraordinary Special Term of the Supreme Court to be held at the new court-house in the city and county of New York on Tuesday the twenty-fourth day of September next, at ten o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable HENRY R. BEEKMAN, one of the judges of the Superior Court of the city of New York, to hold said extraordinary Special Term of the Supreme Court.

And I do further direct that notice of the appointment aforesaid be given by publication of this order once on or before the twenty-third day of September, 1895, in the *New York Law Journal* and the *New*

York Tribune, newpapers published within the city of New York.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this seventeenth day of September in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

MATTER OF AUSTIN LATHROP, SUPERINTENDENT OF STATE PRISONS — NOTICE AND SUMMONS

STATE OF NEW YORK
Executive Chamber

In the matter of the charges preferred against Austin Lathrop, Superintendent of State Prisons — Notice and summons

TO AUSTIN LATHROP, *Superintendent of State Prisons:*

You are hereby notified that charges of misconduct and malfeasance in office have been preferred against you by John M. Wever and Jehial B. White, both of Plattsburg in this State, and a copy of said charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of Superintendent of State Prisons, and to answer the said charges within ten days after service of this order and a copy of said charges upon you.

In witness whereof I have hereunto set my hand and affixed the Privy Seal of the State at the Capitol in the city of Albany
[L S] this twenty-sixth day of September in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE BROWN AS PRESIDING JUSTICE OF THE APPELLATE DIVISION, SECOND DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable CHARLES F. BROWN of the city of Newburg, a justice of the Supreme Court of the Second Judicial District, is hereby designated

as a Justice of the Appellate Division of the Supreme Court in and for the Second Judicial Department and as Presiding Justice thereof for the term ending December thirty-first, 1896.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE CULLEN AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, SECOND DEPARTMENT

STATE OF NEW YORK

Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable EDGAR M. CULLEN of the city of Brooklyn, a justice of the Supreme Court of the Second Judicial District, is hereby designated as an Associate Justice of the Appellate

Division of the Supreme Court in and for the Second Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE PRATT AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, SECOND DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable CALVIN E. PRATT of the city of Brooklyn, a Justice of the Supreme Court of the Second Judicial District, is hereby designated as an Associate Justice of the Appellate Division of

the Supreme Court in and for the Second Judicial Department for the term ending December thirty-first 1898.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE BARTLETT AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, SECOND DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable WILLARD BARTLETT, of the city of Brooklyn, a justice of the Supreme Court of the Second Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Second

Judicial Department for the term ending December thirty-first, 1897.

Given under my hand and the Privy Seal of the State at the Capitol in the city of Albany
[L S] this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE PARKER AS PRESIDING JUSTICE OF THE APPELLATE DIVISION, THIRD DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable CHARLES E. PARKER of the village of Owego, a justice of the Supreme Court of the Sixth Judicial District, is hereby designated as a Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Depart-

ment and as Presiding Justice thereof for the term ending December thirty-first, 1901.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

DESIGNATION OF JUSTICE LANDON AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, THIRD DEPARTMENT

STATE OF NEW YORK

Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable JUDSON S. LANDON of the city of Schenectady, a justice of the Supreme Court of the Fourth Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Third

Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE PUTNAM AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, THIRD DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable JOHN R. PUTNAM of the village of Saratoga Springs, a justice of the Supreme Court of the Fourth Judicial District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for

the Third Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE HERRICK AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, THIRD DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable D. CADY HERRICK of the city of Albany, a justice of the Supreme Court of the Third Judical District, is hereby designated as an Associate Justice of the Appellate Division of the Supreme Court in and for the Third Judicial

Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE HARDIN AS PRESIDING JUSTICE OF THE APPELLATE DIVISION, FOURTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable GEORGE A. HARDIN of the village of Little Falls, a justice of the Supreme Court of the Fifth Judicial District, is hereby designated as a Justice of the Appellate Division of the Supreme Court for the Fourth Judicial Department

and as Presiding Justice thereof for the term ending December thirty-first, 1899.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE RUMSEY AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, FOURTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable WILLIAM RUMSEY of the village of Bath, a justice of the Supreme Court of the Seventh Judicial District, is hereby designated as an Associate Justice of the Appellate Division of

the Supreme Court in and for the Fourth Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE FOLLETT AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, FOURTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable DAVID L. FOLLETT of the village of Norwich, a justice of the Supreme Court of the Third Judicial District, is hereby designated as an Associate Justice of the Appellate

Division of the Supreme Court in and for the Fourth Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE ADAMS AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, FOURTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable WILLIAM H. ADAMS of the village of Canandaigua, a justice of the Supreme Court of the Seventh Judicial District, is hereby designated as an Associate Justice of the Appellate

Division of the Supreme Court in and for the Fourth Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE GREEN AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, FOURTH DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable MANLEY C. GREEN of the city of Buffalo, a justice of the Supreme Court of the Eighth Judicial District, is hereby designated as an Associate Justice of the Supreme Court of the

Appellate Division in and for the Fourth Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of
[L S] Albany this seventh day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

MATTER OF COUNTY CLERK GRIFFING —SECOND NOTICE AND SUMMONS

STATE OF NEW YORK.
Executive Chamber

In the matter of the charges preferred against Orville S. Griffing, County Clerk of the county of Hamilton.

To ORVILLE S. GRIFFING, *County Clerk of Hamilton county:*

WHEREAS charges of misconduct in office were heretofore preferred against you and notice of such charges was duly served upon you and in response

thereto you appeared before me at the Executive Chamber in the city of Albany and made promise that the abuses in the conduct of your office of county clerk should be corrected; and whereas further complaints of your neglect of duty in office have been received, and further that you have failed to account for moneys collected by you as directed by the statute;

Now therefore you are hereby required to show cause within eight days after the service of this order why you should not be removed from the said office of county clerk of the county of Hamilton.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this fourteenth day of October in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

[NOTE.—Mr. Griffing having subsequently tendered his resignation of the office of county clerk, no further proceedings were had in this matter.]

MATTER OF AUSTIN LATHROP, SUPERINTENDENT OF STATE PRISONS — APPOINTMENT OF A COMMISSIONER

STATE OF NEW YORK
Executive Chamber

In the matter of the charges preferred against Austin Lathrop, Superintendent of State Prisons.

Charges having been preferred against Austin Lathrop, Superintendent of State Prisons, by John M. Wever and Jehial B. White both of the village of Plattsburgh in this State, and a copy of the same having been served upon the said Superintendent of State Prisons with notice to show cause why he should not be removed from such office, and the said Austin Lathrop having filed his answer to the charges preferred therein;

I do hereby appoint ELON R. BROWN of the city of Watertown and county of Jefferson, the commissioner to take testimony and the examination of witnesses as to the truth of said charges and to report the same to me and also the material facts which he deems to be established by the evidence.

It is hereby further ordered that the said examination before such commissioner proceed with all convenient speed.

Given under my hand and the Privy Seal of the State at the Capitol in the city of

Albany this twenty-fifth day of October
[L S] in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE
Private Secretary

MATTER OF CHARLES M. PRESTON, SUPERINTENDENT OF BANKS — NOTICE AND SUMMONS

STATE OF NEW YORK
Executive Chamber

In the matter of the charges preferred against Charles M. Preston, Superintendent of Banks.

To CHARLES M. PRESTON, *Superintendent of Banks :*

You are hereby notified that charges of malfeasance and misconduct in office have been preferred against you by C. Augustus Haviland of Brooklyn and a copy of said charges is herewith served upon you.

You are therefore required to show cause why you should not be removed from the office of Superintendent of Banks and to answer the said charges

within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have signed my name and affixed the Privy Seal of the State
[L S] at the Capitol in the city of Albany this twenty-seventh day of November in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

THANKSGIVING PROCLAMATION

STATE OF NEW YORK

Executive Chamber

The year now drawing to a peaceful close has witnessed within the borders of our State a continuance of the supremacy of law, the maintenance of public order, the general prosperity of the people and the full enjoyment of civil and religious liberty. In the fields and workshops the farmer and the artisan have reaped the reward of their labors. The channels of commercial intercourse have been busy with the rich cargoes of trade. In the colleges and schools, in the laboratories, in the academies of

science and art the development of intellectual power has made continued progress. For all these benefactions and gifts it behooves us as a people to be devoutly thankful.

Wherefore, by virtue of the authority conferred upon me, under the law I, LEVI P. MORTON, Governor, do hereby designate Thursday the twenty-eighth day of the current month, to be set apart and observed by the people as a day of special praise and thanksgiving to Almighty God for His manifold mercies. And I do recommend that on that day the people abstain as far as practicable from their ordinary occupations, and assemble in their places of worship for religious observance and the manifestation of their gratitude.

Let them also, while rejoicing in the abundance with which they have been blessed, remember with generous sympathy the poor, the needy and the afflicted, and by ministrations of charity contributed from their own bounty enable all to share in the general thanksgiving.

Done at the Capitol in the city of Albany this eighth day of November in the year
[L S] of our Lord one thousand eight hundred and ninety-five.

LEVI P MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

MATTER OF THE PUBLIC NUISANCE AT CHEEKTOWAGA — ORDER DIRECTING THAT IT CEASE

STATE OF NEW YORK
Executive Chamber

WHEREAS On the fourteenth day of June, 1895, Henry W. Box and other citizens living in and near the town of Cheektowaga in the county of Erie presented a verified petition to the Governor of the State of New York complaining of certain nuisances alleged to exist in the town of Cheektowaga, which nuisances it was therein alleged affected the life and health of the people residing or being in the vicinity of such nuisances, and praying that an order be made to the State Board of Health requiring them to make the necessary examination thereof with the view to having the nuisance complained of abated and removed; and,

WHEREAS On the seventeenth day of July, 1895, the Governor transmitted said petition to the State Board of Health requiring the said Board to investigate the alleged nuisances and report the result thereof to him on or before the first day of September, 1895; and,

WHEREAS, The State Board of Health did thereafter examine into said alleged nuisances, and were attended upon such examination by the attorneys

for the petitioners and by representatives of some of the persons interested (all persons interested therein having been previously notified of such examination and their attendance having been requested) and did take testimony as to the existence of said nuisances and did report to the Governor the results of their examination together with evidence taken thereon, which report with the approval of the Governor endorsed thereon was duly filed in the office of the Secretary of State on the twelfth day of November, 1895, by which report it appears that divers offensive trades and nuisances are carried on in the town of Cheektowaga near the city of Buffalo in the county of Erie by the following named persons or corporations, viz.: The Baynes Garbage Crematory, The Milson Rendering and Fertilizer Company, The Scheid & Fechter Rendering Works, The Betts Brothers Rendering Works, and the McGennis Rendering Works.

Now, THEREFORE, I, Levi P. Morton, Governor of the State of New York, in pursuance of the statute in such case made and provided do hereby declare the business and trades maintained and carried on in the town of Cheektowaga in the county of Erie and State of New York by the Baynes Garbage Crematory, The Milson Rendering and Fertilizer Company, The Scheid & Fechter Rendering Works, the Betts Brothers Rendering Works and the McGennis Rendering Works, to be public nuisances, and I do

order and direct that the manner of conducting such offensive business and trades be forthwith changed in the following particulars, to wit:

First. That the garbage, refuse materials, dead animals and animal matter collected therein and hereafter brought therein be properly disposed of by and through the so-called "reduction system."

Second. That the further conduct of the establishment above named shall be done in the most approved and scientific manner, to remove as far as possible any danger to life and health of persons in the vicinity thereof.

Third. That each of said establishments engaged in rendering dead animals and in the disposal of garbage shall so arrange the buildings used therefor as to confine the gases and effluvia resulting therefrom until properly disinfected or said gases and effluvia shall be burned by the use of suction conduits supplied with fans and leading the same to the fires.

Fourth. That the State Board of Health appoint an inspector whose duty it shall be to enforce such sanitary rules and regulations as may be prescribed by the board for the conduct of the business carried on by said works, said inspector to hold office during the pleasure of the State Board of Health, and who shall be paid such compensation by the persons and corporations carrying on the business and occupations herein referred to, and said inspector shall be

required to visit and make a careful examination of all said establishments at least twice in each week, in such manner as the State Board of Health may direct, and as often in addition thereto as the Board of Health may prescribe; that it shall be his duty to report to the State Board of Health weekly from the first day of June to the first day of November in each year, and monthly at other times, upon the general sanitary condition of each of said establishments, and also report to said board all violations of the sanitary rules and regulations prescribed by them within twenty-four hours after said violation.

Fifth. In default of compliance with this order by the persons or corporations hereinbefore named, such further order may issue, upon the application of the State Board of Health, as may be necessary to secure the removal of the nuisances complained of.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this thirteenth day of November in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE

Private Secretary

MATTER OF AUSTIN LATHROP, SUPERINTENDENT OF STATE PRISONS—ORDER THAT THE ATTORNEY-GENERAL CONDUCT THE INQUIRY

STATE OF NEW YORK
Executive Chamber

In the matter of the charges preferred against Austin Lathrop, Superintendent of State Prisons — Order.

Charges having been preferred against Austin Lathrop Superintendent of State Prisons by a petition praying for his removal, and a commissioner having been appointed to take the testimony relating to such charges;

Therefore, pursuant to the authority conferred upon me by law, I do hereby direct the Honorable THEODORE E. HANCOCK, Attorney-General, to conduct the examination into the truth of the charges alleged as ground for such removal.

Given under my hand and the PRIVY SEAL of the State at the Capitol in the city of
[L S] Albany this twentieth day of November in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:
ASHLEY W. COLE
Private Secretary

DESIGNATION OF JUSTICE MERWIN AS ASSOCIATE JUSTICE OF THE APPELLATE DIVISION, THIRD DEPARTMENT

STATE OF NEW YORK
Executive Chamber

IN ACCORDANCE with section two of article six of the Constitution and the statute in such case made and provided, the Honorable MILTON H. MERWIN of the city of Utica, a justice of the Supreme Court of the Fifth Judicial District, is hereby designated as an Associate Justice of the Supreme Court in and for the Third Judicial Department for the term ending December thirty-first, 1900.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this second day of December in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor :

ASHLEY W. COLE
Private Secretary

MATTER OF PRESTON, SUPERINTENDENT OF BANKS — DISMISSAL OF CHARGES AND OPINION

STATE OF NEW YORK
Executive Chamber

In the matter of the charges preferred against Charles M. Preston, Superintendent of Banks — Order dismissing charges

Charges of misconduct in office and neglect of duty having been heretofore preferred by the Depositors' Organization of the Commercial Bank of Brooklyn of the city of Brooklyn against Charles M. Preston, the Superintendent of Banks of the State of New York and a copy of such charges having been duly served upon the said Charles M. Preston and he having filed his answer thereto, and it appearing to me that the public interest does not demand that further proceedings be had in this matter, therefore it is hereby

Ordered that the said charges against the said Charles M. Preston be and the same are hereby dismissed.

Given under my hand and the Privy Seal of the State at the Capitol in the city of

Albany this eleventh day of December
[L S] in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

OPINION

In the matter of the charges preferred against Charles M. Preston, Superintendent of Banks — Opinion

The Depositors' Organization of the Commercial Bank of Brooklyn has preferred charges against Charles M. Preston the Superintendent of Banks, alleging that he is incompetent and that the Banking Department has been conducted for years in the interest of speculators. The charges relate to the affairs of the Commercial Bank. There is also submitted with the charges certain testimony taken in legal proceedings now or recently pending concerning the management of the bank. A copy of the charges together with the testimony submitted has been served upon Mr. Preston and his answer thereto has been filed. It seems that similar charges were filed with Governor Flower and that they were dismissed by him on the thirteenth day of December, 1893.

The Commercial Bank of Brooklyn closed its doors on the twelfth of August, 1893, and a temporary receiver was appointed on the thirtieth of the same month. On the fourth of November following, a judgment was rendered in the Supreme Court dissolving the bank and the temporary receiver was appointed the receiver thereof. Since that time he has been engaged in closing up the affairs of the bank and it seems that his trust is nearly completed. The bank was in the hands of the receiver when the former charges were filed with Governor Flower and disposed of by him.

It is now claimed by the petitioners that the testimony taken in the pending legal proceedings shows that the affairs of the bank for some time prior to its failure in August, 1893, had not been properly conducted and that the Superintendent knew or should have known of such mismanagement. I am asked to re-open the matter, to reconsider the charges dismissed by Governor Flower and investigate the whole subject, with a view to the possible ultimate removal of the Superintendent. It is suggested that if an investigation be ordered, testimony will be adduced in addition to that taken in the pending legal proceedings tending to show that the officers of the bank did not properly manage its affairs.

The charges, the testimony submitted with them, the further suggestions of the petitioners and the answer of the Superintendent, have received the

consideration which the importance of the subject demands and in my judgment the circumstances do not justify another investigation.

The law makes ample provision for the protection of persons doing business with banks by making them subject to the inspection and supervision of the Superintendent who is required to examine their affairs at least once in each year, and may do so at any other time whenever in his judgment their condition and management are such as to render an examination of their affairs necessary and expedient. But the law does not confine this protection to the action or discretion of the Superintendent. Creditors and shareholders of the bank whose debts or shares amount to one thousand dollars may invoke the aid of the Supreme Court in procuring an examination into its affairs, for the purpose of ascertaining the safety of the investments and the prudence of its management.

I am not unmindful of the importance of a strict supervision of the immense banking interests of the State by the Superintendent. Officers of banks and public officers charged with any responsibility concerning the management of banks should be held to a strict accountability; but when charges are preferred, a public officer is entitled to the benefit of the presumption that he has done his duty, and the burden of proof is upon those who seek his removal.

It is claimed that Mr. Preston did not give such attention to the affairs of the Commercial Bank of Brooklyn as its condition demanded and that in consequence of his negligence the bank was permitted to continue in business after it had reached a financial condition which would have warranted him in taking possession of it and closing its doors.

A proper consideration of this claim involves an inquiry into the condition of the bank as disclosed by the examinations made under the direction of the Banking Department, of the action of the Superintendent himself in connection with such examinations, and the steps taken by him to protect those who were interested in the financial condition of the bank.

Mr. Preston has been Superintendent of Banks since December, 1889. The first examination of the Commercial Bank, after he became Superintendent, was made June 30, 1890, and it then appeared that the bank had a surplus of $84,831.17 over and above all its liabilities, including its capital stock. There was a special examination December 5, 1890, suggested by the general financial depression of that year, and it appeared that the capital of the bank was then impaired to the amount of $14,030.97. The next day the Superintendent acting under the authority conferred by the Banking Law directed this deficiency to be made good at once, and within three days there was paid to the bank in cash $31,284.88,

and within sixty days a total of $42,045.77, all of which was realized from past-due paper which had been disallowed in the examination as worthless.

The next regular examination under the law was made in September, 1891, and it appeared that there was an impairment of the capital of the bank of $37,115.58. Upon the receipt of this report of the examiner the Superintendent at once personally visited the bank, as he says "for the purpose of requiring that this sum be made good, or taking possession of the bank, as might be considered necessary." He personally made an examination of the paper of the bank and re-adjusted the valuation of the real estate upon what he considered satisfactory evidence of its actual value. Within three days from this examination there was paid in cash $15,773.88 on paper which had been disallowed by the examiner as doubtful and worthless, and within sixty days a total of $23,098.88, so that there was an actual surplus of about $13,900. There was another regular examination on October 4, 1892. It was then found that the bank had a surplus of $4,689 49, after rejecting as doubtful and worthless promissory notes amounting to $189,257.15. There has been no other examination since made by the Banking Department.

The bank made quarterly reports in December, 1892, and in March and June, 1893, all of which showed it to be in a solvent condition and according

to its own estimates to possess a reasonable surplus. It is now claimed that these reports were not true, but it is not claimed that any suggestion concerning the alleged falsity was made to the Superintendent or that there were any circumstances connected with the management of the bank which required any special examination during this period. The bank does not seem to have been strong, but during all this period it seems to have been actually solvent although the surplus was not at any time very large. The bank was unable to resist the effect of the financial depression of 1893, and closed its doors on the twelfth of August.

The loans particularly criticised are those made to the St. Kevin Mining Company and to Paul C. Grening, the first of which was secured to the amount of $80,000 which is the extent to which the Banking Department considered the loan good. This collateral has been fully realized since the bank closed its doors. The loan to Grening amounted to a little over $122,000. It seems that the receiver voluntarily made some deductions in settlement and received $120,000 upon this loan. Some of the paper held by the bank and which was supposed to be good proved to be uncollectible after the failure of the bank; but the fact that the receiver has already realized a sufficient amount from the assets, after deducting expenses, to nearly pay the depositors in full, is I think very strong evidence that if the

financial panic of 1893 had not occurred the bank need not have closed its doors. I think that the Superintendent acted promptly and with due regard to the interests of all concerned in the affairs of this bank and that no further investigation of the charges is necessary. The charges are therefore dismissed.

LEVI P. MORTON

TEMPORARY DESIGNATION OF JUDGE RUMSEY TO THE APPELLATE DIVISION, FIRST DEPARTMENT

STATE OF NEW YORK
Executive Chamber

The Honorable Charles C. Dwight who is one of the Justices of the Appellate Division in the First Department of the Supreme Court having informed me by a communication in writing that owing to ill health he is and will be unable to act as such Appellate Division Justice,

I do hereby pursuant to the authority conferred upon me by the second section of the sixth article of the Constitution of the State of New York designate the Honorable WILLIAM RUMSEY who is one of the justices elected to the Supreme Court, to

sit in the Appellate Division in the First Department in the place of the said Charles C. Dwight.

Given under my hand and the Privy Seal of the State at the Capitol in the city of [L S] Albany this nineteenth day of December in the year of our Lord one thousand eight hundred and ninety-five.

LEVI P. MORTON

By the Governor:

ASHLEY W. COLE
Private Secretary

PUBLIC ADDRESSES

AND

CORRESPONDENCE

OF

GOVERNOR LEVI P. MORTON

1895

ADDRESSES

THE OLD GUARD OF THE CITY OF NEW YORK

INSTALLATION OF OFFICERS BY THE GOVERNOR AT THE EXECUTIVE CHAMBER, ALBANY, APRIL 22, 1895

MAJOR SLOAN.—It gives me pleasure as Commander-in-Chief of the military forces of the State to congratulate you upon the signal honor which is conferred upon you by your reëlection as Commander of the Battalion of the Old Guard. This organization I am informed has been in existence for seventy years and has achieved a reputation which extends far beyond the boundaries of our own Commonwealth. It has numbered in its ranks during the whole period of its existence many men who were and are eminent in the military, the commercial and the social life of the metropolis, and there is no man who could be insensible of the distinction of being called upon to serve as its commander.

By virtue of my office as Governor I declare you duly installed as Major and Commandant of the Old Guard of the city of New York. It is scarcely necessary for me to remind you that it is your duty to preserve the reputation of the Guard and to maintain your command in good order and discipline, obedient to the laws of the State.

OFFICERS OF THE STAFF AND LINE OF THE OLD GUARD.— In installing you in the offices to which you have been duly elected let me invoke on behalf of your commander your loyal support and coöperation in maintaining the character and discipline of the organization in which you now all hold commands. It is only by such support as is in your power to give him that he will be able to discharge the obligations which are imposed upon him, and I doubt not that as soldiers you will recognize it to be your bounden duty to sustain him to the best of your ability.

To you as a body and as members of the battalion I only need say that it is expected of you that you will give loyal support to the officers whom you have chosen, and whom it has been my honor as well as my duty to install in the places of authority to which you have elected them. In so doing you will uphold the reputation of the Guard in a manner that will reflect credit upon yourselves as soldiers and as citizens, and I doubt not that should you ever be

called upon by the State for service you will be found quick in response and loyal to your duty and obligations. This faith I am sure the people repose in you, and I have confidence that you will not be found wanting.

PEACE HATH HER VICTORIES

REMARKS ON THE OCCASION OF THE DEDICATION OF THE CHICKAMAUGA–CHATTANOOGA NATIONAL MILITARY PARK, AT CHATTANOOGA, TENNESSEE, SEPTEMBER 20, 1895

LADIES AND GENTLEMEN.— It gives me pleasure to acknowledge your greeting and to be with you in this great historical and patriotic commemoration.

Although the great State of New York was not represented among the troops who won deathless renown at Chickamauga, the Empire State honors the soldiers of all other States — north and south — who wrought there such a splendid example of human courage and martial valor in defense and maintenance of what each side believed to be a natural right and principle. Their conspicuous bravery has placed the American soldier alongside the heroes of Marathon, of Thermopylæ, of Waterloo and Balaklava.

The fight at Chickamauga was the prelude to a chain of battles and field movements which enabled the Union forces to grasp and hold the important strategic position occupied by the city in which we are now assembled.

In this series of battles New York bore a distinguished part through her troops assigned to service in Howard's Eleventh and Slocum's Twelfth army corps. In these two corps there were nineteen regiments of infantry and three batteries of artillery from New York under the chief command of Gen. Hooker. This series of engagements comprised Wauhatchie, Missionary Ridge, Lookout Mountain and Ringgold.

The night battle of Wauhatchie, fought on October 28th, was decisive in relieving the Army of the Cumberland, then lying here in Chattanooga, from the danger which beset its base of supplies. It was here that Gen. Greene's New York brigade particularly distinguished itself.

The armies operating in this immediate field were not again especially active until the latter part of November, when beginning with Orchard Knob they achieved the victories of Lookout Mountain, Missionary Ridge and Ringgold.

To commemorate the deeds of her sons in enduring granite and bronze, the State of New York has thus far appropriated and expended $107,000. Of this, $24,000 were paid for the purchase of par-

cels of ground on the several fields which were occupied and made noteworthy by the troops of the Empire State. Forty-four of these positions will be indicated by monuments or marking-stones to denote the places where sons of New York stood ready to do or die that the Nation might live.

Veterans of the two great armies! I congratulate you on the glorious outcome of the deeds of arms in which you bore so great a part! To the people of Tennessee, and especially to the city of Chattanooga, the State of New York offers cordial greeting and renders hearty thanks for the hospitality and courtesy shown to her representatives.

When the contending armies struggled for possession of your city you were little more than a village nestling among these frowning battlements and bastions reared by nature. Then your pure atmosphere was hot and stifling with the sulphur, the flame and the smoke of war. What a change has been wrought since then! A city of 50,000 inhabitants, intent on the activities of industry and commerce, sits between these hills and welcomes with open arms the warring brothers of a generation ago.

Truly indeed, "Peace hath her victories, no less renowned than war."

Official Correspondence

THE COUNTY JUDGE OF KINGS COUNTY

Reply to a Request for His Impeachment

State of New York
Executive Chamber
Albany, January 14, 1895

William H. Hale, esq., *Brooklyn, N. Y.*

Dear Sir — Governor Morton is in receipt of your communication of the 4th instant, asking for the impeachment of Henry A. Moore, County Judge of Kings county, for malfeasance in office.

In reply the Governor directs me to say that he has caused an informal investigation to be made of the matters referred to by you, and it appears from information received by him that Mr. York was appointed referee without objection, that the proceedings were had before him as such referee without any objection by any person interested in the assigned estate, that the allowance of thirty dollars to him as referee was not simply for one day's service but for five or more days' service, and that the allowance was cut down by the county judge from thirty-five to thirty dollars. It appears from the statement of the case submitted to the Governor, that at least five

days were used by the referee in hearing the evidence, reading and examining it, stating the claims presented, and preparing his report. If this is true, the court did not exceed its jurisdiction in making the allowance of thirty dollars to him.

While section ninety of the Code of Civil Procedure prohibits the appointment of a clerk of a court of record in Kings county as referee without the written consent of the parties appearing in the proceeding, probably the provisions of the section may be waived either directly or by proceeding in the hearing before the referee without objection. The Governor is informed that this was in fact done, and that no objection was raised by any person at any stage of the proceeding.

If objection were raised, the appointment of Mr. York as referee and the subsequent confirmation of his report would make the proceeding irregular, and for this irregularity there seems to be an ample remedy by appeal. It also appears that the amount of assets was not sufficient to pay the claims preferred by the statute, and that there was nothing for the general creditors like yourself, and would not have been if the fees of the referee had been fixed at six dollars as claimed by you, instead of thirty dollars as allowed by the court.

As the matter now stands the Governor does not feel justified in recommending the removal of the county judge.

Very truly

ASHLEY W. COLE

Private Secretary

THE KINGS COUNTY INSANE ASYLUMS

Report of the Commissioners on the Subject

State of New York
Executive Chamber
Albany, January 21, 1895

Hon. Henry A. Reeves, *Chairman of Board for Establishment of Insane Asylum Districts and other purposes, Albany, N. Y.*

Dear Sir — I have the honor to transmit to you herewith a communication received by the Governor from the local authorities of the county of Kings, relating to the transfer to the State of the buildings, land, appurtenances and equipment now used by said county as a county insane asylum.

Please make the examination required by section 14, chapter 126 of the Laws of 1890, and report your findings and conclusions to the Governor.

Very truly yours
ASHLEY W. COLE
Private Secretary

State of New York
Office of Board for the Establishment of State Insane Asylum Districts and other Purposes
Albany, February 28, 1895

To His Excellency, Hon. Levi P. Morton, *Governor*

Sir — The board for the establishment of State insane asylum districts and other purposes, to which

was referred by you the application of the "local authorities" of Kings county, to wit., the Board of Supervisors thereof, through its counsel, Hon. George F. Elliott, asking that the dependent insane of that county and its property at Flatbush and at St. Johnland, L. I., now in use for the accommodation of the insane of that county, be transferred to the State, the former on lease for a term of years and the latter by purchase, respectfully report :

That members of the board held a preliminary meeting at the Clarendon hotel, Brooklyn, on February 1, with representatives of the Kings County Supervisors and other officials of that county, for the purpose of informal discussion of the subject ; that afterward, on February 8 and 12, members of the board visited Flatbush and in company with official representatives of the county and of the supervisors, inspected the buildings and grounds there proposed in said application to be given into possession of the State on a lease for three years, with the privilege of two more, within which time it is contemplated that the State will have provided at St. Johnland accommodations for all the inmates of the Flatbush Asylum, now numbering 1,000 and increasing by an average net increase of 100 yearly ; and that on February 26, members of the board, attended by the county farm committee of the Kings county supervisors and by other county officials, visited St. Johnland and made an inspection of the land, buildings and plant in use for the insane then domiciled there to the number of 1,323.

So far as respects the property at Flatbush, it is agreed that as the county does not desire to part

with it and the State has no occasion or need to hold it, the proposed arrangement, whereby the State can have the use of it up to such time as the inmates can be conveniently transferred to buildings which must be erected for them at St. Johnland, is entirely proper and mutually agreeable; there need be no serious difficulty in effecting a suitable lease of the property, and as to that branch of the inquiry the board assents to and approves of the proposition.

As to the property at St. Johnland, which alone presents any formidable obstacle to the adjustment of the matter upon a basis fairly satisfactory to both sides, the law under which the board acts (§ 14 of Chap. 126, Laws of 1890), divides its duty into two lines of inquiry and report; first, as to the suitableness of the lands, buildings and equipment for use by the State as a State hospital; and, second, as to the terms and conditions upon which the property is offered to the State, whether, in the judgment of the board, such terms and conditions are "just and proper."

Regarding the first line of inquiry, it is to be said that the condition of the land owned and occupied by Kings county at St. Johnland and commonly known as its "County Farm," is one of possible rather than of actual fitness for the uses of a State hospital, or in other words, a great deal of labor and considerable money need to be expended upon the grounds immediately surrounding the buildings, in order to put them in a really suitable state, and upon the farm lands to bring them into condition for successful tillage. The buildings now occupied by the insane consist of four large brick two-story cottages,

whose construction extended over several years and cost a vastly disproportionate outlay of money; of sixteen wooden cottages, eight for men and eight for women, with one building for each sex used as a central or common dining-room; and of several old and practically worthless frame buildings, which ought never to have been used for housing patients. The brick cottages present externally a good appearance, and internally the rooms and halls, lavatories and closets are fairly well adapted to the purpose in view, though two great drawbacks exist in the fact that the partitions separating the patients' rooms are of lath and plaster, instead of brick, and the roofs are of shingle, instead of slate. These buildings are new, and aside from structural defects which impair their present as well as future usefulness, are not likely soon to need much outlay for ordinary repairs; they are built on the single-room plan and will accommodate each 154 patients, or, 616 in all. The small frame cottages are also of two stories, and accommodate thirty-five to forty patients each. They are poorly constructed, of poor material, and if necessity did not compel their temporary retention, the State would condemn and abandon them at once; in truth, for any real element of computation, they may be dismissed as substantially valueless. The other wooden buildings referred to, now sheltering some eighty patients, are only worthy of mention as showing the immediate need of providing proper accommodations for their inmates. The accessory buildings — kitchen, laundry, store-house, bakery, etc., — in the main are suitable if not entirely sufficient; they may be accepted as fairly adapted to the uses

now made of them. The plant, including buildings and machinery, for steam heating, electric lighting, water supply, etc., is on the whole to be commended with less reserve than applies to perhaps any other branch of the institution, though the matter of water supply upon which very large sums have been wasted in construction of a reservoir which does not hold water, and for which very little water can be had from the springs on which reliance was put before they had been sufficiently tested, will need considerable attention to provide apparatus and connections for adequately supplying the brick cottages, whose need of fire protection is all the greater because of the inflammable nature of their roofs.

Barring the objections above outlined, and some minor ones, the buildings and plant at St. Johnland may be considered as in a sufficient sense "suitable for the purposes of a State asylum for the insane" within the meaning of the act, and the board so reports.

There remains the only other question "whether such terms and conditions are just and proper," viz.: The terms and conditions embodied in the application from the "local authorities" of Kings county. That application asks that the State pay for the property $500,000. It is not deemed desirable or important that the board should enter upon a full exposition of the facts and ideas which pertain to this question, and it will therefore content itself with saying that, upon a broad view of the matter of compensation under the circumstances which surround this proposed transfer, whatever intrinsic value the property may possess, the board does not deem it

"just and proper" to require the State to pay so large a sum. While recognizing the fact that Kings county has expended an immense amount of money at St. Johnland, and that the land and buildings, plant and equipment, does represent a large actual value for the uses to which, if transferred, the State will apply it, it is also an essential element in the calculation that the State at once assumes the obligation to provide new buildings at St. Johnland to receive the 1,000 to 1,300 patients who within a short time would have to be removed there from Flatbush, besides the present necessity of taking 80 to 90 patients from improper wooden quarters into a brick building, and the rapidly growing necessity of removing from the frame cottages the 600 or more patients now domiciled therein. This consideration, of itself, is enough to largely overcome the equity otherwise obtaining in Kings county's claim to compensation, and impels this board to the conclusion that the State ought not to pay $500,000 for the St. Johnland property.

The determination of just what amount the State would be willing to pay and the county would be willing to receive, appears to be a matter for negotiation and settlement between the representatives of the State in the Legislature and the local authorities of Kings county. Hence, without expressing an opinion on that question, the board advises the Legislature that in its opinion the property proposed to be transferred by Kings county is suitable for the purposes of a State asylum for the insane, and that the terms and conditions offered, except as to the sum named in the application, are acceptable.

In view of the importance of extending the principle of State care for the dependent insane to the entire State, and also in view of the great public interest and importance of a consummation, in some satisfactory way, of the transfer of the Kings county insane and property to the State, both on grounds of general humanity as concerns the welfare of the insane, and of financial advantage as concerns the people of Kings county, the board regards it as an appropriate and indeed an imperative duty to respectfully urge on the Legislature that a just and reasonable compromise disposing of the only real issue, to-wit: The sum to be paid for the property would be creditable to both parties.

HENRY A. REEVES
CARLOS F. MACDONALD
Commissioners

JAMES A. ROBERTS
State Comptroller

WILLIAM R. STEWART
President State Board of Charities

TAX UPON INHERITANCES

Letter From Secretary of State Gresham and the Reply

Department of State

Washington, January 23, 1895

His Excellency the Governor of New York, Albany

Sir — I have the honor to apprise you of the receipt of a note from the German Ambassador of the 15th instant, saying that it is considered important for legislative purposes in some of the German States to be informed in which of the States of the United States a tax is levied upon inheritances; and if such tax is so levied, whether it is levied upon aliens whose property goes to heirs outside of the United States.

To enable a prompt and proper reply to be made to Baron von Saurma's note, I will thank you to acquaint me with the nature of the laws of your State upon that subject.

I have the honor to be, sir,

Your obedient servant

W. Q. GRESHAM.

State of New York

Executive Chamber

Albany, *January* 26, 1895

Hon. W. Q. Gresham, Secretary of State, Washington, D. C.

Sir — I have the honor to acknowledge the receipt of your note of the 23d instant, requesting informa-

tion concerning the collateral inheritance tax laws of this State. In reply, I beg to inform you that the law of this State imposes a tax upon the transfer, in certain cases, of property of the value of five hundred dollars or over, either by will or in cases of intestacy. The cases in which such a tax is imposed are enumerated in the statute, chapter 399 of the Laws of 1892, a copy of which I have the honor to transmit herewith. It will be seen that no discrimination is made either in favor of or against aliens as such, but that the tax is levied upon the property and not upon the person.

Under the construction of the collateral inheritance tax law given by our courts, the question of the residence of the deceased owner and of the legatee, or of the collateral kindred, is of no materiality. It is the property of the decedent within the State which is sought to be subjected to the tax, and the right of the State to impose the tax is based upon its dominion over property situated within its territory.

Very respectfully yours

ASHLEY W. COLE

Private Secretary

TROY AND ITS POLICE

The Governor's Instructions to the Attorney-General

State of New York
Executive Chamber
Albany, May 24, 1895

Hon. T. E. Hancock, *Attorney-General*

Dear Sir — In pursuance of subdivision two of section fifty-two of the executive law, as amended by chapter sixty-eight, Laws of 1894, I hereby require you to attend in person or by one of your deputies before the Court of Oyer and Terminer, to convene in and for the county of Rensselaer, on the twenty-seventh day of May, 1895, and before the grand jury of the said county of Rensselaer at said term, and any other Court of Oyer and Terminer in said county for the purpose of managing and conducting in said court and before said jury, the criminal actions and proceedings to be instituted against one W. W. Willard, who is accused of wilfully neglecting and refusing to close houses of ill-fame and gambling houses, he being the superintendent of the Troy police force, and it being by statute made the duty of the police force to repress and restrain such places, a willful neglect of which duty is by section one hundred and seventeen of the Penal Code made a misdemeanor.

Also the criminal actions and proceedings about to be instituted against John, alias "Jack" McCauley; Thomas O'Neill, Hiram Ford, Patrick O'Brien, George O'Brien, Thomas McDonough, John Shana-

han, Dennis Sullivan, Patrick Sullivan, Lawrence Shevlin, Patrick Cahill, Christopher McGraw, John Shea, John J. Burke and Arthur J. Keefe, who are accused of felonies or misdemeanors, severally committed by them at general or charter elections held in the county of Rensselaer and said city of Troy during the years 1890, '91, '92, '93 and 1894.

Also such criminal actions or proceedings as may be instituted against Francis J. Molloy, John Magill and George O'Neil, police commissioners of the said city of Troy, who are charged with refusing and neglecting to close gambling houses and houses of ill-fame in said city, and with receiving and accepting from proprietors of gambling houses and houses of ill-fame the sum of fifty dollars from each of such proprietors and in consideration of the receipt and acceptance of which said sum of fifty dollars from all of said proprietors, said proprietors were granted immunity from arrest.

Also such criminal actions or proceedings as may be instituted against James Cummings, who is accused of willfully failing and neglecting to apprehend persons observed by him in the commission of a highway robbery on the eighteenth day of December, 1894, in violation of section one hundred and seventeen of the Penal Code.

Also such criminal actions or proceedings as may be instituted against James Quest, who is charged with liberating prisoners or permitting them to escape from the police station house in the city of Troy during the year 1891, said Quest being the sergeant in charge of said station house at the time of such escape.

Also such criminal actions or proceedings as may be instituted against James Magaill and Thomas O'Brien, who are charged with the offense of highway robbery, committed during the year 1894.

Also such criminal actions or proceedings as may be instituted against George H. Mead, who is accused of extorting and accepting from inhabitants of the city of Troy, money, which he represented to the said inhabitants was to be used in obtaining for them permission to open their peanut stands on Sunday.

Also such criminal actions or proceedings as may be instituted against Moses Litowich and Elias G. Dorlon, who are accused of being the owners of and renting houses for the purposes of prostitution, in violation of section three hundred and twenty-two of the Penal Code.

Also such criminal actions or proceedings as may be instituted against Michael Tierney, who is accused of letting, as agent, houses for the purposes of prostitution, knowing the purposes for which said houses were rented, in violation of Section 322 of the Penal Code.

Also such criminal actions or proceedings as may be instituted against one Ormsby, who is accused of being a common gambler, and failing to restrain and repress gambling houses, he being at the time a police officer of the city of Troy, and by such neglect and failure to repress and restrain said gambling houses being guilty of neglecting a public duty in violation of section 117 of the Penal Code.

Also such other criminal actions or proceedings which may be instituted in consequence of any

felonies, misdemeanors, criminal irregularities or crimes of any kind or nature which may be disclosed by the evidence to be presented in the foreging cases.

Respectfully yours,

LEVI P. MORTON
Governor

RENSSELAER COUNTY ELECTION

THE GOVERNOR'S INSTRUCTIONS TO THE ATTORNEY-GENERAL IN THE MATTER OF CERTAIN PROSECUTIONS

Albany, May 14, 1895

HON. T. E. HANCOCK, *Attorney-General, Albany, N. Y.*

DEAR SIR—In pursuance of sub-division 2 of section 52 of the executive law, as amended by chapter 68 of the Laws of 1894, I hereby require you to attend in person or by one of your deputies at a court of Oyer and Terminer, to be held in and for the county of Rensselaer, for the term commencing Monday, May 27th, 1895, and to appear before the grand jury in said county at said term of court for the purpose of managing and conducting in said court and before said jury, or at any other court of Oyer and Terminer in said county, all such criminal actions and proceedings as may be brought before them, or either of them, in consequence of any felonies or misdemeanors committed in violation of the election laws of this State or of any sections of the Penal Code relating to elections which have been

committed by officers of elections or others at general or charter elections held in the said county of Rensselaer and the city of Troy, or either of them, at the elections held in the said county of Rensselaer or said city of Troy, during the years 1890, 1891, 1892, 1893 and 1894. Also in consequence of any crimes or misdemeanors committed in violation of sections 322, 117 and 72 of the Penal Code, committed by any person or persons in the said city of Troy during the years 1893–94 and 1895.

Respectfully yours,

LEVI P. MORTON
Governor

THE NATIONAL ANNIVERSARY

TELEGRAM ANSWERING A MESSAGE FROM THE AMERICAN CHAMBER OF COMMERCE AT PARIS ON THE OCCASION OF ITS ANNUAL BANQUET, JULY 4, 1895

Albany, July 4, 1895

To DR. S. H. TYNG, *President American Chamber of Commerce, Paris, France*

The Empire State sends fraternal greeting to the sons of America and to the descendants of their earliest allies, who celebrate to-day in the sister Republic of France our Anniversary Day.

LEVI P. MORTON
Governor of the State of New York

THE VETERANS AND THE PUBLIC SERVICE

Correspondence with the Superintendent of Public Buildings

A conference held in the Executive Chamber on October sixteenth, 1895, relating to certain veterans discharged from the public service by the Superintendent of Public Buildings, resulted in the following correspondence:

State of New York
Executive Chamber
Albany, October 17, 1895

Hon. Frederick Easton, *Superintendent of Public Buildings, Albany, N. Y.*

Dear Sir — I have this day directed the following named veteran soldiers, the first three of whom have heretofore been employed as orderlies or watchmen and the last as a laborer, in the Capitol Building, to report at once to you for reinstatement in the occupations from which they were dismissed by you on or about October first last: John W. Fawcett of New York, B. G. Priest of Jefferson county, S. A. Eshbaugh of Niagara county and W. S. Kenyon of Cattaraugus county.

The conclusion that they should be so directed to report to you was arrived at in the conference at which you were present to-day with Attorney-General Hancock, Mr. Charles Z. Lincoln the Governor's legal adviser, H. C. Nevitt counsel for the Board of

Trustees of Public Buildings in the proceeding pending before the Court of Appeals to determine the rights of veteran soldiers employed by the State in the public buildings, the four veterans above named and myself.

Very respectfully
ASHLEY W. COLE
Private Secretary

STATE OF NEW YORK
Office of Superintendent of Public Buildings
Albany, October 17, 1895

Col. ASHLEY W. COLE, *Private Secretary, Etc., Executive Chamber, Albany, N. Y.*

DEAR SIR.—I am in receipt of your communication of this date, in which you inform me that you have directed the discharged orderlies, Fawcett, Priest and Eshbaugh, and the laborer, Kenyon, to report to me for re-assignment to duty.

I respectfully beg leave to reply that I cannot consistently restore Fawcett and Priest to duty because such restoration would be to the detriment of the public service, and for these reasons:

I discharged them under the authority conferred upon me by chapter two hundred and twenty-seven of the Laws of 1893, for "incompetency and conduct inconsistent with the positions held" by them, which is the statutory grounds on which such removals may be made (chapter 716 Laws of 1894). Further, I found it necessary to reduce the force of employees in order to keep my expenditures within the limit of

the money appropriated for the payment of orderlies and watchmen.

I will present detailed charges in respect to these men which will justify my refusal to reinstate them, if requested so to do. I had already restored Eshbaugh to duty before the receipt of your letter and will restore Kenyon with all reasonable promptness.

Very respectfully yours

FREDERICK EASTON

Supt. of Public Buildings

THE PERSECUTED ARMENIANS

TELEGRAM TO THE CHAIRMAN OF THE MEETING OF SYMPATHY HELD IN NEW YORK ON NOV. 21, 1895

STATE OF NEW YORK

Executive Chamber

Albany, November, 21, 1895

Hon. SETH LOW, *President, Chickering Hall, New York City*

Official duties preclude my attendance at the meeting to-night in behalf of the suffering Armenians. I sincerely hope that the expression of public opinion, here and in Europe, will impel the Ottoman Porte to immediate and effectual effort for their present protection and future safety.

LEVI P. MORTON

NEW YORK INSURANCE COMPANIES AND THE PRUSSIAN GOVERNMENT

Governor Morton's Letter to Secretary of State Olney

State of New York
Executive Chamber
Albany, December 3, 1895

To the Honorable Richard Olney, *Secretary of State of the United States, Washington, D. C.*

Sir — It is represented to me by the Superintendent of Insurance of the State of New York, the officer charged by our laws with supervision of the business of insurance and of the companies transacting that business within this State, that three of the principal life insurance companies of New York, which are among the most important and substantial financial corporations of the United States and of the world, have been by the Department of the Interior of the Kingdom of Prussia unjustly excluded from that kingdom, after they had been induced to establish agencies and make large investment of funds among its people. A great and growing feeling of irritation upon this subject exists among the vast insurance interests of this country, and is finding daily expression in the press. In several states of the Union notice has already been given to corporations of Prussia that they cannot transact business within these states, this action having been taken by the several insurance departments solely as retaliation for arbitrary acts of the Prussian Minister towards

companies of New York. The Superintendent of this State believes that the shortest way to the re-establishment of reciprocal business relations among these states and corporations is to be found in a candid comparison of views, rather than in a policy of annoyance and exclusion. In this belief, the Superintendent has prepared a letter, addressed to His Excellency the Minister of the Interior of the Kingdom of Prussia, a copy of which is enclosed herewith. But as the people of no state have diplomatic relations with the Kingdom of Prussia save as they are represented by the general government and by its ambassador to the Empire of Germany, and as I am informed that our ambassador has already in several instances under instructions from your department, rendered his good offices in the endeavor to solve some of the very questions now involved, I beg respectfully to request that the purpose of the Superintendent in this communication be facilitated, by the good offices of the Ambassador of the United States in Berlin, in such manner and to such extent as shall to you appear useful and proper.

I have the honor to remain

With the highest regard

LEVI P. MORTON

Governor of New York

AN INTERNATIONAL EPISODE

Correspondence Relating to American Railway Blasting on the Canadian Frontier

Department of State
Washington, August 6th 1895

His Excellency, Levi P. Morton, *Governor of New York, Albany*

Sir—I have the honor to enclose for your information and consideration, copy of a note of the 1st instant, from the British Charge d'Affaires *ad interim* at this capital, enclosing copy of a communication from the Mayor of Niagara Falls, Ontario, in which it is represented that the blasting carried on by contractors in building an electric railway on the American side of the Niagara River is causing great damage to the property and danger to the lives of persons residing on the Canadian side of the river.

In view of the grave character of the complaint made by the Canadian authorities, the Department hopes that you may find it practicable to give the matter early attention.

I have the honor to be, Sir,
Your obedient servant,
ALVEY A. ADEE,
Acting Secretary.

Enclosure:
From Lord Gough.

[TELEGRAM]

STATE OF NEW YORK
Executive Chamber
Albany, August 7, 1895

To the Mayor of Niagara Falls, N. Y.

Governor has received through State Department complaint from Mayor of Niagara Falls, Ont., of damage and danger resulting from blasting for electric railway on New York side of river. Please advise me by wire whether blasting continues, and whether dangerous in character to life and property on Canadian side.

ASHLEY W. COLE
Private Secretary

[TELEGRAM]

STATE OF NEW YORK
Executive Chamber
Albany, August 7, 1895

GEORGE HANAN, *Mayor, Etc., Niagara Falls, Ont.*

Governor to-day received through State Department your complaint telegraphed to Canadian government July 22, regarding damage and danger resulting from blasting on American side of river. Please inform me by telegraph whether contractors have discontinued dangerous character of operations.

ASHLEY W. COLE
Private Secretary

[TELEGRAM]

STATE OF NEW YORK
Executive Chamber
Albany, August 9, 1895

GEORGE HANAN, *Mayor, Niagara Falls, Ont.*

Telegram of last evening received. Prompt measures will be taken to repress operations complained of.

ASHLEY W. COLE
Private Secretary

[TELEGRAM]

STATE OF NEW YORK
Executive Chamber
Albany, August 9, 1895

Hon. O. W. CUTLER, *Mayor, Niagara Falls, N. Y.*

Your telegrams received. Also received telegram this morning from Mayor of Niagara Falls, Ontario, saying that at six thirty o'clock last evening a blast was discharged which threw a shower of stones upon Canadian side, some of them falling two hundred feet inland. These operations may incur grave consequences. Please investigate at once and report by wire.

ASHLEY W. COLE
Private Secretary

[TELEGRAM]

STATE OF NEW YORK
Executive Chamber
Albany, August 10, 1895

Hon. GEORGE HANAN, *Mayor, &c., Niagara Falls, Ont.*

Mayor Cutler has positive assurance from contractors of future caution and his city engineer is directed to watch blasting. Please telegraph me promptly if any further damage inflicted and instant legal restraint will be applied.

ASHLEY W. COLE
Private Secretary

[TELEGRAM]

STATE of NEW YORK
Executive Chamber
Albany, October 8, 1895

HON. RICHARD OLNEY, *Department of State, Washington, D. C.*

Your telegram received. At 11 o'clock P. M. of Sunday, October 6th, upon information received from the Mayor of Niagara Falls, Ontario, I caused this message to be sent by my private secretary to said Mayor: "Governor regrets the occurrence complained of and will take earliest measures to prevent repetition and further reckless operations."

On the same evening this message was telegraphed to the Mayor of Niagara Falls, N. Y.: "Governor

Morton requests you to notify contractors for Electric Railway that serious damage is reported in Canada from their blasting to-day, and that he will take instant measures to repress their recklessness."

On the morning of October 7th, Deputy Attorney-General Kisselburgh, who was in Buffalo, was instructed to make immediate careful inquiry into the circumstances and report with a view to taking such action as the law and the facts warrant. The whole subject is now under consideration.

LEVI P. MORTON

STATE OF NEW YORK
Executive Chamber
Albany, October 12, 1895

Hon. RICHARD OLNEY, *Secretary of State, Washington, D. C.:*

DEAR SIR — Governor Morton directs me to transmit to you the accompanying copy of a special report made by Deputy Attorney-General Kisselburgh, in respect to the blasting operations carried on by contractors for a railway in course of construction upon the American side of the Niagara river, and through which damage was inflicted upon the property of residents and corporations within the Dominion of Canada and upon the Custom House of the Dominion at Niagara Falls, Ontario.

The Governor desires me to convey to you his sense of regret for the injuries inflicted at previous stages of the work referred to, as well as by the explosion which occurred on Sunday October 6, and

begs to assure you that he took the promptest measures available to avert the possibility of further damage, as well as the continuance of reckless blasting.

As will appear by the report of Mr. Kisselburgh, the work is now terminated and there can therefore be no further injury inflicted by the operations complained of. The Governor is confident that you will make due representation to the British Ambassador of the facts of the case.

I have the honor to be

Very respectfully

ASHLEY W. COLE

Private Secretary

DEPARTMENT OF STATE

Washington, October 15, 1895

His Excellency the Governor of the State of New York, Albany, New York

SIR—I have to acknowledge the receipt of a communication from your office of the 12th instant enclosing a copy of a special report made by Deputy Attorney-General Kisselburgh in regard to the blasting operations by contractors for a railroad in course of construction upon the American side of the Niagara river, whereby damage was inflicted upon the property of residents and corporations within the Dominion of Canada and upon the British custom house at Niagara Falls, Ontario.

The Department has learned with pleasure of the prompt measures taken by your office in regard to

the matter, and it has communicated to the British Ambassador, for his information, a copy of the report of Deputy Attorney-General Kisselburgh with reference to the subject.

I have the honor to be, Sir,

Your obedient servant,

RICHARD OLNEY.

DEPARTMENT OF STATE

Washington, October 19, 1895

His Excellency the Governor of the State of New York, Albany, N. Y.:

SIR — Referring to your letter of the 12th instant relative to the action which you took to prevent further injuries to Canadian property by blasting operations on the American side of the Niagara river, I have the honor to enclose for your information a copy of a note of the 17th instant from the British Ambassador at this capital, expressing his thanks for the prompt attention shown to his communication on the subject,

I have the honor to be sir

Your obedient servant

RICHARD OLNEY

Enclosure:

From Sir JULIAN PAUNCEFOTE, October 17, 1895

STATEMENT

OF

PARDONS, REPRIEVES AND COMMUTATIONS OF SENTENCE

GRANTED BY

LEVI P. MORTON, Governor

DURING THE YEAR 1895

PARDONS

January 23, 1895. Frank Harmon. Sentenced October 6, 1894; county, Seneca; crime, assault, third degree; term, six months; prison, Monroe County Penitentiary.

The pardon is granted on the recommendation of the committing magistrate and of a number of the best citizens of Seneca Falls. Harmon is an industrious man of good character, his only fault being that occasionally he drinks to excess. He was intoxicated when he committed the assault, which was not of a serious nature, and the magistrate in recommending clemency says that the punishment imposed was greater than the offense merited. His family have been left without support by reason of his imprisonment and his former employer agrees to take him into his service again at once.

March 7, 1895. Thomas Brown. Sentenced July 9, 1894; county, New York; crime, grand larceny, second degree; term, one year; prison, New York Penitentiary.

The prisoner's term will expire in May next. He probably cannot live until then, being in the last stage of consumption. His father asks for his release so that he may take him home.

March 26, 1895. Edward Waterhouse. Sentenced October 24 1889; county, Onondaga; crime, grand larceny, first degree; maximum term, ten years; prison, State Reformatory.

At the time of conviction Waterhouse was sixteen years old. He pleaded guilty but there is very serious doubt if the offense was more than petit larceny. But however that may be he has been kept in confinement far beyond what was intended when he was sentenced, and it seems unjust to detain him longer. The judge and the district attorney think he ought to be released.

May 2, 1895. Dennis Dailey. Sentenced November 17, 1894 county, Allegany; crime, violation of the excise law; term, six months; prison, Allegany County Jail.

Recommended by many citizens of Allegany county including the county judge, the sheriff, the district attorney, the county clerk and other county officers. The sentence was too severe.

May 13, 1895. Nicholas Weiss. Sentenced November 2, 1894; county, New York; crime, grand larceny, second degree; term, one year; prison, New York Penitentiary.

Weiss having served half his term his pardon is recommended by the complainant and the district attorney. Until his conviction he was a man of good character and industrious habits and has been fully punished for the crime committed by him.

May 22, 1895. Frank Demarest. Sentenced June 12, 1893; county, New York; crime, grand larceny, second degree; term, two years and six months; prison, Sing Sing.

The prisoner has been sufficiently punished for his first offense and in consideration of previous good character is released a few days before the expiration of his term.

May 22, 1895. Henry O. West. Sentenced April 7, 1890; county, Onondaga; crime, forgery, second degree; maximum term, ten years; prison, State Reformatory.

West's punishment has been more severe than the circumstances of the case demanded. He is in very feeble health with but little prospect of recovery.

May 22, 1895. Arthur Horton. Sentenced July 7, 1891; county, Erie; crime, receiving stolen goods; maximum term, five years; prison, State Reformatory.

Granted on the recommendation of the judge and the district attorney, Horton having been imprisoned longer than the crime warranted.

June 4, 1895. Charles Giblin. Sentenced June 25, 1888, to be executed; county, New York; crime, murder, first degree; sentence commuted to imprisonment for life November 21, 1889; prison, Sing Sing.

In November, 1889, the sentence was commuted to imprisonment for life, the evidence taken before a referee appointed by the Governor having given rise to very serious doubt as to the truthfulness of some

of the testimony upon which the conviction was obtained, and it being deemed inexpedient for that reason to inflict the death penalty. For more than two years past Giblin has been confined to the hospital suffering from a complication of diseases and the physician now reports that he cannot possibly survive more than a few weeks. His wife has died recently, and a very urgent appeal is made that, out of consideration for his children, he be permitted to die outside the prison.

The application is very strongly supported by many of the best citizens of New York and of Worcester, Mass., where Giblin formerly resided, and is earnestly recommended by Judge Barrett, who sentenced him, and by the district attorney. After a careful examination of the whole case, it seems just and proper to grant it.

June 7, 1895. Patrick Shannon. Sentenced August 17, 1894; county, New York; crime, entering building to steal; term, one year; prison, New York Penitentiary.

June 7, 1895. John Henry. Sentenced August 17, 1894; county, New York; crime, entering building to steal; term, one year; prison, New York Penitentiary.

These pardons are granted on the ground that the prisoners are innocent. The district attorney writes: "Facts recently brought to light make the absolute innocence of these two men apparent. The real culprits have been arrested and one has pleaded

guilty; the other is now on trial. The complainant against Shannon and Henry is now satisfied of his error in identifying them and appears as complainant against the men last arrested. On all of the facts of the case there is not a shadow of doubt that these two men were the victims of a fearful mistake and I earnestly beg Your Excellency to correct it as far as possible by granting them a pardon."

June 25, 1895. Mary Druse. Sentenced October 12, 1885 county, Herkimer; crime, murder, second degree; term, life; prison, Onondaga County Penitentiary; transferred to State Prison; for Women.

Mary Druse and her mother, Roxalana Druse, were jointly indicted in 1885 for killing William Druse, the husband of Roxalana and father of Mary. Roxalana was tried, convicted and executed. Mary by advice of her counsel pleaded guilty of murder in the second degree and was sentenced to imprisonment for life. The evidence introduced on the trial of Roxalana wholly failed to show that Mary took any active part in the commission of the crime. Upon that evidence which covered all the facts, the utmost that can be fairly charged against her seems to be that she stood by and saw the crime committed and afterwards concealed it, making false statements to account for her father's disappearance, in doing which she unquestionably acted under her mother's directions. At that time she was only eighteen years

of age. Judge Williams, who imposed the sentence, writing in regard to the application for clemency, says: "I said to Mary when I sentenced her that if she changed her character and became a good woman, she might after some years, hope for Executive clemency, but she could not hope for it otherwise. I do not feel that I can express an intelligent opinion as to Executive clemency, because I do not know what her life has been or what her disposition now is. I do not advise nor object to a pardon, but leave it to your own good judgment upon the nature of the crime, the circumstance that Mary was a young girl, acting under the direction of her mother, and the behavior of Mary while in prison and her present disposition."

The Warden of the prison reports her conduct as excellent. A pardon is expressly recommended by the Hon. A. B. Steele, who as district attorney, conducted the prosecution, and is fully warranted by all the circumstances of the case.

June 25, 1895. George Helmer. Sentenced October 10, 1890; county, Oneida; crime, malicious mischief; maximum term, ten years; prison, State Reformatory; transferred to Auburn.

Helmer was sent to the Reformatory for throwing a stone at a railroad train. His punishment has been greatly in excess of what the crime deserved or the court would have imposed by a definite sentence.

The pardon is granted on the application of Thomas S. Jones, of Utica, who was district attorney at the time of the conviction, and on the recommendation of Judge Churchill, who passed the sentence.

June 25, 1895. Boyce Martin. Sentenced February 24, 1894; county, New York; crime, grand larceny, second degree; term, five years; prison, Sing Sing.

Martin was tried and convicted jointly with two others. An examination of the evidence adduced upon the trial shows that while it was probably sufficient to sustain the conviction of his co-defendants, it wholly failed to connect him with the commission of the larceny. The district attorney writes: "My own judgment is that the evidence did not warrant the conviction and I am much surprised that the jury should have reached the conclusion it did."

June 25, 1895. Timothy O'Connell. Sentenced December 4, 1894; county, New York; crime, assault, third degree; term, one year; prison, New York Penitentiary.

The prisoner was charged with indecent assault upon a young girl, The evidence against him was quite meagre, and if he had been properly defended it is not likely that he would have been convicted. He is shown to have been a man of excellent character; his guilt is quite doubtful and two of the justices before whom he was tried recommend a pardon.

June 25, 1895. Elmer Sarvis. Sentenced May 17, 1893; county, Orange; crime, burglary, third degree; maximum term, five years; prison, State Reformatory.

Sarvis has been sufficiently punished and is released on the recommendation of the district attorney and other citizens of Orange county, including seven of the jury.

June 25, 1895. Nettie Homburg. Sentenced October 2, 1891; county, New York; crime, grand larceny, first degree; term, five years and six months; prison, New York Penitentiary, transferred to State Prison for Women.

Deducting the commutation earned by good conduct less than two months of the prisoner's term remains to be served. She was quite young when convicted; was led into the crime by older persons, and there are circumstances making it very desirable that her parents should be permitted to take charge of her at this time.

July 2, 1895. Damase Cusson. Sentenced January 23, 1895; county, New York; crime, false pretenses; term, one year; prison, New York Penitentiary.

A careful examination of this case shows that the prisoner ought not to have been convicted. The district attorney states that in his opinion the evidence did not warrant the verdict and had the prisoner's counsel requested the court to direct an acquittal it would have been error to deny the request.

July 8, 1895. Harry B. Osgood. Sentenced May 9, 1895; county, Erie; crime, petit larceny; term, three months; prison, Erie County Penitentiary.

Recommended by Hon. Edward F. Jones, Senator O'Connor, George W. Dunn and other citizens of Binghamton; also by the complainant. There does not appear to have been any criminal intent on the part of the prisoner, and no loss resulted to any person by reason of his act.

July 16, 1895. Joseph Little. Sentenced July 11, 1893; county Warren; crime, burglary, third degree; term, two years and eleven months; prison, Clinton.

Granted on the application of the judge, the district attorney and other prominent citizens of Warren county on the ground that the prisoner has received all the punishment that justice requires. With the usual reduction his term would be out in October next.

July 16, 1895. Harry M. Griest. Sentenced November 27, 1893; county, Chemung; crime, grand larceny, second degree; term, two years; prison, Auburn.

Griest's term would expire in about two weeks. He has been an exceptionally good prisoner and a very useful man. His pardon was asked for by the complainant some time since, and is very earnestly recommended by members of the Legislative Committee recently appointed to investigate the State prisons.

September 17, 1895. George Lawrence. Sentenced September 16, 1892; county, Genesee; crime, assault, second degree; maximum term, five years; prison, State Reformatory.

Lawrence was convicted of shooting and seriously wounding a boy who was riding by on a freight train. No motive for the act was shown, and there was considerable evidence tending to prove that the gun was discharged accidentally, and without any intention on the part of Lawrence to shoot or injure any person. He was seventeen years old at the time, and until then had always borne a good character. A very strong petition for his pardon has been presented signed by all the jurors. Clemency is also urged by the judge and the district attorney and other leading citizens of Genesee county.

September 26, 1895. James J. Smith. Sentenced June 22, 1893; county, Rockland; crime. burglary, third degree; maximum term, five years; prison, State Reformatory.

Granted on the petition of many prominent citizens of Rockland county, including the judge, the district attorney and the complainants. Smith's character before his conviction was good, and his imprisonment for more than two years has been ample punishment for his offense.

September 26, 1895. John O'Mara. Sentenced February 15, 1895; county, New York; crime, assault, second degree; term, one year; prison, New York Penitentiary.

Recommended by nine of the jurors, also by Noah Davis, Chauncey M. Depew, Rev. John Hall, Thomas L. James, Mortimer C. Addoms, Robert Hoe, John P. Townsend, Robert E. Bonner, W. B. Marvin and other citizens of New York, many of whom have known the prisoner for years, and certify to his uniform good conduct and peaceable disposition. His guilt seems quite doubtful. He was convicted on the testimony of the complainant alone, who was contradicted by a number of witnesses on the part of the defense.

October 8, 1895. Pasquale Bouchette. Sentenced November 1, 1890; county, Westchester; crime, murder, second degree; term, life; prison, Sing Sing.

Granted on the recommendation of Judge Dykman, before whom the prisoner was tried. Upon the trial Bouchette furnished evidence tending to show that in killing the deceased he acted in self-defense. Judge Dykman writes that he then believed, and still believes, that the evidence was true. He says further: "I am satisfied Bouchette would have been killed if he had not slain his assailant, and that he was fully justified in killing him."

October 16, 1895. Peter Demmer. Sentenced December 12, 1894; county, Onondaga; crime, subornation of perjury; term, two years; prison, Onondaga County Penitentiary.

Execution of the sentence was suspended by direction of the court, the circumstances not seeming to call for actual punishment. A pardon is now recommended by the judge, the district attorney, Attorney-General Hancock and other citizens of Syracuse. Demmer is shown to have borne a good character until his conviction. It is not probable that the sentence will ever be enforced, and no good purpose can be subserved by keeping him subject to its disabilities.

October 22, 1895. Charles Olders. Sentenced April 10, 1895; county, Kings; crime, injuring railway car; term, one year; prison, Kings County Penitentiary.

The prisoner Olders was one of the many men who participated in the disorder incident to the so-called "Trolley-Car Strike" in January last, in the city of Brooklyn. His offense was the throwing of a stone at a street car. The district attorney reports that the evidence before the grand jury was very meagre, and it does not appear that any damage whatever was inflicted by the missile. Olders pleaded guilty and was sentenced to a year's imprisonment. He is a foreigner with but an imperfect understanding of our laws and customs. He has been confined upwards of six months in prison, and has

doubtless paid a sufficient penalty for a minor offense committed in a time of great public excitement when hundreds of persons were violating the law. The prisoner was undoubtedly largely incited to his act by the turbulence that prevailed about him.

October 22, 1895. Charles Thomas. Sentenced June 18, 1894; county, Onondaga; crime, manslaughter, second degree; term, nine years and three months; prison, Auburn.

The prisoner is dying and his friends ask that he may die outside the prison. The application is favored by the judge and the district attorney.

October 22, 1895. William Anson. Sentenced June 28, 1895; county, Herkimer; crime, petit larceny; term, six months; prison, Herkimer County Jail.

Anson is fourteen years of age. He was induced to take part in the larceny by much older persons. It is his first offense. Until his conviction he was employed in a factory in the city of Amsterdam, where his parents, very respectable people, reside, and employment will be given him in the same factory immediately upon his release. The committing magistrate recommends his pardon, saying that had he known all the circumstances he would have suspended sentence. The petition is signed by the mayor and other city officers of Amsterdam and by many citizens.

October 22, 1895. Thomas Kane. Sentenced October 3, 1894; county, Steuben; crime, assault, second degree; term, two years and six months; prison, Monroe County Penitentiary.

Kane was convicted with two others, all pleading guilty. His codefendants were fined $100 each. While the circumstances may have justified a more severe sentence in his case, so great a discrimination ought not to have been made. He has now been imprisoned for more than a year, and the judge and the district attorney think he has been punished enough.

October 25, 1895. Mary O'Hearn. Sentenced September 11, 1895; county New York; crime, selling liquor on Sunday; term, three months; prison, New York Penitentiary.

The penalty seems unduly severe for the offense charged, namely, selling ten cents worth of whiskey on Sunday. Two of the justices who sentenced the prisoner strongly urge clemency in her behalf. Her pardon is also recommended by a number of prominent citizens of New York. She has received all the punishment that ought to be imposed, having been in prison for more than six weeks.

October 28, 1895. Elizabeth Cooley. Sentenced June 11, 1895; county, Oneida; crime, receiving stolen goods; term, six months; prison, Oneida County Jail.

Pardon applied for by the sheriff, the district attorney and other officers of Oneida county. The prisoner is about to be confined and cannot be properly cared for in the jail.

November 13, 1895. George Smith. Sentenced October 16, 1891; county, Onondaga; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory.

The prisoner has been punished too severely, having been in confinement six months longer than if he had been sent to the State prison for the maximum term and received the usual commutation.

November 13, 1895. John J. Gilmore. Sentenced November 13, 1891; county New York; crime, burglary, third degree; maximum term, five years; prison, State Reformatory.

Gilmore was under parole from February until July, 1893, when he was returned to the Reformatory, it being charged that he had committed a further crime. The charge was denied and it seems to be conceded that no legal evidence can be adduced to establish it. At all events the only criminal offense for which he can now be legally or justly punished is the burglary for which he was originally committed to the Reformatory and for that he has received more than ample punishment, having been actually imprisoned only a few days less than the maximum penalty with the usual commutation allowed by the statute; a penalty more severe than would probably have been imposed by a definite sentence for a first offense.

COMMUTATIONS

February 7, 1895. Patrick Rafferty. Sentenced December 22, 1894; county, Westchester; crime, assault, third degree; term, six months; prison, Kings County Penitentiary.

Sentence commuted to imprisonment in Kings County Penitentiary for the term of one month and twenty-one days from December 22, 1894.

Rafferty, a young lad, has been sentenced to the State Reformatory for assault, second degree, his term there to begin at the expiration of his sentence of six months in the penitentiary. It seems wiser to send him to the Reformatory at once rather than after six months' imprisonment among hardened criminals, and the commutation is granted in order to accomplish that result. It is recommended by the magistrate who sentenced Rafferty to the penitentiary.

February 15, 1895. Jacob Engels. Sentenced June 25, 1892; county, Monroe; crime, burglary, third degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of two

years, seven months and eight days, actual time, from July 9, 1892.

Engels took a harness, worth about $14.00, from the stable of a man with whom he was in the habit of associating, and pawned it for $2.00. The owner recovered it at once and without expense. Engels having pleaded guilty of burglary was sentenced to the Reformatory and was transferred, in August, 1893, to Auburn prison. The judge, the district attorney, the complainant and other citizens of Rochester ask that he be released, his punishment having greatly exceeded what was intended when the sentence was pronounced.

February 19, 1895. Frank Walker. Sentenced November 19, 1891; county, Allegany; crime, forgery, second degree; term, six years and nine months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years and five months, subject to commutation, from November 24, 1891.

The forgery formed part of a conspiracy, the purpose of which was to extort money from the complainant. Two of those charged with complicity in the affair were convicted and sent to State prison, Walker, who was tried first, being sentenced to imprisonment for six years and nine months, and his accomplice, who was tried something more than a year afterwards, to imprisonment for four years and five months. Walker's guilt was no greater than

that of the other conspirators, and no reason exists for making his punishment any greater; and Judge Norton, who presided at both trials, recommends that his sentence be reduced to correspond with that imposed upon his accomplice.

In this recommendation the district attorney, who procured both convictions, concurs. The petition is signed by eleven of the jury who convicted Walker, and by other citizens of Allegany county.

February 20, 1895, George W. Cram. Sentenced January 8, 1895, to be executed; county, New York; crime, murder, first degree.

Sentence commuted to imprisonment for life in Sing Sing prison.

From the statement of the case as made by Judge Ingraham, who presided at the trial, and from a careful examination of the stenographer's minutes, it is quite clear that although Cram may not have been insane in such a sense as to render him legally irresponsible still his mind was seriously impaired and to such an extent as to make it unwise to inflict the death penalty.

Before he committed the crime he had always been a man of excellent character; he is now old and feeble and can live but a short time in any event; Judge Ingraham very strongly urges a commutation of the sentence; and in view of all the circumstances imprisonment for life will be a safer punishment and will fully answer all the demands of justice.

February 25, 1895. Isaac White. Sentenced January 16, 1895, to be executed; county, Franklin; crime, murder, first degree.

Sentence commuted to imprisonment for life in Clinton prison.

The commutation is recommended by Judge Kellogg, who presided at the trial, by the district attorney who conducted the prosecution and by many citizens of Franklin county, including most of the county officers and members of the bar and practically all the prominent business men of the town of Bombay where the crime was committed. Judge Kellogg after stating the facts of the case says, "It is hardly possible to conceive that one would be guilty of deliberate murder in the manner in which this was perpetrated, without having some preparations made in advance for the concealment of the crime.

"There is in fact nothing in the proof which points with any degree of force to any premeditation on the part of White; while on the other hand there is much, namely, lack of motive, the most friendly relations existing between the parties, lack of preparation for the concealment of the crime — to indicate that the killing was done as the issue of some sudden altercation or controversy between the parties at the very time of the killing. I do not say that there was enough of this character of testimony showing clearly a lack of premeditation to make it the duty of the presiding justice to instruct the jury that they were not authorized to find the degree of crime to have

been murder in the first degree.' The more I have thought of this matter, however, the more I have become firmly convinced that there was a reasonable doubt on the proof presented by the people, that any premeditation or deliberation was shown."

February 28, 1895. Patrick Beahan. Sentenced February 19, 1870; county, Monroe; crime, murder, second degree; term, life; prison, Auburn.

Sentence commuted to imprisoment in Auburn prison for the term of twenty-five years and ten days, actual time, from February 20, 1870.

The homicide was the result of a fight between Beahan and the deceased. Both men were under the influence of liquor, and the deceased was at least equally to blame with Beahan for the quarrel. There was very little in the case to warrant the inference of an intent to kill, and a conviction of manslaughter would have been more consistent with all the facts. When passing sentence the judge, Hon. T. A. Johnson, said he would be willing to recommend a pardon at the proper time if Beahan's conduct in prison showed him worthy of it. The judge is now dead, but clemency is very earnestly recommended by the district attorney who prosecuted the case, by the present district attorney who was an eye witness of the affair, by Judges Davy, Werner and Sutherland and by other prominent citizens of Monroe county. Beahan's character before he committed the crime

was good, his conduct during his long imprisonment has been exemplary, and his punishment has been sufficient for all purposes of justice.

March 22, 1895. John Atkinson. Sentenced November, 1, 1888; county, Onondaga; crime, burglary, first degree; term, nineteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of ten years subject to commutation from November 2, 1888.

Technically the crime may have been burglary, but it seems clear that there was no intent to steal. It was Atkinson's first offense, and Judge Northrup, who presided at the trial, makes the application for clemency, saying that the sentence was altogether too severe, and urging very earnestly that it be reduced to ten years. The district attorney who conducted the prosecution favors the application.

April 1, 1895. John Benton. Sentenced November 17, 1892; county, Genesee; crime, burglary, third degree; term, three years and six months; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of two years, four months and fifteen days, actual time, from November 18, 1892.

The commutation reduces the sentence about three months, and is granted on the application of the district attorney who had charge of the prosecution.

This was Benton's first offense; his co-defendant was released by special commutation in November last; persons dependent upon him are in great need of his support, and immediate employment is promised him.

April 1, 1895. James Warren. Sentenced November 5, 1891; county, New York; crime, grand larceny, first degree; term six years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for three years, four months and twenty-seven days, actual time, from November 6, 1891.

There is grave doubt as to Warren's guilt. He was a man of good character and the evidence against him was quite weak. But if guilty the sentence was more severe than the nature of the case demanded. The term as commuted is sufficient.

April 8, 1895. James Brady. Sentenced May 27, 1889; county, New York; crime, burglary, second degree; maximum term, ten years; prison, State Reformatory; transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and Clinton prison for the term of five years ten months and three days, actual time, from June 8, 1889.

Brady's co-defendant, an ex-convict, was sentenced to the State prison for six years, and was discharged in July, 1893, having earned the commutation allowed for good conduct. A lighter punishment was intended for Brady, and accordingly he was sent to

the Reformatory; but the intention of the court seems to have been frustrated by his transfer to the prison, where he must remain until March, 1897, unless sooner released by executive intervention. The judge and the district attorney recommend that his application for clemency be granted.

April 8, 1895. Louis Burnash. Sentenced February 9, 1892; county, Erie; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory; transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and Clinton prison for the term of three years, two months and two days, actual time, from February 9, 1892.

The prisoner stole a watch worth forty dollars, acknowledged his guilt and gave information whereby the watch was recovered. He was then sixteen years old. He remained at the Reformatory about five months and was then transferred to the prison where he has since been. His punishment has been more severe than he deserved and the judge and the district attorney recommend clemency.

April 8, 1895. Morris Fischel. Sentenced December 21, 1888; county, New York; crime, forgery, second degree; maximum term, ten years; prison, State Reformatory; transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and Clinton prison for the term of six

years, three months and twenty days, actual time, from December 21, 1888.

Fischel presented a forged order for a tub of butter. The forgery was detected at once and he was arrested. No loss accrued to any person. The judge and the district attorney recommend that he be released, having been punished far beyond what the crime merited.

April 8, 1895. George Brady. Sentenced May 27, 1892; county, New York; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of two years, ten months and nine days actual time from June 1, 1892.

Granted on the recommendation of the judge and the district attorney. Brady and two other boys were caught in the act of stealing some copper tubing which had been left on the street. Brady pleaded guilty of grand larceny and was sent to the Reformatory. The other boys older than he stood trial, were convicted of petit larceny and were sent to the penitentiary for six months. Brady's punishment has been altogether out of proportion to the offense and further imprisonment would seem unjust and oppressive.

April 11, 1895. Frank L. Wallace. Sentenced October 20, 1892; county, Erie; crime, grand larceny second degree; maximum term, five years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of two years, five months and twenty-one days, actual time, from October 22, 1892.

The prisoner pleaded guilty to a charge of stealing property worth about forty dollars. The judge who sentenced him writes that Wallace was then about twenty years of age, of good appearance and fair education, but a stranger in the city where he was convicted; that he did not regard him as a proper subject for the penitentiary or the State prison, and, therefore, committed him to the Reformatory, expecting that he would obtain his discharge within a period of eighteen months; but that soon after his arrival there he was transferred to the prison for refusing to answer certain questions asked him by the superintendent. His conduct at the prison has been good, and the judge and the district attorney think that he has been more than sufficiently punished and ought as a matter of justice to be released. His refusal to answer the questions of the Superintendent, while perhaps not strictly justifiable, does not appear, under the circumstances, to have been altogether without excuse, and certainly did not call for unusual severity. But in any view of the case, he has received all the punishment that a

reasonable and proper administration of justice would seem to warrant and ought not to be kept longer in confinement

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April 15, 1895. J. Hiram Arnold. Sentenced June 5, 1891; county, Chautauqua; crime, arson, second degree; term, seven years and two months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, ten months and eight days, actual time, from June 9, 1891.

Recommended by the judge, the district attorney and other citizens of Chautauqua county. Arnold was convicted of setting fire to a barn. He was tried twice, the first jury disagreeing. Judge Van Dusen, who presided at the last trial, in recommending clemency says, "I had at the time and now have serious doubt of his guilt. His conviction was a great surprise to his counsel and to those generally who had watched the case. At all events he has served long enough."

April 19, 1895. John E. Marsac. Sentenced April 6, 1894; county, Richmond; crime, grand larceny, second degree; term, two years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year and fourteen days, actual time, from April 7, 1894.

Granted on the recommendation of judge, jury, district attorney and the complainants. In view of

the prisoner's previous good character his punishment has been sufficient. A wife and child are dependent upon him for support and he can obtain employment at once.

May 13, 1895. John M. Weber. Sentenced May 24, 1887; county, Albany; crime, burglary, first degree; term, fourteen years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of seven years, eleven months and thirteen days, actual time, from June 3, 1887.

The prisoner has less than a year to serve to complete his sentence. He was quite young when convicted of this, his first offense, and the judge, the district attorney and the complainant recommend that his petition for clemency be granted. His associate who received a severer sentence, being deemed more deserving of punishment, has been already released by special commutation.

May 22, 1895. Thomas Oke. Sentenced February 9, 1894; county, Erie; crime, burglary, third degree; term, three years and three months; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of one year, three months and fifteen days, actual time, from February 9, 1894.

Recommended by the judge and the district attorney; also by Edgar B. Jewett, Howard H. Baker,

Charles Lamy and other prominent citizens of Buffalo. This being Oke's first offense his punishment has been sufficient; he has a family in need of his support and can secure employment if released.

May 22, 1895. Joseph Collins. Sentenced September 24, 1891; county, New York; crime, burglary, third degree; maximum term, five years; prison, State Reformatory, transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of three years and eight months, actual time, from September 24, 1891.

If Collins had been sentenced to the State prison for five years, the maximum for burglary, third degree, he would, with legal commutation, have been discharged a month ago. No commutation is allowed at the Reformatory, but he has earned full commutation since his transfer, and the judge and the district attorney recommend that he be released.

May 22, 1895. William Rice. Sentenced October 3, 1887; county, Steuben; crime, robbery, third degree; maximum term, ten years; prison, State Reformatory, transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and Clinton prison for the term of seven years, seven months and twenty-one days, actual time, from October 3, 1887.

Allowance being made for good conduct, the term as commuted is more than a year longer than the

longest term prescribed for robbery in the third degree, and is all that justice will warrant.

May 22, 1895. Simone De Muzio. Sentenced January 10, 1893; county, Schenectady; crime, rape; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years, four months and nine days, actual time, from January 16, 1893.

Two trials were had in this case, the jury upon the first trial being unable to agree. Judge Cutler, who presided, writes that he was surprised at the conviction, and imposed the lightest sentence prescribed by the statute. Both he and the district attorney are firmly convinced of the prisoner's innocence, and unite in asking that his petition be granted.

May 22, 1895. Rudolph Metzal. Sentenced March 5, 1891; county, New York; crime, forgery, second degree; maximum term, ten years; prison, State Reformatory, transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of four years, two months and nineteen days, actual time, from March 5, 1891.

Metzal signed his employer's name to a check for fifty-five dollars, the amount due him for wages, and presented it at the bank. Payment was refused and he was arrested. The judge and the district attorney

recommend clemency, saying that he has served as full a term as would have been imposed had the sentence been for a definite period.

May 22, 1895. Frank Hedger. Sentenced February 24, 1892; county, Oswego; crime, assault, second degree; maximum term, five years; prison, State Reformatory, transferred to Clinton.

Sentence commuted to imprisonment in the State Reformatory and Clinton prison for the term of three years, three months and one day, actual time, from February 24, 1892.

Recommended by the district attorney on the ground of doubt as to the prisoner's guilt. But if guilty his punishment has been more than sufficient.

May 22, 1895. Charles Hopkins, sentenced June 28, 1889; county, Onondaga; crime, burglary and larceny after felony; term fourteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, ten months and twenty seven days, actual time, from June 28, 1889.

The sentence was too severe and is commuted on the recommendation of Judge Northrup, before whom the prisoner was tried.

May 23, 1895. Charles Fitzgerald. Sentenced March 15, 1892; county, New York; crime, burglary, third degree; maximum term, five years; prison, State Reformatory, transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison for the term of

three years, two months and ten days, actual time, from March 15, 1892.

Recommended by the judge and the district attorney. Fitzgerald was only 16 years old when he was sent to the Reformatory, and if allowed the usual reduction for good conduct, has served almost the maximum term for the crime of which he was convicted, a punishment much greater than the circumstances warranted.

June 11, 1895. Charles F. Wilson. Sentenced September 24, 1894, to be executed; county, Onondaga; crime, murder, first degree.

Sentence commuted to imprisonment for life in Auburn prison.

Charles F. Wilson was jointly indicted with his brother Lucius for killing James Harvey, a police officer of the city of Syracuse, on the 31st day of July, 1893. It was conceded on the trial that the shot which killed Harvey was fired by Lucius Wilson while the brothers were attempting to escape from the officer who had them under arrest; but Charles was convicted under a charge by the judge to the effect that if the shooting was in pursuance of any agreement previously made between the two brothers to resist, to the taking of human life if necessary, any attempt to arrest or detain them the jury would be justified in finding Charles guilty as if he personally had fired the shot. Although the

judgment was affirmed by the Court of Appeals, the sufficiency of the evidence to sustain a conviction upon the ground stated in the charge was seriously questioned. Three of the judges were of the opinion that the evidence furnished no sufficient basis for the charge given and were in favor of reversing the judgment for that reason. With such a division of the court upon the main question the case is clearly a proper one for relief from the extreme penalty of the law. Chief Judge Andrews, of the Court of Appeals, Justices McLennan and Vann, of the Supreme Court, and many leading members of the bar of Onondaga county, recommend that the sentence be commuted to imprisonment for life.

July 16, 1895. Antonio Glielini. Sentenced June 4, 1891; county, Onondaga; crime, murder, second degree; term, life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of fifteen years, subject to commutation, from June 5, 1891.

The prisoner appears to have been a peaceable man of good character and the crime was committed under circumstances of great provocation, rendering life imprisonment altogether too severe a punishment. The sentence is commuted on the recommendation of Judge Kennedy, who presided at the trial, of Attorney-General Hancock, who as district

attorney had charge of the prosecution, of J. J. Belden, E S. Dawson, C. T. Rose, Frank Hiscock, W. B. Kirk and other leading citizens of Syracuse.

July 16, 1895. John Weissenberg. Sentenced December 29, 1892; county, Niagara; crime, burglary, third degree, second offense; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, six months and eighteen days, actual time, from December 30, 1892.

Recommended by the judge and the district attorney. The prisoner has furnished valuable information to the police authorities of the city of Lockport with the understanding that he should be recommended for clemency.

September 17, 1895. John Wagner. Sentenced December 27, 1894; county, Erie; crime, grand larceny; first degree; term, two years; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of one year, actual time, from December 27, 1894.

Recommended by judge, district attorney, nine of the jurors and other citizens. In view of the limited part Wagner took in the commission of the crime and of his previous good character, imprisonment for one year will be enough.

September 26, 1895. Edward F. Gaynor. Sentenced January 25, 1895 ; county, Cayuga ; crime, petit larceny; term, one year ; prison, Cayuga County Jail.

Sentence commuted to imprisonment in Cayuga County Jail, for the term of ten months, actual time, from January 25, 1895.

The sheriff reports Gaynor's conduct during imprisonment to have been excellent and recommends that the commutation of two months which he might have earned in a penitentiary or State prison be allowed him.

October 7, 1895. John Bunyan. Sentenced November 24, 1893; county, New York; crime, attempt to commit grand larceny, second degree; term, two years and four months ; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison, for the term of one year, five months and twenty days, actual time, from April 24, 1894.

Bunyan is ill with consumption and cannot live out the remaining five months of his term. The warden asks for his pardon.

October 8, 1895. Joseph Mayette. Sentenced May 16, 1893; county, Wayne; crime, grand larceny, second degree; maximum term, five years; prison, State Reformatory, transferred to Auburn.

Sentence commuted to imprisonment in the State Reformatory and Auburn prison, for the term of two years, four months and twenty-four days, actual time, from May 16, 1893.

Within three months after his sentence Mayette was transferred to Auburn prison, not on account of

any misconduct at the Reformatory, but because the managers deemed it advisable. The district attorney recommends a pardon, saying that the offense was of minor character for which the punishment has been more than sufficient.

October 8, 1895. Silas Keyser. Sentenced April 19, 1877; county, Ulster; crime, arson, first degree; term, life; prison, Clinton,

Sentence commuted to imprisonment in Clinton prison for the term of eighteen years, five months and seventeen days, actual time, from April 24, 1877.

When the crime was committed, imprisonment for life was the only punishment provided by law for arson in the first degree. Since then the legislature has reduced the penalty to imprisonment for a term not less than ten years. While the circumstances of this case were of such a character as to demand punishment of considerable severity, still as no personal injury was inflicted, imprisonment for life seems excessive, and the prisoner ought in justice to receive some benefit from the change in the law. A sentence for thirty years would have been quite sufficient and with the usual reduction would have expired before this time.

October 8, 1895. George R. Patterson. Sentenced June 17, 1889; county, Monroe; crime, robbery, second offense; term, sixteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of ten years, subject to commutation from March 28, 1890.

The judge and the district attorney are of the opinion that imprisonment for the term to which the sentence is commuted will be sufficient.

October 8, 1895. Edgar M. Lyon. Sentenced December 7, 1893; county, Onondaga; crime, grand larceny, second degree; term, three years; prison, Onondaga County Penitentiary.

Sentence commuted to imprisonment in Onondaga County Penitentiary for the term of two years and six months subject to commutation from December 9, 1893.

A reduction of six months is granted on the recommendation of the district attorney and of many citizens of Weedsport where the prisoner formerly lived. His conduct during imprisonment has been excellent and fully warrants the belief that a thorough reformation has been effected and that he will refrain hereafter from violating the law.

October 8, 1895. Nicholas Colossi. Sentenced September 30, 1892; county, New York; crime, forgery, second degree; term, five years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years and nine days, actual time, from October 1, 1892.

This having been the prisoner's first offense, committed when he was but 19 years of age, the sentence seems somewhat excessive. The term already served with time allowed for good behavior is equal to four years and is all that justice requires. The judge, the complainant and others recommend clemency.

October 8, 1895. George H. Newton. Sentenced October 30, 1883; county, Ontario; crime, robbery; term, fifteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of twelve years, actual time, from October 30, 1883.

By escaping from the prison during the second year of his term Newton forfeited half the commutation of five years and seven months which he might have earned by good behavior. The escape does not appear to have been previously planned, but to have been made on the impulse of the moment, and in effecting it Newton did but little more than walk away from the place where he had been at work. After an absence of about five months he returned

voluntarily, and since then his conduct has been in every way commendable.

He asks that the unserved portion of the forfeited commutation, about nine months, be restored, and in view of the circumstances attending the escape, and of his conduct afterwards, it is deemed just to grant his petition.

October 8, 1895. Emil Schader. Sentenced August 24, 1894; county, New York; crime, burglary, third degree; term, three years and eight months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, one month and sixteen days, actual time, from August 25, 1894.

Recommended by judge and district attorney. The prisoner is quite ill and cannot recover.

October 22, 1895. Morris Spiegel. Sentenced December 27, 1892; county, New York; crime, presenting fraudulent claim against an insurance company; term, three years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, actual time, from October 25, 1894.

In view of the prisoner's previous good character, and of the fact that no actual loss resulted from the crime of which he was convicted, imprisonment for the term of one year is deemed a sufficient punish-

ment. Eleven of the jury and many other reputable citizens of New York petition for his release.

October 28, 1895. William Scovill. Sentenced October 4, 1892; county, Steuben; crime, assault, first degree; term, seven years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years and twenty-three days, actual time, from October 7, 1892.

The sentence was more severe than the circumstances demanded. No one was injured by the prisoner's act, and the question as to his intent is not altogether free from doubt. The judge and the district attorney regard the case as a proper one for clemency.

November 12, 1895. James H. Standish. Sentenced August 27, 1874; county, Saratoga; crime, murder, second degree; term, life; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of thirty-five years and three months, subject to commutation from August 27, 1874.

The jury seem to have dealt quite harshly with the prisoner in convicting him of murder. It appeared from the evidence that a sudden quarrel arose between him and the deceased, and coming finally to blows, he struck the deceased on the head with a flat-iron, which happened to be within reach, killing him.

In a legal sense the verdict was probably justified by the evidence, but there was in fact but little ground for the inference of an intent to kill. Judge Landon, before whom the trial was had, regards the case as a proper one for clemency. Until his conviction, Standish had always been a man of good character, and in view of all the circumstances, has received all the punishment deserved for his offense.

November 12, 1895. John V. Alexander. Sentenced June 28, 1894; county, New York ; crime, grand larceny, second degree; term, four years ; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of one year, three months and twenty days, actual time, from July 24, 1894.

It was charged against Alexander that while taking possession of property under a chattel mortgage he feloniously took and carried away certain articles of clothing not included in the mortgage. The articles referred to were of comparatively little value, and upon a careful examination of the evidence the intention wrongfully to appropriate property not mortgaged seems very doubtful. It appeared on the trial that Alexander's proceedings in enforcing the mortgage were exceedingly and unnecessarily oppressive, and this may have excited some prejudice against him. The commutation is fully justified by the doubt as to his guilt.

November 26, 1895. Thomas Kerrigan. Sentenced January 22, 1895, to be executed; county, New York; crime, murder, first degree.

Sentence commuted to imprisonment for life in Sing Sing prison.

The conviction was affirmed by the Court of Appeals, no error being disclosed by the record, and the evidence being legally sufficient to sustain the verdict; but it is clearly to be inferred from the opinion of the court that the judges regarded the case as a proper one for executive intervention.

It appears from the evidence that in killing the deceased Kerrigan acted under great provocation, and although this circumstance could not legally change the character of the offense, it is one which ought to be taken into account in determining the punishment. After a careful consideration of all the facts it has been deemed just to commute the sentence to imprisonment for life.

December 4, 1895. Frank Clapper. Sentenced December 8, 1892; county, Otsego; crime, arson, second degree; term, six years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, eleven months and seven days, actual time, from December 30, 1892.

Recommended by judge and district attorney. Clapper has served the greater portion of his sentence, and is dangerously ill with but little prospect of recovery.

December 4, 1895. Walter H. Blohm. Sentenced November, 10, 1893; county, New York; crime, grand larceny, second degree; term, three years and two months; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Sing Sing and Auburn prisons for the term of two years and twenty-six days, actual time, from November, 10, 1893.

This was Blohm's first offense. With the commutation earned by good conduct his term will expire in April next. Soon after his arrival at the prison he began to have convulsions, which have continued at intervals ever since, and he is now so much reduced by sickness as no longer to have the use of his lower limbs. There is no probability of his recovering and he asks that he may be removed to a hospital in the city of Auburn, where he can be cared for during the short time he has to live. The warden and the prison physician very earnestly recommend that his petition be granted.

December 11, 1895. Howard L. Bains. Sentenced October 9, 1893; county, New York; crime, grand larceny, first degree; term, four years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, two months and three days, actual time, from October 10, 1893.

Bain misappropriated part of the funds of the bank of which he was cashier and pleaded guilty to

the indictment found against him. His excellent character before this one wrongful act is abundantly attested by many leading bankers and business men of New York, including most of the directors and principal stockholders of the defrauded bank, who unite in a very urgent appeal for clemency. His family have been left penniless and wholly without means of support by reason of his imprisonment, and he can obtain employment immediately which will enable him to provide for them. Upon a consideration of all the facts it is believed that the petition may be granted without prejudice to the interests of justice.

December 11, 1895. Charles H. Laurence. Sentenced June 28, 1892; county, Niagara; crime, grand larceny, first degree; term, two years and five months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, two months and twenty-one days, actual time, from September 26, 1894.

The judgment of conviction was reversed by the General Term, but afterwards affirmed by the Court of Appeals. The commutation, granted on the recommendation of the judge and other prominent citizens of Niagara county, gives Laurence credit as part of his sentence for the time he was in confinement in the county jail while the appeal was pending.

December 16, 1895. Frank W. Clark. Sentenced December 23 1890; county, New York; crime, forgery, second degree; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of six years and three months, subject to commutation, from December 19, 1892.

On the recommendation of Judge Cowing, who imposed the sentence, the prisoner is allowed as part of his term the time he was detained in the city prison awaiting the decision of the appellate court.

December 17, 1895. Amedee Bigot. Sentenced December 21, 1883; county, New York; crime, murder, second degree; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of eleven years, eleven months and twenty-five days, actual time, from December 26, 1883.

Soon after the homicide a commission appointed by the court reported that Bigot was insane, whereupon he was committed to the State Asylum for the Insane at Middletown where he remained under treatment for about two years, and it then appearing that he had sufficiently recovered his reason, he was tried on an indictment for murder in the first degree and convicted of murder in the second degree, the verdict being accompanied with a recommendation of mercy. Insanity was the only defense and there was

much in the circumstances to support it. Dr. Selden H. Talcott, Medical Superintendent of the Middletown Asylum, writes that he is convinced from his knowledge of the case and of Bigot's condition when admitted that the prisoner was insane and wholly irresponsible at the time of the homicide. It also appears that he is now ill and quite feeble and in all probability cannot live long. Upon a consideration of all the facts it is deemed just to release him.

December 20, 1895. Max Erdtman. Sentenced April 7, 1893; county, Kings; crime, grand larceny, second degree; term, four years and six months; prison, Kings County Penitentiary.

Sentence commuted to imprisonment in Kings County Penitentiary for the term of two years, eight months and fifteen days, actual time, from April 7, 1893.

A little more than six months is deducted from the sentence which was somewhat severe for a first offense. Erdtman's previous character was good. He has been sufficiently punished. He has a large family in great need of his support and the district attorney recommends that his application for clemency be granted.

December 20, 1895. William J. Walsh. Sentenced April 7, 1893; county, Kings; crime, assault, second degree; term four years and ten months; prison, Sing Sing, transferred to Clinton.

Sentence commuted to imprisonment in Sing Sing and Clinton prisons for the term of four years, subject to commutation from April 7, 1893.

The commutation is granted so as to allow as part of the sentence the time Walsh was in jail awaiting trial.

December 24, 1895. George M. Nisbett. Sentenced February 21, 1893; county, New York; crime, forgery, second degree; term, five years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, ten months and two days, actual time, from February 24, 1893.

Recommended by the judge, the district attorney who procured the conviction, the complainants and all other parties whose rights or interests could have been in any way affected by the prisoner's act. With the time earned by good conduct Nisbett has served nearly four years of his sentence; this was his first offense; no loss accrued to any person and all the purposes of punishment seem to have been accomplished.

December 28, 1895. Daniel L. Mahoney. Sentenced March 10, 1893; county, Richmond; crime, arson, third degree; term, six years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, nine months and twenty days, actual time, from March 11, 1893.

Granted on the recommendation of the judge, the district attorney, the jury and many other citizens of Richmond county. The punishment already inflicted has been sufficient in view of all the circumstances of the case.

RESPITES

April 22, 1895. Robert W. Buchanan. Sentenced August 14, 1893, to be executed; crime, murder, first degree; county, New York.

Respite granted until May 1, 1895, on the application of the prisoner's wife.

May 1, 1895. Robert W. Buchanan. Further respite until May 8, 1895.

It is claimed on behalf of the prisoner that execution of the sentence is stayed by an appeal taken by him to the United States Supreme Court from an order denying a motion for a writ of *habeas corpus*. The district attorney denies that an appeal has been taken and asks that a respite for one week be granted so that all doubt in regard to the matter may be removed and the necessity of obtaining a re-sentence be avoided.

December 17, 1895. Bartholomew Shea. Sentenced July 5, 1894, to be executed; crime, murder, first degree; county, Rensselaer.

Respite granted until January 7, 1896. Shea's relatives ask that the execution may not occur in Christmas week.

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