

Farewell address
of
Redfield Proctor
As it appears in the
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Tuesday, October 6, 1880
Farewell Address

Gentlemen of the Senate and House of Representatives:

You meet in an auspicious time. The State is out of debt. The expenses have been reduced in almost every direction for the last biennial term, and especially for the last year. The favorable effect of recent legislation points out the way to further improvements in our State administration. Reports will be submitted to you showing causes of increased expense in the past, and suggesting remedies. It is the session at which amendments to the Constitution may be proposed, and these may be necessary to carry out all suggested reforms. You will have full facts upon which to act understandingly, which has not been the case at previous sessions. Your responsibilities are great, and your opportunities are correspondingly so; may your good hearts and good sense have the guiding care and aid of supreme wisdom and virtue.

Believing that the course of my predecessor in submitting a message at the close of his term is worthy of imitation, I have followed it. I have no share with you in the legislation of the session and hence it is not my part to offer general views about the policy to be pursued, but merely to speak of some matters where the record of my official action or the experience of the last two years may be of use to you. I may go too far in giving suggestions, but if so, I know that you and the people you represent will be not unkindly critics if you believe the intention was for the public good.

REVISION OF THE STATUES.

Under the act of the last session providing for the revision of the public laws, I tendered the appointment of first commissioner to the late Governor Peck, and for some time had strong hope that he would accept and lend the State in this work the aid of his great wisdom and learning. But he decided that he did not feel equal to the task in addition to other duties which he had undertaken, and I then appointed Hon. Charles W. Willard and Hon. Wheelock G. Veazey.

Of Mr. Willard I cannot trust myself to speak impartially. A much loved classmate and friend from boyhood, my appreciation of his rare qualities might be deemed extravagant, but if I go beyond others it is because I knew him better. The revision was a great undertaking for one in his feeble health. He however undertook it cheerfully and with confidence, and I knew that whatever he did would be done with such care, system and judgment, that if he was unable to complete it, the work would not be lost, but that his discriminating taste in classification and arrangement, sound knowledge of the law, and his terse and correct use of language would guide and assist whoever might go on with it. Fortunately he was spared until the greater portion was completed, and until the whole had been gone over, so that his associate, Judge Veazey, and his son, Mr. Ashton R. Willard – who had been a valuable assistant to his father throughout – fully understood his views. Judge Veazey has completed it, employing young Mr. Willard and others to assist him. The price agreed upon for the entire work to this time was \$4,000.

The consideration of this revision will be the great work of your session. It will require careful examination, but I believe as a whole the work has been exceptionally well done. Mr. Willard had no other business, and so gave his whole time and thought to it, which a man in active practice could not have done. He fully realized its importance, and that it was the last public duty of a life which had been full of good service for his State and Country, and he made it a labor of love.

CONSTITUTIONAL AMENDMENTS.

We have within a few years made a decided advance in the right direction in rejecting special legislation, and providing for whatever is needed by general laws, where they can be made applicable. It is coming to be more and more in other states a constitutional provision to prohibit special and local legislation. Other not uncommon provisions are the prohibition of the issue of bonds, or the contracting of debts by the State or towns in aid of railroads or other improvements; that all charters granted by the Legislature must be held subject to

State authority; that the Legislature cannot elect its own members to office; that the Governor may veto separate clauses of appropriation or other bills. All these are in the direction of good legislation.

We do not literally comply with the requirement of the Constitution in regard to counting votes for State officers. If the present provision is impracticable, it should be changed. The point has been made that there is an ambiguity in the provision of the Constitution in regard to the power of the Governor to grant pardons in cases of treason and murder. It is claimed by some, though without good reason, in my opinion, that the words "*but not to pardon*" in that clause of the Constitution were originally parenthetical, and that the Governor has power merely to grant reprieves until after the end of the next session of the assembly, and no power to pardon at any time in these cases. A slight change of phraseology will remedy the defect if one exists.

It has also been claimed that a reprieve destroys the force of the original warrant for the execution of the criminal, and that there is no method provided for issuing a new one. On this point, however, the better opinion is that the reprieve merely suspends the operation of the warrant until the expiration of the reprieve. I refer to these two points not because I deem them important, but they were points raised in the Phair case and you may think a change required. And in this connection I wish to call your attention to the implied requirement of the Constitution in regard to.

COMMUTATION OF DEATH SENTENCE.

The Constitution provides that the Governor in capital cases "shall have power to grant reprieves but not to pardon until after the end of the next session of assembly." This implies plainly that the Legislature may act upon a case, and it is under this clause, and from the fact that the supreme power is vested in the Legislature – unless specially placed elsewhere – that the Legislature acts in commuting capital sentences. While the Constitution remains as it is, no criminal can be executed until after the session of the Legislature succeeding his sentence. This is not the proper tribunal to try such cases. Any one who, without any experience in the matter, considers it, will be satisfied that such questions should be tried by a board accustomed to consider and weight legal evidence; by a board small in number, and so constituted that appeals to personal sympathy on the one hand, or to prejudice or popular clamor on the other, can have little weight; and you who were members of the last Legislature must agree with me that experience strengthens this view. This is no place to try a man for his life.

There has been an unprecedented number of executions during my term. The cases have all been brought to my attention by counsel and friends. I examined them all with some care, and had an opportunity to know something of the condemned men and their crimes, of their condition of mind, of how they received the action of the courts, the Legislature and the executive; and, also, to know the views of the people. The effect of delay caused by this right of appeal to the Legislature is in every way bad. Punishment to have any restraining effect must be sure and swift, and strong enough, at least, to deter others. The long delay destroys its force, the crime is an old story, the community begin to sympathize with the prisoner, and in the end the execution of the law, which, while the memory of the crime was fresh in mind seemed fully deserved, now seems almost like a second murder.

The effect of the delay upon the condemned man himself is also bad. If he had but a short time to live after his sentence he feels its terrible force and justice; he gives his time to preparation and is in a much better frame of mind to make confession and atonement, so far as is in his power. But if he knows that he has one or two years to live he sees great opportunity – judging by the past – to get this time extended, or get his sentence commuted. He devotes himself to that end, and, of course, stoutly maintains his innocence; he knows that others no less guilty sometimes escape; he courts and enjoys the false sympathy so readily bestowed. He convinces himself that he has been wronged; grows more and more hardened and dies unrepentant.

It is not my place to recommend any board or other method in which this power of commutation should be exercised, but I am very decided in my view that the Legislature should have nothing to do with it, and that capital punishment should follow after sentence at such time as the court in its discretion may order. The law of the last session permitted the time to be shortened as far as is consistent with the Constitution, but could under the Constitution only have the desired effect when the sentence was but a short time before the session.

The same board of authority which exercised the power of commutation might also exercise the pardoning power in important cases at least. The operation of the law of last session requiring publication and allowing one or more judges to be called in has been salutary. Some applicants, hearing that the notice must be published in the county where the crime was committed, have wisely decided not to face public opinion. But this law is of little force under the Constitution unless the Governor chooses to use it. We need some provision more stable in character. Application for pardon, so far as may be, should be determined by some fixed rules and principles, applying alike to all cases.

Under our practice a pardon is granted on urgent personal appeal in one case; in another, just as deserving, but pushed with less pertinacity it is refused.

In the exercise of this power I have aimed to be careful about releasing those convicted of great crimes and have become more and more convinced that it is seldom wise to interfere with the action of the courts. I have pardoned several sentenced for lighter offenses where the term had nearly expired, and from the circumstances a pardon seemed to be a deserved encouragement to a young man, or one not a hardened offender; several on account of ailing health, in all cases of importance having the approval of the judge who tried the case.

STATE PRISON

On my visit to the prison, during the session of 1878, the lack of discipline and system was so apparent, that I decided to appoint a new superintendent at the expiration of Mr. Spencer's term, December 1st, and so informed him. During that session I tried to find a man in the State for this position, but could not find one who combined experience and all the other requisites. The affairs of the prison were in such a loose condition, both in the discipline and in the business part, that a man of experience and rare capacity was required. I was sorry to feel obliged to look outside of the State. Mr. Rice was not an applicant. His coming here was not of his own seeking, but I learned of him by inquiring among men familiar with the prison affairs of the country, and wrote Governor Connor a personal letter of inquiry, setting out the unfortunate state of affairs in our prison, and the need of more than a common man. His reply was a strong recommendation of Mr. Rice as the only man in his knowledge whom he would appoint to such a position. So far as I have able to learn, every one who has had an opportunity to know agrees with me that Mr. Rice fully answers the recommendation. He being a stranger in the State, I feel it but simple justice to him to refer to this matter so fully.

Soon after he went into office, he found irregularities in Mr. Spencer's accounts. These were quite difficult to trace, but were faithfully investigated, and the result was that Mr. Spencer's bondsmen paid over to the State a little over \$1,500, which he had received and failed to account for. I informed the State's attorney, but as the largest item was barred by the statute of limitation, he decided that it was not advisable to commence a criminal prosecution.

The construction of the new workshop and chapel at Windsor, was in charge of director Parker, whose wise and economical management in this as in all other matters connected with his administration, has been creditable to himself and of great benefit to the State. Though I might justly commend every State officer for faithful performance of duty, I am glad to make special mention of the chairman of the prison board, Mr. Bingham, whose good sense and judgment are never at fault.

The directors of the State Prison and House of Correction think a law would be advisable, giving directors authority under some regulation, perhaps with the approval of a Judge of the Supreme Court, to transfer prisoners hereafter sentenced, from one institution to the other. This would avoid overcrowding in either, as has been the case at both places at different times within two years. One would be crowded while the other was not full. Sometimes there are other reasons for a transfer, either in the character or conduct of the prisoner; and, of course, there is the liability that by failure of contractor, fire or other accident, the prisoners might be thrown out of work at one place, when a part of them could be employed by transfer to the other. This transfer could be made by the officers of the institution, and would entail no cost but the actual railroad fare paid out, and of course would not be made unless for the profit of the State.

TRANSPORTATION OF CONVICTS.

Persons sentenced to prison, and those sent to the House of Correction, from a shire town at least, might be transported to the prison or House of Correction by the officers of those institutions, and a large expense saved. This is the law of Maine and some other state, I believe. The cost would be merely the actual cash paid out, and commutation tickets would reduce this to a very small sum. An officer could almost always be spared long enough to go to any part of the State for prisoners. I am not able to give the amount of this expense, but it is quite large, and the subject demands attention. If the present system of fees is retained they are too high in some cases.

REFORM SCHOOL EXTENSION.

A law was passed at the last session appropriating ten thousand dollars for new buildings at the Reform School, but with a provision "that no part of the money should be used without the consent of the Governor." The trustees in 1879 and again in 1880 voted unanimously to carry out the provisions of the act, but I felt it my duty to withhold my consent for several reasons. The number of inmates has been reduced since December 1, 1878, from 129 to less than 100 at the present time. I believe the number can be reduced to 60 certainly, and probably below fifty, with great advantage to the future welfare of the boys, as well as economy to the State. The average term for which the boys have been confined there has been gradually increasing, until it has reached a point far beyond what it ought to be.

Confining boys there for very trivial offenses for three, five, eight and even ten years, seems to be a great stride towards a parental government and an unwarrantable interference with the personal rights and liberty of the subject. Besides this, in a majority of cases this long term at the school has anything but a favorable effect on the boys themselves. The experiment of congregating a large number of youthful delinquents together is now admitted by the best authorities to be a failure; nature and experience are against it. In the Westboro School in Massachusetts, there were nearly four hundred boys at one time. It was enlarged to make room for six hundred and fifty, and, as the trustees thought in 1876, was likely to be kept full: but it contained last winter only one hundred and thirty-eight. The addition of 1876, built for two hundred, now lodges about thirty, and it was contemplated at the time of the last report to close it entirely. The reasons of this falling off have been partly the great expense and partly the fact that other methods have been found more efficacious for reform. In Massachusetts now there are a larger number of children for whom places are found in families than are in the three State Schools. Those in families are treated as wards of the State, and are visited and their condition reported.

It is a matter of sharp dispute among the best students of reformatory methods, and was debated at the last meeting of the National Conference of Charities, at Cleveland, whether the congregated system, as it is called, to which our Reform School belongs, is not a failure. It would be very unwise to invest more money in buildings until this question of whether we are on the right track or not is settled. However that may be, I feel sure of this, that it is for the welfare of the State, throwing out the question of expense entirely, and considering merely the preparation of the boys for future citizenship, to so reduce the number that the present buildings will be ample.

The plan of binding out till of age I do not consider the best one, but finding a good place for the boy for a year or more, and then if he does well leaving him some voice in the choice of the place, and in fixing the price for his labor, but still under the care and control of the State authorities; a combination of the binding out and probation systems, with as much of the latter as the case will admit of.

The Reform School should be a mere stepping-stone to the family. *That* is the proper place for childhood and youth, and if through misfortune they lose this healthy influence, the State will do them the best service by restoring it as quickly as possible. In our agricultural State, where good places are readily found, I am sure this policy will sometime be adopted to a much greater extent than heretofore. Boys cannot be fitted for the work of life within four walls, or congregated in an institution of this kind, but only by actual contact with the world, under the best influences we can throw around them.

Mr. and Mrs. Fairbank are faithful and devoted officers; it would be difficult to fill their places. I wish to say everything possible in regard to their faithful discharge of duty as they understand it. They have great enthusiasm in their work, but this very enthusiasm possibly leads the superintendent to over-rate the benefit his institution confers upon its inmates. From his stand point few boys would not be improved by a course in his

school, and the longer the better. Every man in charge of a great institution of this kind likes to see it flourish, is naturally glad to have a large number under his charge, and, of course, if they are there for a long term they learn more, and can make a better exhibition of the advantages they have received. In saying this I say nothing more of Mr. Fairbank than what could be said of almost any man in his position who had that great faith and enthusiasm in his work necessary to success.

It does not with most boys promote manliness and strength of character. It is an unnatural and entirely artificial relation. We know that keeping a boy secluded from the ordinary relations and influences of life, even from its temptations, is not often the best way. They go out into the world with their physical strength and passion fully developed but entirely unused to the world. They have lost their pride and feel that there is a badge of degradation upon them, and are weak to resist temptation, and many of them fall readily into crime. Twelve have been in the State Prison and nineteen or twenty in the House of Correction during the last two years; and there is room for argument, at least, that a term in one of these institutions is more reformatory in effect than too long confinement in the school.

The method of arbitrary marking too, while to some extent necessary, when carried to extreme, tends to develop deceit and hypocrisy. The honest, manly boy, but with a boy's love of life and play, cannot reach the required standard so readily as the embryo "Uriah Heep," who can humbly and hypocritically adapt himself to the requirements. This may be "flat blasphemy" against the system, but it is my earnest conviction from a careful study of it as a whole, from what I have seen at the separate semi-annual examinations of the inmates, now required by the statute, and at other visits, and from the best examination I have been able to give individual cases.

Acting upon these views I have recently pardoned or remitted the fines of several boys. These had in my judgment fully satisfied all just requirements of the law. Doubtless I have erred in individual cases. It would have been better if they had been worked off by the superintendent and trustees to good places, and in the ordinary course of management. But these officers honestly differed with me, and believing that the greatest good as a whole of the boys and the State would be served by releasing them, and having examined the cases several times – which my successor could not do at present – there was no other course for me to pursue. I do not believe a greater proportion of these will find their way to prison than of those discharged under ordinary methods. Whatever the result the responsibility rests entirely with me.

An appropriation was made four years since for more sleeping room by raising the roof of the gun house. There was nothing done, but the appropriation was used for other purposes as the law allowed. That might now be done and furnish all the necessary sleeping room, and is the better method if anything is done. It would be better to have two sleeping apartments with a less number in each than to make new buildings to accommodate the whole, but I believe with proper legislation, and with an administration of the school on the plan I have suggested, with a view to help the boys to help themselves – which is the truest charity – by finding them employment as rapidly as possible and places in good homes, that the number can be reduced below fifty and no buildings required.

The suggestion of the trustees that more land should be purchased, when it can be done at a reasonable price meets with my approval. It is much better employment for the boys than the shop work. The land would be improved by their labor and ought to be no loss to the State. I do not believe it is advisable to start any system of complete manufactory because the number ought to be reduced so low that there will be little need of any work of this kind, and that the larger part of the inmates could be employed upon the land. The trustees suggest additional room for officers and guests. This is, however, much more needed at Windsor.

What is to be the future policy of the State in reference to the school is a question of great importance. The superintendent has great faith in his work and a rare faculty of impressing others with it. It is magnetic and contagious. Legislative committees are quite sure to agree with his views, though they are not always sustained by the calmer judgment of the Legislature.

In 1874 a bill (Senate bill 90) appropriated \$15,000 to purchase new buildings and machinery at Waterbury and enlarge them for the manufacture of chairs. The committee reported favorably, and after earnest opposition

and some restrictive amendments it passed the Senate. The House committee reported in its favor but the House refused it a third reading.

In 1876 a bill was introduced (House bill 103) for new buildings at Vergennes. The committee reported and recommended the passage of a substitute bill (House bill 332) the first section of which appropriated \$25,000 for a new building for the boys' department, of sufficient capacity to accommodate two hundred boys. The second section appropriated \$5,000 for a barn. The first section was stricken out in the House by a vote of 179 yeas to 25 nays, and the second section only passed.

The act of 1878 was favored by the committee but came near defeat. I refer to these bills, and especially to the one of 1876, as foreshadowing a policy which would entail an enormous expense on the State, and with no good but positive harm, as I believe.

The expenses now surpass the probably average of the prison and House of Correction combined. No officers could be more faithful in the discharge of duty than the trustees and all the officers have been. The trustees have undertaken much extra labor under the law of the last session in correspondence and other ways, and have been prompt in performing it. Our difference has been in no manner personal. It was merely that they accepted more of the policy which has hitherto prevailed in the management of the school than I could possibly subscribe to.

An item of State expense which ought to be borne in larger part by the towns is that of the Reform School. The towns now pay fifty cents per week. The trustees agree with me that it should not be less than one dollar. I think one dollar and fifty cents would be still better, and would not any more than cover the expense. There will be many less sent under such a law, and with no bad result to the good order of the community. We have discharged some or required the towns to pay one dollar and fifty cents per week. But the people of the town know much better than the trustees can whether a boy really needs the restraint and discipline of the school, or whether he is sent to get rid of him and shift the expense on the State.

If providing him with a good home or other means is all that is required, he will not be sent to the school if the town pays the expense, and still all will be sent who ought to be, as the people of the town are the sufferers if this is not done. The present law requiring towns to pay fifty cents per week has considerably reduced commitments, but not a few improper ones are still made, and more legislation in this same direction will largely diminish the numbers with no harm to the state.

HOUSE OF CORRECTION.

Little need be added to the report of the directors in regard to this institution, first recommended by Governor Peck, and again by Governor Fairbanks, as the best remedy for the evils of the jail system. It has answered the requirement. The jails in the larger towns had become schools of vice and crime, enormously expensive to the State, and serving little purpose for punishment; none for the prevention of crime.

The expenses in 1877 exceeded \$20,000, in 1880 they were less than \$9,000, and the balance of \$12,000 saved, may be fairly put to the credit of the House of Correction, together with the better execution of the law, as shown by the amount of fines and costs paid for the last year \$16,000 in excess of former years. The jails in fact, exerted no restraining influence. Many of the habitual violators of the law looked forward to a winter in jail as a sure provision for that inclement season. It was no object to pay a fine; the State had practically assumed to support them in idleness for life unless the Governor interfered by pardon. The evil was increasing with great rapidity, as is proved by the increasing number of pardons granted to this class. This was the only course for the executive and it was quite as well to do it quickly, for it was no punishment to keep them there. My predecessor released 195; remitting fines amounting to \$8,000.

The saving of jail expenses, and the better collection of fines will soon pay the whole cost of buildings and support. The buildings are well located and conveniently arranged, and the grounds are in good order. Mr. Simons has been the local director from the first, and has had the laboring oar in planning and erecting the buildings, in the details of equipment and organization, and, with a new institution on a new plan with inexperienced men in all departments, it has been no slight task. He is entitled to great credit for his perseverance and success. The provisions which now apply only to the prison of commutation of sentence for

good behavior, and authorizing the superintendent to pay needy discharged convicts enough to take them home, should be extended in some form to the House of Correction.

MANAGEMENT OF STATE PRISON, HOUSE OF CORRECTION AND REFORM SCHOOL.

The law of the last session placed the State Prison and the House of Correction under one board, so arranged that at least one member should hold over. The working of that law has been very satisfactory to me, and I think it very important that the Reform School should be placed under the same board. Although the institutions differ somewhat in character, yet this difference does not apply to the duties of the directors or trustees. They have little to do with the inmates. In either case it is their business to settle the accounts, see to the purchase of supplies, make contracts for labor, expend the appropriations for new buildings, and in general supervise the business interests of the institution.

Now, one board having charge of the three institutions will be able to apply what good they find in one to the others, and will acquire during their terms in the management of the three a much better knowledge of their duties; they will have a better plan and system of administration. There has been a lamentable lack of this heretofore. There were, for example, three different methods of drawing money and settling accounts, a different one for each of these three institutions, different methods of appointing superintendents, different requirements about reports of directors and superintendents, about paying over moneys to the State Treasurer, about by-laws, about the appointment of assistants, and other differences entirely without reason.

One board of managers will look at the wants of the whole State. If buildings are needed or asked for at all of them, they can judge where they are needed the most, and their report will be some guide and help in legislation. Heretofore each board has represented the wants of its institution, and it was quite as likely to be a question of who worked the hardest, whose importunity was the greatest, as of whose needs were the greatest.

Monthly visits of three trustees to any of these institutions is a useless expense. A better plan is to have one of the board primarily responsible for each institution, visiting it once a month, or as often as need be. He feels then a personal responsibility, and will look after the details quite as well as a board of three. The whole board can meet at stated times, perhaps once a quarter. The saving in expense is considerable, as the mere pay of a board will cost from \$500 to \$1,000 per year, and a board having charge of all the institutions of this kind in the State, and the responsibility of the whole expense being upon them, is more likely to consider points of economy than a board having charge of but one, and who will very likely want to mark their term of service by some new building or other improvement.

In other states it has been found to bring an improved administration, and to diminish expenses, to abolish all these separate boards of charities and correction, and combine their duties in one board. One board of this kind would be likely to have a longer tenure of office, to be chosen more carefully with reference to the importance of their positions, and to acquire a better knowledge of their duties. That the Governor and Lieutenant-Governor should be *ex officio* members of this board is wise. They will have an interest in the success of their administration and a more direct responsibility to the people.

INSANE ASYLUM.

The institution is excellently managed, and the commissioners have discharged their duties well. The present system is an improvement on the old one, but would it not be better to give the appointment of the commissioners to the Governor by and with the advice and consent of the Senate?

Ordinarily, such appointments are left with the executive, not so much with a view of securing better appointments, but principally to avoid a disturbing element in a large deliberative body of this kind. I certainly could not have improved upon the choice of the last Legislature.

The number of the insane poor has increased rapidly since the State bore the expense. Some are sent to the asylum to relieve towns or friends of their support who are merely demented but quiet and harmless, and might be cared for elsewhere. But the superintendent must keep them, as they are technically insane. There would be fewer insane poor, fewer importations of transient insane from neighboring states, and more careful investigations of questions of legal settlement, if the towns paid the expenses.

The tables submitted by the commissioners will show you what part of this expense is borne by the State and what by towns, and I suggest a careful examination of them. It will be seen that, as a rule the proportion paid by the State is much larger from the large than from the small towns. This, no doubt, comes from the fact that more of the transient insane find their way there, and perhaps less care is exercised in ascertaining whether they have a legal settlement – or to send them to their homes if they are from out of the State. If every town was obliged to support the transient insane thrown upon it in this way, they would be likely to take effective measures to find where they belonged; but, as it now is, they have nothing to do but to throw the burden on the State, and there is no proper guard against this being done unjustly.

We have now an ingenious device forgetting up a law suite between the town and State on this question of settlement, in which the people have the privilege of paying the expense on both sides and supporting the pauper at last. Other states have systems of returning persons who become a public charge within a certain time, and require the railroads and vessels which brought them in to furnish them transportation to the place from which they took them. They are returned to us in that way. We have no State method of guarding against these importations on the part of our neighbors, but where the towns have the bills to pay, there is no danger. The State ought not to pay any part of the expense of that class for which it now pays \$1.00 per week.

In regard to the other class, the transient insane, so called, meaning those who have no legal settlement in any town in this State, it may be said that if their support fell upon the towns they would not send them to the asylum in some cases where they ought to, and that they might not be properly cared for. There should be a method by which a complaint could be entered, and the town required to do its duty. It is stated on good authority, that the insane inmates of the Massachusetts cities and towns alms-houses are well treated, and those best versed in such matters, keep the harmless insane away from the asylums. It is admitted, too, that we have gone too far in building great sanitary and reformatory institutions, and that a truer method is to separate, whether we consider the expense or the results of cure or reform.

Some will claim that humanity requires that every person of unsound mind should be sent to the asylum. This is an easy way of putting a disagreeable subject out of sight. No man can draw an exact line where reason loses sway and insanity commences. A better humanity would send to the asylum those who need special treatment or restraint – would require that all such should go, and allow none to go who would be as well cared for elsewhere, and would receive harm rather than benefit from the association. What should be done with the convict criminal insane is fully discussed in the reports of the asylum and prison officers.

COURT EXPENSES.

The report of Judge Veazey, and the suggestions of the auditor, present this matter so fully and so ably that it requires no discussion from me. I authorized an expenditure of about sixty dollars to prepare the tables submitted by him, believing that they would be great use to you.

Fees are in some cases large, but the greater evil is in the overcharges and double charges for what is really but a single service. Judge Veazey refers to this. It is carried on to such an extent that a radical cure is required. Some of the defects of the criminal law and of the causes of the great expense attending its administration, may be illustrated by an actual case:

In October last a man was complained of and brought before a justice of the peace for violation of chapter 94 of the General Statutes. He was fined on three complaints: for selling, for keeping with intent to sell and for keeping a nuisance. The costs were the same in each case, and it is fair to presume that the same witnesses were used in all three cases, as the fees were the same; and to presume that they were not paid, but that the fees remained in the hands of the justice. The respondent was found guilty, fined and sentenced on each complaint – unless paid within twenty-four hours – to the House of Correction to work it out. The sentences all dated from the same day, were all running at the same time, and of no more effect than one would be. He took an appeal. A fortnight later he was again complained of; found guilty of the same three offenses, and the whole process repeated. Shortly after he was fined for intoxication and appealed.

He entered none of the cases in the County Court, and the justices affirmed the judgment and sentenced him on each of the seven cases, the sentences all to date from the day of the rising of the court, all running at the

same time as before. The man was committed on the seven different warrants at once, but with *seven bills of cost*. The sentences aggregated five hundred and fifty-five days but as they all commenced at the same time the longest one alone was of any force. To complete the harmony of the whole transaction, the final sentences were probably illegal, for the original ones had expired before the adjournment of court, and affirming them and fixing a later date had no effect to give them new life in the absence of a provision of the statute to that end.

This case points out most of the abuses to be remedied:

1st. That when two or more complaints are tried in one, there shall be no double costs, unless possibly for the justices' fees.

2^d That witness fees not called for within a certain time by the witness shall be returned to the treasury. The auditor suggest a method for this.

3^d That where there is more than one sentence, the second shall date from the expiration of the first.

4th. That appeals for delay merely may be checked if possible, and that sentences may be legally affirmed after appeal as of the later date.

Our plan of allowing over sixteen hundred justices of the peace, who are really town officers, to run up bills of cost against the State, with no supervision or enforced accountability, seems devised to make expense.

Various methods have been suggested to remedy the evil: that the justices should be required to make full sworn returns to the county clerk, and should not be paid costs in any case until these have been made. The Governor might be directed in commissioning justices to specify one in every town, and two or three respectively, where the town is entitled to over five or over ten justices as State trial justices, and that no other should have authority to certify bills of cost against the State. This would so reduce the number of justices who could run us in debt that they might be required to give bonds if deemed advisable, or at least be kept under supervision and required to pay over moneys in their hands. It is in the administration of the liquor law, chapter 94 of the General Statutes, that the greatest needless cost occurs. This law with the penalties now affixed, might be made a source of large income to the State if properly regulated and administered.

The expenses attending commitments to the House of Correction can be reduced. The respondent is now allowed twenty-four hours in which to pay fine and costs, and the officer is allowed ten cents an hour for keeping him, and twenty-five cents for three meals. If the officer is a sheriff he may commit him to the jail, and possibly draw the forty-two cents a day from the State besides.

The respondent often wishes to waive this provision of twenty-four hours delay, and be committed at once to save the extra costs he is obliged to serve out, and should be allowed to do so.

The proposed modification of the grand jury law would many times save delay in bringing criminals to trial, and the expense of keeping them in jail as well as the expense of the inquiry.

Whether the right of trial by a jury of twelve men is essential in a case where a man under this right taxes his neighbors one hundred or possibly five hundred dollars to carry on a five dollar law suit admits of doubt.

Whether a man who discloses fully should be committed for intoxication, is questionable in my mind.

What Judge Veazey says about court auditors deserves consideration. State bills should be, as far as possible, supervised by the State Auditor, or under regulations fixed by him, and so absolutely under his control that there can be no variation. Our financial record for the past two years shows that there has been no carelessness on the part of the present auditor.

STATE TAXATION.

One great cause of the present unequal assessment of taxes is that we have a town system for levying the State tax, and each town is afraid that its neighbor will make a lower appraisal than itself, and so gain an advantage. Any measure which increases the taxes raised by the State would greatly aggravate this evil of unequal assessment as it would increase the temptation. The whole theory of our State government is based upon a township system, and we either ought to adhere to that where possible, or change it entirely and make a

State system. It is a great mistake on the part of the Legislature to throw any work or expense upon the State which can properly be borne by the towns. It is the fundamental principle of our State government, that the State should assume the least possible control or burden of municipal affairs. It is the great New England idea, and ought never to be lost sight of in legislation. Our town matters are, as a rule, well managed; everything is under the eye of the tax payers, and if officers make mistakes they are sure to be called to account. There is no so good system of municipal government for a rural population known. It has attracted the attention of statesmen of foreign countries. A great writer calls our townships "miniature republics in themselves."

Sometimes town representatives seem to think that if they can vote any expense from the towns to the state, it is so much clear gain. The people must invariably suffer by this course, for it increases the expense and it is the total amount of all the taxes, not the form in which they come, that concerns them.

Our system was framed with no reference to having these burdens borne by the State. The foundation is for a town system, and that should be changed if the superstructure is to be. We have not the proper machinery for doing the work nor checks and balances to stop mistakes and careless extravagance if we undertake it. The result is that the expense is very largely increased. I refer to some items in point by which you can see this tendency to increased expense when the State assumes it, under the heads of Insane Asylum, Reform School, criminal expense and others, and you can judge whether the cost is counterbalanced by greater benefits.

It has been proposed to provide for the State expense by levying upon the towns in proportion to their population, and allowing the town to raise money in their own way, thus avoiding the necessity of any State tax, and saving all the machinery of its collection. It does not at first seem that property is distributed in proportion to the population, so as to make this a just method, and I am not prepared to recommend it. But it is not so unequal as might at first appear, perhaps less so than our present method.

In the sparsely settled towns where there are few large tax payers there are but few poor. There is usually quite an amount of land owned by non-residents, while in the villages with some large tax payers there is also a large number who pay nothing but a poll tax, so that the average per capita in the different towns is more nearly even than might at first appear.

If the State expenses are kept at the lowest possible limit, and nothing assumed by the State which can be borne by the towns, the State tax can be kept so small that the temptation for unequal assessment will be much less than heretofore. In addition to this, some special taxes can be paid directly to the State without injustice to the towns, and if a method can be devised for raising the money necessary for State purposes without a separate tax, the evil of unequal assessment as between towns would be entirely obviated. Then the assessment in any town would be merely a question between citizens of the town in which it would be for ever man's interest to look out that his neighbor paid a just portion of the tax, while now, with a large State tax, all are willing to join together in consenting to an unfair valuation, excusing it on the plea that other towns do the same and they must not be surpassed in this race for precedence in fraud.

It was my view that the savings bank tax, under the bill of the last session, should all have been paid directly to the State treasury with no provision for a division among towns. Money evades taxation more than any other property, and the fact that a town has more than its proportion of this savings bank tax is evidence that it has a larger proportion of money. It is no real injustice then that a portion of this money tax should be taken from its town location and passed over directly to the State. The table presented by the inspector of finance will show you how this tax has been distributed. Let me here add that the officer's work at the last session in connection with this law, and the general law regulating savings banks and banking companies, is deserving of all praise, and makes an honorable record of sound finance. It has been a mooted question whether the railroad tax might not be paid in the same way, but this is a matter which would require very careful examination, and I am not prepared to express an opinion.

In some states the state expenses are largely paid by a tax upon corporations, but this would work unequally in this State, as corporations are so unequally distributed, and there is no reason why a manufacturing corporation should not be taxed where its property lies in precisely the same way that an individual is, but any just method of providing for the State treasury in whole or in part by some other method than a State tax is desirable.

Two years ago I expressed the opinion that the expenses might be so reduced that a tax of twenty cents would defray them. That expression was to some extent misinterpreted. I did not mean that a tax of twenty cents would surely be enough for that session, for the expenses were largely incurred, and the necessary reductions could not take effect at once; but I did mean that expenses could without parsimony be brought down so that a tax of twenty cents, one year with another, would be ample, and that view I repeat and insist upon, and if the result cannot be reached at this session, it is in your power to make it certain that this will be the last time that this amount need be exceeded for the ordinary expenses of the State.

JUDGES OF THE SUPREME COURT.

In the fall of 1879 the Hon. Walter C. Dunton resigned his position as one of the judges of the Supreme Court, and I appointed the Hon. Wheelock G. Veazey to fill the vacancy. Possibly it was not, under the Constitution, a proper question for me to consider whether I should fill the vacancy at all or not, but the need of having seven judges having been discussed by the last Legislature, I did consider the question before making the appointment. The older judges informed me that the business of the courts would suffer seriously unless the vacancy was filled at once. It was at the beginning of the General Term of the Supreme Court, and it was of great importance that the cases should be heard, and doubtful if they could be unless the appointment was made.

Whether the amount of business has decreased since that time, I am not able to state, but a reference to the report on the causes of the increase of court expenses will show you that there has been a large increase of business since 1860. In this connection let me add, that with an intense belief in every proper economy in State expenses, it does not seem to me that the Supreme Court is the point at which to begin. Of course, if six judges can do the business *promptly* and well, the number should be reduced; but it is not true economy that they should be over-worked or greatly underpaid.

I can think of no salaries, from the Governor's through the whole list, which would not bear reduction better than the judges. They are obliged to give their whole time and service to the State; they must be men of such character and ability as would command a good income in their profession; as good men as the State affords. Their expenses are considerable. The authority of Vermont decisions ranks among the highest in the nation, and any action that might deter the best men from this service, would not be true economy. As the salary now is, when a good lawyer has an opportunity to go on the bench, his first consideration is, whether he can afford it or not. Does this occur in connection with any other prominent State office?

COMMON SCHOOLS.

I refer to this topic only to illustrate the point of State and town expense. The pay of town superintendents of schools comes from the State. I cannot say how much this is or what are the benefits of the present method, but have been informed that the expense is needlessly large in some cases, and improperly made so because there is no local interest or public opinion to look after it. I judge that there will be propositions to throw more of the expense of common schools upon the State. I received from the superintendent of education, in March last, a circular letter asking my opinion of the justice and advisability of a bill which was introduced in the Senate (Senate bill 272) at the last session, but which was then refused the third reading. The bill proposed to levy a State school tax of twenty-five cents on the dollar for school purposes. Of course the object is of the greatest importance, but an increase of the taxes raised by the State would greatly aggravate the present evils of our assessment, and ought not to be made unless we are prepared to go to the foundation and adapt that to bear the load.

VERMONT BENEFICIARIES IN OTHER STATES

Our State has no home institutions for the education of children who are blind, deaf and dumb or idiotic; but it makes ample provision for those whose parents cannot provide for them at Perkins' Institution for the blind, American Asylum and Clarke Institute for deaf mutes, and the Massachusetts school for idiotic and feebleminded youth. The present law appropriates the following amount for these purposes, to be used at the discretion of the Governor: For the deaf and dumb, \$5,000; blind, \$4,000; idiotic, \$2,000; making a total of \$11,000 per annum, available for these objects.

The total appropriation is sufficient for present needs, and more than there has yet been occasion to use. A larger proportion, however, is liable to be needed for the deaf and dumb. It might be well to provide for a total appropriation of \$11,000 per annum, same as now, but allow the Governor to divide this between the deaf and dumb, blind and idiotic, as circumstances require.

The different schools containing beneficiaries from our State report them all as doing well, some considerably above the average.

DIVORCES.

I am glad to call your attention to the favorable operation of the law of the last session in restraint of divorces. For the year 1879, the first year under the new law, the number of divorces was less than two-thirds of that of 1878, and less than any year since 1865. The ratio of divorces to marriages is only one in twenty-one and five-tenths for 1879, while it was one in fourteen in 1878. This brings Vermont to the head of the New England states in this respect and I trust our legislation may be such as to at least keep us in this position.

CENTENNIAL CELEBRATION OF THE SURRENDER OF CORNWALLIS AT YORKTOWN.

An organization, formed in the first instance by the governors of the original thirteen colonies, requested all the states to join with them in appointing a committee of one from each state to make proper arrangements for the celebration of this anniversary. In accordance with this request, I appointed General, now Lieutenant-Governor, John L. Barstow as the member of the committee from this State. Congress has appropriated one hundred thousand dollars for a monument and twenty thousand dollars towards the expenses of the celebration. Gov. Barstow's report will no doubt be laid before you.

THE ONE HUNDREDTH ANNIVERSARY OF THE TREATY OF PEACE, AND THE RECOGNITION OF AMERICAN INDEPENDENCE.

Under the act of Congress providing for the celebration of this anniversary by a national exhibition in the city of New York in the year 1883, I nominated the Hon. Jacob Estey and Gen. Perley P. Pitkin, as commissioners, and the Hon. John B. Page and Colonel John B. Mead, alternate commissioners on the part of Vermont, and the President of the United States made the appointments in accordance with the provisions of the act.

THE HUNTINGTON WILL CASE.

This cause was heard on the evidence taken on commission in Vermont, New York and Michigan, and a decree made sustaining the will in every respect save as to the devise of the real estate valued at about \$25,000, which is void under the old English Statute of Mortmain. The plaintiff appealed the case. On the 14th of September last, it was argued before the Court of Appeals, at Toronto. Judgment was reserved, but the solicitors are very confident that the decree will be sustained, and that the delay in the final decision arises from the importance of the case and a desire on the part of the court to have on record a carefully prepared decision, as the legal points raised are of great importance, and it is likely to be a leading case in this branch of the law. It is expected that about \$150,000 will be realized to the State, the income used for the support of schools.

MILITIA

There is a very natural feeling, but I think a mistaken one, at every session, that a militia force maintained in time of peace is a needless expense. In my view, it is neither wise nor safe for the State to be without some force organized and equipped for service at any moment. We cannot well have a smaller force, as we now have only the unit of organization of infantry and artillery. I called them together at this time, that you might have the better opportunity to judge by personal inspection of their drill and efficiency, and to decide what the interests of the State require.

WAR HISTORY.

A joint resolution of the last session authorized and instructed me to appoint a State Historian to prepare for publication a history of the part taken by Vermont in the Rebellion. I accordingly appointed Hon. G.G. Benedict. But the resolution not having been submitted to me for signature, there was no constitutional

appropriation of money, and Mr. Benedict decided that he could not supply the means to push the work to completion, although willing to go on with the collection of material. The resolution, of course, pledges the faith of the State to pay him for his services and expenses. I presume my successor will present this matter to you. I refer to it to call your attention to the subject of legislation by joint resolution, of which there is more or less at every session. At the last session six other resolutions making appropriations were adopted. Three were sent to me for signature, and so have the force of law, and three were not. The practice is a pernicious one. Every legislative act ought to have the safeguards of the usual readings and references.

RAILROAD COMMISSIONER.

This office has been of very little account for many years, except to the holder. The present commissioner has, I believe, done the very best in his power to fulfill his duty and make the office of some practical benefit to the State, but can accomplish but little as the laws now stand. We ought to have a good railroad commission and pay for it or have none. The present law is an anomaly.

IN CONCLUSION.

If what I have said seems to be in the line of criticism and of pointing out errors and defects, let it not be misunderstood. We are in the main a well regulated State. The evils that exist are oftener the consequence of too much legislation than otherwise, and have crept in under changes, good in purpose and partially so in results, but not working as a harmonious whole.

Official corruption is almost unknown, and compared with other states we present a good record of prudence and economy. But the conditions are favorable here to surpass all our sister states. With few large towns and few waste places, with a people intelligent, honest and frugal, free from the extremes of wealth and poverty, self-reliant, homogeneous in blood and faith and character; proud of their State, lovers of their country and of law and order, search the world over and a spot cannot be found where less of the machinery of government is required. It will almost run itself. But while there is room for improvement, it is a work to which every legislator should devote himself. It is not a question of party, but of common honesty and good citizenship in which all true men should join. It is in your hands and may the Almighty bless your labors.

REDFIELD PROCTOR.

EXECUTIVE CHAMBER,
Montpelier, Oct. 6, 1880

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