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Sheriff's Office,

COUNTY COURT HOUSE,

CITY AND COUNTY OF NEW YORK.

Edward J.H. Tamsen,

SHERIFF.

New York, April 17<sup>th</sup> 1895

Hon. Wm. L. Strong  
Mayor  
City

Dear Sir:

My attention has been called to Assembly bill No 1536 introduced by Assemblyman Adler, authorizing the building of a new County Jail in this County.

I beg to say that a new County Jail is not now, for any reason, needed and there is no visible prospect of any such necessity.

An inspection of Ludlowstreet Jail by any persons competent to judge of the situation, will readily confirm any opinion and I certainly do not think, this time is one well



Edward J. H. Tamsen,

**SHERIFF.**

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selected for an unnecessary expenditure  
of the taxpayer's money.  
I do not know the author  
of the bill or the motives, which  
have prompted its introduction,  
but I write in the hope that, if  
this proposed legislation succeeds  
in reaching you, it may receive  
your disapproval, as imprudent  
and unwise.

In the mean time I venture  
to suggest, that your Honor may  
submit the Jail and its present  
management to a personal inspection  
and, if agreeable, appoint a time  
and date most agreeable, convenient  
to yourself.

Very respectfully  
Edward J. H. Tamsen



TO THE MAYOR:

ON ASSEMBLY BILL NO. 2697.

MEMORANDUM FROM THE SHERIFF OF NEW YORK COUNTY.

The bill relating to jurors is objectionable first because it is contrary to the constitution of the State of New York, and secondly because it involves the City of New York in unnecessary and useless expense.

The Sheriff is one of the few officers mentioned in the constitution. He is named in the constitution of 1777, as well as in the revisions of 1821, 1846, and 1894. He is there spoken of as a known officer, with known duties, and known responsibilities. It is that officer, with those duties and those responsibilities that the fundamental law of the State recognizes and continues. Constitution of 1894, Article X.

From the earliest period of the common law, the summoning of jurors has been one of the most important duties of the Sheriff; indeed, that has been one of the two great functions of that officer in connection with the administration of justice. To take away that duty is to limit and restrain the common law powers and duties of the office, and, if permitted, a sheriff might by legislative act become as powerless as if his office had no existence.

The Courts have passed upon almost the exact question involved in these bills. In 1882 or 1883, an act was passed by which the custody of the jail of Albany county was taken away from the Sheriff and given to another offi-



cial, not an elected officer but appointed in a different way. This was held an unconstitutional exercise of power by the legislature, the Court holding that when the Sheriff was named in the constitution he was named as an officer with known and well defined duties, and that those duties could not be interfered with nor restricted. Much the same point came up at an earlier date under the constitution of 1821, in respect to the county clerk of New York City. An act had been passed authorizing the appointment of a clerk of the Court of Common Pleas; but the Court of Errors decided that the County Clerk being an officer under the constitution, the legislature could not, under the constitution as it then existed, take the duty away from him and confer it upon an officer designated in a different manner.

It was distinctly held in *Warner v. People*, 2 Denio, 272 that "where the constitution provides for the appointment of an officer in a particular manner the legislature has no power to create a new officer to perform the same duties, or the principal part of the same duties."

It was held in *People v. Keeler*, 29 Hun, 175, that an act depriving the Sheriff of the custody and control of the jail and the prisoners therein, deprived the Sheriff of common law powers and duties pertaining to his office and was unconstitutional.

To this doubt as to the validity of this bill, it is right to add that the administration of justice in the City of New York, will be seriously imperilled, if it be--



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comes law. Convicts will raise the question of its constitutionality and some of them perhaps eventually escape punishment which their offenses deserve. A careless amendment of the law has many times had that result and certainly in the light of the judicial decisions upon the question there appears no reason to doubt a recurrence of the same result.

The machinery by which jurors are summoned is not changed; it is merely transferred from an officer named in the constitution, to an officer known only in the codes of procedure. By a recent act of the legislature, that which creates a special commissioner of jurors, the Sheriff is required to fulfil the same duties in respect to special jurors that he now discharges as to all jurors. To do this he must have a staff of employees quite the same as he now has; some experienced men must be among them; to turn the present force adrift and rely on finding men as occasion might demand, would be unreasonable and unwise and the Sheriff can not be indifferent to it and most earnestly opposes it, but the chief consequence, to the people, of this law, if it were declared valid, would be that the city would have to pay two sets of men where it now pays one, or that its work would not be done as it should be.

The whole matter of deciding upon the qualifications and drawing and serving the notices is given to one department, thereby removing the check that exists at the present time when the mistakes made by one can be discovered by the other department and such discovery lead to correction, as is



shown by the large number of notices returned not found because of the failure of the Commissioner to give the proper addresses of the jurors to the Sheriff.

During the session of the Court the Sheriff is frequently required to serve notices on extra jurors and by reason of the fact that he can and does utilize the services of the Deputy Sheriffs, their assistants and watchmen, who perform this service without pay, the force at hand in an emergency is greater than the Commissioner of Jurors could reasonably expect to have.

The act does not provide for a different form of service and return than the one now in vogue, consequently it is difficult to see how any substantial benefit is to be derived by the taxpayers. In Kings County where the jury notices are served by the Commissioner of Jurors, the total number of jury notices served in one year (according to a statement made by the Deputy Commissioner of Jurors of Kings County a few years ago) was 8,500. The sum paid for the work was \$10,000. In this County the total number of jury notices served is about 30,000, the sum appropriated for the work is \$5,500 and the Sheriff has performed the work within the appropriation and his charges have never exceeded it.

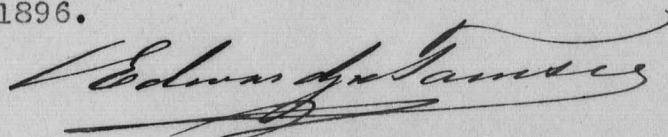
The sum paid by Kings County permitted of the employment of ten men, each one receiving the sum of \$1,000 a year, which is as low as men qualified to perform the work can be expected to be paid. The Sheriff of New York



can and does get men to work within the appropriation of \$5,500, because he has, when needed, the services of Deputys, Assistants, &c., to the number of about forty, as has been explained above.

All of which is respectfully submitted by

Dated New York, May 15th, 1896.

A handwritten signature in cursive script, appearing to read "Edward J. Tamm". The signature is written in dark ink and is positioned above the printed name of the Sheriff.

Sheriff of New York County.



Memorandum of the  
Sheriff.

— on —

Assembly Bill  
No. 2697.

May 15<sup>th</sup>, 1896.

Edward J. Tamm  
Sheriff



Law Office of  
ARCHIBALD C. SHENSTONE,

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CHARLES H. HODGES.  
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Giho C. Speranza,  
Vincent A. Ryan.

111 Broadway, (Trinity Building.) NEW YORK, Mch. 13, 1897.

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Hon. Edw. J. H. Tamsen, Sheriff,  
New York.

My Dear Sir:

I am constrained to call your attention to what I deem a matter of importance to you, which is that you should take some measures for protecting yourself against being personally obliged to stand the enormous expense of litigation, connected with matters purely official, which you will certainly find yourself encumbered with for a long period after your term of office expires.

Since the death of the late Sheriff, John J. Gorman, I have, as counsel for the Executrix, become familiar with what this burden actually amounts to. Although it is several years since Mr. Gorman was Sheriff, I have contested, and am engaged in contesting, to clear his estate, about forty or fifty different suits and proceedings, aggregating in liabilities somewhere in the neighborhood of one hundred thousand dollars or more, and the estate is likely to be involved in this litigation for several years to come. I doubt if Sheriff Gorman would have accepted the office had he realized the extent of this burden. "A word to the wise is sufficient."

Respectfully,

(Signed) A. C. Shenstone.



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Law Office of  
WILLIAM E. STILLINGS.  
Mutual Reserve Building,  
309 Broadway.

NEW YORK, March 15, 1897.

Hon. Edward J. H. Tamsen,

Dear Sheriff:

As your time of office is about to expire, I feel it my duty as an old personal friend to call your attention to a matter which, in my opinion, you should present to the Legislature of the State with a view to the enactment of such legislation as will not leave you in the predicament in which the sheriffs who have held office since the passage of Chapter 523 of the Laws of 1890 have found themselves.

As you will undoubtedly remember, I was counsel for Sheriffs Gorman, Clancy and Sexton. At the time of the expiration of the term of office of Sheriff Gorman, Jan. 1, '94, I had in my hands for him several hundreds - upwards of a thousand actions in which he was a party as Sheriff. He died in May, 1895, and up to that time hardly a day passed, some portion of which was not devoted by me to his business. Sheriff Clancy served but two months, consequently there were but few actions against him. Sheriff Sexton served ten months and I have since the expiration of his term, January 1st, 1895, been employed to a considerable extent with his business. Upon the death of Sheriff Gorman his Executrix required me to turn over all the unfinished business to her Attorney, who, I believe, is still obliged to give considerable time to those matters.

In view of these facts I believe that you should request the Legislature to pass an Act which will make some provision for the payment of your Counsel after the expiration of your term of office. This is especially important in your case because of the fact that you are under a salary which, in my opinion, is grossly inadequate when the immense responsibility of the Sheriff is taken into consideration. Those who are not thoroughly familiar with Sheriff matters might say the Sheriff need not have much business left over owing to the fact that he can substitute the bondsmen in suits brought against him. You undoubtedly have found that suits have been brought against you in many cases where you have no bond. It must also be taken into consideration that you cannot substitute until you are sued, and that actions can be brought against you after the expiration of your term; also while a bond which you have taken may be perfectly good at the time it was taken, still when you are sued the bondsmen have become insolvent. When this fact is shown to the Court it is frequently required that additional security be given and when such an order is made it is virtually impossible to secure the additional security.

Trusting that this letter will not be misunderstood and that it will be received by you with the same kind spirit in which it is



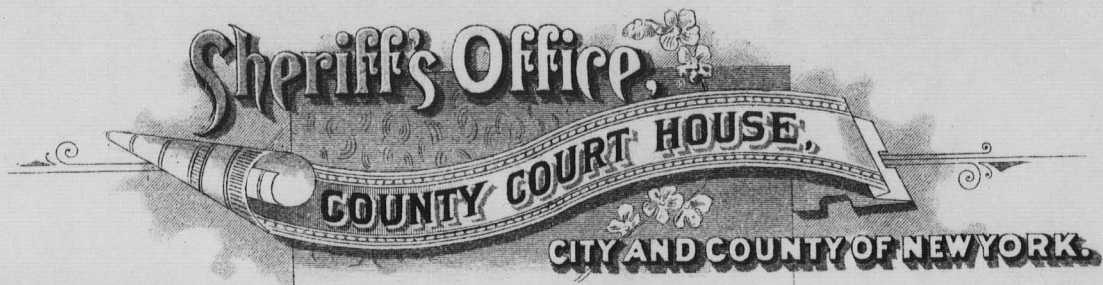
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sent, and fully believing that in the event of proper legislation being secured you will before you have been out of office one year feel it your duty to personally thank me for the suggestion,  
I remain,

Very respectfully,

(Signed) Wm. E. Stillings.





Edward J. H. Tamsen,  
SHERIFF.

New York, March 26<sup>th</sup> 1897

My dear Mr. Mayor:

Referring to our recent conversation, I beg to submit to you for your information a copy of letters, dated March 13<sup>th</sup> & 15<sup>th</sup> respectively of counsels of former Sheriffs, which will give you <sup>a</sup> picture of the breakers ahead of me, if not relieved in time by the Legislature.

Sincerely yours

Edward J. H. Tamsen