J. J. Griffiths Printer, 38 Montgomery Street, Jersey City.

N. J. Court of Errors and Appeals

The State of New Jersey, *ex rel.* Robert Bumsted, ads. Patrick Govern.	Error to Supreme Court.

Brief of GILBERT COLLINS and R. B. SEYMOUR for the Defendant in Error.

The laws affecting the office of Director of the Board of Chosen Freeholders of Hudson county, are as follows:

Law of 1846—Revision, p. 128, sec. 7.
Law of 1875—p. 324, sections 1, 2, 3, 4.
Law of 1885—p. 137

The law of 1885 is as follows:

An Act concerning the constitution of the Boards of Chosen Freeholders of this State and to make uniform the selection and duties of directors of such boards.

1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That hereafter only those persons elected by the various townships,

or other political divisions from which chosen freeholders are authorized to be elected by the laws of this State, shall constitute the Boards of Chosen Freeholders in the respective counties of this State and no member or director of any Board of Chosen Freeholders shall be elected by the vote of the electors of a county-at-large, any law to the contrary hereof notwithstanding.

2. And be it enacted, That the Boards of Chosen Freeholders in the several counties of this State shall elect their own Director from among their own number in accordance with the provisions of the act entitled "An Act to incorporate the Chosen Freeholders in the respective counties of the State," approved March sixteenth, eighteen hundred and forty-six; and such Director shall have the powers and perform the duties prescribed by said Act and no other powers and duties.

3. And be it enacted, That any office of Director of a Board of Chosen Freeholders created by any law of this State other than said Act shall be and the same is hereby abolished, and in any county where there has hitherto been such an office the board of chosen freeholders shall immediately elect a director from their own number.

4. And be it enacted, That all acts and parts of acts, general or special, public or private, inconsistent with the provisions of this act, be and the same hereby are repealed.

5. And be it enacted, That this act shall be deemed a public act and take effect immediately.

It is too plain to admit of question that this last statute, if constitutional, abolished the office of Director at Large.

The Act of 1885 is Constitutional.

The objection made to the act is that it is a "spe-

"cial and local law regulating the internal affairs of" Hudson county, the only county in the State which has a director chosen by the county at large.

A. If the situation of Hudson county is peculiar then even a special and local law is constitutional if a general law will not reach the evil sought to be remedied, namely, to remove the peculiarity; and that such special and local law is general in form is no objection to it.

Van Riper v. Parsons, 11 Vroom, p. 1.
State, Sutterly, Pros., vs. Camden Common Pleas, 12 Vroom 495.

The information does not aver want of notice of the application to the Legislature for the law, and even if it did that could not be enquired into in this proceeding. Though the principal opinion of Van Syckel, J., in the Court of Errors and Appeals, in the case of the Freeholders of Passaic County vs. Stevenson, 17th Vroom, p. 173, holds that under our present constitution the fact of notice is open to inquiry, the opinion of Dixon, J., in the same case presents strong reason for the opposite view, and an analysis of the vote in the case shows that the Court is not committed on the question. There is no evidence before this Court as to whether or not due notice of the application was given. The fact of notice or no notice cannot be determined on the admission of parties.

Freeholders, &c., v. Stevenson, supra.

It is not important, however, to discuss this view of the case, for

B. The act before the Court is not special or local. It is of the most general character, and operative upon the whole subject involved. It tends to greater

uniformity in the government of the several counties of the State and is in direct line with the spirit of the constitutional amendments. The weakness of the position of the plaitinff is that it assumes that the classification made by the act is that of "Directors-at-Large," of which there is but one in this State. Even such a classification might be good for the purpose of abolition, but the act is much broader. It deals with the constitution of the Boards and the functions and manner of selection of their presiding officers. Hereafter *all* Boards of Chosen Freeholders of this State must consist of the members elected from the political divisions of the respective counties authorized to elect representatives, and no other members. No member can be elected by the votes of any county at large. The presiding officer—recognized by general law as Director—must be chosen by the members from their own number, and he will have the powers given by general law to Directors of Chosen Freeholders. The fact that a general law may operate only in one locality does not deprive it of its quality or character of generality. [Van Riper v. Parsons, *ubi supra.*]

To illustrate. In early municipal charters the Mayor was a member of the Council, presided at its meetings, and had a voice in its action. By gradual changes the office of Mayor came to assume its present separate character, with veto power only. Now, suppose the case of a single survival of the old form in some New Jersey City, would an act that in all cities of the State the Mayor should thenceforth be severed from the Council, and have only a veto power, be unconstitutional because it would have actual effect only in that one city. Assuredly not. Must every anomaly in our hundreds of local governments, the outgrowth of hasty experiment, be "fixed and frozen to permanence?" The idea seems to have got abroad that there is something morally wrong in attempting to effect local changes under our present constitution. If these changes tend to ho-

mogeneousness and uniformity, the constitution encourages them. It only requires that they be made by general law, if possible. The following cases support the constitutionality of this act:

State, Sutterly, Pros., v. Camden Common Pleas, *ubi supra*.

State, Tiger, Pros., vs. Morris Common Pleas, 13th Vroom 631.

Hines vs. Freeholders of Essex County, 16th Vroom 505.

And a close precedent to the case in hand is found in the case of

Van Riper v. Parsons, 11th Vroom, page 123,

where this Court, speaking through Mr. Justice Dixon, upheld a general law abolishing all legislative commissions regulating municipal affairs, although but one city in the State was governed by such commissions.

There was a general law enacted under which all the Boards of Chosen Freeholders of all the counties in this State were constituted. Upon this general law special provisions have been ingrafted applicable to particular counties. A law to extend to one or more counties, a special provision now applicable to a single county, or to amend or change a special provision governing a single county in such a way that its special character must necessarily be limited in its application to such single county,

would be unconstitutional, while an act which cuts off a special provision applicable to a single county, and thereby conforms the government of such county more nearly to the general law governing all counties is in conformity with the letter, spirit and intent of the organic law, and is constitutional. The office of "Director-at-Large" is one of the excresences upon the general law applicable to Hudson county only. The act of 1885 brings the County of Hudson in this particular matter under the protection of the general law governing all the counties in the State.

The act in question "does not exclude from its sway or effect any place or subject belonging to the class to which it relates; it is, upon its face, a general and not a local or special law, within the clause of the constitution now under consideration."

Van Riper v. Parsons, 11 Vr. 9.

The law in all its provisions is general; abating Directors-at-Large wherever they exist. Governments under Directors-at-Large are distinguished from governments by Board of Freeholders under the general law, by characteristics which make them clearly a class by themselves, and *upon the whole of this class*, this law operates equally, by force of terms which are restricted to no locality. A law so framed is a general law, without regard to the consideration that there happens to be but one individual of the class.

Van Riper v. Parsons, 11 Vr. 125.

On the argument below, counsel contended that the act of March 25th, 1885, is not a general law, because it does not produce *complete and entire* uniformity in Boards of Chosen Freeholders. Even he does not seriously contend that because its beneficial effect will be felt in only one county, that therefore it is special and local. He seems to think that for a law to be general it must remove *all* differences. This is clearly unsound. In the Hines case above cited, (16 Vr. 505), this Court held that a law providing that wherever a poll tax was authorized by any law it should be for $1, was constitutional. It was not thought necessary to provide a complete system of poll tax. So in the case before us. The Legislature attempts to deal with "the constitution of the Boards of Chosen Freeholders of this State," and provides that such boards shall hereafter consist of persons chosen from the various political divisions authorized to elect, whatever they may be, and that the county at large shall not have a representative. That is surely general, and in a very important particular tends to produce uniformity. That the geographical lines of representation for the subdivisions of the counties and the number of representatives for each, are left in existing diversity, is entirely unimportant in considering whether or not a county is to have a representative at large. The two subjects have no relation.

The act further proceeds to deal with "and to make uniform the selection and duties of directors of such boards," and restores the normal status in that regard prescribed in the general law of 1846.

All aggregate corporations necessarily have presiding officers. The act makes the power and duties of all presiding officers of all the boards uniform.

In two important respects, therefore, this act makes all Boards of Chosen Freeholders in the State uniform and alike. That it fails to produce like uniformity in every other respect, makes it none the less a

general law. There may be many reasons why it would not be desirable or politic to do so. The Assembly District is a very convenient unit of representation. If good for the purposes of general State legislation, it is surely good for the purposes of county government. It cannot be seriously contended that a member or director chosen by the county at large is a necessary complement to the constitution of Boards of Chosen Freeholders by representatives from Assembly Districts.

In counties having only one Assembly District, the district would not be a proper unit of representation. In counties having twenty or thirty wards and townships, a representation consisting of three members (as required by some special acts) from each of said divisions, would be impracticable. The act in question deals principally with the organization of the boards. It brings all the boards into uniformity in this respect, and does away with all existing differences.

Mr. McDermott says that should the act of March 25, 1885, be repealed, the pre-existing condition of things would revive. The same would be true of any law however general; but the argument shows confusion of thought. Its only force is to support the position that such a *repeal* would itself be unconstitutional, which is very likely true.

The Boards of Chosen Freeholders of the several counties are composed of the members elected in the respective counties. Every Board has a presiding officer, whether he be denominated Chairman, President, Director-at-Large, or Director. Every presiding officer has certain duties to perform, and as the Legislature, prior to the adoption of the amendment to the constitution, had ample authority to regulate the duties to be performed by the presiding officer of the Board of Freeholders of any county, it is possible that the powers and duties of the

presiding officers of the several Boards of Freeholders varied in each county in the State. In how many counties of the State are members elected to the Boards of Freeholders by the electors of the whole county?

The act of 1885 not only applies to Directors-at-Large, but with equal effect cuts off members-at-large. It regulates the method of election and qualification, and prescribes the duties of the presiding officers of every Board of Chosen Freeholders in this State. It brings *all* the presiding officers of *all* the Boards of Freeholders of *all* the counties in this State under one uniform rule.

The law took effect immediately and at once removed the plaintiff from the office which he previously held.

Bumsted v. Govern, 18 Vr. 368.

No officer in an office created by the Legislature has a vested interest which the Legislature cannot abrogate or destroy.

State, Deguenther vs. Douglas, 26 Wis. 428.

NAAR, DAY & NAAR, Printers and Stationers, Trenton, N. J.

Court of Errors and Appeals.

Patrick Govern,
Plaintiff in Error,
v.
The State, ex rel. Robert Bumsted,
Defendant in Error.

Error to Supreme Court.

STATEMENT.

The information filed in this cause was supplemented by an amendatory stipulation (see printed case) in order that upon demurrer the only question involved might be fairly presented to the Court.

The information, as amended, admits that an act entitled "An act to reorganize the board of chosen freeholders of the county of Hudson," (*Laws of 1875, p. 324*), is the only law authorizing the election of a member or director of a board of chosen freeholders by the vote of the electors of a county at large, and that it is the only act other than the general act creating the office of director of a board of chosen freeholders in this State.

The relator relies upon the provisions of an act entitled "An act concerning the constitution of the boards of chosen freeholders of this State, and to make uniform the selection and duties of directors of such boards," passed March 25, 1885. (*P. L. 1885, p. 137.*) The in-

formation admits that there is but one county in the State in which a member or director of a board of chosen freeholders is elected by the vote of the electors of the county at large, thus admitting that the act of 1885 is effective in but one county, to wit, the county of Hudson. The twenty other counties in the State are in nowise affected by this legislation.

The first section provides "that hereafter only those persons elected by the various townships, or other political divisions by which chosen freeholders are authorized to be elected by the laws of this state, shall constitute the board of chosen freeholders, and no member or director of any board of chosen freeholders shall be elected by the vote of the electors of a county at large, any law to the contrary hereof notwithstanding."

I.—The Object of the Act is not Expressed in its Title.

The act of 1885 is entitled "An act concerning the constitution of the boards of chosen freeholders of this State, and to make uniform the selection and duties of directors of such boards." Its purposes, as declared in the title, are, therefore—

1. To concern the constitution of the BOARDS *of chosen freeholders of this State;*

2. To make uniform the selection and duties of directors of such boards.

This title does not properly express the object of the act. Its object is to affect the constitution of the board of chosen freeholders of the county of Hudson. This done, the provisions of the law are exhausted. The twenty other boards of chosen freeholders are in no wise affected by the statute. It, therefore, concerns, not the constitution of the boards of chosen freeholders, but the constitution of a single board. This is admitted by the pleadings. The first section enacts:

"That hereafter only those persons elected by the various townships, or other political divisions from which

chosen freeholders are authorized to be elected by the laws of this State, shall constitute the boards of chosen freeholders in the respective counties of this State; and no member or director of any board of chosen freeholders shall be elected by the vote of the electors of a county at large, any law to the contrary hereof notwithstanding."

The title of the act does not give the slightest warning that its operation is to be confined to the county of Hudson. The legislature says "We are considering 'An act concerning the constitution of the boards of chosen freeholders of this State,'" and the text of the law discloses that their act does not concern the constitution of those boards, but is limited to one board—to one county. So far as twenty members of the Senate and fifty members of the House of Assembly are concerned, the enactment of this law could not have been considered with any other interest than that which was entertained in the days of local legislation, when "reciprocity" and "legislature courtesy" forbade interference with those plans of the members affecting only their respective counties. The "main object" should have been embraced in its title. (*Curry v. Elvins, 3 Vr., 362.*) The "main object" of this act is to abolish the office of director-at-large in Hudson county; but human ingenuity is foiled in an attempt to discover this object in the title.

II.—The Act is Obnoxious to Art. 4, Sec. 7, Par. 4, in Other Particulars.

It is framed in violation of the amendment to that section, adopted in 1875:

"No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act."

1. This law, purporting to be general, embraces a provision of local character. In fact, all its provisions are local. If this constitutional provision means anything, it is that a declared general purpose in legislation shall not be limited in effect to any particular locality.

2. This law, in its second section, enacts: "That the boards of chosen freeholders in the several counties of this State shall elect their own director from among their own number, in accordance with the provisions of an act entitled 'An act to incorporate the chosen freeholders in the respective counties of the State,' approved March 16, 1846, and such director shall have the powers and perform the duties prescribed by said act, and no other powers or duties."

The provisions of the general law, with reference to the election and duties of the director of the board, were, as to Hudson county, repealed by the act of 1875. The act of 1885, by a general sweep for a particular object, repeals the law of 1875 and substitutes the act of 1846 by reference to its title. It declares that the provisions of the act of 1846 shall be applicable, but fails to insert those provisions in the act. This is in violation of the constitutional direction. It is proposed to repeal an act which provides a peculiar method of electing the director of a certain board of chosen freeholders and to abrogate certain peculiar powers of that official.

The legislators and the people are entitled to have the substitute powers and mode of election inserted in the act. I take it that when the legislature adopts the provisions of existing laws, in conjunction with novel legislation, the existing law must be so definitely set forth that recurrence to that law will be unnecessary in order to ascertain the exact effect of the proposed legislation. Section 2 of the act of 1885 enacts that part of an "existing law" (*i. e.*, "An act to incorporate the chosen freeholders in the respective counties of this State") "shall be applicable," and the proper sections of that existing law should have been inserted in the act. *Van Riper vs. Parsons, 11 Vr., 127; Colwell v. Chamberlain, 14 Vr., 385;*

Evernham v. Hulit, 16 Vr., 53; Campbell v. Board of Pharmacy of New Jersey, 16 Vr., 241.

III.—The Act does not Produce Uniformity in the Organization of the Boards of Chosen Freeholders of this State.

It is the admitted purpose of this section to repeal the provision of "An act to reorganize the board of chosen freeholders of Hudson county," which allows the election of one freeholder at large. The operation of the act is confined to Hudson county. It regulates the internal affairs of one county, and the only plea advanced in support of that limited regulation is that it "subjects the affairs of Hudson county to the operation of a general law." A consideration of the laws in point will show that this section does not produce uniformity in the constiution of the board of chosen freeholders of this State.

Under the provisions of "An act to incorporate the chosen freeholders in the respective counties of the State," (*Rev., p. 127*), the "the chosen freeholders of the several townships, precincts and wards in the respective counties in this State" are constituted bodies politic, with corporate titles. The method in which freeholders were chosen is provided by section 12 of "An act incorporating the inhabitants of townships, designating their powers and regulating their meetings," (*Revision, p. 1195.*) By the provisions of this act two freeholders were chosen from each township. The following changes have been made:

1851. (*P. L. 1851, p. 97.*) Number of freeholders to be elected in each township in Monmouth and Hunterdon counties limited to one.

1852. (*P. L. 1852, p. 141.*) Same reduction in Burlington, Somerset and Warren.

1868. (*P. L. 1868, p. 218.*) Same reduction in Bergen.

1871. (*P. L. 1871, p. 403.*) Same reduction in Salem.

1875. (*P. L. 1875, p. 324.*) Method of election changed. Board to consist of *two chosen freeholders from each assembly district and one elected in the county at large.*

1878. (*P. L. 1878, p. 326.*) Provides that in every city where there is exact conformity between the lines of the wards and assembly districts, three chosen freeholders shall be elected from each ward in such city.

1883. (*P. L. 1883, p. 83.*) Provides that no city, township or borough having less than one thousand inhabitants shall elect more than one freeholder.

What uniformity in the election of chosen freeholders, in the light of this legislation, can be produced by the act of 1885? The method of election in Hudson county retains the special feature of choice from assembly districts. One special feature in the reorganization of the board in Hudson county is sought to be abrogated, but there is not thereby produced any greater harmony between the methods of election in vogue in the two classes of counties.

In twenty counties the chosen freeholders are elected from the political divisions known as wards, towns, townships and cities.

In one county the chosen freeholders are elected from the political divisions known as assembly districts, and the political division known as the county-at-large.

Here we have two distinct classes, and it is claimed in support of the act of 1885 that it "conforms the government of such county more nearly to the general law gov-

erning all counties." Wherein does it accomplish this? The chosen freeholders of Hudson county will, if this act is sustained, continue to be composed of members chosen from political districts unlike those from which the members of every other board in the State are elected. The act does not introduce an element of harmony in the method of selection. For one of the two classes above mentioned, it substitutes a third, to wit: a board of chosen freeholders elected from assembly districts. In all other counties it is inoperative, and yet it is entitled "An act concerning the constitution of the *boards of chosen freeholders*," &c.

If this act is sustained, it virtually repeals "An act to reorganize the board of chosen freeholders of the county of Hudson," or at least the most important provisions thereof. In twenty counties, where the chosen freeholders are elected from the "townships, precincts and wards," the general act provides that the corporation shall annually elect one of their own members to preside. This is his only duty prescribed by statute. In Hudson county the townships as townships, the wards as wards, the cities as cities, are not represented. The chosen freeholders are elected from political divisions, several of which include several townships. To the members so chosen is added the director-at-large. The powers and duties of the director are so interwoven with the plan of reorganization that their removal disorganizes that plan. This legislation does not place the people of Hudson county in a position, with regard to their board of chosen freeholders, similar to that of the people of other counties. The general act contemplates the election of a director to preside over a corporation chosen in conformity with the provisions of the Township act—a corporation in which every municipal division of the township is recognized and represented. The act of 1875 contemplates a different organization—one in which there are two kinds of membership, two kinds of representation, each of which is different from that devolved upon the freeholders elected under the township act. True it is that the title of the act of 1885 pretends that the effect of this

section is to "make uniform the selection and duties of directors of such boards." But it does nothing of the sort. It destroys the plan of reorganization by removing the special feature of a director-at-large. but fails to bring the corporation in Hudson in harmony with the corporations in other counties of the State. The act of 1875 may be repealed, and its repeal would produce absolute uniformity in the constitution of the boards of chosen freeholders in this State. The constitution of the corporation in Hudson county "cannot be taken apart by piecemeal by the instrumentality of special laws, because each separate attack upon it regulates its internal affairs." *Tiger v. Morris, Common Pleas, 13 Vroom, 633.*

Counsel for relator says that the act "is of the most general character and operative upon the whole subject involved." The whole subject involved is the organization of the board of chosen freeholders in Hudson county, and the effect of the act is to say that while that organization shall retain its distinction from the other corporations of the State, the features of that distinction shall be changed.

IV.—The Act cannot be Sustained upon the Ground that it tends to Uniformity in the Organization of the Boards.

If the title of the act in question should be held sufficiently comprehensive to cover its avowed object, that object itself is violative of the constitutional injunction that "the legislature shall not pass private, local or special laws * * * * * regulating the internal affairs of towns and counties." The character of this legislation must be determined by its effect. It is a local law. It regulates the internal affairs of the county of Hudson. In order to support it the words of the constitution must be altered, and the amendment of 1875 must read "The legislature shall not pass private, local or special laws regulating the internal affairs of towns and counties, except where such local, private or

N. J. Court of Errors and Appeals.

PATRICK GOVERN, *Plaintiff in Error,* *vs.* THE STATE OF NEW JERSEY, *ex rel.*, ROBERT BUMSTED, *Defendant in Error.*	*In Error* *to* *Supreme Court.*

NEW JERSEY. } s.s.
THE STATE OF NEW JERSEY, }

To our Justices of the Supreme Court, Greeting: Because in the record and proceedings, and also in the giving of judgment in the plaint which was in our said Supreme Court, before you, between the State of New Jersey, Robert Bumsted being the relator, and Patrick Govern being the defendant, on information issued out of our said Supreme Court, manifest error, as is said, hath intervened, to the great damage of the said defendant, as by the complaint of the said defendant we are informed, we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done the parties aforesaid in this behalf, do command you that, if judgment be thereupon given, you distinctly and speedily

{ L.S. }

send, under your seal, the record and proceedings aforesaid, with all things touching the same, to our Judges of our Court of Errors and Appeals in the last resort in all causes, on the first Tuesday of March, 1886, and this writ, that the record and proceedings aforesaid being inspected, we may cause to be further done what of right and according to law ought to be done.

Witness, Theodore Runyon, Esquire, Judge of our said Court of Errors and Appeals at Trenton, the sixteenth day of February, in the year eighteen hundred and eighty-six.

ALLAN L. MCDERMOTT,
Attorney.

HENRY C. KELSEY,
Clerk,

The answer of the Justices of the Supreme Court of New Jersey within named: The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify to the Court of Errors and Appeals in a certain schedule to this writ annexed, as within we are commanded.

M. BEASLEY,
C. J.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.*, ROBERT BUMSTED, *vs.* PATRICK GOVERN,	*On quo warranto, Judgment of Ouster. R. B. Seymour, Attorney.*

As yet of the term of June, A. D.. eighteen hundred and eighty-five.

Witness, MERCER BEASLEY, Esquire,
Chief Justice.

BENJ. F. LEE,
Clerk.

HUDSON COUNTY, *ss.:*

John P. Stockton, esquire, attorney-general of the State of New Jersey, who sues for the said State in this behalf, comes in his own proper person here into the Supreme Court of Judicature of the said State, before the justices thereof at the State House in the City of Trenton on the the 8th day of June in the year of our Lord 1885, for the said State of New Jersey, at the relation of Robert Bumsted of Jersey City, in the County of Hudson in said State, desiring to sue and prosecute in this behalf, according to the form of the statute in such case made and provided, gives the said court here to be informed and understand that he is a citizen of the United States and of this State, and a resident, freeholder and taxpayer of that part of the city of Jersey City within the First Assembly district of said County of

Hudson, and has been such for five years last past, and upwards, and that on the 14th day of April last past, he was duly elected a member of the board of chosen freeholders for said county, for said district, for one year from the first Tuesday in May then next, and that he duly qualified for said office, and gave the bond required by law; that it is by law the duty of said board to hold its annual stated meeting on the Tuesday next after the first Monday in May of each year; that on the said Tuesday in May last the freeholders elect from the various assembly districts of said county, being two from each district, or twenty in all, having all duly qualified and given bond, assembled at the usual place of meeting of said board for the purpose of organization; that at that time and place one Patrick Govern assumed the chair and called the roll of members elect, and proceeded to the transaction of business, with himself as presiding officer, and has ever since professed to act as a member and director of said board.

And the said attorney-general, on the relation aforesaid, further gives the court here to be informed and understand that, although true it is that by virtue of an act of the Legislature of the State of New Jersey entitled "An Act to re organize the Board of Chosen Freeholders of the County of Hudson, approved March 23, 1875, the said Patrick Govern was on the first Tuesday of November, A. D. 1883, duly elected director of the Board of Chosen Freeholders of the County of Hudson by the vote of the electors of said county at large, for a term of two years from the third Tuesday of November then next, and accepted said office, and took the official oath, and gave the bond required by said act, and on the third Tuesday of November, A. D., 1883, entered upon the duties of his said office, and continued to exercise the same until the passage of the act of the Legislature hereinafter mentioned, and thence hitherto claims and alleges that said last-named act is unconstiutional and void, and that he is acting as member and director of said board under authority of said act approved March 23, 1875, yet the said attorney-general, on relation aforesaid, gives the court here further to be informed and understand that,

by an act of the Legislature of the State of New Jersey, passed March 25, A. D., 1885 entitled

"An Act concerning the Constitution of the Boards of Chosen Freeholders of this State, and to make uniform the selection and duties of directors of such boards," it was enacted as follows, viz:

1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That hereafter only those persons elected by the various townships, or other political divisions from which Chosen Freeholders are authorized to be elected by the laws of this State shall constitute the Boards of Chosen Freeholders of the respective counties of this State; and no member or director of any Board of Chosen Freeholders shall be elected by the vote of the electors of a county at large, any law to the contrary hereof notwithstanding.

2. And be it enacted, That the Boards of Chosen Freeholders in the several counties of this State shall elect their own director from among their own number, in accordance with the provisions of the act entitled "An Act to incorporate the Chosen Freeholders in the respective counties of the State," approved March 16, 1846; and such director shall have the powers and perform the duties prescribed by said act, and no other powers and duties.

3. And be it enacted, That any office of director of a Board of Chosen Freeholders created by any law of this State other than said act shall be and the same is hereby abolished, and in any county where there has hitherto been such an office the Board of Chosen Freeholders shall immediately elect a director from their own number.

4. And be it enacted, that all acts and parts of acts, general or special, public or private, inconsistent with the provisions of this act, be and the same hereby are repealed.

5. And be it enacted, That this act shall be deemed a public act and take effect immediately.

Wherefore the said attorney-general, on the relation aforesaid, says that Patrick Govern, since the fifth day of

May last, hath usurped, intruded into and unlawfully held, used and exercised, and yet doth use, intrude into and unlawfully hold, use and exercise the office of member and director of the Board of Chosen Freeholders of the County of Hudson, to the great disadvantage of the said relator as a member of said board, and as a citizen and tax payer of said county to wit, at Jersey City, Hudson County aforesaid, in contempt of the State of New Jersey, and to its great damage and prejudice against its dignity and sovereignty.

Whereupon the said attorney-general of the said State, at the relation of the said Robert Bumsted, desiring to sue and prosecute in this behalf, prays the advice of the Court here in the premises, and for due process of law against the said Patrick Govern, in this behalf, to be made to answer to the the said State by what warrant he claims to hold, use, execute and enjoy the aforesaid office of member and Director of said Board of Chosen Freeholders of the County of Hudson, and the liberties, privileges and franchises thereof.

JOHN P. STOCKTON,
Attorney-General.

R. B. SEYMOUR,
Attorney of Relator.

And now, as yet of the term of June, in the year 1885, comes the said defendant, by Allan L. McDermott, his attorney, and having heard the information read to him, he says that the State of New Jersey ought not to impeach or implead him by reason of the premises in the said information above mentioned and specified, because he says that the said information and the matters therein contained are not sufficient in law, and that he need not, nor is he obliged by the law of the land to answer thereto, and this he is ready to verify.

Wherefore, and because of the insufficiency of the said information, the said defendant prays judgment, and that he be dismissed and discharged by the Court here, of and from the premises above charged upon him in form aforesaid.

ALLAN L. MCDERMOTT,
Att'y of Plaintiff.

And the said the State of New Jersey, at the relation of Robert Bumsted, says: That the said information and the matters therein contained, in manner and form as the same are above stated and set forth are sufficient in law for the said the State of New Jersey, at the relation of Robert Bumsted, to impeach and implead the said Patrick Govern, and the said relator is ready to verify and prove the same as the Court here shall direct and award. Wherefore, and inasmuch as the said defendant hath not answered the said information, nor hitherto in any manner denied the same, the said relator prays judgment that the said Patrick Govern is not a Director or member of the said Board of Chosen Freeholders of the County of Hudson, and that the said Patrick Govern, since the fifth day of May last past, hath usurped, intruded into and unlawfully used and exercised, and yet doth usurp, intrude into and unlawfully hold, use and exercise the office of member of the Board of Chosen Freeholders of the County of Hudson, and of Director of said Board, and the liberties, privileges and franchises thereof; and that the said Patrick Govern shall not in any manner intermeddle with or concern himself in and about the offices, liberties, privileges and franchises aforesaid; but that he be absolutely forejudged and excluded from ever exercising the same or any of them for the future; and that Robert Bumsted, the relator above mentioned in this behalf, do recover against the said Patrick Govern his costs by him laid out and expended in carrying on his suit in this behalf, according to the statute in such case made and provided.

R. B. Seymour,
Attorney of Relator.

And now at this day, to wit: the thirteenth day of February, in the year of our Lord one thousand eight hundred and eighty-six, before the said Supreme Court, at Trenton, comes the State of New Jersey, by its Attorney-General, and the relator, Robert Bumsted, by his attorney aforesaid, and the defendant, Patrick Govern, by his attorney aforesaid; whereupon, all and singular the premises being seen and fully understood, and mature deliberation had thereon

by the said Supreme Court, it appears to the said Court here that the said information in the nature of a quo warranto, and the matters therein contained, are sufficient in law for the said the State of New Jersey to have and maintain its aforesaid information and action thereof against the said Patrick Govern.

Wherefore, it is considered and adjudged by the said Court here, that the said Patrick Govern is not entitled to hold the office of member and Director-at-Large of the Board of Chosen Freeholders of the County of Hudson, and that the said Patrick Govern do not in any manner intermeddle with or concern himself in and about the office, liberties, privileges and franchises of member and Director-at-Large of the Board of Chosen Freeholders of the County of Hudson aforesaid; and that he be absolutely forejudged and excluded from exercising or using the said office of member and Director-at-Large of the Board of Chosen Freeholders of the County of Hudson aforesaid, or all or any of its liberties, privileges or franchises for the future.

And it is further considered and adjudged that the said Robert Bumsted is entitled to hold, exercise and use the said office of member and director of the Board of Chosen Freeholders of the County of Hudson aforesaid, and that the said Patrick Govern, in order to satisfy the said, the State of New Jersey, for and on account of the usurpation aforesaid, be taken, etc., and that the said Robert Bumsted, the relator above mentioned in this behalf, do recover against the said Patrick Govern the sum of dollars and cents for his costs by him laid out and expended in carrying on his suit in this behalf, according to the statute in such case made and provided.

Judgment signed this thirteenth day of February, A. D., eighteen hundred and eighty-six.

M. Beasley,
Chief Justice.

NEW JERSEY COURT OF ERRORS AND APPEALS.

PATRICK GOVERN, *Plaintiff in Error.*	*On Error to Supreme Court.*
vs.	
THE STATE of NEW JERSEY, *ex rel.*, ROBERT BUMSTED, *Defendant in Error.*	*Assignment of Errors.*

Afterward, to wit: on the fifteenth day of March, in the year of our Lord one thousand eight hundred and eighty-six, in the Court of Errors and Appeals in the last resort in all causes, comes the said Patrick Govern by Allan L. McDermott, his attorney, and says that in the record and proceedings aforesaid there is manifest error, in this, to wit:

First—That the Supreme Court decided that the matters, facts and thing, set forth and shown in and by the said information, are sufficient in law for the said the State of New Jersey, at the relation of Robert Bumsted to impeach and implead the said Patrick Govern.

Second.—Because the Supreme Court, upon demurrer to the said information, decided and adjudged that the act of the Legislature of New Jersey entitled, "An Act concerning the constitution of the Boards of Chosen Freeholders of this State and to make uniform the selections and duties of such boards," passed March 25, 1885, is constitutional and valid, whereas the said court should have decided upon said demurrer, that said act was unconstitutional and void,

and that said information was not sufficient in law to impeach the said defendant.

Third.—Because, by the record aforesaid, it appears that the judgment aforesaid was rendered against the plaintiff in error when it ought to have been given in favor of he plaintiff in error.

And the said plaintiff in error prays that the judgment aforesaid, for the errors aforesaid, and for divers other errors in the records and proceedings, may be reversed, annulled and held for nothing, and that the said plaintiff in error may be restored to all which he has lost on account of the said judgment, etc.

ALLAN L. MCDERMOTT,
Attorney of Plaintiff in Error.

Common joinder in error filed.

OPINIONS.

NEW JERSEY SUPREME COURT.

NOVEMBER TERM, 1885.

STATE *v.* GOVERN.	*On Quo Warranto.*

1. When a statute is general in its form and its sole effect is to remove in some degree the difficiencies existing in the various regulations of the internal affairs of towns or counties, and to subject those affairs to operation of a general law, then the statute is not special or local in the constitutional sense, although the pre-existing legal conditions were such that it would effect a change in only one town or county.

2. The constitutional requirement that the object of every law shall be expressed in its title, is satisfied when the title fairly indicates the general object of the statute, although it does not indicate the means or method of attaining that object.

3. The object expressed in the title of the act was "to make uniform the selection and duties of directors of the

boards of chosen freeholders of the State;" the aim of the act was to abolish the peculiarities touching the selection and duties of director, which existed in Hudson County alone, and to subject the selection and duties of the director in that county to the general law governing the rest of the State. Held, That the title sufficiently expressed the object of the law.

On demurrer to an information in the nature of *Quo Warranto*.

Argued June Term, 1885, before the Chief Justice and Justices Magie and Dixon.

Mr. G. Collins, for the Relator.
Mr. A. L. McDermott, for the Demurrant.

The State of New Jersey, *ex rel.*, Robert Bumsted,
Relator,
vs.
Patrick Govern,
Defendant.

On Quo Warranto Information.

New Jersey Supreme Court, of the Term of June, in the year of our Lord one thousand, eight hundred and eighty-five.

Hudson County, ss.:

John P. Stockton, Esquire, Attorney General of the State of New Jersey, who sues for the said State in this behalf, comes in his own proper person here into the Supreme Court of Judicature of the said State, before Justices thereof, at the State House, in the City of Trenton, on the eighth day of June, in the year of our Lord one thousand eight

hundred and eighty-five, for the said State of New Jersey, at the relation of Robert Bumsted, of Jersey City, in the County of Hudson, in said State, desiring to sue and prosecute in this behalf, according to the form of the statute in such case made and provided, gives the said Court here to be informed and understand, that he is a citizen of the United States and of this State, and a resident, freeholder and taxpayer of that part of the city of Jersey City within the First Assembly District of said county of Hudson, and has been such for five years last past and upwards, and that on the fourteenth day of April last past, he was duly elected a member of the Board of Chosen Freeholders for said county, for said district, for one year from the first Tuesday in May then next, and that he duly qualified for said office, and gave the bond required by law; that it is by law the duty of said board to hold its annual stated meeting on the Tuesday next after the first Monday in May of each year; that on the said Tuesday in May last the Freeholders-elect from the various assembly districts of said county, being two from each district, or twenty in all, having all duly qualified and given bond, assembled at the usual place of meeting of said board for the purpose of organization; that at that time and place one Patrick Govern assumed the chair and called the roll of members-elect, and proceeded to the transaction of business, with himself as presiding officer, and has ever since professed to act as a member and Director of said board.

And the said Attorney-General, on the relation aforesaid, further gives the Court here to be informed and understand that, although true it is that by virtue of an act of the Legislature of the State of New Jersey entitled "An act to reorganize the Board of Chosen Freeholders of the County of Hudson," approved March 23d, 1875, the said Patrick Govern was, on the first Tuesday of November, A. D. 1883, duly elected Director of the Board of Chosen Freeholders of the County of Hudson by the vote of the electors of said County at large, for a term of two years, from the third Tuesday of November then next, and accepted said office and took the official oath, and gave the bond required by said Act, and on the third Tuesday of Novem-

ber, A. D. 1883, entered upon the duties of his said office, and continued to exercise the same until the passage of the act of the Legislature hereinafter mentioned, and thence hitherto claims and alleges that said last mentioned act is unconstitutional and void, and that he is acting as member and director of said Board under authority of said act, approved March 23d, 1875, yet the said Attorney General, on relation aforesaid, gives the Court here further to be informed and understand that, by an act of the Legislature of the State of New Jersey, passed March 25th, A. D. 1885, entitled

"An Act concerning the Constitution of the Boards of Chosen Freeholders of this State, and to make uniform the selection and duties of Directors of such Boards,"

it was enacted as follows, viz.:

1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That hereafter, only those persons elected by the various townships, or other political divisions from which chosen freeholders are authorized to be elected by the laws of this State, shall constitute the Boards of Chosen Freeholders in the respective counties of this State; and no member or Director of any Board of Chosen Freeholders shall be elected by the vote of the electors of a county at large, any law to the contrary hereof notwithstanding.

2. And be it enacted, That the Boards of Chosen Freeholders in the several counties of this State shall elect their own Director from among their own number in accordance with the provisions of the act entitled "An act to incorporate the Chosen Freeholders in the respective counties of the State," approved March sixteenth, eighteen hundred and forty six; and such Director shall have the powers and perform the duties prescribed by said act and no other powers and duties.

3. And be it enacted, That any office of Director of a Board of Chosen Freeholders created by any law of this State other than said act shall be and the same hereby is abolished, and in any county where there has hitherto been such an office the Board of Chosen Freeholders shall immediately elect a Director from their own number.

4. And be it enacted, That all acts and parts of acts, general or special, public or private, inconsistent with the provisions of this act, be and the same hereby are repealed.

5. And be it enacted, That this act shall be deemed a public act and take effect immediately.

Wherefore, the said Attorney-General, on the relation aforesaid, says that the said Patrick Govern, since the fifth day of May last, hath usurped, intruded into and unlawfully held, used and exercised, and yet doth use, intrigue into and unlawfully hold, use and exercise the office of member and Director of the Board of Chosen Freeholders of the County of Hudson, to the great disadvantage of the said relator as a member of said board, and as a citizen and taxpayer of said county, to wit, at Jersey City, Hudson County aforesaid; in contempt of the State of New Jersey, and to its great damage and prejudice, against its dignity and sovereignty.

Whereupon the said Attorney General of the said State, at the relation of the said Robert Bumsted, desiring to sue and prosecute in this behalf, prays the advice of the Court here in the premises, and for due process of law against the said Patrick Govern in this behalf, to be made to answer to the said State by what warrant he claims to hold, use, execute and enjoy the aforesaid office of member and Director of said Board of Chosen Freeholders of the County of Hudson, and the liberties, privileges and franchises thereof.

JOHN P. STOCKTON,
Attorney-General.

R. B. SEYMOUR,
Atty. of Relator.

At request of defendant's attorney it was stipulated by paper duly filed that above information be considered amended so as to contain admissions—

1. That Hudson County is the only county in the State which, on March 25, 1885, had a Director-at-Large, or a director or member elected by the vote of the electors of

the county at large, and the only county electing chosen freeholders from Assembly districts.

2. That no notice of intention to apply for the act of March 25, 1885, was given.

Defendant filed general demurrer, and relator filed the common joinder.

The opinion of the Court was delivered by Dixon, *J.*:

The demurrant takes two positions, first, that the act of March 25, 1885 (P. L. 1885, p. 137) is special or local, and is therefore unconstitutional, both because it attempts to regulate the internal affairs of counties and because no public notice was given of the intention to apply to the Legisture therefor, and, second, that its title does not express its object, and therefore also it is unconstitutional.

1. Is this act special or local?

Nothing of a special or local character appears on the face of the law. Its terms embrace the whole State and every board and officer in the classes to which it relates. But it seems that before its passage, the legal conditions were such that no board or officer outside of the County of Hudson would be affected by it. All other boards of chosen freeholders were constituted, and the selection and duties of all other directors of such boards were regulated, in accordance with its provisions. Its sole effect would be to put the office of Director in Hudson County on the same footing as such directors elsewhere. While, therefore, if valid, its object and effect are to produce uniformity throughout the State, its operation is local because only in one locality was there before any divergence from the nominal type which the act makes universal.

This, however, does not render the statute special or local within the constitutional prohibition. It should, I think, now be regarded as settled, that, whenever an act of the Legislature is general in its terms and its only effect is

to remove in some degree the differences existing in the various regulations of the internal affairs of towns or counties and to subject those internal affairs to the operation of a general law, then the act is not prohibited by the constistitution but is in strict accordance with the command of that instrument which expressly enjoins upon the Legislature the passage of general laws for such cases. This principle has been approved in

Van Riper *v.* Parsons, 11 Vroom., 123.
Sutterly *v.* Camden Common Pleas, 12 Vroom, 495.
Tiger *v.* Morris Common Pleas, 13 Vroom, 631.
Field *v.* Silo, 15 Vroom, 355.
Hines *v.* Freeholders of Essex County, 16 Vroom, 504.

The Statute cannot be defeated on this ground.

2. Does the title express the object of the act?

The constitutional provision is that "every law shall embrace but one object, and that shall be expressed in the title."

It is not necessary to review the numerous decisions involving the application of this and similar clauses. It is on all hands agreed that its purpose is to require the title of a bill to be such as will inform the public and the members of the Legislature of the object of the enactment, and that this purpose is accomplished when the title fairly indicates the general object, although it does not indicate the means or method of attaining this object.

Grover *v.* Ocean Grove, 16 Vroom, 399.
People *v.* Briggs, 50 N. Y., 553.
Cooley on Cons. Lim., 144.

In considering whether the title of an act meets this requirement, it must be presupposed that the Legislature and the public are cognizant of the public laws touching the subject on which the intended statute is to operate. In the

present case it must be presumed to have been known that in every county of the State except Hudson the Director of the Board of Chosen Freeholders was selected by the board from its own members, and that his duties were those specified in the general law entitled "An Act to incorporate the Chosen Freeholders in the respective counties of the State," approved March 16, 1846; that in Hudson County the Director was chosen by the voters at large and that his duties were those specified in the local act of March 23, 1875. In this condition of things the title now under review declares that the object of the law is "to make uniform the selection and duties of Directors" of Boards of Chosen Freeholders of the State; the law itself discloses that its exact aim was to abolish the peculiarities touching the selection and duties of Directors which existed in Hudson County alone.

The question, then, is whether this title was fairly adapted to apprise the public and the members of the Legislature of the general object of the law. I think it clearly was. It did not declare a purpose to legislate concerning all the Directors in the State or concerning more than one of them, but it asserted that the object of the legislation was to produce uniformity among them all with regard to their selections and duties. It did not say whether that object was to be accomplished by placing all Directors on the footing on which the Directors in Hudson County stood, or by reducing him to the level of the rest, or by conforming all Directors to some new scheme; but it distinctly give notice that by some means uniformity in these respects was to be secured. That was the general object of the act, and that alone was necessary to be expressed in the title. For the particular method of reaching the end every one was legally bound to examine the body of the statute.

I do not see how the general object of the law could have been more aptly expressed. It may be said that it would have been done by entitling it, for example, "An act to abolish the office of Director of the Board of Chosen Freeholders in Hudson County as it now exists, and to ordain that such office shall hereafter exist only under the act to incorporate the Chosen Freeholders in the respective Counties of the State," approved March 16, 1846. Such a

title would indeed have indicated more definitely the means by which the design of the Legislature was to be carried out, but it would not have expressed more clearly the general object in view. If so specific a title be requisite, it can only be because of some such rule as this, that whenever the object of the statute is to remove a special characteristic in any municipal government so as to bring the government into conformity with a general law, the title of the act must expressly point out that characteristic. Such a rule would be impracticable. It would utterly prevent any general law for the government of towns in this State, and would, I think, defeat every law heretofore passed having this design. At the time our constitutional amendments were adopted, every city in the State was governed under a special charter, and these charters differed from each other in a multitude of particulars. Any general law framed for the government of these bodies would therefore necessarily abolish some peculiarities confined to single cities, some limited to a few, and some, perhaps, common to many. To require the enumeration of these special features in the title or even in the body of the law would, of course, be absurd. Yet, if such a feature must be specified when it exists in only one town or county, why need it not be when it exists in two or in several? And if it exists in several municipalities, and in the attempt to enumerate all the instances the Legislature should omit one, the result would be that the act would wholly fail, because not embracing all the individuals properly standing in one class on the subject matter of the statute. I do not think such a rule can be adopted. The proper form of legislation is for the Legislature to declare what shall be the law prevailing everywhere, and inconsistent special provisions wherever found must give way, and the appropriate form of title for such legislation is one that expresses a purpose to enact a uniform rule on the subject to which the law relates. This is the mould in which the present act and its title were cast.

The statute being thus, in my judgment, constitutional with regard to its main design of securing uniformity in all things pertaining to the office of Directors of Boards of

Chosen Freeholders, and with regard to the form for accomplishing that design, it is also valid in reference to its immediate abolition of the office of the demurrant. Such abolition was a necessary incident of the legislative purpose of putting Hudson County at once on the same basis as the rest of the State, and was therefore embraced within the object expressed by the title.

Payne *v.* Mabon, 15 Vroom, 213.

The demurrant had no right to his office which could withstand the enactment of the Legislature to remove him.

City of Hoboken *v.* Gear, 3 Dutch., 265.

The Attorney-General is entitled to judgment.

Beasley, *Chief Justice* (dissenting):

My consideration of this case has led me to a different result from that reached by my associates. The statute in question seems to me to be in two respects in conflict with the constitution of the State.

The pertinent constitutional provision is to this effect: "The Legislature shall not pass private, local or special laws "* * * regulating the internal affairs of towns and coun- "ties." The office of the act under consideration is to change the mode of electing one of the Chosen Freeholders of the County of Hudson. It is a law that undeniably is operative on a single office, in one county only, and it regulates the internal affairs of that county; in my apprehension, therefore, it is not practicable to suggest any case that falls more clearly under the prohibition of the constitutional clause just quoted.

The theory by which this manifest conflict was sought to be subdued was constructed in the briefs of counsel on this basis: first, it was insisted that the act in question by its modification of the mode of electing one of the Chosen Freeholders of this county harmonized to the extent of the change thus effected the method of electing these official bodies throughout the State; the supposition being that it

was the purpose of this provision of the constitution to compel, as far as practicable such harmony. But, it is conceived that there is no force whatever in such a consideration, for the conclusive answer is that the argument when analyzed is a mere request that the Court shall alter the constitution of the State. That instrument in plainest language declares that a local law of this character shall not be enacted; we are asked to say that such a law may be passed if it has a certain beneficial effect; in other words an unqualified prohibition is to have a qualification injected into it. If this act is to be withdrawn from the constitutional inhibition for the reason that, although its immediate effect is spent in a single county, its general effect is to produce agreement, in the methods of electing Freeho'ders throughout the State, why are not all laws having a local force only but being in general promotive of the public welfare, to stand on the same plane? Are all these sorts of acts to be deemed constitutional, or are we to discriminate? And if we are to discriminate, wherefore? Whether, as heretofore, one of the Board of Freeholders of the County of Hudson shall be elected, contrary to the practice in vogue throughout the rest of the State, by the voters of the county at large, is a matter it must be admitted, in which the citizens of the State in general have practically no interest whatever. It may, it is true, to some inappreciable degree, gratify the æsthetic taste of an inhabitant of the County of Mercer, to be aware that by the abolition attempted by this act, the general system regulating the election of Chosen Freeholders, has been made harmonious and symmetrical, but such abolition can afford him no other pleasure for it cannot in the remotest manner affect even the the least of his own legal privileges. It is obvious that a local law authorizing the construction of a public road, or the erection of a jail, in the County of Hudson, would be an enterprise of much more practical concern to the citizens of the State at large than the scheme of the present act can be claimed to be. The use of such road would belong to them of right, and such jail would benefit them individually in its tendency to repress crime. Are such laws as these to be pronounced to be invalid, and the present one, that so slightly effects the gen-

eral welfare, to be sustained? The only reason that has been suggested why such a distinction should be made is, that the purpose of the constitutional prohibition is to similarity between the institution by which the different counties and municipalities are governed. But this is a mere assumption; the constitution does not say so; nor is there anything in its various provisions from which such an intent can be collected. That a general law placing on the same footing all the different political districts of the State, and subjecting them to the same species of local government would be productive of public good may be readily granted, but there is no reason to believe that this was the sole, or even the most important end, to be attained by the clause under consideration. Indeed, if speculation on this subject were legitimate for the purpose of construing the clause, it might well be urged that the prime motive of its introduction into the organic law must have been the prevention of legislation for localities by the votes of legislators who were not liable to be called to account for their conduct by the inhabitants of such localities. A disastrous experience had manifested that the most ruinous laws, operative only in a particular city or a single county, had been easily obtainable at the instance of interested persons, when it was evident that such laws would not have been enacted if the burthens of them would have fallen on the citizens of the State at large. My experience is that this irresponsibility of the law-makers for local legislation was the flagrant evil of which the prohibitory provision in question is the provided remedy. But it is conceived that all such disquisitions as these are out of place when introduced into the present inquiry, for when the language of a constitutional clause is entirely intelligible, is not controlled or affected by its context, and its application to its subject is practicable, the only course permissible is for a court to enforce it according to its terms. This is the established rule of construction, and is the only one which, if the dictates of reason are to control, can be adopted; for, under the conditions defined, the language of the instrument affords us our only means of ascertaining the purpose of the Legislature that formed

and sanctioned its provisions or of the people who by their votes called them into activity. In the present case therefore my inquiry seems to me to be limited to the question whether this statute is a local act of the kind described, for if so the law is in very words prohibited, and such prohibition does not depend on the question whether such local act abolishes an anomaly subsisting in the governmental institutions of the locality, for as the respective boards of freeholders are independent of each other, the abolition thus affected can have no force outside of such locality. And in my apprehension, so far as relates to the *rationes decidendi* the judgment in the case of the Freeholders of Passaic *v.* Stevenson 17 vr. 173 is in point. The law then passed upon made provision for the payment of salaries of different amounts to the prosecutors of the pleas of certain designated counties; and the question was whether such law did not violate the constitutional clause we are now considering. One of my associates, who is now sitting with me on that occasion contended, with his usual ability, that such law did not regulate the internal affairs of the designated counties alone, and therefore was not a local law in the constitutional sense, the reason assigned being that the prosecutors of the pleas are officers whose duty it is to enforce the general criminal laws of the State, and that the repression of crime in each county concerns the State at large. It cannot fail to be observed how much more favorable to this contention the circumstances of the reported cases were, than are the facts of the present case, for the enforcement of the general criminal law is assuredly of much interest to the entire commonwealth; whereas, as has been said, the assimilation of the mode of choosing a member of a Board of Freeholders in one county to that practised in the others cannot be a concern of any moment to the citizens of the State in general. But the argument, although at its best with respect to its basis of fact, was not successful, and the statute was vacated. The statute in that instance spent its direct force within certain designated localities, and it was on that ground pronounced against, although, like almost all other good local laws, its ultimate effect was to promote the general public welfare.

According to my apprehension the present case, in point of principle, is ruled by this ajudication. Again, it is further urged on this same head that this act, in its title and in all its provisions, applies in its terms to the whole State and not to any particular locality. But unless words are things, such a feature of the law is an absolute nullity. If a statute be in point of operation local, it cannot be converted into a general law by a mere sleight of the pen. Nor can a purely verbal ubiquity tend in the least degree to impart to it such a nature. If the present statute affects but a single county by altering the mode of the election of one of the members of its Board of Chosen Freeholders; and if such modification simply assimilates the internal organization of this particular board to the organization of the independent boards of the other counties, and thus produces, as an ultimate result, mere likenesss of structure between these bodies without any pretense of producing any harmony of administration between such bodies; if a law has this effect in no other, it would seem to be undeniable that such an act is to be deemed either special or general in view of such effect, and not in view of its phraseology. If the act had explicitly declared its purpose to be to produce a definite effect in this particular county would it not have been as valid as it is now? Language as applied to such a subject is a matter of literature and not of law. If the object immediately effected by a statute be of general practical interest, then in the aspect under observation, the act is general, and no terms of expression or set of words can make it local, and so the same test stamps an act as local when its immediate purpose is local. It is conceived that this view is not impugned by the decision of the court in the case of Van Riper v. Parsons 11 Vroom 124, although it is plain that it stands in conflict with the dicta in the opinion. The question in that case related to an attempted amendment of the proceedings which was a motion addressed to the discretion of the court; if such amendment had been permitted then the present question could have been presented for judgment.; but the application was refused, and consequently such question was not brought with directness, under consideration. The result reached by the court seems to me as

the facts were exhibited, to have been on proper grounds of policy.

In fine, the act under criticism appears to me to be unconstitutional on the grounds above assigned.

The second particular in which this act, as it is deemed does not comport with the requirements of the constitution of the State, is this: its object is not expressed in its title. The mandate of the primary law on this subject is: that "every law shall embrace but one object, and that shall be expressed in its title." The title of the statute under consideration is in these words: "An act concerning the constitution of the Boards of Chosen Freeholders of this State and to make uniform the selection and duties of Directors of such boards."

This title, as it seems to me, is composed of two false statements and one-half truth. The act does not concern the constitution of the Boards of Freeholders of the State, but it relates only to the constitution of the board of a single county. Nor does it make uniform, in any sense whatever, the duties of the Directors of such boards, for although there is a section on that subject, it leaves the matter as it previously existed, the section being a mere pretense and utterly without effect. The half truth expressed is this: This title says the act is to make uniform the selection of the Directors of these boards throughout the State. The truth is that its immedate purpose and effect is to alter the way in which one of such Directors in a single county was selected, and the result of that alteration was uniformity in that respect. Why a title thus general, thus false, thus inexpressive? The answer seems at hand: It is an attempt to transmute by force of mere terminology a special local act into a general law. It were easy to have styled this law "an act concerning the mode of electing the Director of the Board of Chosen Freeholders of the County of Hudson," or even "An act concerning the Board of Freeholders of the County of Hudson," but in the place of these or some such definite title, we have the elusive generalties just stated. In my judgment that requirement of the constitution means that the object of the law shall be expressed in its title in a manner rea-

sonably intelligible, and such requirement is not fulfilled by expressing the object in the form of a legal enigma which can be solved only by some legal practitioner versed to an extraordinary degree in the minutest details of local and municipal laws. No reasonable expression of the object of the present law is, in my opinion, to be found in its title; it is worse than being inexpressive, it is deceptive.

In order to avoid misconception it is proper to say that it is not intended by any part of the foregoing remarks to intimate that the anomaly that existed in the method of choosing the directors of the Board of Chosen Freeholders in question could not have been abolished by appropriate legislation. All that is insisted on is, that such an end cannot be reached by a general law, as the subject is one of purely local concern. When the case of Van Riper *v.* Parsons (11 Vr. 1) was originally before this Court, an opinion was expressed that special local legislation regulating the affairs of towns and counties was constitutionally prohibited only when the end designed to be attained could be affected by general legislation, and that when the latter method was not available the former method was not illegitimate. This proposition has not as yet received judicial sanction; and whether the evil, if such it be, at which this present act is aimed, as well as others existing under similar conditions, may not be abolished by resort to this method, is worthy of consideration. That local laws, whenever they can be legally enacted, must be resorted to is abundantly evident from the constitution itself. By paragraph 9 of Section vii. of Article iv., it is declared that "no private, special or local bill shall be passed, unless public notice of the intention to apply therefor and of the general object thereof shall have been previously given."

This is a requirement in which each separate community of the State has an abiding interest, and it confers a right which courts cannot abrogate; and yet, if the present act is sustained, it is not perceived how it can be intended that such disfranchisement has not been inflicted in this instance. If the citizens of a county have not the right, under the force of the constitutional section just quoted, to be notified of an intention to apply for a law altering the mode of

choosing one of their own Board of Freeholders, to what local interest is the provision applicable? Would it be obligatory when the purpose was to regulate the election of the Mayor or Common Councilmen of a city? To me it seems plain that the residents of Hudson County have been deprived, by the enactment of this law in its present form, of one of the privileges guaranteed to them by the constitution of the State; and such result will oftentimes obtain if that theory is to be adopted which, on subtle grounds and unchecked by the plain language of the constitution, transmutes local interests into general interests, and thus seeks to justify the use, with regard to them, of general in the place of local acts.

From the foregoing considerations I am constrained to dissent from the decision rendered in this case.

STIPULATION.

NEW JERSEY SUPREME COURT.

THE STATE, *ex rel.* ROBERT BUMSTED,
vs.
PATRICK GOVERN.

On Quo Warranto.

On request of defendant's attorney, it is agreed :

That the information in above stated cause be amended so as to contain admissions that Hudson County is the only county in the State which, on March 25, 1885, had a "Director-at-Large," or member elected by the votes of the electors of the county at large.

That Hudson County is the only county in the State in which the Chosen Freeholders are elected from the Assembly Districts.

That no notice of intention to apply for the act of March 25, 1885, was given.

Dated June 9, 1885.

R. B. SEYMOUR,
Atty. of Relator.
By GILBERT COLLINS,
Of Counsel.

special laws are desirable." Mr. Justice Dixon says that this act is "constitutional with regard to its main design of securing uniformity in all things pertaining to the office of directors of boards of chosen freeholders."

So that the abolition of the office of director-at-large of the board of chosen freeholders of Hudson county secures uniformity in all things pertaining to the office of directors of the boards in the State! Of what, pray, does this uniformity consist? There will continue to be different directors; they will continue to discharge different duties, created and required by the different needs of their respective counties. The boards are in nowise related. They are of purely local concern. There is no call for "harmony" amongst them. The fact that in some counties the members of these corporations are elected from wards, in others from cities, in others from assembly districts, cannot create confusion or throw the shadow of an obstacle in the way of general laws regulating the internal affairs of counties. The special feature of a director elected by the people of Hudson county cannot justify legislation for that county, unless that feature is obnoxious to the law governing the twenty other counties. It cannot be so construed, for it is without the limit of possibility that the method of electing the board of freeholders in Hudson county can ever concern the other counties or the governmental policy of the State. The constitutional inhibition is of laws affecting certain localities only, and the question of how those localities are affected is irrelevant. It may be as injurious to abolish distinctive features of municiple government as to create them. The constitution says: "No law shall be passed," &c. Why construe it to mean "no local law shall be passed unless the same be clothed in general words"? In the natural signification of the words of the constitution there is neither ambiguity or absurdity.

> "We are not at liberty to presume that the framers of the constitution, or people who adopted it did not understand the force of language." *People v. Purdy, 43 Hill (N. Y.), 384.*

"Whether we are considering an agreement between parties, a State or a constitution with a view to its interpretation, the thing which we are to seek *is the thought which it expresses.* To ascertain this the first resort in all cases is to the natural signification of the words employed, in the order of grammatical arrangement in which the framers of the instrument have placed them. If thus regarded, the words have a definite meaning which involves no absurdity and no contradiction between different parts of the same writing. Then that meaning, apparent on the face of the instrument, is the only one which we are at liberty to say was intended to be conveyed. In such case there is no room for construction. That which the words declare, is the meaning of the instrument, and neither courts or legislatures have a right to add or take away from their meaning." *Cooley's Constitutional Limitations, (3d), p. 57.*

"There must be a substantial distinction, having a reference to the subject matter of the proposed legislation, between the object embraced in the proposed legislation and the objects or plases excluded." *Richards v. Hammer, 13 Vr., 435.*

The methods of electing the members of these corporations cannot be strained into a "substantial distinction," and the existence of a member elected by the people-at large is as poor ground for special legislation in general words as is the existence of a board of assessment and revision of taxes. The language of the Chief Justice, delivering the opinion of the court in *Coutieri v. New Brunswick, 15 Vr., 58,* is applicable. "In this instance the title is both false and deceptive; false, as it imparts a regulation of a class of cities, when in truth it is applicable to a single city; deceptive, because no one, on reading such a title could reasonably understand that the body of the act was to have so limited an effect."

Gibbs v. Morgan, 12 Stewart, 126;
Ernst v. Morgan, 12 Stewart, 391; 13 Stewart, 733.

V.—This Act, being Local in its Application, Notice of the Intended Legislation should have been Given.

The case presented in *Van Riper v. Parsons* is easily distinguished from the one presented. That case is freely quoted in support of the doctrine that special legislation producing uniformity is an answer to the constitutional demand for general laws. The question in *Van Riper v. Parsons, 11 Vr., p. 1,* was the validity of an act entitled "An act concerning commissioners to regulate municipal affairs." (*Laws of 1877, p. 54.*) That act proposed that whenever there were commissioners appointed by the legislature to regulate municipal affairs, the terms of office of such commissioners should cease and determine on a certain day, and their duties thereafter be performed by certain commissioners elected by the people; while the act of 1885 proposes that whenever there is a director of a board of chosen freeholders elected by the people, his term of office shall cease and determine and his duties be performed by a director elected by the board. It being contended that the act applied only to Jersey City, and that notice of application for such legislation had not been given, the court said:

"But it is further and in the last place urged that as this statute can apply to Jersey City alone, it is, at all events, special and local, within the effect of that other provision of the constitution *which exacts a notice of an intention to make application to the legislature for bills of this character. Art. IV., sec. 7, pl. 9.* But, *unfortunately,* it is, in this information, assumed, *without the necessary showing of facts,* that this law has this singleness of applicability. This pleading shows that the defendants are clothed with office by force of a popular election, duly held in accordance with this legislative act, and as, under such circumstances, the regularity and validity of such act will be strongly implied, *the facts necessary to vacate it*

must be set forth in a direct and traversable form. This has not, in this case, been done. An allegation that the statute is special and local as to Jersey City is not the statement of a fact, but a naked inference as to law. The question, therefore, that was discussed, and which was founded on the assumption that the present law was operative in but a single place, cannot be considered or disposed of upon the record as it is now presented to our attention."

Subsequent to this decision, the relators asked for leave to amend their information, to show the singularity of the application of the act of 1877. In the meantime the legislature had passed an act abolishing all municipal commissions appointed by the senate and general assembly in joint meeting. Leave to amend was refused on grounds of public policy, the court holding that the act of 1878 abolished the positions of the relators. The validity of the act of 1877 is not, however, established by this decision. *Van Riper v. Parsons, 11 Vr., 127.* (Not in Court of Errors, as mistakenly stated in *Skinner v. Collector, 13 Vr., 409.*)

The act of 1878 abolished all legislative municipal commissions.

The act under consideration does not abolish the office of director of the board of chosen freeholders. It does not affect the office, but, in a single county, says that the member of the board shall not be elected by the people of the county-at-large. When the question was whether *commissioners elected* could be substituted for *commissioners appointed*, the court leaned toward the position that such substitution, if confined to a single city, was a local law requiring notice. When the question turned upon the validity of an act abolishing commissions, as different a question was presented as there would be in this case if the law of 1885 had provided for the abolition of the office of director of the boards of chosen freeholders of this State.

In *McDermott et als. v. Seymour, 18 Vr., 174,* the question was whether an act entitled "An act concerning

cities in this State," (*Laws of 1882, p. 251,*) providing that whenever the municipal board having charge of the finances of any city in this State was not elected by the people, such board should be appointed by the mayor, could be sustained and the legislature was set aside, being considered unworthy of the dignity of an opinion.

The director of every board in the State is elected by the people. Whether in Hudson county he shall continue to be elected by the people-at-large or shall be elected by the voters of an assembly district and called to the chair by his colleagues, is a question purely local and having absolutely nothing to do with the "constitution of the boards" in other counties. If this law is sustained, we will have the following results:

1. The board of chosen freeholders in Hudson county will be decreased in membership from twenty-one to twenty. The board of freeholders in every other county will remain unchanged.

2. The board in Hudson county will be chosen from political divisions known as assembly districts. The board in each of the other counties will be chosen from some other political divisions.

3. The director of the board in Hudson county will be chosen from a political division unlike that from which the director of every other board is elected.

4. Uniformity (not harmony, for harmony is the result of relation) will be secured on the single point that each board will select its own presiding officer.

If this is not local legislation, requiring notice to the people; if this is a "general law," the line of demarcation will not be permanently drawn until the limit of legislative ingenuity is ascertained

ALLAN L. McDERMOTT.

June Term, 1886.