

BIENNIAL MESSAGE

OF

GOV. RALPH P. LOWE,

DELIVERED TO THE

EIGHTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA.

STATE LIBRARY COMMISSION OF IOWA
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DES MOINES, IOWA.
JOHN TEESDALE, STATE PRINTER.
1860.

GOVERNOR'S MESSAGE

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GOV. RALPH P. JONES

OFFICE OF THE

EIGHTH GENERAL ASSEMBLY

STATE OF IOWA

STATE LIBRARY COMMISSION OF IOWA

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1860

GOVERNOR'S MESSAGE.



Fellow Citizens of the Senate, and

House of Representatives :

Representing the Executive Chair, it becomes my duty, under the constitution, to communicate to the General Assembly, the condition of the affairs of the State, as administered in its several departments, and to recommend such measures, as to me shall seem expedient for your action.

The period that has elapsed since your last biennial session, has been one of great disturbing causes and anxious solicitude to all classes of our citizens.

The first year of this period was visited with heavy and continuous rains, which reduced the measure of our field crops below one half the usual products, whilst the financial revulsion which commenced upon the Atlantic, in the fall of '57, did not reach its climax for evil in our borders, until the year just past.

You need not be informed of the disastrous effects produced by these two causes, upon the hopes and condition of our people. Overtaken suddenly and unexpectedly in this misfortune, with heavy individual liabilities, with no facilities for obtaining money, their property reduced to a nominal value, and no demand for it at any price, thousands there are who feel that their homes and their fortunes are in great peril; and that this is so, would be worse than idle to disguise. In this aspect of affairs, you may reasonably expect that strong appeals will be made to you for remedial legislation; and I doubt not that their expostulations will receive your very considerate attention, and prompt you to put forth, in your sovereign capacity, such powers as you possess, to secure to

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them indemnity against unreasonable and unjust sacrifices, yet in a manner that shall guard and protect the rights of all parties interested.

I would not, however, suppress the important fact that the condition and affairs of our people are taking a favorable turn, since the commencement of the late monetary crisis; a large amount of individual indebtedness has been liquidated—a rigid system of retrenchment has been observed in the social and domestic relations and expenditures of our people—but few new liabilities have been created—no malignant epidemic has prevailed—the industry of the people, the last year, has been very well rewarded with a fair harvest—emigration is again flowing in—the social condition of our people is improving, and we have abundant reason for devout and grateful acknowledgments to *Him*, whose goodness knows no bounds, that we are once more being placed in a condition of advancement and prosperity.

CENSUS OF 1859.—You will have before you a neat print of the census of the past year, taken in the mode prescribed by the act that authorized the same, at an expense only of about \$618 71. It fixed the population of the State at 642,532, being 123,168 more than the population, when the census was taken in the year 1856, and will in all probability, reach 700,000 by the time the Federal census is taken during the present year. The agricultural statistics contained in the present census, refer to the year 1858, and do the field culture of the State very great injustice. On account of the heavy and protracted rains of that year, it is conceded that our crops fell below half their usual amount. Yet, as a result of our industry, we had in cultivation over three millions of acres. And unfavorable as was the season, we cut over 500,000 tons of hay—harvested over 3,000,000 bushels of wheat—cribbed over 23 million bushels of corn—1,500,000 bushels of potatoes—manufactured near a half million gallons of molasses from sorghum—sold beef cattle and hogs to an amount exceeding five millions of dollars, and exported wool and lead, to the value of a million and a quarter, &c.

But it is believed by the best judges, that the year just past, would exhibit a very different table of statistics; that the beef, pork, and wool crops have given an excess of 20 or 25 per cent. over the census year of 58, whilst the corn crop cannot fall short

of fifty millions of bushels, and the value of the sorghum molasses would reach the figure of \$500,000.

One or two more such crops, accompanied in other respects with the smiles of a propitious Heaven, and adhering to our present system of domestic economy, will not only re-assure but restore our people to their wonted prosperity, and place them in a condition to grant rather than ask favors of those Atlantic States and cities, which have been heaping obloquy upon us because of our embarrassments, which had its origin as much with them as with us.

HASTY LEGISLATION TO BE AVOIDED.—Seventy-one of the laws, covering 263 pages, were passed the day and night preceding the adjournment of the last General Assembly. It would be strange, indeed, if the engrossing and enrolling clerks could copy and compare all these enactments, for the signature of the president of the Senate and the speaker of the House, without committing grave errors. It is known, important omission and mistakes did occur, while some very important bills had been matured at the cost of much time, labor, and expense, failed of their passage, for the want of a few hours time. The mischief growing out of rash and inconsiderate legislation of this description cannot fail to address itself to the mind of a prudent legislator, and I feel myself shut up to the duty of respectfully but earnestly urging upon you the correction of this great evil. I need not say that, as the supreme law-giving power of the State, you are charged with an important trust, which the public welfare demands shall be executed with a wise caution, and a faithfulness that shall comport with the solemnity of your commission.

STATE INDEBTEDNESS, REVENUE, AND EXPENDITURES.—Your attention is invited to the reports of the Treasurer and Auditor of the State. From the report of the latter, it will appear that the liabilities of the State amount to \$352,492 37. This sum is made up of three amounts quite dissimilar in their character, and all of which, with some confusion of ideas, have been designated a State indebtedness. The first consists of \$200,000, borrowed by the State in the winter of 1858, upon her bonds, running ten years at seven per cent. The second out-standing warrants, amounting to \$30,196 62, payable upon presentation. The aggregate of these two sums,—\$230,196 62—constitute the entire present indebtedness of the State. The third sum of \$122,295 75, is a part of the

school fund, which belongs to the State, is held by the State in trust for educational purposes. It is true, the State pays interest on this amount, not to a creditor,—for the relation of debtor and creditor does not exist—but to the school fund itself, as upon a debt; ownership is not indebtedness. This money is a part of the proceeds of lands granted to the State, and is as much the property of the State as the lands were at the time they were granted. She has wisely dedicated the interest upon this fund to the support of a system of common schools. In paying this interest, she does not make herself a debtor, or divest herself of the right to control this fund as to her may seem best. She may at any time change her constitution and apply the five per cent. fund and the proceeds of the 500,000 acre grant to any other purpose. I deemed this explanation due, for the reason the constitution forbids a State indebtedness above 250,000 dollars, and if in the sense of the constitution, the receiving and holding this fund is a debt, then has the State precluded herself from demanding and receiving about a million of dollars due her from the General Government, on the five per cent. fund. Such is the amount and character of our liabilities. It will be observed that but a small portion of the same will mature and be required to be paid during the next two years. In contrast with this, the revenue resources of the State show that its financial affairs are in a very satisfactory condition, as it leaves a large excess of assets over her liabilities.

The balance in the treasury, and in course of payment through the banks, the delinquent taxes now due from the counties, and the State tax of the year 1859, amount in the aggregate to six hundred and eight thousand six hundred nine dollars and forty-eight cents.

The Auditor estimates the expenditures for the two fiscal years, commencing November 7th, 1859, and ending the 1st Monday of November, 1861, exclusive of appropriations for charitable institutions and other special purposes, at \$401,719 72, whilst the estimated resources of the State for the same period, exclusive of the saline and school funds are put down at \$858,609 48. The above figures exhibit a handsome margin upon which the State may prosecute to completion her various charitable and other institutions.

The first great duty of the State undoubtedly is, to administer its affairs in all the departments of the public service, upon as economical a scale as possible, consistent with the public good.

The expenditures for ordinary purposes, during the two fiscal years, ending on the 7th of Nov. last, amount to \$366,198 57, whilst the extraordinary expenses for the same period, amount to \$212,157 45; making an aggregate of \$578,356 02. I have no knowledge of any State in the Union, whose ordinary expenses, when viewed in connection with the nature of our political organization, the extent of our population and territorial limits, will compare more favorably, or whose people pay a lighter State tax for the privileges they enjoy, than do ours. This fact, it is believed will not escape the attention of the emigrant who is or may be seeking a home in the great valley of the Mississippi.

BOARD OF EDUCATION.—Our Educational interest will claim your special attention. On the 12th of March, 1858, the General Assembly passed an Act entitled, "An act for the Public Instruction of the State of Iowa." This act, with the exception of those portions of it which provided for levying taxes and appropriating money, was subsequently declared unconstitutional by the Supreme Court. The Board of Education at its first session, held in December, 1858, were much perplexed in determining the extent of their jurisdiction, fearing on the one hand that they might encroach upon the powers of the General Assembly, and on the other, that they might fail to perform to the full extent, the duties required of them under the constitution.

After much reflection and deliberation, they re-enacted the law above referred to with some slight alterations. It took effect on the first day of March last, and under it our school system has operated as successfully as we could reasonably expect in view of a change from a system with which they were familiar, to one materially different in its essential features. Objections have been made to some of its provisions, but in the main it appears to have given satisfaction.

The Board at their recent session held in December of last year, made a variety of amendments, which they believe will remove all valid objections.

Under the provisions of the constitution, all laws passed by the Board of Education are subject to alteration, amendment or repeal by the General Assembly. The law as amended will be laid before you for your consideration; and it is earnestly hoped that you will only make such additions to it as you may deem essen-

tially necessary to give it vitality without materially changing its provisions.

Repeated and radical changes in our school laws, though sometimes necessary, are always attended with temporary inconvenience, and frequently with serious injury, and hence it is particularly desirable to avoid them unless they are indispensable to the prosperity of our schools.

Popular education is one of the most important interests of the State. A much greater number of the people are personally identified with its failure or success than with any other subject of legislation. It is scarcely necessary, therefore, that the utmost precaution should be observed in anything you may deem it your duty to do for the promotion of this great object; and in this sentiment I am fully persuaded that I have your hearty concurrence. It is all important that the school laws should be considered and acted upon definitely and finally at an early day of the session, in order that they may be published and distributed in time for the school district elections in the spring. Their circulation in pamphlet form should not be restricted to school officers, but should be sent broad-cast among the people, in order that they may become familiar with their provisions. At least every head of a family should be supplied with a copy. We have over one hundred thousand voters who are interested in our school district meetings, and to enable them to become familiar with their duties and obligations, the school laws should be circulated exclusively among them.

The subject of discontinuing the Board of Education has been discussed by some of our public journals. While I much regret the unfortunate position in which we are placed by the educational provisions of our constitution, I should seriously question the expediency of such a measure at present. The Board have endeavored faithfully to perform the responsible duties imposed upon them, but at nearly every step, they have been trammelled by constitutional restrictions, and hence their legislation has not been such as it would have been if they had been clothed with full and exclusive authority to enact all laws for the government and support of our common schools.

But it should be remembered also that they possess, under the constitution, the sole power to originate all laws exclusively educational in their character.

The constitution provides that the General Assembly shall have power to abolish or reorganize the Board of Education at any time after the year 1863, and as another session of the General Assembly will transpire before that time, any legislation on the subject at present would certainly be unwise and premature, and would probably render our whole educational system still more complicated than before.

FIVE PER CENT FUND.—Our admission into the Federal Union transpired in the fall of 1846. At this time there were very few outstanding military land warrants. A part of the compact of admission was, that in consideration the government lands should not be taxed by us, the State should receive 5 per cent upon the net sales of the lands within her chartered limits. Upon the cash sales we are and have been receiving this fund; but upon all entries made with military land warrants, the 5 per cent is denied us upon the ground that such entries are mere bounties, and not sales. In February, 1847, three or four months after our admission into the Union, Congress passed an act offering one quarter section of land to every private, musician, and non-commissioned officer who would enter and serve a given period in the Mexican war. This war closed about the time that our best lands were being brought into market; vast numbers of these warrants were issued and were located in this State, absorbing a large proportion of our best lands. As they formed a part of the contract of enlistment, they could not have been withheld by the government without an act of bad faith, not so however if they were in fact only bounties. But they were issued in discharge of a consideration that had been given in the form of military services, and their subsequent redemption in land, constituted a sale in the sense of the law as well as the compact. Such is the opinion of the best jurists in the country. I have appealed in vain to the Secretary of the Interior for the payment of the 5 per cent upon these warrants, that now approximates to a million of dollars. On going to Washington to institute a suit in the court of claims, as I was directed to do by a joint resolution adopted at your last General Assembly, I was strongly dissuaded from doing so, for the reason that it would be a useless expenditure of money—that the decisions of that court settled nothing—that they were only equivalent to a report made by a committee of either House of Congress, and were as frequently overruled—that the relief after all must come

through Congress. Eminently unjust as is the non-payment of this fund for the reasons assigned, Iowa is not the only party complaining. Other western States stand in the same category, but not so largely implicated. They propose to abide their time till after the next federal census and apportionment, which will give the west some 18 or 20 additional representatives. My opinion is that we had better do the same thing.

The payment of this fund is not a mere favor which we are asking of the General Government, but a subsisting legal right which could be enforced in a court of justice, was there a tribunal of this kind clothed with the requisite jurisdiction.

SCHOOL FUND AND LANDS.—The agents employed to investigate the affairs of the different School Fund Commissioners in the State, found many irregularities and abuses in the official discharge of their duties, and in the counties of Alamakee, Chickasaw, Clarke, Decatur, Fayette, Jones, Madison, Mitchell, Story and Wapello, they discovered defalcations to an amount exceeding \$20,000. Their reports, however, in some instances, were not entirely clear and satisfactory, and probably may have done some of the officers injustice. The law makes it the duty of the County Judges in all such cases to bring the matter to the notice of the District Attorney for the purpose of instituting legal proceedings. I am of the opinion that the interest of the State School Fund would be better subserved by authorizing the Auditor of State or the Secretary of the Board of Education (Col. Benton,) to re-investigate the accounts of the School Fund Commissioners in the counties mentioned, with a view of ascertaining with greater certainty the real facts in each case; this being done to clothe such officer with full power to arrange amicably with the defaulting Commissioner the amount found to be due, by allowing time and good security. If he should fail in this, then to supply the District Attorney with such a statement of facts, that he may proceed with safety, and with less liability to involve the State in cost. Indeed it would be well to invest some officer with full discretionary power to settle all such cases in the method that will with the least expense, protect the State against loss.

I had the honor, at your last regular session, to communicate to your respective bodies, the frauds and abuses alleged to have been practiced in Tama County in the sale of the 16th section. The law required that the land should be offered at public sales

three different times, six months or more apart, before they shall be subject to private entry. In January, 1857, 3200 acres were offered at public sale in said county, (being the first and only time they were so offered) and run up to a high figure by fictitious bidders, as the charge was made, to prevent actual settlers from becoming purchasers. After the sale these bidders privately forfeited their bids—after which the parties for whom they acted, purchased the same at private entry at the appraised value thereof. If this was true, the sale was a fraud upon as well as a clear violation of the law, and consequently void, and I so directed the County Judge to declare them, which he accordingly did. I have since learned that some of these pretended purchasers were unwilling to have their lands so treated, and would contest their titles with the State, while others would give them up if their money could be refunded with interest. As the executive officer of the State, it was my duty to insist upon a strict observance of the law. It is quite competent for you to do otherwise, and in view of the altered condition of things in the State, the fall of property, &c., I would now recommend the passage of a law that should legalize these sales, and vest in the several purchasers the legal title to the lands in question, with the privilege, however, to such as desire it, to surrender back the land to the County Judge, upon being reimbursed the money paid, with interest. This option should be given, for the reason that the sale had been declared void by me, and some of the parties may have made other arrangements. Such a disposition of this difficulty would obviate the expense and vexation of law suits, and at the same time, under all the circumstances, further the interest of the School Fund.

500,000 ACRE GRANT.—In the selection of these lands the agents employed returned an excess of 22,660.03 acres, which by some mistake was approved and entered upon the tract books both in the General Land Office at Washington and upon our own books in the Register's office.

I was urged, and learned my predecessors had been, to return back to the General Government a list of lands to be taken from the original selections, properly described, that should be equal to this excess. Upon very full enquiry, I found that this could not be done without interfering with the rights of innocent purchasers, that the entire grant, including a part of this excess, had already been sold, leaving about 13,918.25 acres undisposed of. Perceiv-

ing no good reason why this last amount should not be given back, a list containing a proper description of the same was duly returned, and an arrangement was made with the Commissioner of the General Land Office, to the effect that the residue of this excess (8,745 acres) should be confirmed to the State, and that from her five per cent fund an amount should be retained sufficient to pay for the same, at \$1.25 per acre, being \$10,931. This adjustment is a favorable one for the State, and it is to be hoped that you will ratify it by the passing of an act that so much of the five per cent fund may be retained by the General Government, as shall be necessary to carry out the settlement so made, and that the title of the 8,745 acres may vest in the State; it will also be necessary for Congress to pass an act confirming this settlement for the consideration named, to which the attention of our Representatives should be immediately called.

DES MOINES RIVER GRANT AND IMPROVEMENT.—For years this grant has been held to extend to the source of the river. Recently the Government authorities have decided that it is limited in its extent to the Raccoon Forks, and refuses to certify any more lands to the State north of this point. The Hon. Charles Mason was appointed a Commissioner by the last General Assembly to procure, if possible, the residue of this grant to be certified to the State. For this purpose he immediately repaired to Washington, and not obtaining a satisfactory decision from the Secretary of the Interior, appealed to the President, who referred the subject to the Attorney General, whose opinion was adverse to the State, and thereupon recourse was had to the Judiciary. A suit, in the name of E. C. Littlefield, Esq., against the Dubuque & Pacific Railroad Company, was instituted in the District Court of the United States, and judgment obtained in favor of the plaintiff for a tract of land embraced in this grant near Fort Dodge, derived from the State. An appeal to the Supreme Court of the United States was immediately taken, has already been submitted to that tribunal upon printed arguments, with assurances from the Court of an early decision, which the State confidently expects will be a favorable one, as it is impossible to conceive how the Government is to avoid the legal effect of her repeated admissions, that our title extended to the source of the river. Too much praise cannot be awarded to Judge Mason for the able and indefatigable manner in which he has addressed himself to the object of his commission. The settle-

ment made at its last session by the Legislature with the Des Moines Navigation & Railroad Company, has been duly carried out according to the terms expressed, a part of the details of which will be found in the Report of the Commissioner, E. Manning, Esq. It will be remembered that the River Improvement was abandoned, except the completion of four dams, the state and condition of which will be found in the Reports of the present Commissioner, Wm. C. Drake, and the Chief Engineer, S. Dwight Eaton, Esq., to which your attention is respectfully called.

If these four dams should be completed, they will still be the source of constant annoyance and expense to the State, and it is clear to my mind that it would be the part of wisdom to do at once what in the end will have to be done, and that is, to transfer these dams, with all their privileges, to any responsible party or parties (if such can be found) who would undertake to complete and keep the same in repair. The dams, completed, might be disposed of to the highest responsible bidder, &c.

Justice to a large number of individuals, demands that I should bring to your attention another subject connected with this grant. The agents employed by the State to select the 500,000 acre grant, among others, selected 12,913.51 acres of land, chiefly in Webster county, belonging to the river grant, which selection, with others, was approved Feb. 20th, 1851.

Col. Benton, at that time the State Superintendent, with his usual caution and prudence, before ordering these lands into market, addressed a letter of enquiry to the Commissioner of the General Land Office, whether any of the selections in question conflicted with the Des Moines River grant. This was in March, 1853. Receiving a negative answer on the 6th of June, of the same year, he ordered the lands into market. In January thereafter, he received another letter from the Commissioner, to the effect that the approval of the selections of these 12,813 acres had been revoked, and confirmed to the State under the Des Moines River grant.

In the meantime, the School Fund Commissioner of Webster Co., under the order of sale, disposed of some 4,859 acres of this land, by sale to actual settlers, who have improved and still occupy the same. Since then the State, under her contract for the improvement of the Des Moines River, has conveyed by deed these same lands to the Des Moines River Company who now hold the legal title. In this condition of things what is to become of these

settlers? It is true, perhaps, under the occupying claimant law, they may get the value of their improvement. But is this the measure of justice that should be meted out to them? They were purchasers in good faith, and although their misfortunes are the result of the *laches* of Federal officers, rather than that of the State, yet simple justice demands, under the circumstances, that the State should at best do all it could to have these lands confirmed to them. This can now only be done by negotiation.

I would respectfully suggest, where any of these parties are unwilling to take a reasonable compensation for their improvements, and surrender the land, that if they will pay to the Des Moines Navigation & Railroad Company, the price for which the State sells other school lands, that then the State will make up the residue of the purchase money to said Company, either in cash or land; provided the purchase can be made of said Company on just and reasonable terms.

A special agent might be commissioned to effect the negotiation on this basis, properly restricted in his powers.

At all events, the whole subject is submitted to your better wisdom, earnestly expressing the hope that it will not be overlooked.

SWAMP LANDS.—The grant of these lands for purposes named in the act, has been the source of much trouble to the State, and vexation to the people of the counties who were intended to be made by an act of the Legislature, the recipients of the same. After large quantities of these lands had been selected agreeably to the rules prescribed by the proper department, and approved by the Commissioner of the General Land Office as such, they were permitted to be entered or located with land warrants at the Government Land Offices, upon a bare representation that they were dry lands. A remonstrance from the State against so unjust a proceeding, resulted in the passage of an act by Congress confirming to the State the swamp land selections as they had been made.

Before this, however, Congress had, by an act passed for that purpose, recognized and confirmed the title of purchasers and locators of such tracts as had been selected as swamp or overflowed lands, but made provision, at the same time, that upon due proof by the authorized agent of the State, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands within the true intent and meaning of the act aforesaid, the purchase money shall be paid over to the State, and when

the lands have been located by warrant or scrip, the State should be authorized to locate a quantity of like amount, &c.

The General Assembly, at its last session, made an appropriation of \$2,000 to defray the expense of selecting the swamp and overflowed lands in twelve counties then unorganized, and the sending of an agent to Washington to settle the preliminaries of the proof required under the act of Congress alluded to, as well as some other open questions in relation to the manner of listing and patenting these lands to the State. The Hon. James Thorington was commissioned for this purpose, and an adjustment was effected, under which the General Government has, up to this date, certified or listed to the State 507,811.30 acres. The report of the State Register will show in what counties these lands are situated. The lists have been examined, corrected and approved, and patents requested to be issued to the State for the same, which is now in process of being done. 61,812.43 acres of the above amount, embraced within the Fort Des Moines and the old Iowa City Land District, have recently been patented to the State, and which I have caused to be patented to the counties in which they are situated. It is believed the above lands will all soon be certified by patents to the State, and they belong to that class of swamp lands about which there is no controversy, the title being, as I have before stated, confirmed to the State by an act of Congress dated March 3d, 1857. But in addition to these lands, there has been listed to the State 124,332 76-100th acres falling within the Ft. Des Moines and Chariton Land Districts, which had been wrongfully permitted to be entered by cash or with military land warrants, the title whereof has been confirmed to the several purchasers and locators, but indemnity for which is to be given to the State, provided it shall be proved in the method prescribed, that they were swamp and overflowed lands within the meaning and intent of the act granting the same at the date thereof, or at the time of their selection. Forms of the proof, with the requisite instruction, have been forwarded to the Judges of those counties where these lands are situated, that the work of establishing the swampy character of the same may be commenced.

The General Land Office, at Washington, is unwilling to adjust this grant with any other party than the State authorities, which devolves upon the Executive greater duties than it is possible for him to perform with his other official labors. The exami-

nation and correction as they are forwarded, which is only done by land Districts, the division of these lists into counties, and transmitting to such counties, those which are to be patented, and those which have been entered by cash, and those which have been located with land warrants, in separate lists, that the requisite proof may be taken in regard to their character—and supplying the counties or other agents with all needful information they may require concerning the manner of conducting the proof—examining and correcting these proofs, when taken, before they are transmitted to Washington for approval, will require more labor than one individual can bestow should he give his entire time. Hence I felt it my duty to employ J. B. Stewart, Esq., of Des Moines, a special agent to assist in these labors. But I am now satisfied, that although the Register of the State Land Office and his deputy have already as heavy duties as they can well perform; this swamp Land business should be transacted in his office under the general supervision of the Governor, and that the Register should be authorized to employ one or more competent persons, as the necessities of the case may require, whose time and labors should be given exclusively to this branch of the public service and whatever amount the State should be required to pay the agent or agents thus employed could and ought to be refunded to the treasury out of the moneys obtained from the General Government for Swamp Lands sold. This would hasten the final close and settlement of this troublesome business, which is very much desired by the counties interested, and the commencement of which thus fairly made, has cost the Executive Department of the State unremitting labor and attention.

There is however another obstacle to the early completion of this service, which I should not omit to mention. The four land grant railroads in this State claim the right to impeach the Swamp Land selections so far as they complied with their grant, notwithstanding near three years ago, these selections whether their real character were swamp or dry, were by a special act of Congress confirmed to the State. This right upon application was conceded to these companies by the Commissioner of the General Land office with the consent of the Secretary of the Interior, without giving the State a hearing upon the question. Hence the Swamp Land selections found upon odd sections, falling within the description and limits of the railroad, (being fifteen miles on either

side of each line) have not been with other swamp land, certified to the State. On being informed of these facts I proceeded to Washington and made an urgent personal appeal to the Secretary of the Interior for a reversal of this decision, for reasons which were named, but he declined to do so, yet expressed a willingness to require the rail road companies to designate at once the tracts claimed to be dry and to submit proof that should at least be equivalent to the evidence furnished that they have swamp lands, otherwise they should be certified to the State, and to this effect did he so instruct the Commissioner. Still I have heard of no such designations—the lands still remain uncertified to the State. I have been unable to learn from the Commissioner what course he designs to pursue in reference to the instruction of the Secretary of the Interior. And the question recurs where is this matter to end? If the contest goes on it must necessarily be protracted and expensive to the people of the counties, whilst it will prove in the end detrimental to the rail road companies themselves. It is obviously their interest to propitiate the favor rather than the hostility of the people, in pushing forward their several enterprises. The counties deeply feel the want of rail roads, and many of them would be willing to give or subscribe their swamp lands to attain so desirable an object, but they are not thus willing to be deprived of them, without their consent, or subjected to the other alternative of proving them up a second time at great cost and trouble. The rail road grants were made to the State in trust for certain rail road companies. The State as I read the act has already made a declaration of this trust in favor of the companies in question, subject however to the conditions and restrictions contained in the act of Congress granting them. One of these conditions is, that the lands shall only be sold as the construction of the roads progress, that is after one hundred and twenty sections have been sold another like quantity shall not be sold until the Governor of the State shall certify to the Secretary of the Interior that twenty continuous miles of any of said roads have been completed. Now in order to put an end to this unhappy controversy which has been the source of so much complaint in the State, I cannot but feel that it is my duty to recommend the adoption of a joint resolution by your bodies instructing the Governor to sign no more certificates of the description spoken of to any of said companies until they shall file in his office a written relinquishment of their

supposed right to contest the swamp land selections that may fall within the limits of their grants, and a consent on their part that the Commissioner of the General Land office may proceed to patent them to the States as other swamp lands, &c.

STATE PRISON.—This institution merits a distinct notice. The facts and suggestions contained in the reports of the Board of Inspectors and Warden should attract your special consideration.—Since the last General Assembly some eighty-five have been added to the number of convicts. On account of this unexampled increase the appropriation made for the general support of the Prison proved wholly inadequate. It did not indeed hold out a year.—The price of provisions kept up, and being scarce and commanding a ready cash market, could not be obtained on so long a credit except upon terms at once exorbitant and inadmissible. An attempt on the part of the Inspectors to effect a loan of money for this purpose proved unsuccessful. I was forced to the necessity of opening the prison doors or furnishing the requisite supply. This latter alternative was adopted, but only accomplished through the co-operation and indulgence of the Auditor and Treasurer of the State, who permitted me to take some six or seven thousand dollars of the revenue whilst *intransitu* from the county collectors to the State Treasury upon my personal receipt. It will be necessary for you to legalize this transaction, I apprehend, and have the treasury credited with the requisite amount, and this I ask may be done. Whereby oversight or miscalculation the appropriation has failed to meet any emergency of this description, I submit whether it would not be well to authorize the census Board or some other agency or power to supply the deficiency until the sitting of the ensuing General Assembly. I regret to make known the fact that there has been some misunderstanding and disagreement among the officers of this institution and between them and Prison contractors, which have led to much irritation of feeling, complaint and finally litigation. It is unnecessary for me to express any opinion upon the character of these difficulties with a view of determining where the blame lies. But it does appear to me that if the Warden was not dependent upon the Board of Inspectors for the term of his office, and the duties and powers of each were clearly defined by law, it would seem to check abuses, and tend to secure both harmony and independence of action.

Representations made to me last May touching the discipline

and condition of the Prison accounts and of abuses in the financial management of the same, satisfied me that the interest of the State demanded an investigation with a view of ascertaining the condition of the one and the manner and system observed in conducting the other. I accordingly commissioned Thomas S. Espy, Robt. A. Russel and H. Q. Jennison to make an examination of the affairs of this institution and report as contemplated and required by "An act to authorize the Governor to appoint Commissioners to examine the accounts of State officers and to define the duties of the Governor in certain cases." The very thorough and satisfactory report made by these commissioners is submitted to you and should be considered in connection with that of the Board of Inspectors.

You will not fail to perceive from a careful inspection of their report that the affairs of the institution have been conducted carelessly and without system. That the books of accounts were in a confused condition and could not be balanced—that \$1700 had been traced as a deposit into the hands of bankers, and had been lost sight of by the officers and would in all probability have been lost to the State but for this investigation. Much of this irregularity and confusion in the accounts undoubtedly is attributable to the acts of an incompetent book keeper—which demonstrates the importance of having a professional accountant to keep the books in an institution where large sums of money are to be disbursed for various purposes under distinct appropriations.

To the report of the Commissioners is appended a general balance sheet, obtained only by re-journalizing the books and correcting the errors, and supplying the omissions, and which comes down from the commencement of our State organization to the 1st of June, 1859, exhibiting the following result:

	Dr.	Cr.
State of Iowa,		\$109,641.86
Construction,	\$69,045.82	
General Support,	35,279.73	
Officers Salaries,	12,851.49	
General Support Fund,		634.42
Convict's Fund,	152.47	
Wall Fund,	1,732.31	
Real Estate,	700.00	
Bills Receivable,	3,539.00	
Bills Payable,		12,676.03
Individual Account,	5,821.13	6,169.64
	\$129,121.99	\$129,121.95

It will be ascertained from the details in this balance sheet that the amount \$109,641.86 is the whole amount expended by the State on account of the Penitentiary. The other sums on the credit side, may need explanation. The amount \$634.42 is for cash advanced by the Warden during the month of May last, in payment of bills for supplies, &c. The amount \$12,676.03 is the aggregate of all notes outstanding against the institution, on the 1st of June last, and the amount \$6,169.64 is the sum of all amounts due individuals on book account. The different amounts on the debtor side will be readily understood. The labors of this Commission must result in great good to the institution as well as the State, besides exhibiting the precise condition of its financial affairs; it has exposed abuses, rectified mistakes, and made up and systematized the entire Penitentiary account so as to render it intelligible.

Honorable mention should be made of S. Guthrie, Esq., who is a most competent book keeper, rendered to the Commission valuable assistance in the discharge of their duties, and who is now employed by the present Warden as chief Clerk and book keeper of the establishment—which at once guarantees accuracy and system in the keeping of the accounts. It is believed, however, that he cannot be retained for the compensation now given that officer. True economy requires that the Clerk in this institution should be a first class book keeper with rates of pay which he could get in our larger mercantile establishments. It is proper that I should state that the Commissioners reported a deficit in the accounts of the late Warden, amounting to \$2,278.11. This deficit was discovered by the examiners, after a final settlement of the Warden's accounts, which settlement the Inspectors now ask may be opened up. The attention of the Attorney General has been called to this subject with the necessary instructions.

The north line of the Prison enclosure is protected with a board fence, rendering the confinement of so large a number of convicts exceedingly unsafe and dangerous, and should be replaced with a stone wall at as early a day as possible. The cell-room accommodations are inadequate and should be enlarged. I recommend as large appropriations for these objects as the revenue resources of the State will justify.

The Inspectors have procured a plan for the enlargement of the Penitentiary, through the assistance of a competent architect,

which embraces all the modern improvements, and would accommodate some 300 or 400 convicts, and ought, in my judgment, to be adopted and carried out if the financial condition of the State will admit of it.

PARDONING POWER.—It is made my duty under the Constitution of this State to communicate to the General Assembly all cases of pardon, reprieves or commutations granted by me during my term of office, which I have the honor of doing in a separate paper accompanying this message, in which is shown the name and crime of each convict, the sentence, its date, and the date of the pardon, and the reason therefor.

The whole number of pardons in two years from January 10th, 1858, to January 9th, 1860, for Penitentiary offences, was fifteen. Of these only three were pardoned before their imprisonment—the remaining twelve had suffered imprisonment a greater or less time,—some of them sufficiently long to satisfy the ends of justice, independent of the other causes which operated upon my mind in their discharge. The number pardoned for offences punished by fines and by imprisonment in the county jail, was six. There was one case of commutation and none of reprieves.

The applications for pardons were numerous—often informal and loosely made; to secure an intelligent consideration of these applications, as well as greater certainty and uniformity in their presentation, and to guard against imposition and an abuse of an important trust, when required to be exercised, I prepared a series of rules, which, together with that provision of the Constitution, which relates to the subject, I caused to be published and sent to all the counties for the information of those whom it might concern. A copy of the rules presenting the mode of applying for pardons, is appended to the report alluded to, and to which your attention is called. It will be perceived that the constitution clearly contemplates the enactment of a law regulating the exercise of the pardoning power. This as yet has not been done. I now recommend the passage of such a law, and that it shall in its provisions, embrace the substance of the rules which I have established, and which I have found from experience to work well, and adequately to guard against an improper use of this high prerogative power, whilst under them the rights of the convict are also duly protected.

STATE REFORM SCHOOL.—Many States of the Union have established these institutions. They are regarded as tokens of an advancing civilization, and have proved a success. From 70 to 80 per cent. of the juvenile offenders who have entered them have been reformed and given back to society useful and honorable members. They are placed in an institution where the requisite means are employed to transform their moral constitution, where they are compelled to listen to the appeals of virtue and right action, instead of incarceration in the Penitentiary, where they are subjected to the malign influence of the vicious and the depraved. I learn that the records of our Penitentiary exhibit the remarkable fact that fifty juvenile convicts between the ages of 14 and 21, have been imprisoned within its walls during the last three years, and that $\frac{1}{2}$ of our convicts have, from the beginning, been of this description. The legitimate place for this class of offenders is in a reform school. In the civil and domestic relations of life, the law, out of a tender regard for their inexperience and supposed want of mature judgment, affords them immunities and privileges not extended to the adult citizen. Why should not this distinction be made in our criminal jurisprudence? It can be demonstrated that the prosecution and maintenance in prison of these fifty juvenile offenders has cost the State, in all probability, more than their moral discipline would have done in an institution of the description named.

The Rev. Thomas E. Corkhill, of Keokuk, has addressed me a long communication, filled with valuable statistics and information on this subject, which I should have been pleased to have published and laid before you had I possessed the power under the law to have done so. It is, however, at your service. In the name, of a common humanity, the necessity and propriety of establishing a State Reform School is urged upon your consideration.

INSANE HOSPITAL.—The condition of this institution will be found in the reports of the Commissioners and Superintendent, and little need or can be added to the suggestions there made. Should it take \$100,000 more to complete this structure, it will still cost less than its prototype at Northampton, Massachusetts; whilst those acquainted with both buildings will be constrained, perhaps, to admit that ours is, by \$75,000, the better of the two.

It is difficult for those not acquainted with structures of this description, to conceive why their cost should reach so high a figure; a visit, however, to this institution would reveal to them this mystery. When completed, it will occupy the first rank of all similar institutions in the world, and be a beautiful as well as a shining illustration of the philanthropy and enterprise of the people of Iowa. I am inclined to think the revenue resources of the State as estimated for the next two years, (although the Auditor in his estimates proposes to reduce the taxes) will justify an appropriation sufficient to complete this building, which is so much needed to satisfy the appeals of humanity as they come up from different parts of the State.

DEAF AND DUMB ASYLUM.—This institution is located at Iowa City, occupies a rented building sufficiently large and commodious to answer, in the main, its present purposes, is in a flourishing condition, and under the charge of Prof. Ijams, a competent and successful instructor of mutes, who is building up an institution creditable alike to himself and the State. The time is not distant when the State must locate this institution permanently and erect suitable buildings to effectuate its aims of usefulness. This, in my opinion, should be done at the Capitol of the State, where, in the end, it will be more accessible and under the more immediate supervision of the Legislature and State authorities. I bespeak a careful reading of the annual report of the Board of Trustees, which needs no enlargement from me.

AGRICULTURAL COLLEGE.—A very brief statement of what has been done under an act passed at your last session, providing for the establishment of a State Agricultural College and Farm, may justly be expected. The Board of Trustees at their session in June last, located this institution and Model Farm in Story County upon 649 $\frac{1}{2}$ acres of land in township 83, range 24 west, being a central as well as an eligible site for an institution and farm of the description indicated in the law. Liberal donations were made by the counties of Story and Boone for the support of the same. The Board established the professorships and prescribed the studies best calculated to educate agricultural and mechanical labor, all of which will be more fully set forth in the report of the Executive Committee or Board of Trustees. Connected with this institution is an Agricultural Bureau under the charge and control of Gen. Wm. Duane Wilson, its Secretary, whose unremitting at-

tention to his duties, and great energy, has rendered it of very great service already to the State, as his valuable and interesting report demonstrates, and to which your attention, and especially that of the farmers of the State is most respectfully attracted.

BANKS AND BANKING.—The acts incorporating a State Bank and authorizing free banks in this State, were severally accepted and ratified by the people at an election held for that purpose. The State Bank was organized on the 28th of October, 1858. There are now 12 branches established at the following points: Muscatine, Dubuque, Keokuk, Mount Pleasant, Davenport, Iowa City, Des Moines, Oskaloosa, Lyons City, Washington, Burlington and Fort Madison, with an aggregate Capital of \$460,450, paid in specie, and a circulation of \$563,836. There are other important statistical facts bearing upon the condition of these branches contained in a consolidated statement published by the President, Chester Weed, Esq., for the information of the public, on the 5th of last month, which makes it, perhaps, unnecessary to embrace them in this communication. There are applications pending for four more branches, and the probability is that the number will be increased to twenty in all in the course of this year, which will be able, it is thought, to supply the wants of the legitimate business of the State for some years. If these branches have not accomplished all that the public expect of them, it is gratifying, at least, to know that they have done a cautious and safe business; commanding the confidence of the people, whilst they have in no small degree subserved the interest of the community at large in relieving the reasonable wants of its business men.

If the very extraordinary financial pressure in the midst of which they commenced their business, has limited their operations on the one hand, it has, upon the other, imparted a degree of caution and prudence in the management of their business, which is worthy of all praise, and cannot fail to commend them to the confidence of the public. In this connection I will be pardoned for suggesting, that inasmuch as the State has lent to this institution its name and participates to some extent in managing and directing its operations, through three Directors of its own appointment, it should by the passage of an act express its willingness to receive the issues of these branches in payment of taxes.

Standing in this intimate relation to these institutions, it is but

just that the State should, in this way, add its confidence to that of the public, which is an element of such vital importance to their successful operations. I need not add that this policy, in my judgment, would greatly subserve the interest and convenience of the tax-payer, whilst it would tend to drive much of the foreign free bank money out of our State, and fill its place with our own issues.

I beg to say, that I desire to be held alone responsible for this recommendation, as it does not emanate from the request or even suggestion of any of the parties interested in the banks.

I have not understood that any banks have been established under the Free Banking Law. I have heard it suggested that it was too stringent and ought to be modified. I doubt whether an application of this kind ought to be entertained should one be made. It is the want of these stringent provisions in the Free Banking systems of Illinois and Wisconsin that have flooded those States and Iowa with their irredeemable paper. It is infinitely better for the people of this State to have no free or State banks, if their paper cannot be redeemed on demand in specie.

Under the 73d section of the present Revenue law, the Auditor has and is saving a large proportion of the expense attending the collection of the State revenue under the former system. The allowance of mileage to the County Treasurers, as formerly done, was an expensive mode and less reliable than the one now adopted. From the more populous counties of the State the revenue is now paid into the nearest branch of the State Bank, and is thence forwarded to the State Treasury, at the Capitol, at the risk of the bank and upon economical terms.

I am of the opinion that the State can further economize the system of receiving and disbursing the public revenue by a slight modification of its laws. It may legitimately make the bank, to some extent, the fiscal agent of the State. The revenue being first moved from the populous counties to the Capitol, must be moved back again in large part, in disbursements, for the use of the public institutions in different parts of the State, and to pay off their officers.

A considerable amount has now to be paid in New-York, semi-annually, for interest on the outstanding State loan; and the rates of exchange as well as the transportation of specie, which must be

paid by the State, are less from the river counties, than from the interior.

If the Auditor should be authorized by your legislation to direct the payment from any county, to be made at any Branch of the State Bank, to be designated by him, and thence ordered into the State Treasury, as now—or thence disbursed on warrants directed to such Branch, in his discretion, it would save the transportation, both ways, of a large part of the revenue, and save time in reaching the public creditor. He is already authorized to have it paid into Bank in transit to the treasury. The additional power requisite is to disburse on warrants directed to the bank. This system would prevent any large accumulation of money at one point, and would also avoid some risks of loss inevitably attending double transportation of the funds; while the security of the State would be equal if not superior to that of the official bond. These reasons, together with the financial economy secured by it, commend it to your consideration.

REGISTRY LAW.—I renew the recommendation of my predecessor, for the enactment of such a law, and earnestly commend to your attention the suggestions and remarks which he had the honor to submit to the last General Assembly upon this subject.

STATE ARMS AND VOLUNTEER CORPS.—The quota of arms drawn by each State is in proportion to its representation in Congress. This provision of law operates to the disadvantage of the new States, whose population usually is much in advance of such representation. Thus far our supply has been wholly inadequate to the demand. A chivalrous spirit pervades the minds of our young men, and many highly creditable companies have been organized in the State, although we have had no military law, the enactment of which should now engage your serious attention.

The reception, custody, and distribution of the public arms, coupled with the large correspondence that necessarily grows out of it, makes this branch of the public service both burthensome and expensive to some extent, which should be provided for by law. The duties connected therewith have been for the last two years very efficiently and promptly performed by the present Adjutant General of the State, Gen. Jesse Bowen, whose compensation has borne no proportion to his official obligations and labors.

STATE HISTORICAL SOCIETY.—A communication from the Executive Committee of this organization will be laid before you, ex-

hibiting a most satisfactory account of the condition and prospects of the Society; than which it is believed no similar association in the whole land has accomplished so much in the same time.

In the hands of its present friends it promises to add great honor and credit to the State.

For further information in relation to its history, progress and aims, I refer you to the communication already alluded to; and also to the report of the Treasurer of this Society, the vouchers of whose disbursements are filed in my office, accessible to any committee your respective bodies may appoint to examine the same. I cordially concur in the appropriation asked for by the Executive Committee.

FRONTIER DIFFICULTIES.—Congress made an appropriation of \$20,000 in behalf of the citizens of Minnesota and Iowa, to defray the expenses of their various expeditions against Ink-pa-du-tah and his band, for the murders committed at Spirit Lake in the spring of 1857. It was required that these expenses should be proved up before Major Cullen, Superintendent of Indian Affairs at St. Paul. This was done, and the amount allowed the Iowa expedition under Major Williams, was \$3,612.43, which is now being disbursed to the privates and officers composing the same.

Under the act authorizing the Governor to raise a company of mounted men for the defence and protection of our frontier, approved Feb. 9th, 1858, I beg to say, that a company of thirty such men, known as the Frontier Guards, armed and equipped as required, were organized and mustered into service under the command of Capt. Henry B. Martin, of Webster City, about the first of March then following, and were divided into two companies, one stationed on the Little Sioux River, the other at Spirit Lake. Their presence afforded security and gave quiet to the settlements in that region, and after a service of four months, they were duly disbanded.

Late in the fall of the same year, however, great alarm and consternation was again felt in the region of Spirit Lake and Sioux River settlements, produced, as represented to me, by the appearance of large numbers of Indians on the border, whose bearing was insolent and menacing, and who were charged with clandestinely running off the stock of the settlers. The most urgent appeals came to me from these settlers, invoking again the protection of the State. From the representations made to me of the imminence

of their danger, and the losses already sustained, I felt it my duty to summon into the field once more the Frontier Guards, adding ten more men to their number. After a service of four or five months they were again discharged, and paid in the manner prescribed in the act under which they were called out.

It is believed that this company afforded the needed protection, and saved, it may be, our hardy border settlements from another inhuman butchery.

The expense of these two expeditions has cost the Treasury of the State \$19,800 paid, and about \$1,200 or \$1,500 unpaid, of contingent expenses, which did not seem to be provided for in the law, growing out of services rendered in procuring the necessary equipments and outfit, and the transporting and disbursing the money, &c., &c.

These claims, duly authenticated, have been placed in the hands of our Representatives in Congress, to the end that the State may be reimbursed. It is understood that this can only be done by getting through Congress a special act for that purpose.

I need not say that I opened a correspondence, both with the President of the United States and the Secretary of War, upon the subject of our exposed frontier, explaining to them the character of our difficulties, and respectfully solicited that protection which the Federal Government is bound to extend to the whole line of our borders. I received strong assurances from the President that this should be done, and a partial promise from the Secretary that he would establish a garrison at some point between Fort Ridgley and Fort Randal, that should sufficiently guard and protect our frontier. Whether this has been done or not, I am not advised.

RAIL ROADS.—The establishment, at as early a day as practicable, of a system of railway locomotion over the State, uniting county with county, and one neighborhood with another, and thus linking together not only the four corners of the State with bands of iron, but putting us in connection with all the States east and south of us, is a matter of so much importance that few men, of any section or party, would wish to record themselves against it.

Their social and commercial advantages have been tested by millions in this country and in Europe, and they are forcing themselves upon the recognition of every civilized nation. We have a system of near 3,000 miles of railway projected, admirably adjusted

to accommodate every part of the State, with only four hundred miles constructed.

Had we the means to complete the entire system, it would cause a wonderful transformation to take place in the settlement of our prairies, in the development of our coal mines and other mineral, in stimulating the productions of the soil, as well as the various branches of operative industry.

But great and obvious as are these advantages, there are just grounds for apprehending they will be for some time postponed to us. They cannot be built without large amounts of money. Capitalists are disinclined to invest in this direction any longer; it is claimed by many that the State ought not to give its aid; county subscriptions are now adjudged unlawful, and although this description of improvements are peculiarly adapted to the wants and the interests of the masses, they never yet have been prevailed upon to do much for enterprises of this kind. In this attitude of affairs, the question may well be propounded, how are our railroad schemes to be carried forward? The few enterprising men in the State who are engaged in this work unaided, cannot accomplish the task. A suspension would be disastrous to the best interest of the State. Already, it is known that large numbers of emigrants have located in adjoining States because of their superior advantages over us in railways. This subject is of no ordinary import, and is mentioned not because I have any specific recommendation to make, but for the purpose of asking your serious and earnest attention to our real condition in this respect, to the end that you may, in your combined wisdom, devise some method by which this work may be progressed, that the people of this State may have, under a system of completed railways, all the benefits and advantages enjoyed by the citizens of other States.

In regard to the four roads receiving land grants from the General Government through the State, as the trustee, it will be remembered that the State in the execution of this trust, imposed among others the following condition: "That in case either of said Railroad Companies shall fail to complete and equip seventy-five miles of its road within three years from the 1st day of December, 1856, then and in that case it shall be competent for the State of Iowa to resume all rights conferred upon the Company so failing, and to resume all rights to the land thereby granted, and remaining undisposed of by the Company so failing to have

the length of road completed in manner and time as aforesaid."

If, after a full and careful investigation and making all due allowances for the stringency of the times, it shall appear that any of these Companies have failed to comply with the requirements of the law and the just expectations of the people, and are now unable, either through mismanagement or other cause, to go forward with the great work committed to their charge, then it will become your duty to make such disposition of the lands granted to such delinquent Company or Companies, as shall secure to the State the benefit of the grant and give to the people along the contemplated lines all the advantages of a direct eastern outlet that they would have possessed if such default had not been made. I cannot dismiss this subject without advising the passage of an act that shall require a majority of the Board of Directors of all corporations organized under and in virtue of the provisions of our laws, to reside and keep their office of business within the State.

CAPITOL BUILDING.—This structure was erected at the expense of the School Fund, borrowed by six gentlemen of Des Moines City, for that purpose, for the re-payment of which with ten per cent interest, they gave mortgages on their individual property.

The amount of money thus obtained from the Superintendent of Public Instruction, with ten per cent. interest up to this date, (not paid) is \$52,130. The building cost, including the lots and interest, up to this date, \$53,733.61. The divided public sentiment in regard to the particular site it should occupy, precluded the possibility of building it at the common expense of the town or county. These men are quite unable to supply the State with so large and costly a building for nothing. The State ought not to consent to become a pensioner upon their bounty. It cannot do so without compromising its magnanimity. She ought to own this building—it is convenient, substantially built, and worth the money it cost. The State has been in the occupancy of the building over two years—made important changes and improvements upon the same—inconsistent, perhaps with the legal rights of the proprietors—and it will now answer the purposes of a State House for years. In view of these facts, it is gravely suggested whether the interest and honor of the State would not be quite as well subserved, by directing the mortgages against these men to be can-

celled, assume the liabilities to the School Fund, and pay to them the difference between this fund and the cost of the building.

JAMES D. EADS, LATE SUPERINTENDENT, &C.—Under your legislation I was instructed to appoint a Commissioner to settle with the sureties of this defaulting officer, upon the basis therein specified. Robert A. Russell, Esq., a competent person, was assigned to this duty, but failed, after several attempts, to negotiate such settlement upon any terms whatever; whereupon I directed suit to be instituted against the said Eads and his securities for some \$71,880 97, being the amount of his supposed defalcation. Although the cause was expected to have been tried last month, the result has not yet transpired.

GEOLOGICAL SURVEY.—Since your last session, this work has not progressed as rapidly as could have been desired. The year 1858 was mostly employed in preparing and publishing the result of the survey in the eastern portion of the State, which made a large volume, in two parts, and has drawn from the scientific world the most satisfactory testimonials of its merits. Charged as I was, with the distribution of some two or three hundred copies of this work in foreign lands, I was able, through the agency of the Smithsonian Institution, and the assistance of Professors Hall and Agassiz, to make such a distribution as will, in my opinion, tell largely for the interest of the State.

A list of the nations, societies, institutions and scientific journals, &c., to which copies were sent, will be found in a communication from the State Geologist to the Executive, herewith submitted for your inspection, and from which you will also learn other details in respect to the present condition, as well as important suggestions bearing upon the future of this enterprise.

At the time of the last appropriation the State was more largely in arrear with the expenses of the survey than was anticipated; the payment of which absorbed so much of the appropriation, that there was not a sufficiency left to form an effective organization for working out the Geology of the western part of the State, and hence in part the little progress made the last two years.

It is due however, to Professor Hall, to say that he has had two assistants in the field, working out the details of some portion of the State before explored, and which will make a part of the materials of the second volume.

In addition to this, he has already published a supplement to his first volume, containing descriptions of new species of *crinoides* and other fossils, chiefly from the Burlington and Keokuk limestones, which will give this branch of the survey a very prominent position, and make the carboniferous limestones of Iowa classic localities.

It is but just toward the west half of the State, that this survey should go forward. The very favorable reception which the first volume has met with on the part of the public—the numerous applications for it from all sections of the country, which could not be supplied, and the highly commendatory notices of it which I have received by letters from scientific gentlemen, make it but too evident, that the money expended on this work, has not been lost to the State.

PENNSYLVANIA.—This State has been pleased, in the face of the constitution, to levy a tonnage duty upon all the freight that passes over her great central rail-road, whether transported east or west, by residents or non-residents.

It is true, this duty is collected and paid into the treasury of that State for revenue purposes, from the company operating this road, but it is in fact paid from the pockets of the freighters themselves, among whom the business men of Iowa, constitute no inconsiderable a number.

This was and is a clear violation of the Federal compact, as I believed, and was advised by learned counsel, and therefore felt it my duty to direct a suit to be brought in the name of the State of Iowa against that State, to test the validity of such a law, in the courts of the country.

CODIFICATION AND REVISION OF LAWS.—The commissioners appointed to prepare a code of civil and criminal procedure, and to revise and codify the laws of the State, will spread before you the work of their hands, which should engage your attention in the early session, whilst the several committees are preparing other measures for your consideration.

The very cursory reading which I have been able to give to a portion of the civil practice act, made a favorable impression upon my mind, and it is to be hoped, upon a full and careful examination by you, that it will be found quite acceptable, and that you will not feel it necessary to make many changes in the same.

INVESTIGATING COMMISSIONERS.—Under the law of 1858, requiring me to appoint commissioners to investigate the State and Executive offices, I appointed Messrs. Jno. A. Kasson, J. M. Griffith and Thomas Seeley, whose reports will be laid before you.

Their examinations have embraced the transactions of several years, and their reports contain much valuable information and statistics not elsewhere found. Indeed, a very cursory inspection of their reports, will show how full and satisfactory, and at the same time with what ability and thoroughness the investigation has been conducted; making it unnecessary, perhaps, ever to go back of these reports for additional information, in regard to the manner in which the business in these offices has been conducted. They present, in my judgment, many important suggestions respecting the executive administration, some of which may require legislation, and to which I ask your careful attention. Among the more important topics presented by them for consideration, I mention the following:

OFFICE OF SECRETARY OF STATE. In this office are deposited most of the bonds executed to the State. No provision of law exists for recording them. Many of them secure the State against malfeasance in office, in very large amounts, some of them being for over 200,000 dollars. The commissioners suggest that it should be required by law, that the officer charged with the custody of any such bonds, should immediately on filing it in his office, deliver it to the Register of the State Land Office, to be recorded in a volume to be kept for that purpose, and that such copy and certified transcripts from it, should be made prima facie evidence of the contents of the original in courts of justice in this State. The original and the copy being thus kept in separate departments, would diminish the hazards of loss by fire or otherwise.

STATE LAND OFFICE.—It appears by their report on this office, that sundry books are still wanting, to comply with the terms of the act establishing that office, and fully to accomplish the object of its establishment; also that no records or papers respecting the territorial grant of lands on which Iowa city is situated, were found in the office.

It further appears that many errors exist in the patents of lands issued by the Secretary of State, prior to the organization of this office, which demand correction and adjustment. Other impor-

tant facts and suggestions are contained in the report on this office, to which it would be well to give attention.

OFFICE OF SUPERINTENDENT.—This department was found in a very unsatisfactory condition, mainly attributable to the confusion occurring during the superintendency of Mr. Eads. The commissioners were unable to state the accounts of that office from any reliable data found among its papers or books. From data found elsewhere, they ascertained the amount of the 5 per cent. fund received from the United States, up to the 1st of June, 1858, to be.....\$552,609 08

And amount of premium on drafts therefor, by
Col. Benton, to be..... 37 98

Making a total of..... \$552,647 06

Of which is only accounted for..... 403,672 36

Leaving a balance unaccounted for of..... \$148,974 70

This amount represents the sum loaned to individuals, retained, or otherwise disposed of by Mr. Eads; the condition and security of which was reported upon by J. M. Beck, Esq., under the direction of a former General Assembly, but which is more fully traced out in the report of the commissioners, who find against Eads an actual deficit of some \$72,880 97; subject, however, to a deduction of Waite's note, \$1,000, since paid, and whatever else may be realized from the collaterals held by the State.

The commissioners found no account in this or any other office, showing the amount of school fund chargeable to the several counties of this State, as five per cent. fund distributed to them, or as proceeds of sale of school lands held by them, and enabling them to ascertain reliably the present amount of the school fund of this State.

Taking the figures furnished by the last report of Superintendent of Public Instruction, and correcting the computation made by him, the total amount appeared to be \$2,071,241 59. But they do not consider this sum as reliably ascertained.

The present constitution (Art 7, sec. 3,) requires that all losses to the permanent School or University Fund, of this State, which shall have been occasioned by the defalcation, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The

amount so audited, shall be a permanent funded debt against the State in favor of the respective fund sustaining the loss, upon which not less than 6 per cent. annual interest shall be paid.

The commissioners are of opinion that no data exist at this time in any of the State offices, for the discharge of this constitutional duty, and that only the particular examination by a local or general agent in each county, together with a special examination in the State land office of lands sold pertaining to this fund and the consideration therefor, as shown by certificates of purchase and payment, and on examination in the auditor's office, of vouchers of five per cent. fund distributed to the counties, will render it possible to audit this constitutional claim.

I should be faithless to my convictions of duty, if I did not endorse and specially invite your attention to some cogent reasons which they also offer for a partial change in the management of this fund. While the people of the whole State are liable for losses to the fund, it is only the people of the county who designate and elect the officers managing it in its counties. They suggest that the counties, as principals, should be responsible to the State for the conduct of their own several agents, that the responsibility of loss may rest upon those only who control its management. This principle is one of universal application in law, is just, and is well worthy of your consideration, as likely to increase the care and vigilance of the people in protecting this important fund from loss. This fund is dedicated to the support of common schools. The efficiency of the system will depend much upon the promptness with which the annual interest upon the fund is paid. I learn that interest to the amount of \$120,000 is now due, that should have been paid a year ago or more. The annual payment of interest due this month, it is expected will greatly add to this sum. It is believed that if the counties were made corporately responsible for the payment of the interest of their defaulting citizens, the moral effect would be to stimulate the loanees to pay more promptly their interest, inasmuch as they would be less willing that their own neighbors should pay for their laches than the State at large.

Again, it is suggested whether the annual payment, by the counties, of nine per cent. interest, they loaning it at ten per cent., would not realize a larger annual revenue to the fund, and be

much more reliable for the support of common schools, than the irregular payments of interest at ten per cent., dependent upon the promptitude of individuals.

The liability for the principal or the interest of this fund, cannot be forced upon the counties. But it is supposed that the State has the power to withdraw the funds from them, unless, under authority of your legislation they would assume the liability proposed for the conduct of their own officers and agents, in the management of the fund. For other important suggestions bearing on these questions, I respectfully refer you to the 16th and 17th pages of the report upon this office. Also, to a resolution passed by the Board of Education, at its late session, expressing similar views.

TREASURY DEPARTMENT.—The very full report of the commissioners upon the Treasurer's office, presents several important tables and accounts. The late Treasurer has, during his three terms of office, up to June 1, 1858, received for general purposes, \$938,560 92. Tabular statements are furnished, showing the sources from which this amount was derived. After reviewing this entire account, they find a balance against the State Treasurer larger than that fixed by the Auditor, by the sum of \$315 28, and ascertained by actual count, on that day, the sum of \$845 66 as wanting in the treasury, of which \$315 28 was not called for by the Auditor's settlement; and of the remainder, a partial explanation is given in the report. At that date a portion of the funds called for was represented by certificates of deposit, which were afterwards redeemed, and the money placed in the treasury.

They found in the Treasurer's office, an account which has been lost sight of for many years past, relating to the sales of lots in Iowa city, and the payment to the treasury of a small annual salary therefor, under the supposed authority of a territorial act. I call your attention to the facts there presented, and to the propriety of a transfer of the books and papers relating thereto, from the offices of the Secretary and Treasurer of State, to that of the State Register, and the transfer of the control of any bonds or lots there remaining unsold, to the same office, with instructions to report at your next regular session the condition of said property; how much yet remains to be sold; whether there have been any lots or lands sold, the purchase-money of which has not been paid, &c. Since the date of their report, the system of book-keeping in this

office has been changed, and many of their suggestions adopted; the incoming Treasurer having opened new books and improved the system of accounts.

They urge, however, the importance of more frequent settlements with the Auditor, than those now required by law. I commend the various suggestions touching this department of State administration to your sound consideration.

AUDITOR'S OFFICE.—The report upon this office shows some differences in amount of warrants issued, from that indicated by the various Auditors' reports since November, 1852. After examining every warrant entry on the register from that date up to the first of January, 1859, they were posted to certain schedules shown in their report, the total of which should balance the total amount of warrants reported by the several Auditors as issued during that period. There is, however, a discrepancy, partial explanations of which are suggested by the report.

The difficulties in the way of their examination, and of satisfactory results from it, have led them to recommend a radical change in the system of keeping books and accounts in this office. Many improvements, I understand, have been introduced by the present Auditor, not reaching, perhaps, all the changes which they recommend. For the details of this subject, I refer you to the report itself.

They also call attention to the expediency of separating the appropriation bills for the regular and permanent expenditures of government, from that for occasional expenditures usually included under the general appropriation bill. When the former are made for two fiscal years, as has been the custom, it practically leaves the government without appropriations for the period, from the first of November, the close of the fiscal year, until the next appropriation, which is usually in March.

I concur in their suggestion, that the fiscal year and the calendar year should now be made identical.

They also suggest a mode of keeping the accounts by certain schedules, which will guard against over-drafts of appropriations by accident, or otherwise, which, also, is commended to your attention.

It is further recommended that a special deputy be assigned in this office to the keeping of the books and accounts of the School Fund, now amounting to over \$2,000,000, and still increasing;

the charge of which has recently been transferred to this office, and which ought to be kept entirely distinct from all revenue accounts. A complete examination and settlement of the account between the permanent and temporary school funds, and the different counties of the State, should be made and regularly kept.

For several years past the accounts of these funds have been greatly confused, and the necessity of a reform I have already indicated.

EXECUTIVE OFFICE.—Among others, you will examine their report upon this office, which contains suggestions worthy of your notice. The Commissioners append to each report, a list of the books and papers of each office, which show the description and extent of these Archives of the State. Their general review of the actual condition of the several offices, and the past legislation affecting them, which has involved much labor on their part, will be permanently useful in any legislation introducing reforms or increasing the security or facility of transacting the public business.

REFLECTIONS.—I have thus given you, perhaps, an unnecessary detailed exposition of the affairs of the State, so far as they pertain to its several financial and executive departments, accompanied with such suggestions in regard to improving their condition, as seemed to me to call for your careful consideration.

During my brief administration, I have scrupulously endeavored to omit nothing that could protect or advance the diversified interests of the State.

In the unadjusted condition of our various land grants, in the abuses, frauds, and mismanagement of our school funds and lands, in our border difficulties, coupled with other official duties, I have found my time constantly employed.

In closing this communication, I desire to say, that, although our people have received a terrible shock to their hopes, I have, myself, an abiding faith in the future of Iowa, founded upon the laws and elements of growth—upon her recuperative powers—and the genius and enterprise of her people. But then in this respect they should have fair play. This genius and enterprise should be duly encouraged and directed into proper channels. Let our system of railways be completed—cease to tax the labor of our people by emancipating from taxation all improvements, the product of their industry made upon the soil—give, under the homestead bill proposed in Congress, the ten thousand scores of homes,

which we still have in reserve for the landless poor, that they may have a little spot of free earth which they can call their own.

Give to our young farmers and mechanics the benefits of Morrill's Agricultural College Bill, which proposes to develop a new interest, and an increased efficiency in general husbandry and the useful arts, by bringing to their aid the treasures of science and knowledge, so that the labor thus educated, which may be expended upon the soil, should yield the richest reward with the least expense. These two national measures, so comprehensive in their range for usefulness, demand a public recognition at your hands. But what is of still more importance than all these, and upon which our wealth, strength, and prosperity will more immediately depend, is such an organization of the industry of the State as would enable our people to work in combination with each other, and so to diversify their labor and employments, that they may furnish for themselves the facilities for obtaining most of the necessaries and comforts of life. The teachings of a true social economy forbid that a whole State should engage in one pursuit, not even that of agriculture,—grand, noble, and indispensable as it is.

For this would compel the State on the one hand, to lose all the labor that could not be employed in the field, and on the other, deprive our citizens from making exchanges among themselves, and compel them to export their surplus produce to distant markets, at great cost. This, perhaps, would suit our Eastern neighbors, who would be glad to have the loom and anvil left to their management and control, and we, in the West, supply them with the products of the field, and their workshops with our raw material.

The immediate effect of this policy, however, would be to suppress manufactures at home, and build them up abroad, whilst the cost of transportation both ways would fall upon us and ever keep us poor. But the important fact is that the true interests of our people lie in another direction. Take an illustration. Last year we saved for ourselves a half million of money in the manufacture of Sorghum molasses and sugar, which under the system indicated would have gone out of the State for the purchase of sweetening, in some form. A few years more will put an end to this drain upon our pockets for such objects. Why not carry this principle a step further?—tan our own leather—make our own boots, shoes, and

hats—manufacture all our agricultural implements—all our household furniture—our woolen and cotton cloths—our wagons, carriages and harness—our barrels, baskets and brooms—our cars and locomotives—our engines and machine work of every description. Under this system of economy we would not send our rude materials one or two thousand miles to be worked up, and returned to us, with the cost of finished commodities added to that of transportation for our own use; and thus our money would not always be flowing out of the State. But they would be manufactured in our midst—the producer and artizan would be brought face to face—they would operate their several branches of industry along side of each other. What one class of operatives produced would be consumed by others, and thus their exchanges would be made upon the same theatre of action, a home market created—their money or the profits of their labor retained in the State, to be employed either in the arts and adornments of life, or in some other enterprise where it would again re-produce itself in some other form. Under no other system of operative industry has any State or people on earth ever become rich and powerful.

But the question may be asked how is this to be accomplished. The first step undoubtedly would be for the Federal Government to return to the tariff of 1842. The second, for the people of this State and for you, by your legislation, to offer every possible inducement for artizans and manufacturers to settle in our midst.

This done, the population and wealth of the State will take a new bound. It will have the effect to refine and diversify the pursuits of our people—to emancipate labor and make it free—to give to the laboring masses a feeling of moral worth—a throb of self respect—a perception of the rights, dignity and duties of their calling.

Invoking the spirit of Divine truth to crown your efforts for the public weal with success, I now take my leave of this branch of the public service.

RALPH P. LOWE.

January 9th, 1860.

INAUGURAL ADDRESS

OF

SAMUEL J. KIRKWOOD,

DELIVERED TO THE

EIGHTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA.

DES MOINES, IOWA.
JOHN TEESDALE, STATE PRINTER.

1860.