

BIENNIAL MESSAGE

DELIVERED TO THE

TENTH GENERAL ASSEMBLY

OF THE

STATE OF IOWA,

BY

GOVERNOR SAMUEL J. KIRKWOOD.



DES MOINES:

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## GOVERNOR'S MESSAGE.

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*Gentlemen of the Senate and House of Representatives :*

I am happy to be able to congratulate you upon the prosperity of our State. During the last two years our people have enjoyed their usual good health and have secured reasonably abundant harvests. Labor has been well rewarded, and the products of labor have brought remunerative prices. The educational interests of the State are as prosperous as ever; and peace and good order within our borders, although on one or two occasions somewhat imperiled, have been maintained.

Let us render thanks to God for these blessings vouchsafed us during the existence of a desolating war, that has so scourged a large portion of our land.

### FINANCES.

Our State finances have never before been in a more healthy condition. Our entire State debt is only \$622,295.75, consisting of loan from School Fund \$122,295.75; loan of 1858 \$200,000, and war loan of 1861 \$300,000. Of the \$800,000 of war Bonds authorized to be sold, \$500,000 remain on hand—none have been offered since the \$300,000 were sold; and it is believed no further sales will be necessary.

The report of the State Auditor shows that the moneys now in the Treasury, the delinquent taxes, the amount estimated to be due from the United States, and the taxes for 1863 and 1864, are sufficient to pay the estimated expenditures for the next two years, the outstanding Warrants on the Treasury, and our entire State debt, leaving a balance in favor of the Treasury of about \$200,000.

Provision should be made for the redemption of the bonds issued in 1858 and 1861-2 as they fall due. I recommend that a sufficient sum be set aside, annually, for this purpose, and invested, with its

accumulations, in United States or other good stocks. In my judgment, the amount due the School Fund should be permitted to remain as a permanent debt of the State. The State is trustee of this fund and liable for all losses thereto; and there can be no safer mode of investing this amount of the fund, than the present.

The Report of the Auditor still shows a large amount of delinquent taxes. So much of this as is due upon real estate will be finally paid; but it is thought, a very considerable portion of the delinquency is due upon personal property, by persons not owning any real estate, much of which will be lost.

Under our revenue law real estate is assessed biennially, and personal property annually. The assessments are made between the 1st of January and the 1st of April; the levy is made in September, and the taxes become delinquent on the 1st of February of the next year. It thus happens that persons may bring into the State, for sale, or may buy within the State, large amounts of personal property, which are assessed to them for taxation; may keep and use the same, within the State, more than a year, and finally dispose of it before the tax becomes delinquent; and if such persons do not own real estate in the same County in which the personal property was assessed, there are no means of compelling payment of the taxes due. This defect in the law should be remedied in justice to the State, and to the owners of real estate, who already bear their full share of the public burdens.

I renew the following recommendations, made by me to the Ninth General Assembly:

"In order to make the revenue of the State more certain, I recommend that the County Treasurers be required by law to pay the State Treasurer, at fixed times, certain proportions of the amount of revenue due to the State, until the entire sum for each year is paid, whether the County Treasurers have received the entire amount of State tax or not. At present the State is wholly helpless as to its revenue. It has to depend wholly upon the officers of Counties for its collection and transmission, and if the County officers are inefficient, the State is remediless. Each County is now liable by law to the State for the amount of State tax assessed in it, but this liability, without any means of making it effective, is useless. If the Counties were required to pay the revenue due the State, whether collected or not, the County Supervisors would be

stimulated to require of the Treasurer a strict performance of his duties; and if, in addition, you should so change the present law as to give County Treasurers in lieu of salary, a per centum on the amount of money collected and disbursed, or provide for township collectors, to be paid in the same way, our taxes would, in my opinion, be more punctually paid."

"I also recommend that it be made the duty of the Board of Supervisors of each county to employ a competent accountant, once in each year, to examine the accounts of each county officer, and state an account between each officer and his county, and between officer and officer; and also that County Treasurers, and all other persons who receive public moneys, be prohibited, under severe penalties, from using them in any way, or placing them with others to be used, for their private benefit."

There is due this State, from the United States, for expenses incurred by the State in raising and equipping troops, and sending them to the field, and for other purposes growing out of the rebellion, the estimated amount of \$300,000. There is much difficulty in procuring an adjustment of this claim at Washington. When these moneys were expended by the State, there was no law of Congress, or regulation of the Federal Government, prescribing the form in which proof of the expenditures should be taken; and the General Assembly of this State provided, by law, for such proofs and vouchers as were deemed sufficient, both for the protection of the State and the United States. Upon presentation of these proofs and vouchers to the proper Department at Washington, they are found not to comply, in form, with regulations since adopted by that Department; and it is doubtful whether they will be allowed without some legislation by Congress. Some portions of these expenditures, thus made, are also objected to as not coming within the letter of existing laws of the United States. Among these are the sums paid by the State for the subsistence and pay of the troops that went from this State to Missouri, at the request of United States officers, under the command of Colonels EDWARDS and MORLEGE.

There is, also, an unsettled claim against the United States, for expenditures by the State, for the protection of our people during the two winters following the massacre on our north-western frontier, by Ink-pa-du-tah and his band. The United States are

also, in my judgment, justly liable for the amounts expended by this State in protecting our people on the north-western and southern borders since the commencement of the rebellion. I recommend the appointment of an agent of the State to proceed to Washington to press the adjustment of these claims, and to secure, if necessary, additional legislation by Congress for that purpose.

The expenditures of the State on the north-western and southern borders are made payable, by law, out of the War and Defense Fund. This fund was found to be insufficient, and, in June last, a large amount of warrants on that fund were outstanding and drawing interest for want of means to pay them. There was, at the same time, a large amount of ordinary revenue in the Treasury not needed for ordinary expenses, and the Auditor and Treasurer, upon consultation with me, decided to apply the ordinary revenue to the payment of the War and Defense Fund warrants, so far as it could be done without interfering with the payment of ordinary revenue warrants as presented. This was done to the amount of about \$159,000, and thereby a considerable amount in interest was saved to the State. As some doubt exists as to the strict legality of this course, the matter is laid before you that you may take such action as may be necessary. If the amount due from the United States could be recovered, it would, probably, be sufficient to reimburse the revenue fund and redeem all outstanding warrants and claims on the War and Defense Fund.

In my judgment, all real estate should be carried on the tax books in the name of the true owners; and this result can be effected with very little labor and expense, by requiring the Treasurers to furnish the Assessors with complete lists of the names of all real estate owners, as shown by the last tax book; to correct the names erroneously entered, whenever such error is shown upon the payment of taxes, and by requiring all deeds to be presented to the Treasurer for the transfer of the real estate therein described to the new owner, before the same can be recorded.

I recommend the enactment of a law for receiving the new national currency, and a modification of the present law for receiving the notes of branches of the State Bank, that both may be available in payment of taxes. As the law now stands, the notes of said branches cannot, legally, be received after any one of them shall have suspended specie payment. A change of the law so as

to authorize the receipt of these notes, so long as they shall be redeemed in legal tender notes of the United States, would, in my judgment, be wise and proper.

I cannot leave this subject without special mention of the Board of Auditing Commissioners. I am well satisfied, that, to their faithful and impartial discharge of their duties, the State is largely indebted for its protection against improper claims, and, consequently, for its healthy financial condition.

#### THE SCHOOL AND UNIVERSITY FUNDS.

The situation of these funds demands your earnest attention. You are their guardians and custodians. Upon their management depends, to a great degree, the educational interests of the State; and upon the proper education of our youth depends the welfare and safety of our Government.

I cannot approve the system by which these funds are now managed. The principal, received by the State in cash, has been distributed among the counties, to be loaned to individuals by certain county officials; at one time by the School Fund Commissioners, at another by the County Judges, and now by the County Clerk, subject to a limited control by the Board of Supervisors. Would any of you, having a large amount of money to lend, lend it through those agencies? If not, is it right to do so with the public money? Is it not right and proper that you should do, in regard to these funds just what you would were they your private property? The present system is, in my judgment, a bad one, for two reasons. In the first place, it must happen in many cases that the County Clerk is not fitted, by previous business training, to make safe and judicious investments; especially, he may not have the necessary legal knowledge to enable him to determine, accurately, the sufficiency of the title to real estate offered as security for a loan. In the second place, the money may be used to promote personal or political objects. A corrupt Clerk will use, and an honest but weak one, will be sorely tempted to use his power to lend these moneys to secure his own political interest or that of his party friends. The system, in my opinion, is wrong in theory, and that it is unsafe in practice is clearly shown by the large amount of insufficiently secured principal and delinquent interest. I therefore earnestly recommend that the lending of any portion

of the principal of said funds, as heretofore, be prohibited, and the enactment of a law that will require the investment, by the Treasurer of State, of such principal, as the same may be paid in, in stocks of the United States, or of this State.

In this connection I request your special attention to the Report of the Auditor of State on this subject.

#### SCHOOL AND UNIVERSITY LANDS.

The School Lands consist of the five hundred thousand acres grant, and the Sixteenth Section. Large quantities of these Lands have, from time to time, been sold by county officers, authorized by law to make such sales. These sales have been generally made upon time, the purchaser paying in hand a portion of the purchase money, and taking a contract entitling him to a patent from the State upon the payment of the balance with annual interest. Many of these sales were made at high prices, before the monetary revulsion of 1857, and many of the purchasers have, since that revulsion, failed to pay either principal or interest. Portions of the lands have thus become forfeited to the State for non-payment of the purchase money, and have been re-sold to other parties. But there is no sufficient provision of law requiring such forfeitures and re-sales to be reported to any State officer, and the result is that it is now impossible to ascertain, from any record at the Capitol, the number of acres or the particular description of the several parcels of the School Lands yet unsold.

This condition of affairs should not be permitted to continue, and I recommend the enactment of such laws as will remove the difficulty.

The Saline Lands and Funds are now "a part of the Permanent Fund" of the State University. I call your attention to that part of the Report of the Register of the State Land Office, which shows the necessity for further legislation in regard to the issuance of Certificates of full payment for the portion of these lands already sold, and recommend that the Treasurer of the University be authorized to issue such certificates, and that the power to sell the unsold portion of the lands be vested in the Trustees.

In many cases School Lands were sold, prior to 1857, at such high prices that, after that date, they were not worth the amount due on them. The purchasers have ceased to pay either principal

or interest. I suggest the inquiry, whether it would not be well to provide for the surrender of these lands to the State, the purchaser being relieved from further liability, by forfeiting payments already made, without resort to legal proceedings.

I call your particular attention to the full and able report of the Register of the State Land Office. It contains much valuable information touching the various land grants made to the State, and suggests several points upon which further legislation is needed.

#### THE 500,000 ACRES GRANT.

As I have elsewhere stated, it is not possible to ascertain, in any office here, the amount or the description of the various parcels of this land yet unsold by the State. The records of the Register show the amount that has been patented to purchasers, but do not show how much of the balance has been sold or is held under contract of sale, and how much is unsold. This is also true of the Sixteenth Section lands. The Ninth General Assembly provided, by law, for the purchase, for the use of the School Fund, of lands mortgaged by borrowers of that fund, as security, but the law does not provide for the making of a return to the Register, of lands thus purchased and of sales made thereof by the officers authorized to sell. Information on all these points can be had, only, in the various counties. Under these circumstances, it is clearly impossible for the State to exercise, over these lands and their proceeds, that vigilant superintendence it should exercise. These lands were granted to the State, in trust, for educational purposes, and good faith to the grantor, as well as the best interest of the State, involved in the education of our youth, require the utmost care and vigilance in the execution of the trust.

I therefore recommend the passage of a law making it obligatory upon the proper county officers to make return to the Register of all the lands of the Sixteenth Section and the 500,000 Acres Grant, sold in their respective counties, the dates of sales, the names of the persons to whom sold, the terms of sale, and the extent to which these terms have been complied with, the forfeitures to the State for non-payment, and the re-sales of the lands thus forfeited, with full particulars, and like full information concerning the lands mortgaged by borrowers of the School Fund, and purchased by the State for the use of the said fund. To secure uni-

formity, it would be well to require the Register to furnish forms to the county officers, and, to secure the making of the returns, it would also be well to provide for the punishment of any officer failing to make them.

The University Grant Lands are now under the control of the Trustees of the University, and the Saline Lands, now belonging to the University, should, I think, be under the same control. I recommend, however, that the Register be required to call for, and the Trustees to furnish, information in regard to these lands, similar to that above named in regard to the School Lands, that the Register may have, in his office, full and particular evidence of their situation.

#### THE DES MOINES RIVER GRANT.

Portions of these lands, above the City of Des Moines, have been sold to individuals, whose titles are now contested by certain Railroad Companies. I repeat a portion of my communication to the Ninth General Assembly, on this subject, as follows:

"The State having only conveyed what title it had to these lands, may not be, legally, liable to make good any loss resulting to others from a failure of that title; but, certainly, is morally bound, at least, to do what may be reasonably and fairly done to protect the rights and interests of those threatened with such loss. When the State granted to the Railroad Companies the lands granted to the State by Congress, for Railroad purposes, it was not contemplated by the parties, certainly it was not contemplated by the State, that it was granting to these Companies lands previously conveyed by the State to others; and if, since the making of these grants, the Companies who are to receive the benefit of them, have discovered that, by strict legal construction, they are entitled to more than was contemplated, either by themselves or by the State, and are disposed to enforce, strictly, these legal rights, to the injury of innocent purchasers from the State, the State may, and, I think, should hold these Companies, in all things, to a strict compliance with the terms of the grants made to them. If these Companies are now in default, and ask the indulgence and clemency of the State, it seems to me the State may, very properly, before extending such indulgence and clemency, enquire and know what indulgence and clemency these Companies will extend to the un-

fortunate holders of these lands, and make for the one, with the other, such terms and conditions as may be equitable and just to all."

At that Session, a law was passed forbidding the Governor to certify any further lands to the Dubuque and Sioux City Railroad Company, until said Company should have released to the State, for the benefit of her grantees, the title to such of these lands as were claimed by that Company. No such release has been given, nor have any further lands been certified to said Company.

There is another conflict of title, between the Des Moines Navigation Company, claiming as grantee of the State, and the Railroad Companies touching which the Report of the Register will afford you much valuable information. It is very desirable that these conflicts should be settled, because so long as they remain unsettled, the uncertainty of the title will prevent purchases from either of the contesting parties, and the lands will remain vacant.

The joint resolution of Congress, of date March 3d, 1861, and the Act of Congress, of date July 12th, 1862, concerning these lands have, in my judgment, put it in the power of the State to do something towards an amicable and equitable adjustment of this difficulty, and I recommend that an effort be made to that end. I further recommend that, if such effort shall fail, the Attorney General of the State be directed to bring, or cause to be brought, in the Courts of the United States, if it may be done, such suit or suits as will procure from the Supreme Court of the United States a final decision of these vexed questions.

#### THE SWAMP LAND GRANT.

I recommend the modification of the law approved April 8th, 1862, providing for the appointment of agents in regard to these lands, so as to allow the appointment of but a single agent on the part of the State, and to prohibit the appointment of special agents by counties. I am well satisfied that a single agent, appointed by the State, will be able to effect more towards a speedy settlement of the Swamp Land business of the State, at Washington, than a larger number will do.

The same reasons which render desirable the settlement of the conflicting claims of the Railroad Companies, and the grantees of the State, to portions of the Des Moines River Grant, apply with

equal force to the conflict of title that has arisen between certain counties and the Railroad Companies as to portions of the Swamp Lands. I invite your careful examination of the question, whether you can do anything to bring about a settlement of these conflicting claims.

The Swamp Lands are granted to the State upon the condition "that the proceeds of said lands, whether from sale or direct appropriation, in kind, shall be applied, exclusively, as far as necessary, to the purpose of re-claiming such lands, by means of the levees and drains aforesaid." The State by accepting this Grant, covenanted to perform this condition, either directly, or by those to whom she granted the lands; and this obligation still remains, and must continue to remain until it shall have been done. I recommend a careful examination of the legislation already had in regard to these lands, for the purpose of ascertaining if this point has been sufficiently secured, and supplying additional legislation, should it be found necessary.

I invite your special attention to that portion of the Report of the Register relating to the decision of the Secretary of the Interior, changing the form and substance of the proof required, of the swampy character of the lands sold by the United States, after the date of the Swamp Land Grant, for which the United States are to indemnify the State, and the decision of that officer, cutting off all claims for indemnity in counties where the Swamp Land selections were made after the 3d of March, 1857; and I recommend that you take the action suggested by the Register on these points. There can be no good reason why the claims of Iowa, under this Grant, shall not be settled upon as liberal terms as the claims of other States; and if, by want of county organizations in apportion of our State, the proper steps were not taken to secure these lands, in those counties, within the time limited by law, I have no doubt that Congress will, upon a proper presentation of the facts, extend the time so that it may yet be done.

#### AGRICULTURAL COLLEGE GRANT.

Under the Act of Congress, approved July 2d, 1862, granting lands to the States and Territories which may provide Colleges for the benefit of agriculture and the mechanic arts, this State is entitled to receive 240,000 acres of land, upon the conditions con-

tained in said Act. These lands have been selected, and the selections are now being examined at Washington.

Among the conditions contained in the Act making the grant, are the following: that "no portion of said fund," (meaning the proceeds of the sales of the land granted,) "nor the interest thereon shall be applied, directly or indirectly, under any pretence whatever, to the purchase, erection, preservation or repair of any building or buildings," and that "any State which may take and claim the benefit of this Act, shall provide, within five years, at least, not less than one College, as described in the fourth section of this Act, or the grant to such State shall cease, and said State shall be bound to pay the United States the amount received for any lands previously sold, and that the title to purchasers, under the State, shall be valid."

The fourth section of the Act provides, that all the proceeds of the lands granted, (except one-tenth of the amount, which may be expended for the purchase of lands for sites, or experimental farms,) shall be invested in stocks of the United States, or of the States, or some other safe stocks," \* \* \* "and the interest shall be inviolably appropriated, by each State which may take and claim the benefit of this Act, to the endowment, support and maintenance of, at least, one College, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture, the mechanic arts, &c."

The grant, thus made to the State, is a magnificent one, being about five times as large as that made for the support of the State University, and will, if properly husbanded and cared for, make a rich endowment. But, to secure the grant, sufficient funds must be provided, outside the grant, to erect the necessary buildings; and then funds must be provided to meet the current yearly expenses, until a quantity of the lands can be sold, the interest of the proceeds of which, invested as required by the law making the grant, will support the institution.

If these funds cannot be furnished or provision made in some other way to comply with the terms of the Grant, the State will lose the great benefits she may otherwise derive from this magnificent donation. I recommend the subject to your careful consideration.

## THE SUPREME COURT.

I very earnestly recommend to you the passage of a law providing for the early appointment and subsequent election of an additional Judge of the Supreme Court; and also, that you make an appropriation of the sum of five thousand dollars to be expended, under the direction of the Court, for the purchase of law books for the State Library.

The first of these measures I deem necessary to enable the Court to do its work promptly, and the second, to enable it to do it well. This tribunal is one of the most important branches of our State Government. Upon its action more, perhaps, than upon that of any other branch of the Government, must our people depend for security for life, liberty and property. Questions are continually brought before it, from all parts of the State, affecting the most important interest of the parties to those questions; and the rules and principles established in deciding them, become rules and principles controlling the interest of every resident of the State. It is, therefore, of the first importance that the Court shall have time to examine all questions fully and carefully before deciding, and that it should have the means of making that examination intelligently. The Court now consists of only three members, and the amount of business before it is such, that, either great delay must ensue in disposing of it, or it must be transacted in such haste as to preclude proper examination and deliberation. The addition of another Judge will largely increase its working capacity, and will afford more time for careful and intelligent action.

The absolute necessity for a good Law Library, to a court of last resort, must be apparent to all. It is as unreasonable to expect learned and correct decisions from a court deprived of a good library, as it is to expect good and well finished work from a mechanic without tools. The Reports of other States contain the well considered opinions of their most learned Judges; the elementary works contain the principles upon which our whole legal system is based, and to require our Judges to decide cases involving questions affecting the most vital rights and interests of our people, without the opportunity to consult these fountains of law, is unreasonable in itself, and tends to render doubtful and uncertain the principles controlling and protecting these rights and interests.

## THE STATE UNIVERSITY.

This institution is now in a very flourishing condition. The number of students in attendance, at the present time, is over three hundred and fifty, and they come from all parts of the State. The Faculty are devoted to the interests of the institution, and it is rapidly becoming, what it was intended to be, an honor to the State and a powerful aid in promoting her highest interests.

I renew my former recommendation, that provision be made, by law, for a Military Professorship in the University. Such professorship will not only popularize the institution, but will impart to our young men a kind of knowledge, the want of which has cost us many men and much treasure, since the commencement of the rebellion; and the necessity for which, in the future, the history of other nations teaches, may come upon us at any time.

The Board of Education, at their last session, directed the Trustees of the University to establish a Military Professorship as soon as the General Assembly should make the necessary appropriations. I have placed two hundred stand of arms, with accoutrements, in the hands of the Faculty, and I earnestly commend the matter to your favorable consideration.

The present number of students in attendance upon the University is greater than the capacity of the University buildings to accommodate; and, with the prospective increase in numbers, these buildings will soon be entirely inadequate to the wants of the institution, and candidates for admission must be turned away for lack of room to receive them.

The former Hall of the House of Representatives, now used as a Chapel, is insufficient for the present numbers, and many are thus excluded from Chapel services. A larger Hall is imperatively needed for Chapel, Commencement and all other exercises requiring the assembling of the whole number of students.

There are no suitable rooms for the Chemical Laboratory. This, to our agricultural State, is, perhaps, the most important department of our University. Chemistry is becoming daily a more liberal contributor to agricultural knowledge and success; and the advancement of chemical science in our State, through the State University, should be especially encouraged.

Our University will not be complete until it shall have an Astronomical Observatory connected with it. This has already be-

come a prominent feature of the University of Michigan, and the demands of our more Western location will soon require it of us. A building may be erected to answer all these purposes at much less cost than to provide for them separately.

Our State now stands with the foremost of her sister States in her intelligent and heroic devotion to the political institutions of our country. She needs but to use her advantages to take an equally high position in science and literature. The people are ready to avail themselves of the facilities furnished, and only ask that the State shall supply them. I respectfully urge upon you such action as shall tend, ultimately, to place the State University of Iowa among the foremost of similar institutions in the land.

#### STATE HISTORICAL SOCIETY.

I call your attention to the report of the Curators of the State Historical Society.

Passing events render the work of this Society vastly more important than ever before. We are now making history with wonderful rapidity, but are making it in a fragmentary manner. Future ages demand of us that we collect and preserve these fragments as material from which a full and reliable record of the great events of our day may be preserved. This, with the ordinary work of the Society in collecting the early history of our State, is more than it can well perform with the means at its disposal.

No man can be found to devote to it the necessary time without compensation. I recommend an appropriation of five hundred dollars, as compensation for this purpose, in addition to the five hundred dollars heretofore appropriated for other purposes.

#### CHARITABLE INSTITUTIONS.

The Reports of the Trustees of the Blind Asylum and of the Asylum for the Insane, are herewith submitted. I recommend the appointment of a special committee to visit each of these institutions for the purpose of examining into their condition and wants, and that all may be done that the condition of our finances will allow, to make these institutions effective for accomplishing the noble objects for which they were founded.

I call your special attention to the final Report of Commissioner for superintending the erection of the Blind Asylum.

The Asylum for the Deaf and Dumb is still at Iowa City, in a building rented for that purpose. The annual rent paid is \$375. Whether it is advisable, at this time, to erect a new building, the interest on the cost of which will far exceed the rent now paid or, whether it is best to continue to occupy the rented buildings for a longer time, are questions properly committed to your judgment and discretion. The Report of the Trustees, showing the expenditures for the last two years, and the estimates for the ensuing two years, are herewith submitted.

There has been a material increase in the prices of nearly all the articles required for the support of the pupils in these institutions, and consequently there should be a proportionate increase in the sums appropriated.

#### THE PENITENTIARY.

I was notified by the Warden, in June, 1862, that the old shops in the prison yard had been destroyed by fire. The contract between the State and the contractors for the prison labor, required the State to furnish shop room to work the criminals. The contractors had, in a suit tried and determined before this fire, made the want of sufficient shop room the basis of a claim for heavy damages against the State, which had been allowed them, and I had good reason to believe the want of shop room, caused by the fire, would be made the basis of another similar claim. Under these circumstances, I requested the Attorney General to meet me at the prison, and, after consultation with him, the Warden and myself entered into a contract with Messrs. Winterbotham & Jones, contractors for the prison labor, for the erection of new shops, at a cost of \$8,504.67; which was paid as follows: Material from old shops, \$200; cash appropriated at the last preceding Session for a new blacksmith shop, \$2,500; proceeds of judgment in favor of State against contractors, \$945.59; the balance of \$4,859.08 to apply on the amount due, or to become due to the State, from the contractors, for prison labor.

It is a matter of doubt whether I had the authority to make this contract; but as the necessity appeared to be imperative, and as the contract could be made without drawing from the Treasury any money not appropriated by law, I deemed it my duty, having due regard to the interests of the State, to make the contract, and did so.

The new shops were completed in accordance with the terms of the contract, and have been ever since in use. The old shops were illy arranged, inconvenient and unsightly, and, situated as they were, near the centre of the prison yard, interfered materially with the preservation of proper order and discipline among the the convicts. The new shops are large, substantial and well arranged, and much more favorably located than the old ones.

A new contract has not as yet been made under the law passed at the extra session of 1862, for re-letting the convict labor. I have very serious doubts whether it is advisable, at this time, to re-let the whole of the labor. A large amount of work must necessarily soon be done in and about the prison. As our population increases, the number of convicts will increase, and of course there will be necessary an increase of cell room. This can now be had, most economically and advantageously, by building a Warden's house on the foundation already laid for that purpose, and using the part of the main building now occupied by the Warden, for cell room; and by raising the roof and walls of the main building so as to receive two additional tiers of cells. The wall on one side of the yard has not yet been built, and I understand some additional grading is needed before it can be. The convicts can do much of the labor required for these improvements as well as hired laborers, and at much less cost to the State. Should this policy be adopted it may be necessary to employ a few additional guards, but the additional expense will be much less than the difference between the cost of convict and other labor.

I have not been able to give as much time as I desired to supervising the affairs of the prison for the last two years; but I am of opinion everything has been done by the Warden and his subordinates, carefully, economically and well. The Warden's Report contains a full account of the receipts and expenditures, and a statement of what is, in his judgment, necessary to be done within the next two years. I invite your attention to this Report, and recommend the appointment of a special committee to visit the prison, to examine the condition of the prison buildings, for the purpose of determining the policy to be pursued in re-letting the prison labor.

#### ORGANIZING AND ARMING VOLUNTEER COMPANIES.

I became satisfied during the early part of last summer that de-

signing men in this, as in other loyal States, were making preparations for an armed resistance to the authority of the General Government. The law of Congress, providing for a draft to fill the ranks of the Union Army, contained a provision that was eagerly seized upon to array the poorer of our people against the Government upon the specious pretence that the object of the law was to discriminate between the rich and the poor, to the injury of the poor.

The action of the Government, in freeing and using the slaves in the rebel States for the suppression of the Rebellion, was represented as a scheme, by the Government, to overrun the free States with the freed slaves, to the prejudice of the interest of the poor white man.

The Government had in some instances, arrested and temporarily imprisoned or sent beyond our lines, persons whose restraint the public safety required; and this was interpreted to mean, an intention on the part of the Government to break down all the defences of civil liberty, and to establish a despotism. The entire policy of our Government, as interpreted by these men, was that the war was waged, not for the preservation of the Union, but for the abolition of Slavery; that the object of the Government, in seeking to abolish Slavery was to bring the freed slaves North, and force their labor into competition with that of the poor white man; that by the so-called Conscription Law, the Government sought to force only the poor men of the country into the ranks of the army to effect these objects so prejudicial to their interests, and that while these objects were being effected, the Government intended to overthrow our free institutions and establish in their stead a despotism!

It is passing strange that intelligent men could be found so wicked as to make these statements, and that other men could be found so ignorant and foolish as to believe them. But so it was. These statements were made through the press and from the stump, in the most violent and exciting language, apparently with all the earnestness of conviction, and thousands of honest, but deluded men, believed them, and in consequence entertained feelings of deep hostility to the Government. In this excited state of the public mind secret societies were organized in many, if not all of the loyal States, the members of which were, to some extent, se-

cretly armed for the avowed purpose of protecting themselves against what were called "Arbitrary Arrests," but as I am satisfied with the intent upon the part of the leaders to bring their members into armed collision with the General Government, in case any attempt should be made to enforce the Draft. The natural result of these teachings and this action, was seen in the bloody riot that occurred in the chief city of the Union, and in similar smaller outbreaks in other places.

Under these circumstances my duty seemed to me to be plain and clear. I was bound to see to the enforcement of the laws and the preservation of peace and good order; and when organized action was being taken throughout the State to prevent the one and violate the other, I did not think my duty permitted me to wait until the evil was upon us before I took steps for its prevention. I accordingly called upon the loyal men of the State, who were willing to aid in the enforcement of the law, to organize a volunteer military company in each county of the State. Such companies were promptly organized, in most of the counties, of loyal and substantial citizens, and, as they were organized, I placed arms and ammunition in their hands to make their organizations effective. By these means a sufficient force was provided to preserve the peace of the State and insure the enforcement of the law of Congress, without weakening our army facing the enemy by withdrawing any portion of it for that purpose, and, in my judgment, this state of preparation to preserve the peace, tended largely to prevent its violation.

There was but a single occasion in which it was necessary to use the force thus organized. About the first day of August last, as a number of persons, who had been attending a political meeting near the village of South English, in Keokuk county, were returning through that village, a collision took place between them and other persons in the village, in which a Mr. Tally, who had addressed the meeting, was killed. The friends of Tally, instead of appealing to the laws and the officers of the law for redress, chose to assume that the officers of the law would not do their duty. They sent runners to various points and in a short time had gathered, near Sigourney, the county seat of the county, a large body of armed men, who undertook to dictate to the officers of the law for what offence and in what manner, the persons charged with

killing Tally should be tried and punished. Much alarm existed throughout the county. The county funds were sent off for safety, and arrangements were made to send away the county records; and orderly and law-abiding people were in great anxiety and terror. As soon as these facts were made known to me, I at once ordered to Sigourney a sufficient number of volunteer companies, of infantry and artillery, to give protection to the people and the officers of the law, and to show those assembled for unlawful purposes, not only the hopelessness, but the danger of their attempt to overawe the authorities; and I am glad to be able to inform you that the display of force was sufficient to effect the desired object. As soon as it became known that a force was being gathered to sustain the law, the unlawful assemblage quietly dispersed, order and tranquility were restored, and the officers of the law were left unmolested in the performance of their duty."

The Companies thus organized and armed are still in existence, and, should any further legislation be deemed necessary for their efficiency, I recommend that such legislation be had.

In closing this subject, I would return my thanks to the officers and men ordered by me to Sigourney and South English, on the occasion referred to, for the promptness with which they responded to the order and their soldierly conduct and bearing while on duty.

At the commencement of the Session of the Ninth General Assembly, the State had organized and sent to the field fourteen Regiments of Infantry, three Regiments of Cavalry, and three Batteries of Artillery; and had in process of organization, two Regiments of Infantry and one of Cavalry. Of these Regiments, the First Infantry was enlisted for three months, and had then been mustered out of service. All the others were enlisted for three years. Since the commencement of that Session, the two Regiments of Infantry and one of Cavalry, then incomplete, have been organized, and in addition thereto, twenty-four Regiments of Infantry, five Regiments of Cavalry, and one Battery have been enlisted, and all for three years. Besides these complete organizations, a large number of men have been enlisted for Regiments in the field. I have not been able, as yet, to ascertain whether the quota of this State, under the last call of the President for volunteers to fill the ranks of our veteran Regiments, has been filled. If

it has not, the deficiency cannot be large, if the proper credit has been given by the Provost Marshal General for our excess over all quotas previously called for, and can be easily and promptly filled by draft.

Besides the troops thus furnished to the army of the Union, there were organized, as required by the Acts of the Extra Session of 1862, five companies of mounted men for the protection of our north-western frontier against Indians, and ten companies of mounted men on our southern border, to protect the persons and property of our people on that line, against the depredations of organized bands of guerillas from Missouri. The Report of the Adjutant General will furnish you full information of the number of men that have been kept in active service on each of these lines, and of the number now in service. The companies on the north-western frontier have all been disbanded, and their place supplied by troops of the United States. While these companies were in service, they were required to erect block-houses and other buildings, at different points, for their own convenience, and to serve as rallying points for the people in case of attack. These buildings are now occupied, in whole or in part, by the United States troops on that line. I recommend such legislation as may be necessary for the preservation of these buildings. They may be useful in future, in case of another outbreak of the Indians.

We owe much, very much, to the brave men who have gone out from among us to take their places in the ranks of the army battling for the preservation of the Constitution and the Union. We owe much to those of them who are still living to fight for us, and much more to the families of those who have given their lives for our protection. Their duty to go was no greater than ours, but, in patriotism, they far excelled us. How shall we pay this debt? The praise we so freely accord, the honors we so joyfully confer upon them, and the gratitude we so deeply feel, are but small recompense. Of those who have died in the hospital and on the battle field, many have left behind them young children, who need care, protection and education, which the State is under the most solemn obligation to supply. Some of the soldiers, yet living, have been so far disabled that they cannot properly care for themselves. These we should support and maintain. I very earnestly recommend, that, either wholly by the State, or, by means of aid fur-

nished by the State to those of our people who may be disposed to enter upon this work, ample provision be made for a home in which the children of our deceased soldiers may be cared for and educated, and in which those of our soldiers who may be unable to support themselves, may pleasantly live, the honored guests of a grateful people.

I renew a recommendation made by me in a Special Message to the General Assembly convened in Extra Session in 1862, as follows :

"The burthens of the war now being waged by our people for the preservation of our Government, bear heavily on us, and should be borne as equally as possible. These burthens are of two kinds: First, that of military duty in the field; and second, that of taxation at home. It seems to me to be unequal and unfair that those of us who bear the first of these burthens should be compelled to share with those of us who remain at home the second; that the soldiers who are fighting our battles in the field should be also compelled to pay their share of taxes equally with those who do not share their perils and privations.

"The compensation paid to those of our soldiers who hold commissions is sufficiently liberal to enable them to pay their taxes without inconvenience; but it is not so with their no less worthy but less fortunate comrades. It would, I think, be a just recognition by us, of our appreciation of the patriotism and self-sacrifice of the latter if we were to release them, during their service, from all taxes levied under State laws, and it would doubtless be news of comfort and cheer to them amid the dangers and trials by which they are surrounded for our sakes, that we had been careful that the houses that sheltered their wives and their little ones had been secured from danger of sale for taxes by our voluntary assumption of their share of the one burthen, while they are bravely bearing our share of the other. I therefore recommend to you that you pass a law exempting from all taxation under the laws of the State, the real and personal property of all non-commissioned officers and privates in the Regiments of this State in the Army of the United States, during their continuance in service, and that for the current year there be added to the per centum of taxation upon the valuation of the property of all other tax-payers the sum of one-fourth of one mill on each dollar of such valuation, to cover the deficiency in revenue thereby created."

Much has been done by Sanitary Associations, in this and other States, for the health and comfort of our troops in the field and in the hospital, and for the support of their families at home.

The business of the General Sanitary Associations and of the local Aid Societies, in furnishing supplies to our soldiers in the field, has now become well arranged and systematized, and, consequently, much more effective. This work can be done much better by those Societies than by the State, and I recommend that the State leave the matter in their hands. There should, however, be a liberal appropriation for a contingent fund, under the control of the Governor, from which he can, upon emergency, furnish aid to these Societies and to sick and disabled soldiers, under special circumstances, and by means of which, he can send to and keep in the field, such agents of the State as may be necessary for the comfort and well-being of our soldiers.

I very earnestly recommend, that some systematic mode of furnishing aid to the needy families of our soldiers be adopted. Whether this can be best done by moneys furnished by the State, and distributed by persons appointed by the State, or, through the instrumentality of local Aid Societies, is a question of doubt. It is very certain the work should be done in some way, and I have no doubt your wisdom will ascertain and adopt the proper mode.

The office of the Adjutant General has, since the commencement of the war, been, and still is, a very important one. The labor and responsibility of the Adjutant General have been very great. The labor has always been well and promptly performed, and the responsibility cheerfully borne. The books of the office are well systematized and kept in most excellent condition. They embody a mass of information, in a neat and accessible form, that will, in the future, be highly useful to our soldiers and their friends and to the State. It affords me great pleasure to say, that much, of whatever success has attended the raising and organization of troops in this State, is due to the efficient services of the present incumbent of that office. The compensation, now allowed by law, is, in my judgment, wholly inadequate, and I recommend the increase of the salary to the sum of two thousand dollars per annum, with an allowance for traveling and other extraordinary expenses.

#### NATIONAL AFFAIRS.

I can not close this communication and with it, my official con-

nection with the people of our State, without adverting to the condition of national affairs in which we are all so deeply and so vitally interested.

The war for the destruction of the Union on the one hand, and for its preservation on the other, still goes on. During the present year the successes of the Union armies have been so numerous and so important that the public mind appears to have settled down into the belief that our ultimate success is certain and not far distant; and is now, to some extent, occupied with the question of reconstruction, so-called—the question as to the manner in which, and the terms and conditions upon which, the people within the territory composing the rebel States can again take part with the people of the loyal States, in administering the affairs of the General Government.

The President has recently issued a Proclamation to the people of the rebel States, in which he proposes to them such terms and conditions as, in his judgment, are right and proper. He proposes, in substance, that as soon as a number of the voting population of any one of those States, equal to one-tenth of the entire voting population of the State, as shown at the last Presidential election, shall take an oath, the form of which is prescribed, and shall establish a new Government, Republican in form, and consistent with the terms of the prescribed oath, such Government shall be recognized as the true Government of the State, and protected as such.

The terms of the prescribed oath are, that the party taking it “will henceforth faithfully support, protect and defend the Constitution of the United States and the union of the States thereunder; and will, in like manner, abide by and faithfully support, all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court.”

Certain persons, that is to say “all who are or shall have been civil or diplomatic officers or agents of the so-called Confederate Government; all who have left judicial stations under the United States to aid the rebellion; all who are or shall have been military

or naval officers of said so-called Confederate Government, above the rank of Colonel in the army, or of Lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the army or navy of the United States, and afterwards aided in the rebellion; and all who have engaged in any way, in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity," are excepted from the benefits of the Proclamation; all others, complying with the terms and conditions, have extended to them a full pardon "with restoration of all rights of property except as to slaves and in property cases where rights of third parties shall have intervened."

The President, in his Proclamation, further declares "that any provision which may be adopted by such State Government in relation to the freed people of such State, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent, as a temporary arrangement, with their present condition as a laboring, landless and homeless class, will not be objected to by the National Executive. And it is suggested as not improper, that in constructing a loyal State Government in any State, the name of the State, the boundary, the subdivisions, the Constitution and the general Code of Laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions herein before stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new State Government."

It seems to me these terms and conditions are eminently just and proper—fair and liberal to those to whom they are offered, and such as the permanent peace of the country requires.

All the people in the rebel States, perhaps, in law, certainly, a great majority, both in law and in fact, have committed treason—are guilty of that crime before the law, and are liable to the punishment affixed, by law, to the commission of that crime.

It would not be safe and judicious, either to punish all or to permit all to escape punishment. The leaders, the most guilty, should be punished. The mass, the least guilty, should be par-

doned. An inspection of the exceptions from pardon, made by the President, will show he has made this distinction.

But, in extending pardon to the mass, it is just and proper that reasonable terms and conditions should be made.

The terms and conditions proposed by the President are, that the party guilty of treason shall swear, 1st, "That he will faithfully support, protect and defend the Constitution of the United States, and the union of the States thereunder." 2d, That he will "abide by and faithfully support all acts of Congress passed during the existing rebellion, with reference to slaves, so long and so far as not repealed, modified or held void by Congress or by decision of the Supreme Court." And 3d, That he will "abide by and faithfully support all proclamations of the President, made during the existing rebellion, having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court."

Are these terms and conditions reasonable? No possible objection can be taken to the first requirement—that these men shall support the Constitution and the Union. The second and third requirements are, that these men shall abide by the laws of Congress and the Proclamations of the President concerning slaves, until those laws shall be changed by Congress, or those laws, or the President's proclamations, be decided void by the Supreme Court. This is just what it is the duty of every loyal citizen to do—to abide by and support the law until changed by the law-making power, or declared void by the Courts.

It may be said that the Proclamations of the President are not laws; that he had not the Constitutional power to issue such Proclamations. But the President believes he had the Constitutional power so to do, and has so done, and he only proposes that these acts shall stand in law "so long and so far as not modified or declared void by decision of the Supreme Court." In imposing these terms and conditions on those in rebellion against our Government, who may desire to lay down their arms, the President is but requiring of them the performance of a duty required of all men who have remained loyal.

Upon accepting these terms and conditions, the men now guilty of treason and liable to punishment as criminals, are at once pardoned—are restored to their rights as citizens and again permitted

to take part in administering our Government, and, at the same time, are restored to all their rights of property, except as to slaves, and where the rights of third parties have intervened. These exceptions are inevitable. If the acts of Congress and the Proclamations of the President concerning slaves, are Constitutional, then, so far as these acts and Proclamations reach, the slaves have become free, and cannot be restored to their former masters. Where property has been disposed of to third parties, under the Confiscation Act, it cannot be restored. Whatever has been lost to these men has been lost by reason of their own crimes; whatever yet remains will be restored if they will cease to be criminals.

Aside from the consideration, that, if the laws of Congress and the Proclamations of the President concerning slaves are valid as law, those who have been freed thereby cannot be again enslaved—aside from the consideration, that, even if this could be lawfully done, the doing of it would involve such a breach of honor and good faith, as would justly render us, as a nation, infamous throughout Christendom—aside from all considerations connected with slavery, as a social or moral question—aside from all considerations connected with its political effects upon the particular communities in which it exists, and looking upon it only in its bearing upon the present condition of our country, it seems to me that no man, who does not set the institution of slavery above the Union of the States, can now fail to do all that he lawfully may to aid in removing this curse from our nation.

It is directly or impliedly admitted by all, that slavery is the cause of the civil war now desolating the land, although different parties endeavor to throw the immediate blame upon their adversaries. The anti-slavery men of the country say that slavery is the cause of the war because, being founded on force, it is necessarily aggressive in its character; that it necessarily makes slaveholders, as a class, haughty, overbearing, impatient of control and unwilling to submit their opinions to those of the majority, whom they consider their inferiors. Some of the rebels admit, frankly, that the desire to perpetuate slavery and to make it the "corner stone" of the new confederacy, caused the rebellion, while others, and their apologists generally, insist, that the cause of our troubles is, not slavery itself, but the "fanaticism" of anti-slavery men on the subject of slavery; and there is still another class of our people who declare, that in their judgment, the cause of the war is to be

found in the "fanaticism" upon the subject of slavery among extremists, North and South. These are but various statements of the same thing, showing that, however prejudice or partizanship may seek to evade or disguise the fact, our people, generally, recognize slavery as the cause of the war.

It is also true that slavery has been very much weakened since the war began; very large numbers of slaves have been set free, in fact, while other very large numbers, yet under the partial control of their masters, have been so operated upon by events as to make them unfit for slaves. It is, indeed, thought by many men, North and South, that in any event, slavery will perish.

It is also true that the anti-slavery sentiment of the country is stronger than ever before. The convictions of the anti-slavery men of the country, as to the dangerous nature of the institution, have lost nothing of their strength, while many thousands who, before the war were either indifferent or positively favorable to slavery, are now among its most determined opponents. Is it wise, then, for us, at a time when this cause of our troubles has nearly passed away, so to shape our action as to preserve a remnant that may take root and spread, until it has brought upon those who come after us, the terrible evils we are now enduring? Had we not better remove this cause of strife, and that being done, may we not reasonably hope that, when the natural bitterness growing out of our present strife shall have passed away, the kindly and fraternal feelings which, but for this cause, would have always existed, may be again restored?

But we should not permit the discussion of these, or similar questions, to divert us from the paramount purpose of prosecuting the war earnestly and vigorously, until all men in rebellion against the Government shall, either voluntarily or by compulsion, lay down their arms. In this consists our only safety, and I feel well assured that you will, so far as depends on you, see to it that Iowa, in the future as in the past, will do her full share of this good work, promptly and well.

The position occupied by our State, in this war for the preservation of the Union, is a proud and enviable one. From the first out-break of the rebellion until the present time, Iowa has neither faltered nor wavered in the discharge of her duty. In both branches of the National Council she has presented an unbroken

front to treason and rebellion, and has given a steady and undivided support to the General Government. Her State Government, in all its branches, has given evidence of her unflinching and unconditional loyalty and devotion to the good cause. Her people have, at all times and promptly, filled all requisitions made upon them for troops to fill the ranks of the Union armies; and the men she has sent to the field have been, at least, second to none in all soldierly qualities.

To these men yet another word is due from me. When this war began, ours was a new State, without a history. To-day, her name stands on one of the brightest pages of our country's record—graven there by the bayonets of our brave soldiers, and that page is all over glowing with the proofs of their heroism and devotion. We have sent to the field no Regiment of which we do not feel justly proud, and the bare mention of the names of many of them stirs the blood and warms the heart of every Iowan.

It may perhaps be permitted me to say that I trust that when the history of the gallantry and devotion of these men shall be written, the position I have held will of necessity connect my name humbly, and not discreditably, with theirs, and that this trust affords compensation for somewhat of toil and care which have attended that position, and should be sufficient to satisfy an ambition greater than mine.

SAMUEL J. KIRKWOOD.