# REPORT

OF THE

# COMMISSIONER OF CLAIMS

TO THE

TWELFTH GENERAL ASSEMBLY

RELATIVE TO

THE PUBLIC LANDS.

DES MOINES: O F. W. PALMER, STATE PRINTER. 1808.

## MESSAGE OF THE GOVERNOR.

EXECUTIVE OFFICE, MARCH 24, 1865.

Gentlemen of the Senate: -

I have the honor to transmit herewith the report of J. A. HARVEY, who was constituted Commissioner by chapter seventynine, laws of the Eleventh General Assembly, to adjust with the general government certain questions relating to the public lands. The success which has attended his connection with this responsible duty entitles him to great credit, and suggests the propriety of continuing him in the position until all the claims founded upon this class of interests have been liquidated. With the land interests of the State he is thoroughly conversant, and the experience he has acquired in effecting the settlement he now reports, would afford the hope of greater results from his labors than from those of any man who has not this experience. But unless a larger remuneration be accorded him, it will be impossible for the State to avail itself of his services. Appointed while Register of the State Land Office, and in receipt of a salary from that position, it seems to have been overlooked that the compensation for this additional duty to which he was assigned would be insufficient when his salary as Register ceased. That it is totally inadequate to the abilities required, and to the valuable experience which Mr. HARVEY brings to the work is plainly apparent. I would, therefore, recommend that a more just and liberal compensation be paid him than that now established by law.

It is very desirable that the matters which have been entrusted to Mr. Harvey should be brought to a conclusion. These lands, the equitable property of the counties, should be secured to them. The probability of effecting a settlement and obtaining for the counties their just claims is far greater with an agent of the State, duly accredited and clothed with the proper authority, than it would be if left to the several counties, or agents, by them appointed. In the latter case many of these claims must be abandoned as beyond the hope of recovery.

SAMUEL MERRILL, Governor

### REPORT.

HIS EXCELLENCY, SAMUEL MERRILL, GOVERNOR OF IOWA:

Sir: Though not required by law to do so, I feel impelled by a sense of duty to make a brief report in reference to the matters entrusted to my charge by chapter 79 of the acts of the Eleventh General Assembly, that the present General Assembly may the better understand this complicated subject and take such action in the premises as may seem necessary for the public interest.

As already reported to you in the last Biennial Report of the State Land Office, all the matters referred to in said chapter have been adjusted except the Swamp Land claims, and as to them we are constantly but slowly approaching a final conclusion. We would at this time be nearer the end of this difficult and tedious business had the compensation allowed been sufficient to justify a steady devotion of my time to the matter. It will be seen that my compensation is limited to two dollars per day, for the time actually employed, and the necessary expenses. This act was passed when I was filling the office of Register and drawing the salary therefor, and the two dollars per day and expenses in addition were thought to be reasonable. The business could not, however, be closed up during the year 1866, and my salary stopping with that year left me only the compensation specified in said chapter, so utterly inadequate as to preclude the idea of devoting much time to this matter. A family can not be clothed and supported, and children educated on such a meager sum, and I was therefore compelled to devote most of my time to my professional and personal business.

In view of the vast interests at stake, and the fact that no one else was authorized to act for the State in the prosecution of these claims, I have kept an eye to the matter and done all that I could to urge on the adjustment, without sacrificing too much. In the time that I have thus spent I have lost by the neglect of professional business much more than I have received from the State for my services, but I flatter myself with the belief that my services have not been worthless to the State. Beside the adjust. ments under the other grants, all of which are settled so far as they can be outside of the courts, there has been since my appointment, approved to the State as swamp land, 131,698,07 acres, and issued as indemnity, script for 146,434,44 acres and \$158,751.77 in cash, making in the aggregate, rating the land and scrip at \$1.95 per acre, the sum of \$507,417.40.\* I do not claim that this is all the result of my labors. Other agencies have been to work, and this is the result of all combined, and shows that our claims have been pressed more vigorously and with better success than is generally supposed; and will, with a persistent prosecution, reach a final termination before many years more elapse.

I have visited Washington on this business three times, and spent up to this date about one hundred and fifty days, besides time spent in corresponding with the Department and with counties and parties interested, of which no account is taken, — of which about seventy-five days have been spent since the expiration of my term as Register.

When the swamp selections were made, the lists under the direction of the General Land Office were sent to the Surveyor-General, to be by him examined with reference to the proofs furnished and the field-notes and plats in his office, and after making his decision thereon he was to report to the General Land Office such as he decided to be swamp land.

These lists were, many of them, sent to the Surveyor-General without being first sent to the State Land Office. Of such the State had no account. To remedy this I made an effort to get from the Surveyor-General, before the discontinuance of that office, copies of such lists, together with the dates of filing the same in his office, and the dates of his reports thereon to the General Land Office, but he declined to furnish them for want of authority and on account of the great amount of labor it would require of him.

Many of the lists were never reported on by the Surveyor-General at all, but when the office of Surveyor-General was abolished for this State, all these lists, with other papers, were forwarded to the General Land Office as papers belonging to the discontinued office.

While at Washington during the past winter I obtained access to those papers, and with much labor and some expense for assistance, endeavored to ascertain therefrom the condition of the claims of the several counties.

I append hereto a tabular statement, showing the number of acres of land embraced in the several lists of selections for each county, the dates of filing such lists in the Surveyor-General's Office; the dates of his reports thereon to the General Land Office; the amount of mamp land patented; the amount accounted for in indemnity, scrip and cash, and the number of acres unaccounted for to the State for each county, which last are the unsettled claims, including, however, the swamp lands certified to the State as railroad lands, of which there is a considerable quantity in some of the counties. As to them nothing remains to be done with the Department, but resort must be had to the courts to hold them (if at all) under the Sicamp Grant.

I found that many of the lists had no note or memorandum indicating their reception at the Surveyor-General's Office. Especially is this true as to those transmitted to that office during the administration of Warner Lewis. I could not, therefore, get the correct date in many instances, in which cases I took the date of the last certificate before sending to that office, which can not be far wrong. I found it also very difficult to arrive at the correct amount of land in many of the lists, owing to their mutilated con dition and the errors and discrepancies in description and area. In most instances, however, this exhibit is I believe, correct.

It will be seen that the unsettled claims amount in the aggregate to over 1,650,000.00 acres. Some of which, as before stated, have been certified as railroad land, and some was disposed of by the Government before the date of the grant. To many of these lands the State will no doubt be unable to establish her right but I am more thoroughly convinced than ever, that with the

<sup>\*</sup> Add to this 10,658.22 acres indemnity awarded to Greene county, and awaiting the approval of the Secretary of the Interior — \$13,822.77.

necessary energy she will get all she is entitled to under the grant notwithstanding the opposition of the present Commissioner of the General Land Office.

I can not review here the many adverse rulings and decisions of the Department, but will briefly call attention to two or three of the most important.

Notwithstanding the fact that the Secretary gave the State the privilege of selecting the land by her own agents, still he recog. nizes as selected only such as the Surveyor-General decided to be swamp and reported as such to the General Land Office. Only such are placed on the books of the General Land Office as swamp selections. Many of the lands actually selected and reported by the State have never been by him so reported. As will be seen by reference to the Exhibit, many entire lists were retained by by him without making any report thereon. This he did under direction of the Commissioner. Thus, after the State has gone to the trouble and expense of making the examination and selection, and sent the lists as directed by the Department, they are stopped by the Commissioner on the way and prevented from reaching the General Land Office, and then he refuses to recognize the selections because they are not so reported to his office. On such he will not receive or regard proof, or deal with them as swamp land in any way.

Again, the act of Congress of March 3d, 1867, was intended to confirm all the selections of swamp lands then made and reported by the State. It will be seen that at that date a number of these selections had been reported by the State to the Surveyor General, and were then in his hands under direction of the General Land Office. All such the Commissioner holds, do not come within the provisions of that act. It is true that the act confirms the selections "heretofore made and reported to the Commissioner of the General Land Office," but I think a fair construction will make it include these lists. Evidently Congress intended to confirm all such lands as had been selected by the State and the lists thereof forwarded to the General Land Office, and I submit, whether in legal contemplation these should not be considered as so reported.

They were beyond the control of the State and under the control

of the Commissioner of the General Land Office. They were sent to the Surveyor-General by his direction, and were subject to his order.

Again, under the ruling of the Department the State cannot receive indemnity for land sold by the United States, after the date of the act of March 3d, 1857. This I think is contrary to the true intent and meaning of that act. Certain it is, that if the act of 1850 granted to the State the swamp lands, any subsequent disposition of them by the government conveys no title unless the State by accepting indemnity, or in some other way relinquishes her right under that act.

On these several points the Department rules most strongly against the claims of the State, but the necessary relief can be had in congressional legislation. There is now an act pending to remedy, as to some of the counties, the difficulties above indicated. It should be so framed, or amended as to meet on general principles all these difficulties and secure the recognition of these selections. A memorial from the General Assembly to Congress on the subject would probably aid very much in the passage of such an act.

Our members in Congress all stand ready to do all they can to aid the agent of the State in the prosecution of these claims, and to procure all needed legislation for a fair settlement under the grant. More than this can not reasonably be expected of them.

I would suggest that you recommend the General Assembly to either repeal the act referred to, of the last session, and give the matter up entirely to the several counties to prosecute their own claims as they best can, or increase the compensation so as to justify the necessary time and attention. That a State like ours, admitted, as she is, to be in the best financial condition of all the States in the Government, should desire to send an agent on such important business, for so inadequate compensation is preposterous. And when it is remembered that the expense comes off the counties receiving the benefit of the services, and not off the State, there is no reason why she should not allow reasonable pay. Besides, it is unreasonable to suppose that a man competent to

take charge of this, the most complicated and difficult matter connected with the affairs of our State, will spend his time for a mere pittance.

If the act is repealed, these claims will be regarded as virtually abandoned as hopeless by the State, and a door will be opened for fraud and speculation, which will result in swindling many of the counties out of their rights under the grant. Considering that fact, in connection with the fact that the accredited agent of the entire State, would have better facilities, and receive more favorble consideration in the transaction of the business, and would probably have a better knowledge of the business than the agent of a single county, (without raising other objections,) it would seem that the first course suggested would hardly be the better one.

With me, personally, it makes but little difference. With a reasonable conpensation, I am willing to devote myself to the business and press it to a final conclusion as rapidly as possible; for less I can not.

By reference to the Auditor's report you will see the amount I have drawn for services and expenses in connection with this business, which is, I think, meager enough to satisfy the most economical. Never has the same amount of business been done for this State at less expense.

I will further state, that a certified copy of chapter 4 of the Acts of the present General Assembly was transmitted to me before I left Washington, and I therefore presented the matter to the Department and obtained from the Commissioner a promise that the lists desired shall be furnished at an early day.

With the hope that my action in the premises will meet with the approbation of your Excellency, this report is

Respectfully submitted,

J. A. HARVEY,

DES MOINES, MARCH 23, 1868.

# TABULAR STATEMENT.

COUNTIES.	Amounts	Reported to Surveyor	Reported on to General	to	ed for in	Unacc'd for.
Or Baraness	selected	General.	Land Office.			51.46
Adair	9,958.81	Apr. 21, 1856	Jan. 8, 1857	300.00	9,547.35	
Adams,	13.456.30	July 6, 1854	Sep. 20, 1854	4,659.88	5,809.23	7,049.69
Attained					*******	
	4,330.00	Mar. 24, 1864	Not reported			
Alamakee	25,740.00	Dec. 28, 1850	Jan. 8, 1857	12,484.60	11,838.92	1,016.43
			Sep. 20, 185			5,107.10
Appanoose.					6,590.64	6,208.6
Auduboo.	10,297.20	May 98 186	Jan. 8, 1957 Not reported			
	B.719.00	July 8, 186	Not reported		******	
			Jan. 8, 185			21,855.7
Benton	4 40000 750	RIDAN 5 ISB	LUNGS PERGIFICS	A CHARLES AND A STATE OF THE PARTY OF THE PA		*****
	8,800.0	Feb. 5, 186	Not reported			
THE ALTERNATION		- NA 00 102	4 San 90 185	4 2.858.6	9,353.28	15,009.1
BlackHaw	18,824.5	2 Dec. 28, 186	Not reporte	discourse	******	1 1 1 1 1 1 1 1 1
			4 Sep. 20, 185			
Boone						13,824.5
Bremer			4 Sep. 20, 185 4 Sep. 20, 185	4		
	11,701,8 8,500 F	0 Aug -, 180	S Not reporte	diarrana		
						1,371.1
Buchanan.			8ep. 20, 185	1	9 23,150.08	
Butler"	. 14,440.0	0 Sep. 13, 180	5 Jan. 8, 185 5 Jan. 8, 185	2,008.4	20,100.00	
	8,720.0	0 Sep. 25, 180	Duni. 0, 100	A		00 850
Buena Vist	a 62,682.7	2 June 11, 180	Not reporte	d	4.44.45.	00,000
Calhount -		O T 00 101	to Research on	11:247.0	0 632.50	40,000
Camount -	4,002.5					******
	7,297.4	6 Mar. 0, 18	corr'd list	By anaman		Janes Same
	2,240.0					
Carroll	18,640 0	0 Oct. 8, 18	58 May 11, 18 33 Not reports	1,716.2		
	19,660 (	00 May 20, 18	H Not reporte	d		
		0 17 15 10	Ton 8 18	57 1 6475	78 18,661.8	9,258.
Cass	25,546.0	16 Nov. 15, 18	55 Jan. 8, 18 83 Not reporte	ed	× × × × × × × × × × × × × × × × × × ×	
					60 19,155.7	1 3,663.
Cedar.	16,428	13 Mar. 28, 18	54 Sep. 30, 18 s. or she has re			

\* Error in the footing up of the lists, or she has received more than she selected, † Amount uncertain, from the mutilated condition of and conflictions in the lists, In the first list all fractions were counted as full,

## Tabular Statement - Continued,

COUNTIES	Amount selected.	Reported or to Surveyor General.	to General Land Office.	to the	Account- ed for in indemn'y,	Unacc'ter for,
Cer, Gordo		Mar. 30, 1856 Mar. 11, 1864	Aug. 23, 1859 Not reported	00.00		
Cherokee.	26,859.59	Aug. 13, 1850	Mar. 27, 1860	1,523.91	*******	24,885.68
Chickasaw	44,280.00	Dec. 28, 1855	Jan. 8, 1857	440 00	24,084.38	19,750.63
Clark	4,970 69	Apr. 21, 1859	June 24, 1859		1,611.68	3,350 94
Clay	67,787.86	Feb. 4, 1860	Mar. 27, 1860	18,230.97	***** ***	49,556.00
Clayton	7.000		Sept. 20, 1854	1,827.29	404.48	2,117,08
Clinton	45,049,89	Dec. 31, 1853	June 5, 1854	17,845.72	699.00	26,505.08
Crawford	7,040 00 18,297.51	Mar. 6, 1856 June 1, 1868	Not reported Not reported	********	*******	25,937.51
Dallas			Sept. 20, 1858		1,240 00	2,465.01
Davis			Apr. 28, 1859			11,770.18
Decatur,			Sept. 20, 1854	THE RESERVE TO STREET	6,589.91	2,900.94
Delaware	19,720.00	Feb. 18, 1856	Jan. 8, 1857	359.83	4,096.06	14,668.71
Des Moines.	17,608,78	Feb. 21, 1854	Sept. 20, 1854	7,481.23	17/11-1-1-10	6,056.97
Dickinson.†		July 23, 1860		2,534.04		47,857.50
Dubuque	4,110.63	Mar. 10, '54 Apr. 28, '57 July 7, '57	Sept. 13, 1855 Not reported Not reported	7	1,100.17	2,938.75
Emmett	97,507.62	Mar. 20, 1861	Not reported			97,507.02
Fayette		Feb. 27, 1855		295.20	6,847,08	6,310.21
Floyd	10,199.71	Dec. 8, 1855	Jan. 8, 1857		6,528 22	8,685.49
Franklin t	28,580.43	Apr. 1, 1864	Not reported			28,580.48
Fremont]	102,755.51	June 7, '54 Mar. 20,'56	Sept. 20, 1854 Jan. 8, 1857	87,729.04	6,880.61	8,142,88
Guthrie		July 2, 1855		360.00	7.070 77	4,820,83
Grundy	3,340 001/	Oct. 24, 1857 Aug. 15, 1859 Sept. 7, 1863	Mar 27, 1860	1701744	3,283.20	25,687.80
reeneg	63,918.86		May 11, 1859 May 11, 1859	4,761.77	** ****	59,167.00
Ismilton T.			Mar. 6, 1857	11,361,41	11,173.49	18,120.01

\*\*Could not ascertain amount in the second list.

\*\*Rejected under Commissioner's Instructions of July 13, 1800.

\*\*The selections were made in May, 1800, but the list returned for correction, and again sent to the Serveyor - General.

\*\*LError in the footings. The deficit is greater. Over 12,700 acres involved in the cuntroversy with the Railboad.

\*\*Jindennity for 10,800,22 acres additional, allowed, and submitted to the Secretary Selected as a part of Webster county.

Tabular Statement - Continued.

COUNTIES.	Amount selected.	to Surveyor-	Reported on to General Land Office.	ta	led for in	Unacco's
lancock	58,052.17		Aug. 22, 1859			46,049,20
Tardin	12,979.24	May 12, 1858	Aug. 22, 1850	820.00	5,001.71	7,057.5
Tarrison	126,407.93	July 5, 1854	Sept. 20, 1854	117,812.00	2,812.58	5,788.85
Ienry	5,613.85	Mar. 10, 1854	Sept. 20, 1854	********	1,885.68	3,727.00
Ioward	22,796.68	Dec. 28, 1855	Jan. 8, 1857	6,754.21	*******	16.042.47
Humboldt .			Mar. 6, 1857 Mar. 27, 1860	18,854,64	********	21,445.11
owa	18,876.07	Apr. 30, 1854	June 5, 1854	2,446.23	9,448.87	6,086.47
da	9,639 47	Nov. 3, 1858	Feb. 21, 1859	278,76		9,860,7
ackson	13,072.07	Aug. 1, 1854	Feb. 13, 1855			2,832.60
asper	30,921.69	Mar. 25, 1854	Sept. 20, 1854	8,311.98	5.603.18	17,006.58
efferson	1,159.56	May 9, 1854	Sept. 20, 1854	688 46		476.1
fohuson	30,401.91	Apr. 25, 1854	Sept. 20, 1854	1,805.96	23,267.47	5,828.4
ones	24,040.20	May 15, and	Sept. 18, 1854	1,859.61	12,757.07	9,423.5
Ceokuk	29,526.83	Nov. 16, 1854. June 9, 1854	Sept. 20, 1854	8,512.70	4,895.24	16,118.8
Lossuth	86,769.00	July 5, 1859	Aug. 22, 1850	38,085.00		48,588.9
.00	3,305.88	Mar. 15, 1854	Sept. 20, 1854	49.90		8,255.90
inn	7,882.08	Oct. 12, 1853	Sept. 20, 1854	2,650.37	4,915.78	1,816.5
ouisa	45,888.78	Mar. 25, 1854	Sept. 20, 1854	20,577.06	14,166.56	11,184.9
mens*	********			*******	1 * * * * * * * * * *	News and the
Ardison	19,872.09	J'ly & No.'59	Mar. 27, 1860	40.00	16,898.12	2,088.0
Inhaska	13,062,41	Mar. 30, 1854	Sept. 20, 1854	5,898,10	3,461.51	2,702.8
farion	4,465.96	Feb. 24, 1854	Sept. 20, 1854	1,091.00	350.08	3,024.8
darshall	19,240.00	j Dec. 12, '58 Mar. 7, '54	Sep. 20, '54	5,053.25	5,827.80	7,450.4
fills	67.073.53	Feb. 1, 1854	Sept. 20, 1854	22,661,25	14.577.48	29,884.8
fitchell	54,110.23	Feb. 25, 1860	Mar. 27, 1800	******	4,636.84	49,473.8
fonona	114,566.24	Oct. 25, 1855	Jan. 8, 1857	78,675.88	32,762.32	84,218.7
	8,578.08	Oct. 30, 1863	Not reported Not reported	********	*******	******
fonroe			Sept.20, 1854 Not reported			3,520.0
Montgom'ry	19,320 00 520,00	Mar. 7, 1856 Mar. 30, 1864	Jan. 8, 1857 Not reported	1,312.93	13,736.57	4,190.5
		Feb. 13, 1854 or the relief of	June 15, 1854	3,412.60	6,052.54	9,516.0

#### Tabular Statement - Continued.

COUNTIES.	Amount	Reported on	Reported on to General	Approv'd	Account-	Unacc'ted
COUNTIES.	selected.	General,	Land Office.	State.	indem'ny.	for.
O'Brien	23,192.76	Apr. 19,'59	June 24, 1859 Not reported	520.00		23,672.76
	*****	( Apr. 1, 00	Mut reported	*******	***** ***	
Osceola*	***	**********	(********		********	**** ****
Page		Mar. 3, 1854	Sep. 20, 1854 Not reported	9,891.43	4,203.92	
Tite 111-1			-	00 040 00	********	198141614
Palo Alto†.		Dec. 19, 1859			********	*******
Plymouth	18,851.06	Nov. 3, 1858	Feb. 21, 1859	2,470.29	*** *****	16,380.77
Pocahont's;		Aug. 9, 1859 Nov. 24, 1859	Mar. 27, 1860	20,617.17	******	54,528.00
T1.11.				*4 *04 00	0.000.00	*** ****
Polk		Mar. 30, 1854		14,564.80		12,280.48
Pottawat'e	56,640.19	Feb. 29, 1854	Sep. 20, 1854	22,867.48	12,552.18	21,720.63
Poweshiek*		*********	*********		*******	********
Ringgold		May 1, 1859		800.00	18,424.04	21,692.27
			Not reported		*******	*******
Scott	11,628.32	Feb. 28, 1854	June 5, 1854	3,255.08	******	8,373,24
Sloux		Nov. 3, 1858		5,012.10	181 18143	8,410 84
OL-H-		Apr. 19, 1859	The second second	0.010.08	C 440 10	********
Shelby		Mar. 6, 1856 Mar. 24, 1864		2,610.85	7,419.47	13,868.94
Story		June 1, 1854		16,079.36	2,305.11	3,987.80
Sac		July 1, 1858		5,841.55		
Tama		June 12, 1855		80.00		38,607,96
Taylor	2,440.00 5.488.89	Oct. 24, 1855 Jan. 12, 1856	Aug. 31, 1857	1,874.08	8,083.86	11,918.90
	5,200.00	Jan. 12, 1856 June 29, 1857	Aug. 31, 1857			
			Not reported		********	*******
Union	16,314.34	Mar. 30, 1859	June 24, 1859	80.00	11,739.89	4,404.45
Van Buren.	1,320.00	Mar. 18, 1854	Sep. 20, 1854	440.00		880.00
Wapello*						
Warren	29,674.33	Mar. 8, 1859	Apr. 28, 1859		17,495,22	13,339.11
	1,160.00	May 28, 1863	Not reported		******	
Washington	25,205.02	June 3, 1854	Sep. 20, 1854	3,355.44	13,814.28	8,085.30
Wayne	10,780 00	July 10, 1855	Jan. 8, 1857	40.00	3,276.37	18,023.63
			Not reported			*******
Webster	43,787.99	Nov. 20, 1856	Mar. 6, 1857	22,555.27	3,695.23	17,587.49
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#### Tabular Statement - Continued.

COUNTIES.	Amount selected.	Reported on to Surveyor- General.	Reported on by General Land Office	Approv'd to the State.	indemn'y	101
Winnebago.	47,434.90	Mar. 12, 1859	Aug. 22, 1859	4,882.02	962.33	33,000.56
Winneshiek	10,266.00	Dec. 28, 1855	Jan. 8, 1857	6,035.59	2,041.53	2,188.89
Woodbury	57,944.58	May 12,'55 Nov. 20,'58	Jan. 8, 1857 Sept.21, 1859	9,802,76	*******	48,141.89
Worth	32,017.64	May 22, 1862	Not reported		*******	82,017.64
Wright	17,862.92	Oct. 2, 1858	Apr. 29, 1859	817.72	6,025.24	11,020.96

<sup>\*</sup>No selections,
†Several other lists so altered and conflicting as to make it uncertain as to the
amount claimed, but evidently much more,
‡ The second list covers much in the first,