REPORT

OF THE

SECRETARY OF STATE,

TO THE

GOVERNOR OF IOWA,

Of the Transactions of the Land Department, for the Biennial Period, ending

JUNE 30, 1893.

W. M. McFARLAND, Secretary of State

DES MOINES:
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1893.

REPORT.

OFFICE OF SECRETARY OF STATE,
DES MOINES, IOWA.

To His Excellency HORACE BOIES, *Governor of Iowa:*

SIR:—I have the honor to submit this my second biennial report of the transactions of the land department for the period, beginning July 1, 1891, and ending with June 30, 1893. In addition to the current work of this department reported herein, there has been included other information in relation to land titles, of sufficient importance to deserve attention in this report, but it is impossible in the limited space, to give even a summary of the many land grants, the national and state legislation in relation thereto, with the numerous court decisions rendered in cases relating to the public lands.

The United States supreme court has rendered an important decision in the case of *United States vs. Des Moines Navigation and Railway Company*, which it is thought proper to give in full under the subject of the Des Moines River Lands.

As reported by the Commissioner of the General Land Office, at Washington, there are no vacant lands in Iowa, except as caused by cancellation and relinquishment, and only a minor part of the lands granted by the general government to the State for various purposes, remain unpatented.

During the past two years the State has received a few patents and certified lists from the general government for railroad and swamp lands.

The department has certified 1,373.53 acres and patented 240 acres to the State for the benefit of railroads, under the congressional grants of May 15, 1856, and May 12, 1864, and the area of swamp lands approved to the State under the provisions of the act of September 28, 1850, for the same period, is 827.16 acres, 627.16 acres of which have been patented to the State as swamp lands, and by the State, patented to the several counties entitled to same.

The total number of patents issued by the State during the two years ending June 30, 1893, was 343, conveying in the aggregate 40,867.16 acres of the several classes of State lands.

Besides the issuing of patents, there is a large amount of labor performed in this department, which is not reported; such as making copies of field notes, for counties desiring the same, furnishing individuals with certified copies of patents, etc., but the utmost care is required in the performance of this class of labor.

The fees received for certified copies of original field notes, plats, patents and other records for the two years ending June 30, 1893, amounting in the aggregate to five hundred and eighteen dollars and eighty cents ($518.80), were paid into the State Treasury and receipts taken therefor.

THE SCHOOL LANDS.

The beneficent acts of Congress toward the States in granting lands for the maintenannce of public schools, colleges and universities, is a government policy which can not be too highly commended. From the confederation of the States to the present time, the general government has maintained and encouraged a liberal policy of donating to the States public lands for the support of schools and educational institutions, and there is no other subject connected with civilization and the progress of the States, in which our best citizens and legislators have taken so deep an interest as that of education.

The principle has been enacted into law, that one of the first requisites in the accomplishment of the highest aims of government was the diffusion of intelligence among the masses of the people.

In 1785, an ordinance was approved known as "Land Ordinance of May 20, 1785," the purpose of which was for ascertaining the mode of disposing of lands in the Western Territory. It provided that, "There shall be reserved the lot No. 16 of every township for the maintenance of public schools within said township."

Ordinance No. 32. July 13, 1787. An ordinance for the government of the territory of the United States northwest of the River Ohio, declares that, "Religion, morality and knowledge being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged.

The principles promulgated in these and other ordinances form the basis of the public schools and universities of all the northwestern States. The State of Iowa, upon her admission to the Union on December 28, 1846, became entitled to 500,000 acres of land by virtue of an act of Congress approved September 4, 1841.

These lands were granted for the purposes of internal improvements, but the State was admitted to the Union with a constitutional provision devoting these lands to the support of common schools. Congress, by its act of admission, consented to the diversion, and on September 12, 1854, an approved list of said lands was certified to the State. There was an excess in the selection and approval of this grant which has been fully explained in previous reports of this department.

An act of Congress, approved March 3, 1845, granted to the State the "section numbered sixteen in every township, of the public lands, and where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be," for the use of public schools.

The lands acquired by the foreclosure of school fund mortgages, and estates which escheat to the State, constitute a part of the school lands of the State. The following figures will show the quantity of lands acquired by the State under the grants of 1841 and 1845.

Land of the 500,000 acre grant	535,473.54 acres.
Sixteenth section grant	1,013,614.21 acres.
Total	1,549,087.75 acres.

The quantity of unsold school lands in the State has been ascertained from reports made by the county auditors, including the mortgage school lands acquired prior to January 1, 1874.

Only seventeen counties have unsold school lands, and the quantities as shown by said reports are of the three classes as follows:

Five hundred thousand acre grant	636.33 acres.
Sixteenth section grant	5,132.19 acres.
Mortgage school lands	402.76 acres.
Total unsold	6,171.28 acres.

There are thirty-six town lots unsold, which are a part of the mortgage school lands.

The number of acres of unpatented mortgage school lands can

not be given in this report, but the quantity remaining unpatented of the two grants, as shown by the records of this office on June 30, 1893, is as follows:

Five hundred thousand acre grant	12,830.80 acres.
Sixteenth section grant	47,759.49 acres.
Total granted lands unpatented	69,590.29 acres.

During the two years ending June 30, 1893, patents were issued by the State for school lands of the three classes as follows:

Of the 500,000 acre grant lands	891.21 acres.
Of the sixteenth section grant lands	20,172.02 acres.
Of the mortgage school lands	160.00 acres.
Total	21,223.23 acres.

Also one lot in Ottumwa was patented.

SCHOOL LANDS PATENTED DURING THE LAST TWO YEARS AND AMOUNT REMAINING UNPATENTED.

The following is a statement exhibiting the number of acres of the Sixteenth Section and 500,000-Acre Grants, in each county, patented during the last two years; also the number of acres of such lands in each county remaining unpatented.

COUNTIES.	500,000-ACRE GRANT.		SIXTEENTH SECTION GRANT.	
	Number of acres patented during last biennial period.	Number of acres remaining unpatented.	Number of acres patented during last biennial period.	Number of acres remaining unpatented.
Adair				
Adams		25.00		
Allamakee	72.08	1,034.39		874.90
Appanoose		80.00		360.00
Audubon				30.00
Benton		406.00		232.50
Black Hawk		90.00		258.20
Boone	80.00		80.00	170.00
Bremer		380.00		60.00
Buchanan	299.13	80.00		40.00
Buena Vista			720.00	680.00
Butler			120.00	260.00
Calhoun			640.00	480.00
Carroll				
Cass			80.00	320.00
Cedar				260.00
Cerro Gordo				268.00
Cherokee			598.31	602.03
Chickasaw		360.00	180.00	200.00
Clarke		596.70		400.00
Clay			200.00	1,510.92
Clayton		1,388.62		704.41
Clinton		181.76		773.89
Crawford				20.00
Dallas	240.00	149.03		125.00
Davis		125.65		160.00
Decatur	120.00	1,960.55	80.00	640.00

SCHOOL LANDS PATENTED AND UNPATENTED—CONTINUED.

COUNTIES.	500,000-ACRE GRANT.		SIXTEENTH SECTION GRANT.	
	Number of acres patented during last biennial period.	Number of acres remaining unpatented.	Number of acres patented during last biennial period.	Number of acres remaining unpatented.
Delaware				
Des Moines				1,471.18
Dickinson			1,680.00	2,240.80
Dubuque		300.00		80.00
Emmet			650.00	2,080 00
Fayette		120.00		60.00
Floyd		80.00		480.00
Franklin			320.00	
Fremont			120.00	681.52
Greene			80.00	160.00
Grundy			80.00	200.00
Guthrie				240.00
Hamilton			40.00	80.00
Hancock				240.00
Hardin			80.00	160.00
Harrison				742.27
Henry				220.00
Howard			200.00	447.50
Humboldt				240.00
Ida				
Iowa		120.00		280.00
Jackson				197.25
Jasper			120.00	
Jefferson				
Johnson				60.00
Jones	40.00	760.00		910.00
Keokuk				320.00
Kossuth			3,205.00	4,395.00
Lee				100.00
Linn		251.60		146.33
Louisa				103.65
Lucas				
Lyon			1,680.00	4,763.83
Madison		360.00		
Mahaska				160.00
Marion		160.00	120.00	520.00
Marshall				40.00
Mills				280.00
Mitchell				680.00
Monona			200.00	1,080.00
Monroe				40.00
Montgomery				
Muscatine				475.00
O'Brien			80.00	40.00

SCHOOL LANDS PATENTED AND UNPATENTED—CONTINUED.

COUNTIES.	500,000-ACRE GRANT.		SIXTEENTH SECTION GRANT.	
	Number of acres patented during last biennial period.	Number of acres remaining unpatented.	Number of acres patented during last biennial period.	Number of acres remaining unpatented.
Osceola			400.00	1,760.00
Page				180.00
Palo Alto			400.00	240 00
Plymouth			1,120.00	1,560 00
Pocahontas			902.70	510 00
Polk				190.00
Pottawattamie			200.00	140.00
Poweshiek		120.00		1,080.00
Ringgold		2.50	80.00	50.00
Sac				
Scott				110.00
Shelby				
Sioux			1,484.78	1,477.35
Story		80.00		40.00
Tama		942.61		40.00
Taylor				15.00
Union		575.00		80.00
Van Buren				
Wapello	40.00	40.00		200.00
Warren		320.00		160.00
Washington				180.00
Wayne		265.05	80.00	610.00
Webster		245.14	480.00	680.00
Winnebago			240.00	840.00
Winneshiek		1,231.20		40.00
Woodbury			540.00	2,095.60
Worth			631.74	368.26
Wright			459.49	1,279.70
Total	891.31	12,830.80	20,172.02	47,759.49

UNSOLD SCHOOL LANDS.

The following descriptive statement exhibits the quantity of unsold school lands of the three classes in the several counties in the State having unsold school lands at the close of the last biennial period, as shown by reports received from its county auditors in said counties, and omitting the names of the counties in which there are no unsold school lands.

COUNTY.	PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES.	CLASS.
Allamakee ...	nw of ne	16	100	4	40.00	Sixteenth section.
Allamakee ...	sw of ne	16	100	4	40.00	Sixteenth section.
Allamakee ...	ne of nw	16	100	4	40.00	Sixteenth section.
Allamakee ...	sw of nw	16	100	4	40.00	Sixteenth section.
Allamakee ...	se of nw	16	100	4	40.00	Sixteenth section.
Allamakee ...	nw of sw	16	100	4	40.00	Sixteenth section.
Allamakee ...	nw of se	16	100	4	40.00	Sixteenth section.
Allamakee ...	Lot 1	16	99	3	43.56	Sixteenth section.
Allamakee ...	Lot 2	16	99	3	28.06	Sixteenth section.
Allamakee ...	Lot 3	16	99	3	45.58	Sixteenth section.
Allamakee ...	Lot 4	16	99	3	28.00	Sixteenth section.
Allamakee ...	Lot 5	16	99	3	31.06	Sixteenth section.
Allamakee ...	Lot 6	16	99	3	58.00	Sixteenth section.
Allamakee ...	w½ of sw	16	99	3	80.00	Sixteenth section.
Allamakee ...	s½ of ne of sw	10	96	3	20.00	500,000-acre.
Allamakee ...	s½ of nw of se	10	96	3	20.00	500,000-acre.
Allamakee ...	s½ of nw	6	96	3	80.00	500,000-acre.
Allamakee ...	n½ of sw	6	96	3	80.00	500,000-acre.
Allamakee ...	se of nw	10	96	3	40.00	500,000-acre.
Allamakee ...	Lot 10	18	97	2	36.33	500,000-acre.
Allamakee ...	und ¼ of ne of ne	23	96	4	20.00	Mortgage school.
Allamakee ...	nw	16	99	4	160.00	Mortgage school.
Allamakee ...	se of ne	5	98	3	40.00	Mortgage school.
Allamakee ...	Lot 9	3	96	3	59.50	Mortgage school.
Allamakee ...	ne of nw	7	96	3	40.00	Mortgage school.
	Total	....	....	....	1,190.09	
Allamakee ...	Town of Capoli 24½ lots	....	....	....	.....	Mortgage school.
Allamakee ...	Lots 5, 6, 7, and 8,	....	....	....	.....	Mortgage school.
Allamakee ...	blk 10	....	....	....	.....	
	Lot 6, blk 7	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 3, blk 21	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 3, blk 22	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 2, blk 23	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 3, blk 26	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 13, blk 37	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 6, blk 27	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 7, blk 28	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 3, blk 37	....	....	....	.....	Mortgage school.
Allamakee ...	Lots 4 and 10, blk 38	....	....	....	.....	Mortgage school.
Allamakee ...	Lots 6 and 13, blk 39	....	....	....	.....	Mortgage school.
Allamakee ...	Lots 3 and 13, blk 40	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 1, blk 41	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 3, blk 42	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 4, blk 43	....	....	....	.....	Mortgage school.

COUNTY.	PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES.	CLASS.
Allamakee ...	Lot 2, blk 44	....	....	....	.....	Mortgage school.
Allamakee ...	Lot 7, blk 33	....	....	....	.....	Mortgage school.
Allamakee ...	und ¼ lot 1, blk 30	....	....	....	.....	Mortgage school.
Allamakee ...	Johnsonsport 11½ lots	....	....	....	.....	Mortgage school.
Allamakee ...	Lots 116, 118, 119, 120 and 121	....	....	....	.....	Mortgage school.
Allamakee ...	und ¼ of lots 36, 38, 40, 42, 44, 46, 48, 50, 54, 56, 58, 60 and 62	....	....	....	.....	Mortgage school.
Calhoun	s ½ of nw	16	89	33	80.00	Sixteenth section.
Cherokee....	se of sw	16	93	39	40.00	Sixteenth section.
Clarke	ne of sw	16	71	24	40.00	Sixteenth section.
Clarke	sw of se	16	71	25	40.00	Sixteenth section.
Clarke	se of ne	18	71	24	40.00	500,000-acre.
Clarke	ne of nw	26	71	26	40.00	500,000-acre.
Clarke	se of sw	25	71	27	40.00	500,000-acre.
	Total	....	....	....	200.00	
Clayton	Lot 1	16	93	2	42.40	Sixteenth section.
Clayton	Lot 3	16	93	2	46.50	Sixteenth section.
Clayton	sw of sw	16	93	2	40.00	Sixteenth section.
	Total	....	....	....	128.90	
Decatur	sw of sw	6	69	24	40.00	500,000-acre.
Decatur	sw of nw	6	70	26	40.00	500,000-acre.
Decatur	sw of sw	17	70	26	40.00	500,000-acre.
Decatur	ne of se	7	70	27	40.00	500,000-acre.
Decatur	se of ne	15	70	27	40.00	500,000-acre.
Decatur	ne of ne	15	70	27	40.00	500,000-acre.
Decatur	nw of se	22	70	26	40.00	Mortgage school.
	Total	....	....	....	280.00	
Dickinson	All	16	99	37	640.00	Sixteenth section.
Emmet	All	16	100	32	640.00	Sixteenth section.
Fremont	w ½ of sw	16	70	43	80.00	Sixteenth section.
Fremont	s ½ of nw	16	70	43	80.00	Sixteenth section.
	Total	....	....	....	160.00	
Hancock	e ½ of se	16	97	24	80.00	Sixteenth section.
Jones	e ½ of sw	16	83	3	80.00	Sixteenth section.
Kossuth	All	16	100	29	640.00	Sixteenth section.
Kossuth	All	16	100	30	640.00	Sixteenth section.
	Total	....	....	....	1,280.00	
Lyon	sw ¼	16	100	48	160.00	Sixteenth section.
Lyon	se ¼	16	98	48	160.00	Sixteenth section.
Lyon	s ½ of se ¼	16	98	48	80.00	Sixteenth section.
Lyon	ne ¼ of se ¼	16	98	48	40.00	Sixteenth section.
Lyon	se ¼ of sw ¼	16	98	48	40.00	Sixteenth section.
Lyon	ne ¼ of nw ¼	16	98	48	40.00	Sixteenth section.
Lyon	Lot 1	16	98	48	30.88	Sixteenth section.
Lyon	Lot 2	16	98	48	60.05	Sixteenth section.
Lyon	Lot 4	16	98	48	38.10	Sixteenth section.
	Total	....	....	....	649.03	

COUNTY.	PARTS OF SECTION.	SEC	TP.	R'G.	ACRES.	CLASS.
Monona	se of se	16	85	....	40.00	Sixteenth section.
Monona	sw of se	16	85	....	40.00	Sixteenth section.
Monona	se of sw	16	85	....	40 00	Sixteenth section.
Monona	sw of nw	16	83	....	40.00	Sixteenth section.
	Total	....	...	....	160.00	
Tama	s ½ of nw of nw	16	85	13	20.00	Sixteenth section.
Tama	n ½ of sw of nw	16	85	13	20.00	Sixteenth section.
Tama	nw of nw	31	84	15	43.26	Mortgage school.
	Total	....	...	....	83.26	
Woodbury	nw ¼	16	86	43	160.00	Sixteenth section.
Woodbury	sw of ne	16	86	43	40.00	Sixteenth section.
Woodbury	ne of sw	16	86	43	40.00	Sixteenth section.
Woodbury	nw of se	16	86	43	40.00	Sixteenth section.
Woodbury	w ½ of ne ¼	16	86	44	80 00	Sixteenth section.
Woodbury	nw of se	16	86	47	40.00	Sixteenth section.
	Total	....	...	....	400.00	
Wright	n ½ of nw ¼	16	92	26	80.00	Sixteenth section.
	Aggregate No. of acres unsold	....	...	....	6,171.28	

Number of lots in town of Capoli unsold 24½
Number of lots in town of Johnsonsport unsold 11½

Total 36

MORTGAGE SCHOOL LANDS.

Of the mortgage school lands, only 160 acres have been patented during the last biennial period, and are described in the following statement, which also gives the name of patentee and the county in which the tracts are situated:

PARTS OF SECTION.	Section.	Township.	Range.	ACRES.	NAME OF GRANTEE.	IN WHAT COUNTY SITUATED.
Se¼ of sw¼	28	73	24	40	James Campbell	Clarke.
S½ of nw¼	4	72	37	80	Susan C. Everett	Montgomery.
Ne¼ of nw¼	10	70	26	40	Levi T. Lee	Decatur.
Total				160		

Lots No. six (6) and seven (7) of Hackworth's sub-division of Gilmore's addition to the city of Ottumwa, Wapello county.

THE UNIVERSITY LANDS.

On the 20th day of July, 1840, Congress approved a grant of land for the use of the University in the Territory of Iowa. The "Act supplemented to the act for the admission of the States Iowa and Florida into the Union," approved on the 3d day of March, 1845, again reserved and set apart these lands to the State, "to be appropriated solely to the use and support of such University, in such manner as the legislature may prescribe."

The lands acquired by the University grant were certified to the State November 19, 1859.

By the act of March 3, 1845, Congress granted "all salt springs within the State not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each"—the government still retaining title to same. But by the act entitled "An Act to relinquish to the State of Iowa, the lands reserved for Salt Springs therein," approved May 27, 1852, these springs and lands were relinquished and granted to the State, and are known as the "Saline Lands."

The University grant contains 45,928.84 acres and there remains unpatented of this grant, 1,661.33 acres and 632.31 acres are unsold. The Saline grant contains 45,722.53 acres, after deducting subsequent cancellations by the Secretary of the Interior.

Of the Saline lands granted 2,807.75 acres are still unpatented, and 1,490.09 acres unsold.

During the two years ended June 30, 1893, 360.26 acres of the University grant, and 160 acres of the Saline lands were patented by the State, as shown by the following descriptive statements.

Description of the University lands patented during the last two years ending June 30, 1893, with the number and date of each patent, the county in which said lands are situated, and the name of patentee.

UNIVERSITY GRANT.

NO.	DATE.	PARTS OF SECTION.	Sec.	Twp.	Range.	ACRES.	COUNTY.	NAME OF PATENTEE.
534	Aug. 5, 1891.	se of se	8	69	15	40.00	Davis	Amos Steckel.
535	Oct. 5, 1891.	s hf of ne. .	31	70	15	80.00	Davis	Theop'us Caton.
536	May 5, 1892.	ne of ne....	2	71	28	40.26	Union	M. A. Brown.
537	July 18, 1892.	sw of se...	31	70	15	40.00	Davis	G. B. Caton.
538	Oct. 25, 1892.	nw of ne...	8	69	15	40.00	Davis	Amos Steckel.
539	Oct. 25, 1892.	ne of se....	8	69	15	40.00	Davis	P. I. Kinsinger.
540	Nov. 23, 1892.	se of sw ...	35	75	14	40.00	Wapello ...	Sr'h J Madison.
521	June 6, 1993.	se of se.....	13	70	27	40.00	Decatur ...	L. W. Grim.
		Total...	..	..	..	360.26		

SALINE GRANT.

490	April 23, 1892.	sw of sw...	35	71	17	40.00	Monroe	J. J. Peatman.
491	May 5, 1892.	ne of ne....	30	70	16	40.00	Appanoose .	Cath. A. Sapp.
492	Oct. 25, 1892.	sw of sw...	22	70	16	40.00	Appanoose .	T. E. Hopkins.
493	Nov. 23, 1892.	se of nw...	12	70	17	40.00	Appanoose .	W. T. Clark. W. M. Peatman.
		Total...	..	..	..	160.00		

UNSOLD UNIVERSITY LANDS.

The following table shows the unsold University lands. to July 1, 1893, as reported by the treasurer of said institu ion. The lands obtained by donations and otherwise, are also given herewith:

UNIVERSITY LAND GRANT.

PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES.	IN WHAT COUNTY SITUATED.
ne qr of nw qr.....	31	70	15	40.00	Davis.
ne fr qr of ne qr.....	5	71	23	47 95	Lucas.
nw fr qr of ne qr.....	5	71	23	48 05	Lucas.
ne fr qr of nw qr.....	5	71	23	48 12	Lucas.
nw fr qr of nw qr.....	5	71	23	48 19	Lucas
sw qr of nw qr.....	5	71	23	40 00	Lucas.
ne ¼ of ne ¼.....	28	77	24	40 00	Warren.
se ¼ of se ¼	28	77	24	40.00	Warren.
se ¼ of sw ¼	35	71	14	40.00	Wapello.
ne ¼ of nw ¼.....	36	71	14	40.00	Wapello.
nw ¼ of nw ¼	36	71	14	40 00	Wapello.
nw ¼ of se ¼	36	71	14	40.00	Wapello.
se ¼ of se ¼	36	71	14	40 00	Wapello.
sw ¼ of se ¼.....	36	71	14	40.00	Wapello.
nw ¼ of sw ¼.....	36	71	14	40.00	Wapello.
Total	....	....	....	632.31	

SALINE LANDS.

PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES.	IN WHAT COUNTY SITTATED.
sw ¼ of se ¼.....	21	70	16	40 00	Appanoose.
ne ¼ of ne ¼.....	10	70	16	40.00	Appanoose.
nw ¼ of ne ¼.....	10	70	16	40.00	Appanoose.
sw ¼ of ne ¼	10	70	16	40.00	Appanoose.
se ¼ of ne ¼.....	10	70	16	40.00	Appanoose.
sw ¼ of nw ¼.....	10	70	16	40.00	Appanoose.
se ¼ of nw ¼	10	70	16	40.00	Appanoose.
ne ¼ of sw ¼	10	70	16	40.00	Appanoose.
sw ¼ of se ¼	9	70	16	40.00	Appanoose.
ne ¼ of se ¼.....	9	70	16	40.00	Appanoose.
nw ¼ of se ¼	9	70	16	40,00	Appanoose.
ne ¼ of nw ¼.....	1	70	17	45.69	Appanoose.
nw ¼ of ne ¼.....	1	69	17	40 00	Appanoose.
sw ¼ of ne ¼	1	69	17	40.00	Appanoose.
nw ¼ of se ¼	1	69	17	40.00	Appanoose.
ne ¼ of ne ¼.....	22	70	17	40 00	Appanoose.
se ¼ of se ¼	26	70	17	40 00	Appanoose.
nw ¼ of nw ¼	31	70	16	44.40	Appanoose.
nw qr of sw qr	13	70	16	40.00	Appanoose.
ne qr of sw qr.....	13	70	16	40 00	Appanoose.
sw qr of sw qr.....	13	70	16	40.00	Appanoose.
se qr of sw qr	13	70	16	40.00	Appanoose.
nw qr of ne qr.....	23	70	16	40 00	Appanoose.
se qr of ne qr.....	23	70	16	40.00	Appanoose.
se qr of se qr.....	25	70	16	40.00	Appanoose.
sw qr of se qr.....	28	69	24	40.00	Decatur.
se qr of sw qr.....	28	69	24	40.00	Decatur.
nw qr of se qr	33	69	24	40.00	Decatur.
sw qr of se qr	33	69	24	40.00	Decatur.
ne qr of sw qr.....	9	72	21	40.00	Lucas.
se qr of sw qr	9	72	21	40 00	Lucas.
nw qr of se qr.....	29	71	21	40.00	Lucas.
nw qr of sw qr	15	71	22	40.00	Lucas.
se qr of ne qr.....	7	69	23	40.00	Wayne.
sw qr of ne qr.....	7	69	23	40.00	Wayne.
se qr of nw qr.....	7	69	23	40.00	Wayne.
ne qr of sw qr.....	7	69	23	40.00	Wayne.
Total.....	....	....	....	1,490.09	

LANDS DONATED TO STATE UNIVERSITY.

nw qr of ne qr.....	22	86	14	40.00	Tama.
e hf of nw qr.....	25	100	25	80.00	Winnebago.
ne qr of nw qr..	23	86	32	40.00	Calhoun.
se qr of se qr.....	14	84	38	40.00	Crawford.
nw qr	34	95	36	160.00	Clay.
s hf	30	95	35	320 00	Clay.
s hf of sw qr.	18	91	25	80.00	Wright.
Total.....	....	....	....	760.00	

REAL ESTATE HELD BY THE STATE UNIVERSITY, OBTAINED UNDER FORECLOSURES OF LOANS MADE BY THE UNIVERSITY AUTHORITIES.

PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES	IN WHAT COUNTY SITUATEE.
		N	W		
s½ nw¼	34	79	7	80.00	Johnson.
sw¼ ne¼	2	79	7	40.00	Johnson.
sw¼ sw¼	31	79	19	40 00	Poweshiek.
Total				160.00	
	Lot.			Block.	
	5			79	Iowa City.
n½	8			27	Iowa City.
s½ out lot	8			52	Iowa City.
e½	4			30	Iowa City.
	6			11	Iowa City.

RECAPITULATION.

University	632.31 acres.
Saline	1,490.09 acres.
Donated	760.00 acres.
By foreclosure	160.00 acres.
Aggregate unsold	3,042,40 acres.
City lots	4

THE AGRICULTURAL COLLEGE LANDS.

In accordance with the long established and liberal policy of the general government in the granting of lands for the purposes of schools and educational institutions, congress, by an act approved July 2, 1862, donated of the public lands to the several states for the purpose of providing colleges for the benefit of agriculture and the mechanic arts an amount of land, to be apportioned to each state "equal to 30,000 acres for each senator and representative in congress, to which the states are respectively entitled, by the apportionment under the census of 1860." The State of Iowa, having at that time eight members in congress, was entitled to an appropriation of 240,000 acres of land.

In accounting to the State under the college grant, 240,000.96 acres were approved and certified, but in the selection of the quantity approved to the State, 35,691.66 acres were double minimum lands, being within the railroad limits, and were, therefore, accounted to the State at double their quantity, thus making the quantity embraced in the grant, 204,309.30 acres.

The Ninth General Assembly, in extra session, passed an act September 11, 1862, accepting the grant, and providing for the execution of the trust conferred upon the State by congress. The special object contemplated in the grant was the instruction in such branches of learning "as are related to agriculture and the mechanic arts, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life."

The act of congress approved March 3, 1845, granted five sections of land to the State for the purposes of a capitol. The General Assembly passed an act March 22, 1858, devoting the proceeds of these lands to the use of the college and farm, and congress subsequently consenting to the change from the original purpose of its grant. James C. Cusey, as agent for the college, located 15,023.18 of land with Agricultural College scrip, which had been purchased with the accumulated interest fund of the college. Also individual donations amounting to 1,577.88 acres in Boone and Story counties have been made for the use of said institution.

The following table exhibits the three classes of college lands, the number of acres patented up to and including June 30, 1893; also the quantity in each class remaining unpatented:

TABLE

Showing the quantities in each class, acquired, the number of acres patented and remaining unpatented.

CLASS.	NO. OF ACRES ACQUIRED.	NO. OF ACRES PATENTED.	NO. OF ACRES UNPATENTED.
Grant of March 3, 1845	3,200.00	3,200.00	
Grant of July 2, 1862	204,309.30	168,017.77	36,291.53
Cusey purchase	15,023.18	12,480.00	2,543.18
Total	222,534.48	183,697.77	38,834.71

There have been patented during the last two years, of the Agricultural College grant, 18,256.51 acres; of the "Cusey Purchase" of lands, 2,760.00; total, 21,016.51.

The counties in which said lands are situated, and the number of acres in each county are given in the following table:

AGRICULTURAL COLLEGE GRANT.

COUNTY.	NO. OF ACRES.	COUNTY.	NO. OF ACRES.
Buena Vista	240 00	Palo Alto	4,959.59
Calhoun	80.00	Plymouth	1,042 60
Cherokee	160.00	Sioux	160.00
Clay	1,420.79	Woodbury	1,123.44
Dickinson	720.00	Worth	196.56
Emmet	2,627.67	Wright	640.00
Kossuth	4,245 86		
O'Brien	640.00	Total	18,256.51

CUSEY PURCHASE.

COUNTY.	NO. OF ACRES.
Buena Vista	360.00
Dickinson	1,280 00
Lyon	1,120.00
Total	2,760 00

The purchase price paid for Agricultural College lands which have been patented by the State during the last two years amounts in the aggregate to $73,927.46, as shown by the certificates of final payment and the receipt of State Treasurer filed in this office.

AGRICULTURAL COLLEGE LANDS PATENTED DURING THE LAST TWO YEARS.

Description of the Agricultural College lands patented during the last two years ending June 30, 1893, with the name of patentee, and date of each patent issued.

PARTS OF SECTION.	SEC.	TP.	RG.	ACRES.	NAME OF GRANTEE.	DATE OF PATENT.
n hf	24	100	38	320.00	S. E. Bellman	July 7, 1891
se qr	24	100	38	160.00	E. O. Soule	July 7, 1891
sw qr	24	100	38	160 00	J. L. Hoag	July 7, 1891
se qr	14	86	42	160.00	W. F. Seibold	July 7, 1891
sw qr	30	94	32	159.69	Ralph P. Bell	July 7, 1891
se qr	20	94	33	160.00	E. C. Wilcox	July 7, 1891
sw qr	24	96	28	160.00	William Paetz	July 13, 1891
sw qr	24	94	33	160 00	Pocahontas Land & L Co	July 13, 1891
sw qr	13	100	36	160.00	Thomas H. Wright	July 13, 1891
se qr	29	94	33	160.00	Geo. W. Miller	Aug 11, 1891
ne qr	8	96	31	160.00	Wm. N. & Geo. Wright	Aug. 11, 1891
ne qr	28	94	39	160 00	Joel D. Long	Aug. 11, 1891
e hf	22	94	39	320.00	C. C. Collins	Aug. 11, 1891
se qr and s hf ne qr	26	90	47	240.00	William Richard Drake	Aug. 11, 1891
se qr	32	99	30	160.00	Martin Jordan	Aug. 11, 1891
nw qr	30	94	32	159.90	D. M. & Ft. D. R. R. Co.	Aug. 15, 1891
nw qr	26	95	31	160.00	Stephen Hoskins	Aug. 18, 1891
sw qr	12	100	35	160.00	Jacob Bunn	Sept. 15, 1891
n hf	24	94	33	320.00	Thaddeus Binford	Sept. 15, 1891
nw qr	33	94	33	160.00	Heirs of estate of B. F. Caldwell, deceased	Sept 15, 1891
nw qr	17	99	47	320.00	J. & W. C. Shull	Oct. 3, 1891
ne qr	18					
ne fr qr	4	94	36	140 79	A. L. Barglof	Oct. 3, 1891
nw qr	24	98	30	160 00	George A. Cunnea	Nov. 3, 1891
se qr	18	99	47	160.00	W. H. Sleeper	Nov. 5, 1891
nw qr	8	99	34	160 00	George A. Cunnea	Nov. 5, 1891
w hf ne qr	17	98	36	80 00	R. T. Barnard	Nov. 5, 1891
nw qr	10	97	29	160 00	H. A. Millhouse	Nov. 5, 1891
sw qr	12	94	37	160.00	George Langlois	Nov. 5, 1891
e hf	34	90	24	320 00	Mrs. Katie Ashpole	Nov. 5, 1891
se qr se qr	36	87	42	40 00	Henry Brasse	Dec. 4, 1891
sw qr	11	96	30	160.00	William C. Radig	Dec. 4, 1891
nw qr	26	99	28	160.00	Frank Curtiss	Dec. 4, 1891
n hf	32	95	33	320.00	P. L. Christopher & L. C. Thornton	Jan. 21, 1892
se qr	28	96	31	160.00	Ross R. Mattis	Jan. 21, 1892
se qr	34	93	36	160.00	Joseph R. Noel	Feb. 8, 1892
sw qr	2	99	28	160 60	Byron D. Halsted	Feb. 8, 1892
se qr	2	99	29	160.00	Andrew E. Kleeman	Feb. 8, 1892

AGRICULTURAL COLLEGE LANDS—CONTINUED.

PARTS OF SECTION.	SEC.	TP.	RNG	ACRES.	NAME OF GRANTEE.	DATE OF PATENT.
e hf se qr	22	98	29	80.00	John Young and Hugh W. Stevenson	Feb 8, 1892
sw qr	8	98	36	160.00	W. A. Turner	Mar. 7, 1892
sw qr	32	99	30	160.00	John Burcheding	Mar. 7, 1892
nw qr	28	97	33	160.00	James L. Mahan	Mar. 7, 1892
se qr	18	90	46	160.00	Fidel Heissel	Mar. 7, 1892
nw qr	8	94	32	160.00	N. E. McCaffrey	Mar. 7, 1892
se qr	11	89	42	160.00	Thomas Remington	Mar. 7, 1892
nw qr	8	90	46	160.00	Charles F. Kaunow	Mar. 7, 1892
all	12	99	38	640.00	M. D. O'Connell	Mar. 14, 1892
nw qr	35	92	49	160.00	C. Vradenburg	Mar. 23, 1892
sw qr	12	98	27	160.00	Frank Curtiss	April 7, 1892
nw qr	28	96	31	160.00	W. R. Colburn	April 7, 1892
ne qr	18	97	32	160.00	W. H. Oelke	April 7, 1892
sw qr	2	98	27	160.00	J. W. Waller	April 7, 1892
sw qr	24	97	34	160.00	John A. Suss	April 7, 1892
nw qr	21	100	48	160.00	William Atkinson	April 7, 1892
se qr	9	95	30	160.00	James M. Bean	April 7, 1892
e hf se qr	32	86	44	80.00	T. S. Baker	April 7, 1892
e hf ne qr	34	94	37	80.00	James Smart	April 7, 1892
w hf	32	100	34	320.00	W. H. Hastings and I. W. Haines	April 7, 1892
n fr hf	4	98	34	305.64	O. J. Brown	April 11, 1892
e hf	26	98	34	320.00	John H. Willey	May 3, 1892
ne qr	12	97	34	160.00	John S. Bondhus	May 3, 1892
ne qr	24	98	34	160.00	Minor Davis	May 3, 1892
ne qr	10	94	39	160.00	Clinton E. Achorn	May 13, 1892
se qr	23	96	31	160.00	Philip Engler	May 13, 1892
nw qr	23	96	31	160.00	Augusta Steward	June 7, 1892
se qr	28	94	36	160.00	C. A. Harriman	June 7, 1892
nw fr qr	30	86	44	163.44	William Steinhoff	June 7, 1892
ne qr	9	98	29	160.00	Harriette J. Cook	June 7, 1892
sw qr	34	98	30	160.00	Martin Jensen	June 18, 1892
s hf se qr and ne qr se qr	36	87	45	120.00	W. A. Smith	June 18, 1892
nw fr qr	30	92	48	162.60	P. H. Diehl	June 18, 1892
s hf	27	94	36	320.00	Wm. H. Dent	June 30, 1892
n hf of ne qr	9	94	36	80.00	Wm. H. Dent	June 30, 1892
sw qr	34	97	28	160.00	L. M. Owen	June 30, 1892
sw qr	32	89	46	160.00	Charles C. Orr	Aug. 12, 1892
e hf of nw qr	28	99	33	80.00	M. W. Atwood and Mrs. E. L. Chandler	Aug. 12, 1892
sw qr	23	96	31	160.00	J. W. Madden	Aug. 16, 1892
sw qr	27	99	31	160.00	Henry Fox	Aug 27, 1892
ne qr	15	96	27	160.00	Milton C. Roe	Aug. 27, 1892
se qr	24	98	34	160.00	Walter D. Lovell	Sept. 13, 1892
sw qr and w hf of se qr	4	93	36	240.00	R. W. Gunnison	Sept. 13, 1892
sw qr	20	100	48	160.00	M. D. Hathaway	Sept. 13, 1892
w hf of ne qr	10	89	31	80.00	Frank M. Coon	Oct. 10, 1892
w hf of se qr	32	94	33	80.00	S. W. Clark	Oct. 1892
nw qr	21	95	30	160.00	Wm. H. Ingham	Oct. 27, 1892
ne qr	30	92	48	160.00	H. C. Curtis	
se qr of s hf of sw qr and s hf of ne qr	9	94	36	320.00	Mary E. Field	Nov. 5, 1892
ne fr qr	2	94	30	165.86	Christ Streit	Dec. 10, 1892

AGRICULTURAL COLLEGE LANDS—CONTINUED.

PARTS OF SECTION.	SEC.	TP.	RG	ACRES.	NAME OF GRANTEE.	DATE OF PATENT.
sw qr	24	98	34	160 00	J. H. Allen	Dec. 10, 1892
se qr	10	98	27	160.00	Gurd F. Reeverts	Dec. 10, 1892
ne qr	12	99	45	160.00	Jacob M. Kellihan	Dec. 10, 1892
sw qr	3	98	27	160.00	Edward G. Seymour	Dec. 10, 1892
All of	32	94	32	640 00	Lydia C. June	Dec. 17, 1892
nw qr	32	95	27	160.00	Jacob Augustin	Jan. 4, 1893
se qr	28	95	30	160.00	John J. Banwart	Jan. 4, 1893
sw qr	14	89	43	160.00	George Andrew	Jan. 4, 1893
se qr	4	94	36	160.00	Wm. H. Dent	Jan. 7, 1893
ne qr of sw qr and s hf of sw qr	28	93	36	120.00	Wm. H. Dent	Jan. 7, 1893
w hf of nw qr	34	93	36	80.00	Wm. H. Dent	Jan. 7, 1893
se qr	12	99	45	160.00	J. W. McCutchin	Jan. 7, 1893
nw qr	15	96	31	160.00	Thomas G. Dyrland	Feb. 2, 1893
n fr hf	11	100	21	196.56	J. F. and E. J. Staadt	Feb. 2, 1993
sw qr	11	97	48	160 00	Wm. H. Dent	Feb. 9, 1893
sw qr	10	100	35	160.00	John R. Olson	Mch. 6, 1893
ne qr	26	99	28	160 00	F. M. Evans	Mch. 6, 1893
se qr	20	98	30	160.00	Peter W. Jensen	Mch. 6, 1893
sw qr	32	90	23	160.00	F. R. Sheldon	April 4, 1893
ne qr	8	97	32	160.50	John J. Anderson	April 4, 1893
ne qr	22	97	29	160.00	Frederick J. Beane	April 4, 1893
e hf	22	99	33	320.00	John W. Stocks	April 4, 1893
ne qr	2	98	31	162.03	F. H. Dundas	May 4, 1893
se qr	17	96	31	160.00	Peter O. Peterson	May 6, 1893
nw qr	32	86	44	160.00	Lucinda Barber	May 6, 1893
se qr	27	97	27	160.00	Thos. F. Cooke	June 3, 1893
se qr	26	90	24	160.00	John Hayse	June 3, 1893
w hf of sw qr	34	97	32	80.00	C A Smith, Homer Keller	June 3, 1893
nw qr	11	99	28	160.00	Peter Hans	June 3, 1893
n hf of sw qr	14	86	42	80.00	W. F. Seibold	June 6, 1893
nw qr	35	97	27	160 00	W. C Danson	June 27, 1893
se qr	34	95	33	160.00	Elwin E. Parmenter	June 27, 1893
Total				21,016.51		

THE SWAMP LANDS.

Legislation in relation to swamp lands had its origin in the purpose of providing a fund wherewith to enable the beneficiaries, as grantees of the United States, to construct levees, and the making of drains in swampy places, so that all such lands might not only be reclaimed and made fit for agricultural purposes, but relieved from malarial, or noxious exhalations. The original swamp acts of March 2, 1849, and September 28, 1850, granted all swamp and overflowed lands, but the act of 1849 applied to the State of Louis-

iana only, while the act of September 28, 1850, applied to all the States having lands of the character in said act. The grant of 1850 was for all "legal subdivisions, the greater part of which is wet and unfit for cultivation." When the character of the greater part of a legal subdivision has been determined by duly constituted authority, the character of the whole of that subdivision is ascertained (2 L. D., 472).

By the first section of the act of September 28, 1850, the purposes of the grant were defined, and under the fourth section, the State of Iowa became entitled to the benefits of the grant. In order to perfect the title in the State, it became the duty of the Secretary of the Interior, to ascertain and designate the subdivisions defined as swamp lands by the third section of the act.

By the act of Congress approved March 2, 1860, the provisions of the acts of September 28, 1850, were extended to the States of Minnesota and Oregon; and it provided further, that the swamp selections be made from the lands already surveyed, within two years from the adjournment of the legislature of each State at its next session after the said act. The first regular session of the legislature of the State of Iowa, after said act of March 2, 1860, adjourned April 8, 1862, thus limiting the period for the selection of lands then surveyed to April 8, 1864.

All swamp lands were granted, and they have remained so granted ever since, and the Secretary of the Interior has the power, and it is his duty, to determine what lands were of the character granted. Whether lands are swamp or overflowed is a question of fact, of which the field notes on the plats are not conclusive evidence (2 L D., 849). The State did not make complete selections of its swamp lands as provided in the act of 1860, but a failure to do so or to include tracts of the character granted in the lists of selections did not release the title, which passed to the State by a grant *in praesenti*.

Since the date of the grant of 1850, about 4,567,959.33 acres have been selected in the State, as reported by the Department.

An act of the General Assembly, passed January 13, 1853, granted these swamp and overflowed lands to the several counties in which they lie, and provided for their selection by agents within the county. The protection and reclamation of the swamp lands were also provided for by the State. By an act of the legislature approved March 22, 1858, the several counties were permitted to devote the proceeds of these lands to the erection of buildings for

educational purposes, the building of roads, bridges and railroads. The said act of 1858 as amended March 31, 1862, provides that the counties devote the proceeds of the swamp lands to the permanent school fund, but did not release the counties from their obligations to make the necessary levees and drains contemplated by the act of Congress of September 28, 1850; and although this grant of Congress to the several States is expressed to be for the sole purpose of enabling said States, with the proceeds thereof, to reclaim the swamp lands, by means of levees and drains, the Department has recognized the diversion of the proceeds of said lands by the State of Iowa, and Congress, having the power to enforce the conditions of the grant, by revocation or otherwise, in a clear case of a violation of the trust, it is safe to say that the grant by the State of its swamp lands to the several counties in which they are situated to be disposed of for general county purposes, is valid. Under the general laws in the disposal of the public lands, many sales and locations were made falling upon tracts claimed as swamp lands, thereby giving occasion for controversies and conflicts, the determination of which has caused the Department great embarassment in the adjustment of swamp land claims.

Although it has been forty-three years since the passage of the swamp land act, the State of Iowa has numerous claims for cash and land indemnity under the indemnity acts of 1855 and 1857 remaining unsettled.

The following statement is given to show the land selected by the State, the quantity approved, and the number of acres patented under the act of Congress approved September 28, 1850, up to and ending June 30, 1893:

Lands selected	4,567,959.33 acres.
Approved and certified	934,509.16 acres.
Patented to the State	863,302.26 acres.
Certified to the State during the two years ending June 30, 1893	827.16 acres.
Patented to the State and by the State to the counties during same period	747.16 acres.
Lands certified to the State during the last two years remaining unpatented	240.00 acres.

SWAMP LANDS APPROVED AND CERTIFIED.

The lands described in the following lists have been approved to the State of Iowa by the Secretary of the Interior, as swamp and overflowed lands under the act of September 28, 1850, and all of said lands, except those embraced in List No. 24, have been

patented by the United States to the State, and by the State patented to the several counties in which the same are situated.

LIST NO. 20.

PARTS OF SECTION.	SEC	TP. N.	RNG W.	ACRES.	COUNTY.
lot No. 3	24	95	29	36.68	Kossuth.
ne of nw	19	98	34	40.00	Emmet.
w fr hf of nw	19	98	34	56.46	Emmet.
se of nw	19	98	34	40.00	Emmet.
w frl hf of sw	19	98	34	54.02	Emmet.
ne of sw	19	98	34	40.00	Emmet.
Total	....	....	....	267.16	

LIST NO. 21.

		N.	W.		
nw of nw	12	98	23	40.00	Winnebago.
sw of sw	24	79	24	40.00	Polk.
sw of nw	27	89	30	40.00	Webster.
sw of nw	27	94	33	40.00	Palo Alto.
Total	....	....	....	160.00	

LIST NO. 22.

		N.	W.		
w hf of ne	32	85	44	80.00	Monona.

LIST NO. 23.

		N	W		
n hf of ne	9	83	29	80.00	Greene.

LIST NO. 24.

		N	W		
nw of ne	27	94	24	40.00	Kossuth.
ne of ne	29	89	30	40.00	Webster.
ne of nw	19	99	30	40.00	Kossuth.
sw of se	32	83	32	40.00	Greene.
ne of se	2	94	32	40.00	Palo Alto.
sw of se	27	94	32	40.00	Palo Alto.
Total	....	....	....	240.00	

Aggregate number of acres approved and certified, during the two years, ended June 30, 1893, 827.16.

SWAMP LANDS PATENTED.

The following statement is given to show the quantity of swamp and overflow lands patented by the United States to the State of

Iowa, during the biennial period ending June 30, 1893, the same having been patented by the State to the several counties in which they are situated:

EMMET COUNTY.

PARTS OF SECTION.	SEC.	TP. N	RG. W	ACRES.
ne of nw	19	98	34	40.00
w fr hf of nw	19	98	34	56.46
se of nw	19	98	34	40.00
w fr hf of sw	19	98	34	54.02
ne of sw	19	98	34	40.00
Total in Emmet county	....	....	....	230.48

HOWARD COUNTY.

*e hf of sw	4	99	13	80.00

HUMBOLDT COUNTY.

† nw of nw	15	93	27	40.00

‡GREENE COUNTY.

n hf of ne	9	83	29	80.00

KOSSUTH COUNTY.

Lot No. 3	24	95	29	36.68

MONONA COUNTY.

w hf of ne	32	85	44	80.00

PALO ALTO COUNTY.

sw of nw	27	94	33	40.00

POLK COUNTY

sw of sw	24	79	24	40.00

WEBSTER COUNTY.

sw of nw	27	89	30	40.00

WINNEBAGO COUNTY.

nw of nw	12	98	23	40.00
‡ne of sw	34	100	23	40.00
Total in Winnebago county	....	....	....	80.00
Aggregate number of acres patented	....	...	....	747.16

* Omitted in original patent No. 92, issued to Howard county June 2, 1863.
† Approved to the State January 27, 1866, and patented to the State February 20, 1893.
‡ Patented to the State of Iowa May 15, 1862, and omitted in patent No. 87, issued to Winnebago county, the record copy of said patent not signed nor dated.

SWAMP LANDS INDEMNITY.

The first section of the act of Congress approved March 2, 1885, provides: "For the Relief of Purchasers and Locators of Swamp and Overflow Lands," and authority is conferred, under certain conditions, for the issuing of patents to purchasers or locators whose entries were made on public lands claimed as swamp lands, either with cash, land warrants or with scrip, prior to the issue of patents to the State as provided by the second section of the act of September 28, 1850.

The second section of said act of March 2, 1855, provides among other things that upon due proof being presented to the Commissioner of the General Land Office, that the lands upon which locations by warrants or scrip are swamp and overflowed within the meaning of the act of September 28, 1850, "the said State or States shall be authorized to locate a quantity of like amount upon any of the public lands subject to entry at one dollar and a quarter per acre or less, and patents shall issue therefor upon the terms and conditions enumerated in the act aforesaid. *Provided, however*, that the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior."

The act of Congress approved March 3, 1857, entitled, "An Act to confirm to the several States the swamp lands selected under the Act of September 28, 1850, and the Act of March 2, 1849," continued in force and extended the provisions of the act of March 2, 1855. In pursuance of the said acts of March 2, 1855, and March 3, 1857, special certificates were issued by the Commissioner of the General Land Office, authorizing the States to locate the quantity of lands named in said certificates as the indemnity contemplated in the act of March 2, 1855, upon any of the public lands subject to entry.

Of the ninety-nine counties in Iowa, seventy-one counties were entitled to indemnity under the acts aforesaid, and there were certificates issued to the State of Iowa, authorizing the location of lands as indemnity for swamp and overflowed lands disposed of by the United States in the several counties, under warrant and scrip location. Nearly all of these certificates have been located in full, but the following certificates have not been located by the counties entitled to same:

Certificate No. 16 to Marion county for	120.00 acres.
Certificate (Sup.) No. 33 to Chickasaw county for	109.19 acres.
Certificate No. 91 to Greene county for	10,658 22 acres.
Certificate No. 94 to Guthrie county for	1,840.00 acres.
Total	12,727.41 acres.

Whatever may have been the opportunities for locating these certificates in the years gone by, it is evident that they cannot now be located for the reason that there are no vacant lands in the State of Iowa on which indemnity certificates or scrip can be located, and unless Congress makes some provision by which land indemnity claims may be satisfied, many of the counties, with claims subject to award, will be compelled to abandon the same without realizing anything for their swamp lands, disposed of by warrant locations, for, as stated, there being no vacant lands in Iowa, and under the rulings of the department, indemnity certificates or scrip cannot be located on public lands outside the State.

According to the records of this office, and the reports published by the Land Department at Washington, the State of Iowa has had cash indemnity paid up to and including June 30, 1893, $540,173.07:

Land indemnity awarded	341,632.97 acres
Indemnity lands patented	321,605.23 acres
Cash and land indemnity remaining unadjusted	904,291.43 acres

Special agents have been employed in the field by the General Land Department, examining lands on which cash and land indemnity claims are based, but according to the following letter received from the Commissioner of the General Land office at Washington, there have been no cash or land indemnity awarded to the State of Iowa since July 1, 1891.

K. C. M. C.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., July 12, 1893.

HON. W. M. MCFARLAND, *Secretary of State, Des Moines, Iowa:*

SIR:—I am in receipt of your letter of July 1, 1893, requesting "a list of the swamp and overflowed lands in Iowa for which indemnity has been awarded subsequent to July 1, 1891, closing with June 30, 1893." In reply, I have to advise you that the records of this office do not show any award of swamp-land indemnity, either in cash or land, for the State of Iowa since July 1, 1891. Very respectfully,

EDW. A. BOWERS,
Assistant Commissioner.

During the biennial period, ending June 30, 1893, the following described tract of land, situated in Webster county, to-wit: The nw ¼ of ne ¼ sec 8, tp 87, nr 30, and containing forty acres, was

patented to Polk county under supplemental "A." to indemnity certificate No. 30.

The following tabulated statement is given to show the cash and land indemnity claims of the State of Iowa, by counties and for which indemnity has been awarded, under the acts of March 2, 1855, and March 3, 1857, up to and including June 30, 1893.

COUNTY.	AMOUNT CASH INDEMNITY.	ACRES LAND INDEMNITY.
Adair	$ 8,690 25	2,595.13
Adams	6,075.66	1,028.70
Allamakee	6,259.30	6,331.48
Appanoose	2,475.44	3,880.00
Audubon	3,723 49	3,612.84
Benton	15,040.81	3,280.55
Black Hawk	15,676.35	4,858.01
Boone	1,919.33	1,049.69
Bremer	8,970.17	3,243 99
Buchanan	8,067.23	1,839.08
Butler	15,125.66	11,056.15
Calhoun	247.51	510.53
Carroll	2,708.18	3,161.98
Cass	18,110.35	9,602.92
Cedar	10,850.29	6,466.56
Cerro Gordo	7,257.52	30,057.54
Chickasaw	8,255.41	19,769.85
Clarke	1,159.13	684.37
Clayton	245.18	208.33
Clinton	10,058.54	2,786.55
Crawford	3,699.86	.....
Dallas	3,035.79	200.00
Davis	2,325.12	.....
Decatur	4,937.18	2,639.46
Delaware	3,121.21	2,200.00
Des Moines	501.68	2,920 00
Dubuque	325.21	840.00
Fayette	7,058 88	4,372.22
Floyd	11,083 59	3,316.89
Franklin	10,234.63	.....
Fremont	6,182.01	1,904 88
Greene	8,789 64	10,658.22
Grundy	4,743.77	2,838.69
Guthrie	5,659.80	6,474.30
Hamilton	6,153 90	7,480.29
Hancock	956.18	5,683.17
Hardin	17,211 07	2,310.87
Harrison	3,065.72	600.00
Henry	607.09	1,400.00
Howard	3,850.00	.....
Humboldt	2,088.86	.....
Ida	315.31	2,957.92
Iowa	7,386 18	3,434.42
Jackson	1,946.72	1,896 46
Jasper	4,204.39	2,239.61
Johnson	9,819.09	15,412.99
Jones	13,422.36	6,222 07
Keokuk	6,403.53	4,895.24
Linn	2,222.89	2,437 46

COUNTY.	AMOUNT CASH INDEMNITY.	ACRES LAND INDEMNITY.
Louisa	$ 10,759.42	12,316.82
Lucas	5,750.72	4,599.62
Madison	9,188.00	9,054.12
Mahaska	1,534.86	2,233 62
Marion	287.60	120.00
Marshall	8,381.51	5,827 30
Mills	14,422.27	4,540.13
Mitchell	15,175.74	.....
Monona	20,144.54	15,427.97
Montgomery	11,777.54	5,220.00
Muscatine	2,721.03	3,875.71
Page	5,249.47	680.00
Polk	13,844.54	3,975.92
Pottawattamie	10,250 85	4,352.45
Poweshiek	3,867 73	.....
Ringgold	16,737.62	5,033 94
Sac	300 00	4,520 00
Shelby	2,129 90	5,715.55
Story	1,270.76	1,288.50
Tama	18,620.34	2,772.04
Taylor	11,747.28	1,999.96
Union	8,609.25	4,752.49
Wapello	443.36	.....
Warren	12,584 68	7,427.47
Washington	7,170.34	8,078.98
Wayne	3,592.85	564.22
Webster	4,346.90	3,695.23
Winnebago	50.00	922.32
Winneshiek	5,433.10	1,040.00
Woodbury	10,532.67	.....
Wright	981.55	5,240.00
Total	$ 540,173.07	341,632.97

Rules and Regulations adopted by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior; relative to the presentation and adjustment of claims under the Swamp Land Laws.

K. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., September 19, 1891.

The numerous lists of swamp land selections heretofore presented to this office, as claims for lands in place and for cash and land indemnity, under the acts of March 2, 1849, September 28, 1850, and March 12, 1860, relating to swamp lands in place, and the acts of March 2, 1855, and March 3, 1857, relating to cash and land indemnity in lieu of swamp lands sold and located with warrants and scrip, and the continued presentation of numerous selection lists in which additional claims for large quantities of land situated in the same townships or counties as were the previous selections, and with a view to putting a term to the work of examining such selected lands in the field by special agents and of repeatedly adjusting claims in this office, the following rules and regulations are prescribed for the closing and adjustment of all claims under the swamp land laws:

1. Preference in the order of consideration will be given to the adjustment of conflicts between homestead, pre-emption, and cash entries and

warrant locations and the swamp land claims of the States over other claims arising under the same laws.

2. Claims for swamp land in place will be taken up for consideration in preference to case or other indemnity claims.

3. Cash indemnity claims will be adjusted in the third order, *i. e.*, after cases of conflict and claims for lands in place.

4. Land-indemnity claims will not be adjusted where there are no public lands with which to satisfy such claims in the States in which the warrants or the scrip were located.

5. The surveyors-general when constructing and approving segregation maps and surveys, or approving selection lists of swamp and overflowed lands must, in their certificates, find and recite, affirmatively, facts showing that the principal conditions required by the swamp-land act to establish the character of the lands, as swamp and over-flowed, existed at the date of the passage of the granting act. All evidence taken by surveyors-general to establish the character of the land must be transmitted with the maps or lists approved. This office will not approve maps or accept lists in which it does not affirmatively appear, in the surveyor-general's certificate, that the lands reported as swamp and overflowed were in reality of that character *at the date of the grant*.

6. Before final action is taken on the claim of a State for swamp-lands in place of cash or land-indemnity, a certificate of a duly authorized agent of the State reciting that the lands selected in each and every township involved in the selection list constituting the claim represents the full and final claim of the State to lands under the swamp-land acts in said townships, and that the State waives all claims or rights, under the said acts, if it have any, to all other lands not selected in the said townships. Such a certificate will be accepted as evidence that the claim of the State to swamp-lands in the particular townships to which it applies, is final and complete; and it will be recorded in a book kept for that purpose, and as far as practicable all such completed claims will be acted upon as promptly as possible and in the order of their completion.

7. In the case of cash and land-indemnity claims, now pending, or which may hereafter be presented for the benefit of counties, a certificate of a duly authorized agent of the county, of the character and effect of that provided for in the 6th section of these instructions, relating to claims of States, will be required of county agents, covering the entire area of the county.

8. Waivers must be unconditional, and a copy of the authority from the State legislature, or from the county authorities, to act for the State or the county, and to make certificates of waiver, must be filed in this office by the State and county agents.

THOS. H. CARTER,
Commissioner.

Approved:

JOHN W. NOBLE,
Secretary.

DECISIONS RELATIVE TO THE ADJUSTMENT OF SWAMP LAND CLAIMS.

The following decisions of the Secretary of the Interior, relative to the adjustment of swamp land claims, are herewith submitted, in connection with the rules and regulations adopted by the Commissioner of the General Land Office:

STATE OF IOWA.

Waiver of State Agent.—A waiver of the right to submit testimony in support of the State to swamp land by one authorized to examine witnesses on behalf of the State is conclusive in such matters as against the State, and it will not be heard thereafter to complain that it did not have full opportunity to offer such testimony. (12 L. D., 276. March 21, 1891.)

Returns of the Surveyor-General.—A certificate of the surveyor general that lands embraced within a special list are of the character granted by the swamp act is *prima facie* evidence as to the character of such lands when said grant became effective. The swamp land act intended to grant not solely such lands as were swamp, but such as were "so wet as to be rendered thereby unfit for cultivation." (13 L. D., 344. September 30, 1891.)

FLORIDA.

Certification.—The department retains jurisdiction over swamp lands until the issuance of patents therefor, and may revoke the approval and certification of swamp lists when made upon a misapprehension of facts. (12 L. D., 565. June 1, 1891.)

Report of Special Agent.—The claim of the State for swamp land should not be rejected on the report of a special agent alone, but such report may be properly made the basis of a further investigation as to the character of the land. (14 L. D., 175. February 12, 1892.)

OREGON.

Swamp-land Contest.—The right to contest a swamp selection is not statutory, but is recognized by the department as an aid to the Secretary in determining the true character of the land; such contests, however, should not be allowed except on *prima facie* showing that would warrant the rejection of the claim under the swamp grant. (12 L. D., 64. January 19, 1891.)

MISSISSIPPI.

Field Notes of Survey.—Where the field notes of survey are relied upon

to determine the character of the land claimed by the State, and the survey is made prior to the date of the swamp-land grant, it must satisfactorily appear from the field notes that the land claimed is swamp or overflowed land within the meaning of the grant. The State may be permitted to adduce evidence outside of the field notes to show that the land is of the character granted. (13 L. D., 117. August 3, 1891.)

CALIFORNIA.

Tulare Lake.—Land covered by an apparently permanent body of water at the date of the swamp grant is not of the character contemplated by said grant. The approval by the Surveyor-general of a segregation survey of swamp land under the act of July 23, 1866 (Sec. 2488, Rev. Stat.), is of no legal force where the lands covered thereby were not in existence at the date of the swamp grant

The Commissioner of the General Land Office may properly require the submission of evidence as to the character of the land at the date of the swamp grant before approving a contract for the survey of a township and segregation of the swamp lands therein. (14 L. D., 253. March 17, 1892.)

Effect of Artificial Drainage.—A claim of the State, under the swamp grant, should be rejected where the evidence shows that the land will not be rendered fit for cultivation by artifical drainage, but that its chief value will be destroyed thereby, and the State does not intend reclamation. (15 L. D., 428. November 15, 1892.)

Waiver.—Before final action is taken on a swamp land claim the waiver required by the regulations of September 19, 1891, must be furnished. (14 L. D., 533. May 18, 1892.)

MICHIGAN.

Field Notes of Survey.—To support a claim of the State to swamp land on field notes of survey it should appear therefrom, where the survey is made prior to the grant, that the land is unfit for cultivation by reason of its swampy character. (15 L. D., 73. July 18, 1892.)

Surveyor-general's Return.—The burden of proof is upon the State where it sets up a claim under the swamp grant to land that is returned as not swamp and overflowed. The character of land at the date of the swamp grant determines whether it inures to the State thereunder; and proof that land is at present swamp and overflowed is not sufficient to overcome the adverse return of the surveyor-general. (14, L. D., 247. March 15, 1892.)

MINNESOTA.

Field Notes of Survey.—The election of the State to be governed in the selection of swamp lands by the field notes of survey, will not preclude the allowance of a hearing as to the character of tracts claimed under the grant, but not shown to be swamp by the field notes. But a hearing will not be ordered in such case in the absence of a *prima facie* showing that said lands are in fact of the character granted. (13, L. D., 736. December 31, 1891.)

RAILROAD LANDS.

The following published lists of lands conveyed to the State of Iowa by the United States as railroad land, and those conveyed by the State of Iowa to the railroad companies, embrace all the real estate conveyances for railroad purposes during the last two years ending June 30, 1893.

The several tracts of land certified in lists No. 50, No. 51, and clear list No. 49, have not been certified by the State for the reason that the railroad company or its grantees have not applied for the conveyance, under the provisions of chapter 167, acts of the Eighteenth General Assembly, as amended by chapter 123, acts of the Nineteenth General Assembly.

The lands selected and certified in said lists are outside of the six, and within the fifteen mile or indemnity limits of the railroad grant, by act of Congress approved May 15, 1856, for the Dubuque & Sioux City Railroad (formerly the Dubuque & Pacific Railroad Company), and being in lieu of the lands designated as having been legally sold or disposed of by the United States prior to the date at which the rights of the State of Iowa inured under said grant of May 15, 1856.

The lands selected, as described in the above designated lists, make the aggregate area of 1,373.53 acres.

DUBUQUE AND SIOUX CITY RAILROAD.

List No. 50.—A supplemented list of lands in the district of lands subject to sale at Des Moines, outside of the six and within the fifteen mile limits of the reserve to satisfy the grant made to the State of Iowa, by the act of Congress approved May 15, 1856, and approved to the State November 14, 1891, for the benefit of the Dubuque and Sioux City Railroad Company.

SELECTION DECEMBER. 21, 1877.					TRACTS DESIGNATED AS HAVING BEEN DISPOSED OF WITHIN THE PRIMARY LIMITS.				
PARTS OF SECTION.	SEC.	T'P.	R'G.	ACRES.	PARTS OF SECTION.	SEC.	T'P.	RG. W.	ACRES.
n hf sw qr and n hf se ¼	7	91	16	154.86	e hf ne qr and sw qr ne qr	13	90	15	120.00
					ne qr nw qr	1	90	15	34.85
ne ne	27	87	23	40 00	se qr ne qr	19	89	23	40.00
SEL. AUG. 17, 1878:									
ne ne	5	86	23	37.28	nw qr nw qr	1	89	23	36 07
Lot 2	19	87	24	25.30	nw qr nw qr	1	89	24	38.10
ne se	9	87	29	40.00	sw qr se qr	19	88	29	40.00
ne sw	15	87	29	40.00	nw qr se qr	19	88	20	40 00
se sw	17	87	29	40.00	ne qr sw qr	19	88	29	40.00
e hf sw qr	29	87	29	80.00	e hf nw qr	19	88	29	80.00
se se	31	87	29	40.00	se qr ne qr	19	88	29	40.00
ne ne and sw nw	35	87	29	80.00	w hf ne qr	19	88	29	80.00
sw nw	5	86	30	40.00	ne qr sw qr	7	88	30	40.00
ne ne	3	87	30	40.28	ne qr ne qr	19	88	29	40 00
se sw	7	87	30	40 00	se qr sw qr	19	88	29	40.00
nw ne and se se	11	87	30	80.00	w hf se qr	3	88	30	80 00
ne nw and se ne	23	87	30	80.00	s hf ne qr	3	88	30	80.00
sw sw	25	87	30	40 00	se qr sw qr	3	88	30	40.00
s hf ne	3	90	30	80.00	e hf se qr	19	88	29	80.00
Total				977.72	Total				989.02

List No. 51.—Of lands selected under the act of May 15, 1856, and approved November 14, 1891, to State of Iowa, for the benefit of the Dubuque and Sioux City Railway Company.

NORTH OF BASE LINE AND WEST OF FIFTH PRINCIPAL MERIDIAN, IOWA.

FIFTEEN MILE LIMITS. DES MOINES DISTRICT.

SELECTIONS DECEMBER 21, 1877.					TRACTS DESIGNATED AS HAVING BEEN DISPOSED OF WITHIN THE PRIMARY LIMITS.				
PARTS OF SECTION.	SEC.	TP.	R'G.	ACRES.	PARTS OF SECTIONS.	SEC.	TP.	R'G. W.	ACRES.
ne hf ne	33	87	8	80.00	s hf ne qr	3	89	9	80.00
SEL. AUG. 17, 1878.									
se sw	13	90	30	40.00	sw qr nw qr	1	89	30	40.00
SEL. JUNE 19, 1879.									
n hf ne	27	91	19	80.00	w hf se qr	3	90	19	80.00
Total				200.00	Total				200.00

Clear List No. 49.—Of lands approved by the Secretary of Interior to the State of Iowa, March 2, 1893.

Under the act of Congress of May 15, 1856, for the Dubuque and Sioux City Railroad Company, containing 195.81 acres, and giving the tracts used as bases for indemnity.

PARTS OF SECTIONS.	SEC.	TP.	R'G.	ACRES.	PARTS OF SECTIONS.	SEC.	TP.	R'G	ACRES.
SEL. AUG. 17, 1878.					BASES FOR SELECTIONS.				
n hf ne qr	9	90	21	75.81	e hf ne qr	25	89	80	80.00
sw qr sw qr	11	87	30	40.00	se qr sw qr	21	90	30	40.00
n hf nw qr	3	90	30	80.00	w hf sw qr	29	90	30	80.00
Total				195.81	Total				200 00

PATENTED LANDS.

The following described tracts of land were patented to the State of Iowa, by the United States, under act of Congress of May 12, 1864, and by the State patented during the last two years. Said conveyances are exhibited in the following statement:

PARTS OF SECTION.	Section.	Township.	Range.	Acres.	DATE OF PATENT FROM U. S. TO STATE.	NAME OF STATE'S PATENTEE.	DATE OF STATE PATENT.
se qr of nw qr	21	97	40	40	Aug. 6, 1892	Chicago, Milwaukee & St. Paul R'y Co.....	Aug. 16,1892
se qr of sw qr	11	96	13	40	Aug. 6, 1892	Chicago, Milwaukee & St. Paul R'y Co.....	Aug. 16,1892
se qr of sw..	19	98	34	40	Aug. 6, 1892	Chicago, Milwaukee & St. Paul R'y Co.. ..	Aug 16,1892
nw qr of se qr	23	99	14	40	Aug. 6, 1892	Chicago, Milwaukee & St. Paul R'y Co.....	Aug. 16,1892
e hf of sw qr	33	9	18	80	Aug. 6, 1892	Chicago, Milwaukee & St. Paul R'y Co.....	Aug. 16,1892
Ag're't' area	..	..	..	240.60			

LAND CONCESSIONS BY ACT OF CONGRESS FOR RAILROAD PURPOSES.

The following table exhibits the quantity of lands granted by Congress for railroad purposes, as shown by the records of this office, and as reported by the Commissioner of the General Land Office:

DATE OF LAWS.	NAME OF ROAD, ETC.	MILE LIMITS.	Acres certified or patented for the two years ending June 30,1893.	Acres certified or patented to June 30, 1893.
May 15,1856	Burlington & Missouri River.	6 and 15.	....	292,287.53
June 2,1864	Burlington & Missouri River.	20.....	.....	96,726.55
May 15,1856	Chicago, Rock Island & Pac.	6 and 15.	.....	*481,974.36
June 2,1864	Chicago, Rock Island & Pac.	20.....	.....	161,172 81
May 15,1856	Cedar Rapids & Mo. River...	6 and 15.	.....	*782,459.83
June 2,1864	Cedar Rapids & Mo. River...	20.....	.....	359,660 30
May 15,1856	Dubuque & Sioux City.....	6 and 15.	1,373.53	*551,841.48
May 15,1856	Iowa Falls & Sioux City.....	6 and 15.	.....	683,023 80
May 12,1864	Chicago, Milwaukee & St P..	10 and 20.	240 00	186,706.77
May 12,1864	McGregor & Missouri River.	10 and 20.	.....	138,187 30
May 12,1864	Sioux City & St. Paul	10 and 20.	.....	407,910 21
Aug. 8, 1846 / July 12, 1862	Des Moines Valley	5.....	.. ..	569,422.28
	Aggregate area	.....	1,613 53	4,711,373.22

* The above area includes 35,685.49 acres of the Chicago, Rock Island & Pacific Railroad, 109,756.85 acres of the Cedar Rapids & Missouri River Railroad, and 77,535.22 acres of the Dubuque & Sioux City Railroad, situated in the Des Moines River grant of August 8, 1846 (see Walcott case, 5 Wall., 681), which, deducted from the foregoing amount, leaves the total concessions to railroads in the State of Iowa at 4,488,395.66 acres.

THE DES MOINES RIVER GRANT.

The number of conflicting grants, the numerous Departmental rulings and court decisions, and the doubts and uncertainties which in many respects obtain, make the subject of this grant quite difficult of correct understanding.

As bills have been introduced in nearly every Congress for the past fifteen years, two of which were passed but were vetoed by President Cleveland, a suit was brought at the instance of the Iowa delegation in Congress, to finally determine the question of title to the Des Moines River grant of lands. In this suit, *United States vs. Des Moines Navigation and Railway Company*, the United States Supreme Court decided, that the title of said company to the lands granted to the State of Iowa, by the act of August 8, 1846, joint resolution of March 2, 1861, and act of July 12, 1862, is good against the United States. During the first session of the Fifty-second Congress, Hon. J. P. Dolliver introduced a bill, "to indemnify the settlers upon the so-called Des Moines River lands," and during the same session Hon. J. J. Seerley introduced a bill, "to reimburse the Des Moines River settlers, and for other purposes." Neither of these bills were passed by Congress, but an act was passed by the second session of the Fifty-second Congress on the 3d day of March, 1893, authorizing the Secretary of the Interior to ascertain all the facts necessary to enable the United States to equitably adjust the claims of persons who entered upon the so-called Des Moines River lands and directing the secretary to report the result of his investigation at the first session of the Fifty-third Congress. By virtue of this act of Congress, and under the instructions of the Secretary of the Interior, Robert L. Berner, a special commissioner has been sent to Iowa, for the purpose of investigating the claims of settlers, to the end that an equitable adjustment and final settlement may be made by the United States.

The following is the act of Congress of March 3, 1893, so far as the same relates to the investigation and adjustment of the Des Moines River land claims:

FIFTY-SECOND CONGRESS. II SESSION.

March 3, 1893.

CHAPTER 208. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1894, and for other purposes. * * * * * * * * *

To enable the Secretary of the Interior to ascertain what persons made entry of lands, within the limits of the so-called Des Moines River Land grant for the improvement of the navigation of the Des Moines river in Iowa, the date of such entry and the respective amounts paid to the United States and the date of such payments; also, the names of persons who received certificates of entry or patents from the United States, and the date of such certificates or patents; also, the sum or sums paid by the holders of such certificates or patents, their heirs, or assigns, to purchase the paramount title as settled by the decisions of the courts, and also the value of such paramount title in cases where such purchase has not been made by any of the holders of such certificates or patents, and to ascertain such other facts as in his judgment are necessary to enable the United States to properly and equitably adjust the claims of persons who entered upon such lands, receiving from the proper officers written evidence of entry or settlement upon any of said lands, $8,000, or so much thereof as may be necessary to be immediately available, and the said Secretary shall make report thereon at the first session of the Fifty-third Congress.

DECISION OF THE SUPREME COURT OF THE UNITED STATES.

(Vol. 142, p. 510. United States Supreme Court Reports.)

UNITED STATES VS. DES MOINES NAVIGATION & RAILWAY COMPANY.

Appeal from the Circuit Court of the United States for the Northern District of Iowa.

No. 987. Argued November 18, 19, 1891. Decided January 11, 1892.

STATEMENT OF THE CASE.

The title of the Des Moines Navigation & Railway Company, to lands granted to the territory of Iowa, for the purpose of aiding in the improvement of the navigation of the Des Moines River by the act of August 8, 1846, 9 Stat., 77, c. 103, and to the State of Iowa for a like purpose by the joint resolution of March 2, 1861, 12 Stat., 251, and by the act of July 12, 1862, 12 Stat., 543, c. 161, having been sustained by this court in eight litigations between private parties, to-wit: In *Dubuque & Pacific Railroad vs. Litchfield*, 23 How., 66; *Walcott vs. Des Moines Co.*, 5 Wall., 681; *Williams vs. Baker*, 17 Wall., 144; *Homestead Co. vs. Valley Railroad*, 17 Wall., 153; *Wolsey vs. Chapman*, 101 U. S., 755; *Litchfield vs. Webster County*, 101 U. S., 773; *Dubuque & Sioux City Railroad vs. Des Moines Valley Railroad*, 109 U. S., 329, and *Bullard vs. Des Moines & Fort Dodge Railroad*, 122 U. S., 167, is now held to be good against the United States, as a grant in *præsenti*. It is an undoubted proposition of law that the granter of lands conveyed in trust is the only party to challenge the title in the hands of the trustee, or others holding under him, on account of a breach of that trust.

It appearing that the United States is only a nominal party, whose aid is sought to destroy the title of the Navigation Company and grantees, in order to enable settlers to protect their titles, initiated by settlement and occupancy, the court holds the case of *United States vs. Beebe*, 127 U. S., 338, to be applicable, where it was held that when a

suit is brought in the name of the United States to enforce the rights of individuals, and no interest of the government is involved, the defense of laches and limitations will be sustained, as though the government were out of the case.

Where relief can be granted only by setting aside an evidence of title issued by the government, in the orderly administration of the affairs of the Land Department, the evidence in support must be clear, strong and satisfactory.

A general averment of fraud in a bill in equity, though repeated, is to be taken as qualified and limited by the specific fac s set forth to show wherein the transaction was fraudulent; and in such case a demurrer to the bill admits only the truth of the facts so set forth and all reasonable inferences to be drawn therefrom.

The knowledge and good faith of a legislature are not open to question, but the presumption is conclusive that it acted with full knowledge and in good faith, and in this case the circumstances surrounding the transaction not only preclude the idea of misconduct or ignorance on the part of the legislature, but it is clear that the Navigation Company was a *bona fide* purchaser within the meaning of the resolution of 1861, and intended as a beneficiary thereunder.

The court stated the case as follows:

On August 8, 1846, an act was passed by the Congress of the United States granting certain lands to the then Territory of Iowa, to aid in the improvement of the navigation of the Des Moines river. 9 Stat. 77, c. 103. The first section defined the extent of the grant, and is in these words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines river from its mouth to the Raccoon Fork (so called), in said Territory, one equal moiety, in alternate sections, of the public lands (remaining unsold and not otherwise disposed of, encumbered or appropriated), in a strip five miles in width on each side of said river; to be selected within said Territory by an agent or agents to be appointed by the Governor thereof, subject to the approval of the Secretary of the Treasury of the United States.

On January 9, 1847 (the Territory in the meantime having become a State), its first General Assembly passed a joint resolution accepting this grant. A question soon arose as to its extent. The northern limit of the improvement was the Raccoon Fork, and the contention on one side was that the grant extended no further than the improvement, and on the other that there being no limitation in the granting clause, it included lands on either side of the river up to its source, or at least to the northern boundary of the State. This question was submitted at various times to the general executive officers of the United States having charge of the Land Department, with the result that conflicting opinions were given by them thereon. On February 28, 1848, Ricard M. Young, the Commissioner of the General Land Office, by letter addressed to the State authorities, ruled that "the State is entitled to the alternate sections within five miles of the Des Moines river, throughout the whole extent of that river, within the limits of Iowa." On March 2, 1849, Robert J. Walker, Secretary of the Treasury, to whose department at that time the control of the administration of public lands belonged, replying to a communication from the representatives of the State of Iowa in Congress, sustained the ruling of the Commissioner of the General Land Office. In his letter he says:

I concur with you in the views contained in your communication, and am of the opinion that the grant in question extends, as therein stated, on both sides of the river, from its source to its mouth, but not to lands on the river in the state of Missouri. I have transmitted your communication and accompanying papers, with a copy of this letter, to the Commissioner of the General Land Office.

On June 1, 1849, notice was issued from the General Land Office to the registers and receivers of the local land offices to reserve from sale all the odd numbered sections within five miles of the river up to the northern limits of the State, and lists were directed to be prepared of the sales and locations within those limits already made, with a view of certifying the remainder to the State. After these lists had been completed, but before any further action was taken the Department of the Interior was created by Congress, and the administration of public lands transferred to that department; and on April 6, 1850, Thomas Ewing, the Secretary of the Interior, ruled that the Raccoon Fork was the limit of the grant. His ruling is contained in a letter of that date, to the Commissioner of the General Land Office, as follows:

SIR: Having considered the question submitted to me connected with the claim of the State of Iowa, to select, under the act of August 8, 1846, lands for the improvement of the Des Moines river, I am clearly of the opinion that you cannot recognize the grant as extended above the Raccoon Fork without the aid of an explanatory act of Congress. It is clear to my mind, from the language of the act of August 8, 1846, itself, that it was not the intent of the act to extend it further.

He, however, added this further direction:

As Congress is now in session, and may take action on the subject, it will be proper, in my opinion, to postpone any immediate steps for bringing into market the lands embraced in the State's selections.

Application was made to the President to reverse this ruling. The question was referred by the President to the Attorney-General, and on July 19, 1850, Reverdy Johnson, the then Attorney-General, advised the President that he concurred with the views of the Secretary of the Treasury, and dissented from those of the Secretary of the Interior, holding that the grant extended to the northern limits of the State.

Before any action was taken on this opinion, President Taylor died, and a new administration succeeded, and on June 30, 1851, the then Attorney-General, John J. Crittenden, in response to inquiry gave it as his opinion, differing from his predecessor, that the grant terminated at the Raccoon Fork.

The Secretary of the Interior concurred in the opinion of the Attorney-General, but at the same time continued the reservation of the lands from market made by his predecessor, and afterward, believing that the question of title was one for the decisions of the courts, approved the selections made by the State, up to the northern limits, without prejudice to the rights of other parties. His letter of instructions to the Commissioner of the General Land Office, of date October 29, 1851, was in these words:

"DEPARTMENT OF THE INTERIOR,
"*Washington, October 29, 1851.*

"SIR:—I herewith return all the papers in the Des Moines case, which were recalled from your office about the first of the present month.

"I have reconsidered and carefully reviewed my decision of the 26th of July last, and, in doing so, find that no decision which I can make will be final, as the question involved partakes more of a judicial than an executive character which must ultimately be determined by the judicial tribunals of the country; and although my own opinion on the true construction of the grant is unchanged, yet, in view of the great conflict of opinion among the

executive officers of the government, and also in view of the opinions of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State, and to approve the selections, without prejudice to the rights, if any there be, of other parties, thus leaving the question as to the proper construction of the statute entirely open to the action of the judiciary. You will please, therefore, as soon as may be practicable, submit for my approval such lists as may have been prepared, and proceed to report for like approval lists of the alternate sections claimed by the State of Iowa, above the Raccoon Fork, as far as the surveys have progressed, or may hereafter be completed and returned.

"Very respectfully, etc.,
"A. H. H. STUART,
"*Secretary.*"

"The Commissioner of the General Land Office."

And the lists having been made out, were by the Secretary approved in the qualified way indicated in the letter, and thereafter transmitted to the State authorities, and to the local land officers.

Subsequently, and at its December term, 1859, the question as to the extent of the grant came before this court, and in the case of *Dubuque & Pacific Railroad v. Litchfield*, 23 How., 66, it was held that the Raccoon Fork was the northern limit of the grant, and that the State took no title to lands above that fork. After this decision, and on March 2, 1861, a joint resolution passed Congress in these words:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the title which the United States still retain in the tracts of land along the Des Moines river, and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified by said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August eight, eighteen hundred and forty-six, and which is now held by *bona fide* purchases under the State of Iowa, be, and the same is hereby relinquished to the State of Iowa. 12 Stat. 251.

And on July 12, 1862, the following act:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grant of lands to the then Territory of Iowa, for the improvement of the Des Moines river, made by the act of August eight, eighteen hundred and forty-six, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon Fork and the northern boundry of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March twenty-two, eighteen hundred and fifty-eight. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under the joint resolution of March second, eighteen hundred and sixty-two, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *provided*, That if the said State shall have sold and conveyed any portion of the lands lying within the limits of this grant the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to and be held as a trust fund for the benefit of the person or persons respectively whose titles shall have failed as aforesaid. 12 Stat. 543, c. 161.

Long prior to the last three matters noticed, the State had taken action in respect to the improvement of the Des Moines river, and had disposed of the lands covered by the grant as it was claimed to be, including those of the lands covered by the grant as it was claimed to be, including those above as well as those below the Raccoon Fork. Such action and disposition had been in this way: Some work was done by the State, in the first instance, through its board of public works. Therefore, and on December 17, 1853, a contract was made with Henry O'Reilly therefor. This was released on June 8, 1854, and on June 9, 1854, a new contract was entered into between the State and the principal defendant herein, the Des Moines Navigation and Railway Company. By its terms the Navigation Company was to expend, in the improvement, not less than $1,300,000, and to receive in pay the lands at $1.25 per acre; the lands to be conveyed from time to time as $30,000 worth of work was done, in pursuance of the original act of Congress. Under this agreement the Navigation Company proceeded to do some work on the improvement. On March 22, 1858, the State of Iowa passed an act whose recital and first clause are as follows:

WHEREAS, The Des Moines Navigation and Railroad Company have heretofore claimed, and do now claim, to have entered into certain contracts with the State of Iowa, by its officers and agents concerning the improvement of the Des Moines river in the State of Iowa; and whereas, disagreements and misunderstandings have arisen, and do now exist, between the State of Iowa and said company, and it being conceived to be to the interests of all parties concerned to have said matters and all matters and things between said company and the State of Iowa settled and adjusted; now, therefore, be it

Resolved, by the General Assembly of the State of Iowa, That for the purpose of such settlement, and for such purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements and claims with or against the State, including rights to water rents which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa, and the lands connected with the Des Moines river improvement, excepting such as are hereby by the State secured to said company; and also surrender to said State the dredge-boat and its appurtenances belonging to said improvement; and the State of Iowa shall, by its proper officer, certify and convey to the said company all lands granted by an act of Congress approved August 8, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines river, which have been approved and certified to the State of Iowa by the general government, saving and excepting all lands sold or conveyed, or agreed to be sold or conveyed, by the State of Iowa, by its officers and agents, prior to the 23d day of December, 1853, under said grant, and said company, or its assignees, shall have the right to all of said lands as herein granted to them, as fully as the State of Iowa could have under or by virtue of said grant, or in any manner whatever, with full power to settle all errors, false locations, omissions or claims in reference to the same, and all pay or compensation therefor by the general government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers and privileges under and by virtue of said grant, entirely released from any claim by or through said company; and it is understood that among the lands excepted and not granted by the State to said company are 25,487.87 acres lying immediately above Raccoon Fork, supposed to have been sold by the general government, but claimed by the State of Iowa. (Revised Laws of Iowa, 1860, p. 906.)

The proposition of settlement made by this act was accepted by the navigation company on April 15, 1858, and the terms of settlement carried into effect. On April 28, 1858, the Governor of the State certified to the President the amount expended in the work, and the amount of land to be conveyed to the navigation company under the settlement. The certificate was in these words:

"EXECUTIVE CHAMBER, IOWA,
"DES MOINES, April 28, 1858.

"*To His Excellency*, JAMES BUCHANAN, *President of the United States:*

"I, Ralph P. Lowe, Governor of the State of Iowa, as required by act of Congress approved August 8, 1846, 'granting certain lands to the Territory of Iowa, to aid in the improvement of the navigation of the Des Moines river in said Territory,' do hereby certify that there has been expended from time to time prior to the date hereof on the improvement of said river, as the work has progressed, and the money has been required, under certain contracts made by the State of Iowa with the Des Moines Navigation and Railroad Company the sum of three hundred and thirty-two thousand, six hundred and thirty-four and $\frac{4}{100}$ dollars ($332,634 04), and in consideration of said expenditures on said improvement, and in pursuance of the provisions of the act of Congress approved as aforesaid, there will be conveyed to said Des Moines Navigation and Railroad Company two hundred and sixty-six thousand, one hundred and seven and $\frac{23}{100}$ acres (266,107 23 acres) of the land belonging to said grant, and which have been certified and approved to the State of Iowa under said act for the prosecution of the improvement of said river. Des Moines.

"In testimony whereof, I, Ralph P. Lowe, Governor of the State of Iowa, have caused the great Seal of the State of Iowa to be hereunto affixed, together with my signature.

"[SEAL]

RALPH P. LOWE.

By the Governor.

ELIJAH SELLS,
Secretary of State."

And on the 3d of May, 1858, the Governor conveyed to the navigation company, by fourteen deeds, the lands referred to.

On September 28, 1889, the present suit was commenced by the filing of the bill in behalf of the United States, in the Circuit Court of the United States for the Northern District of Iowa; in which bill the complainant prayed that on final hearing a decree might be entered cancelling and setting aside the certificate of the United States made by the Secretary of the Interior, the resolution of settlement passed by the General Assembly of the State of Iowa, and the deeds of the Governor to the navigation company, made in pursuance of such settlement, and quieting and confirming plaintiff's title to all the lands. To this bill were made parties defendant the navigation company and several individuals holding title to tracts of land by conveyance from it. The navigation company demurred to the bill; the the other defendants answered. Proofs were taken under the issues presented by the bill and answer; and on final hearing a decree was entered sustaining the demurrer dismissing the bill. 43 Fed. Rep. 1. From such decree the United States appealed to this Court.

Mr. Attorney-General, for the United States, appellant

ARGUMENT FOR APPELLANT.

This is a suit by the United States to reclaim from the defendants lands conveyed by legislative grant to the State of Iowa upon a trust for the purpose of improving the navigation of the Des Moines river, and received by the State upon that trust, but for which the defendants have conveyances

from the State in violation of that trust. Commencing in 1846, the date of the original grant, the subject matter has been one of constant dispute for over forty years. On the one hand speculators represented by the defendant, the navigation company, have claimed vast tracts of the best land in Iowa, under alleged grants from the State. On the other hand, hundreds, perhaps thousands, of hard-working pioneers have settled and made their homes upon these lands.

Other railroad companies have claimed them under other grants. The executive officers of the national government have made a multitude of conflicting rules in reference to them. The legislature of Iowa has passed statutes with reference to them; the executive of Iowa has attempted to dispose of them by administrative acts, and the courts of Iowa have attempted to settle their titles by judicial decisions. This court in a large number of cases involving collateral issues, has made many decisions, which, as between the parties before the court, are conclusive; but now, for the first time, the party possessed of the original title, the party which made the grant to the State upon the trust, the only party which ever had, or now has, a right to question the action of its trustee in the premises—the United States—comes into court, asserts that the conveyances under which the defendants claim the title have been made in violation of its rights, shows that the conditions upon which the trust was created have been violated throughout, and demands a restoration of so much of the property as has not passed into the hands of innocent purchasers without notice.

Such being the case in presenting the claim of the United States I shall have little to do or to say with reference to the action of any party except the United States; and little to do and little to say with reference to the action of the United States, except as it has spoken and acted through Congress, which was the only branch of the government by which this land could be conveyed. The sole authoritative action of the United States in the premises, by which title to this property has been or could be conveyed, is found in three acts of Congress, viz: the act of August 8, 1846 (*ante 511*), the joint resolution of March 2 1861, (*ante 513*), and the act of July 12, 1862 (*ante 515*).

The first of these acts was accepted by the legislature of Iowa January 9, 1847. The State thereby took these lands in trust and could make no conveyance thereof, except according to the terms of the act of 1846. Congress not only never released the lands from the trust, but in the act of 1862, under which the defendants claim, expressly provided that the grant of lands above the fork should be subject to all the terms of the trust in the statutes of 1846.

I. As a trustee, the State of Iowa held these lands just as any other trustee would have held them. It took them, not as a sovereign in its sovereign governmental capacity, but as a municipal corporation dealing with property interests, and as a trustee to execute the trust reposed in it by the grant. Dillon Mun. Corp. 3d ed., §§ 567-573; *Vidal v. Girard*, 2 How., 127; *Mayor of Philadelphia v. Elliott*, 3 Rawle, 170; *Perin v. Carey*, 24 How., 465; *Girard v. Philadelphia*, 7 Wall., 1; *Swann v. Lindsey*, 70 Alabama, 507. Taking the property under said trust, the State, as trustee, could dispose of it only in accordance with the terms of the trust. *Schulenberg v. Harriman*, 21 Wall., 44; *Farnsworth v. Minnesota & Pacific Railroad*, 92 U. S., 49; *Rice v. Railroad Co.*, 1 Black, 258; *Grinnell v. Railroad Co.*, 103 U. S., 739; *Wheeler v. Walker*, 2 Connecticut, 196; S. C. 7 Am. Dec., 264; *Hayden v. Stoughton*, 5 Pick., 528.

Upon these authorities it may and will be assumed in this argument that the State of Iowa took the title to the lands covered by the act of 1846 in trust, and that it could not make a title to them by conveyance, except in accordance with the terms of the trust.

II From August 8, 1846, to March 2, 1861, no further action was taken by Congress with reference to this land grant. A vast amount of negotiations between the executive officers of the general government, the officers of the State of Iowa, and private citizens, and a vast amount of legislation by the State of Iowa, and negotiations and contracts between that State and sundry parties, having or claiming to have an interest in these lands, were had. But all such negotiations, pretended contracts and legislation were utterly void and ineffective so far as the lands in dispute are concerned, (if for no other reason,) because the grant, under the statute of 1846, did not cover an acre of land north of the Raccoon Fork. *Dubuque & Pacific Railroad v. Litchfield*, 23 How., 66. Then came the joint resolution of March 2, 1861, *ante* 513, which brings us to the main point of contest, at least so far as this argument is concerned. The Des Moines Navigation and Railway Company contends that it is within the scope and meaning of this joint resolution that on March 2, 1861, it held the lands in controversy as a *bona fide* purchaser under the State of Iowa. This we deny. Upon this question of *bona fides* the burden, both of averment and proof, is on the defendants.

So far as the navigation and railway company is concerned, the case was dismissed upon demurrer to the bill, that company being claimant of most of the lands. It is by defendants, of course, conceded that the averments of the bill are to be taken as true, but it is contended that these averments are insufficient to put in issue this question of *bona fides*. To this assertion, I answer that the question of *bona fides* is a question of fact; that if it were a law case it would be a question for a jury; and that in a pleading an averment of *bona fides* or the reverse, is in itself an averment of fact.

It may be that, in some cases, upon motion, a naked allegation of *bona fides*, or the reverse, might be required to be made more specific; but as against a denial, or as against a demurrer, it is sufficient as an averment of a fact. The averments in the bill, admitted by the demurrer, are: that the company did but a very small fraction of the work it pretended to do; that it abandoned the undertaking covered by its contract; that it received, in lands below Raccoon Fork, a sum vastly in excess of any just demand; that in short, very little expenditure was made upon this great work, for which the vast land grant was made by Congress, and that for such work as was done the company was paid several times more than the amount to which it was entitled.

It further appears by averments in the bill, as well as by the Exhibit A, being the joint resolution of the legislature forming substantially the alleged contract between the State and the company in 1858, that from beginning to end there was no pretense of compliance with the terms and conditions of the trust, as set out in the grant of 1846, but that both this company and the State appear to have treated the act of Congress of 1846,

as making a grant to the State, absolute and unrestrained by any conditions whatsoever. Under these circumstances it seems too plain for argument, first, that this company was not, as matter of fact, a *bona fide* purchaser or holder of these lands, and second, as matter of law, that no party, with notice, receiving a deed from a party holding the title to lands in trust, in violation of the terms of such trust, can be a *bona fide* holder of such lands. Perry on trusts, 277; Bl. Com. Book II, 337.

The bill further alleges that at the date and passage and approval of said resolution of 1861, and as the foundation and cause of the same, a large number of persons had in good faith, bought of the State of Iowa, paying cash therefor, large quantities of land for the purpose of making their homes thereon, and had with such purpose actually taken possession thereof and settled thereon, and were then holding the same, and it was for the purpose of protecting these persons that said resolution of Congress was passed, and they were the persons meant and intended in said resolution, and no other, who are referred to in said resolution as *bona fide* purchasers of the State of Iowa To these persons, therefore, who were entitled to protection in the occupation of the lands they had purchased in good faith, and in pursuance of the repeated decisions of the executive officers of the government, and who had improved the lands and made their homes upon them, this resolution could and was intended to apply.

But as matter of law, it is quite immaterial to whom the resolution did apply, for it is very clear that it did not and could not apply to the navigation company, and that is sufficient for the purposes of this case.

III. If, as seems clear, this company took nothing under the joint resolution of March 2, 1861, the next question is, did it take anything under the act of Congress of July 12, 1862? The legal effect of that act was to convey to the State of Iowa, upon exactly the same terms as were prescribed in the original grant of 1846, the lands within the limits named north of the Raccoon Fork and south of the northern boundary of the State of Iowa, except as those terms are modified in the provision "that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of theKeokuk, Fort Des Moines and Minnesota railroad, in accordance with the provisions of the act of the General Assembly of the State of Iowa, approved March 22, 1858." As under the act of 1846, the State was a trustee, and could not make a conveyance of an acre of the lands, except in accordance with the provisions of the trust, so, after the enactment of this law, it held the lands above the fork subject to the same limitations and conditions. The effect of those limitations and conditions has already been discussed.

IV. This brings us to the question whether, by reason of estoppels, Iowa statutes or otherwise, the navigation company can claim anything under the grants from the State of 1858 in the land north of the Raccoon Fork. Our contention is, that, aside from the fact that the State held these lands in trust, and could therefore only convey in accordance with the trust, the navigation company can claim nothing under the grants of 1858 for the reason that the grants contained no warranty, and therefore a subsequent title does not inure to the benefit of the navigation company.

There are, however, decisions which uphold the proposition that a conveyance, such as this, being in direct breach of trust, would be void, and therefore, even if accompanied by warranties, would not work a grant by

estoppel; but as in this case there are no covenants that question is not material.

There is, however, another reason why the navigation company cannot claim these lands, and could not even if the pretended grant by the State were accompanied by covenants of warranty. An estoppel by deed is operative against the grantor to prevent fraud, and injustice. The principle is that a grantor who assumes to convey and warrant property which he has not, if he afterward acquire it, shall not be permitted to assert his title against his grantee, because to do so would be to work a wrong; but this principle would have no application to the Federal government in this case, and the navigation company is in no condition to assert such a principle. The Federal government conveyed this property to the State upon a trust; the navigation company attempted to obtain it from the State through a breach of this trust. Under these circumstances, upon no principle can a grant by estoppel be set up by the navigation company against the government. Nor is the case of the defendant helped by the Code of Iowa, of which section 1202 reads as follows: "Where a deed purports to convey a greater interest than the grantor was at the time possessed of, any after-acquired interest of such grantor to the extent of that which the deed purports to convey inures to the benefit of the grantee." The defendant can get no benefit from this statute because it does not apply to the State at all. Bacon's Abridgement, tit. Prerogative, 3-5; *United States v. Knight*, 14 Pet., 301, 315; *Dollar Savings Bank v. United States*, 19 Wall., 227, 239; *United States v. Greene*, 4 Mason, 427.

V. But it is objected that this claim is stale; that the United States ought to be barred by its laches; that this suit might have been brought many years ago; that this navigation company has been paying the taxes and expending money on this land, etc. The answers to all this are very plain and easy. First, the claims of the United States are not subject to statutes of limitation, nor can the charge of laches be successfully asserted against the United States. *United States v. The Dallas Military Road Company*, 140 U. S. 599, 632; *United States v. Insley*, 130 U. S. 263, 266. And in the second place, if the suit were by a private citizen, the plea of laches would not be available, because it is the case of an express trust, and until the State of Iowa in some authoritive manner repudiates the trusts, the statute of limitations would not begin to run, and the charge of laches would not be well founded. The claim that the defendant has an equity by reason of having expended money in taxes, etc., is fully answered in one of the cases upon which the defendant mainly relies, namely, *Homestead Company v. Valley Railroad*, 17 Wall., 153, where parties whose good faith was not challenged had made large expenditures in the payment of taxes, but were denied by this court any equities by reason thereof.

VI. Finally, it is contended that whatever may be the merits of this case they are forelosed by the adjudications of this court in the large number of decisions already made in collateral cases which are cited by appellees. I think it is not difficult to show that this contention is unfounded, and that there is before the court a broad highway of solid legal principle upon which the court may travel to the conclusion sought by the government, without touching, much less crossing or upsetting, any decision heretofore made by this court. I have carefully examined all the decisions of this court cited by

the defendants upon this question, and in not one of them is there a sentence that shows that the *bona fides* of the navigation company or of the other defendants as holders of this property has ever been questioned, or the right of the United States to demand an accounting of its trustees, or to assert its title to lands which have been conveyed in violation of the plain terms of the trust under which the title passed from the United States, has ever been raised or considered for a moment. The contest here is not between *bona fide* settlers as against each other, but this litigation is in the interests of *bona fide* settlers against speculators who have appropriated these lands in violation of law and of the principles of common honesty.

VII. The only other question calling for attention is the relation of the appellees, other than the navigation company; and this, I think, presents no difficulty. They claim as innocent, *bona fide* purchasers from the navigation company. If, as we think is entirely clear, it is shown that the title of the navigation company is not good, then its grantees cannot succeed except as they show themselves to be *bona fide* purchasers, for value, and without notice. The burden of proof as to the *bona fides* in this matter is upon these claimants. *Clements v. Moore*, 6, Wall., 299; *Haskins v. Warren*, 115, Mass. 514; *Nickerson v. Meacham*, 5, McCrary 511; *Peck v. Mallams*, 10, N. Y. 509; *Lakin v. Sierra Butte Gold Mine Company*, 25, Fed. Rep. 337.

MR. C. H. GATCH for the appellees except the Des Moines Navigation and Railway Company. MR. WILLIAM CONNOR was with him on the brief.

MR. BENTON J. HALL for the Des Moines Navigation and Railway Company, appellee. MR. FRANK T. BROWN was with him on the brief.

MR. JOHN Y. STONE for appellant. MR. D. C. CHASE also filed a brief for same.

MR. JUSTICE BREWER, after stating the case, delivered the opinion of the court.

OPINION OF THE COURT.

Prior to the decision of this court in *Dubuque, etc., Railroad Co. v. Litchfield*, 23 How., 66, which decision was announced in 1860, it was a disputed question whether the grant extended above the Raccoon Fork. The opinions and rulings of the executive officers of the government were conflicting, and it is not strange that many settled upon these lands in the belief that they were public lands of the United States and open to settlement. But if they were not in fact open to settlement—if the title legally and fairly to the navigation company — no relief from the hardships occasioned by their mistake can be furnished by the courts, whose functions are limited to declaring where, in the face of conflicting claims, the title really rests. We pass, therefore, to the consideration of the matter of title. It will be observed, in the first place, that there is in this case no question as to priority of claim. The single question is whether the defendant's title is good as against the government

If so, it is unquestionably prior to all claims of the settlers, for, as appears, as early as June, 1849, the lands to the northern limits of the State were reserved from settlement and sale by direction of the Land Department; and this reservation was continued in force notwithstanding the subsequent conflicting rulings as to the extent of the grant and the

adjudication of this court as to the extent of its limits. The validity of this reservation was sustained in the case of *Wolcott v. Des Moines Company*, 5 Wall, 681, decided at December term, 1866. In that case it was held that, even in the absence of a command to that effect in the statute, it was the duty of the officers of the Land Department, immediately upon a grant being made by Congress, to reserve from settlement and sale the lands within the grant; and that, if there was a dispute as to its extent, it was the duty to reserve all lands which, upon either construction, might become necessary to make good the purposes of the grant. This ruling as to the power and duty of the officers of the Land Department has since been followed in many cases. *Bullard v. Des Moines & Fort Dodge Railroad*, 122 U. S. 167, and cases cited in the opinion.

As lands properly reserved are not open to settlement or sale, it follows that the lands above Raccoon Fork were at the time of the passage of the resolution of 1861 wholly within the disposing power of Congress; and no rights could have attached, by occupancy or otherwise, which would burden the title, or either legally or equitably affect any grant or disposition which Congress might then see fit to make. By that resolution Congress relinquished to the State all the title of the United States, (and that was a full and absolute title,) to such tracts of land as were held by *bona fide* purchasers under the State law; and by the act of the succeeding year, the grant was in terms extended to the northern limits of the State, so that all alternate sections above the Raccoon Fork, not theretofore disposed of by the State to *bona fide* purchasers, thereby passed to the State. As the original grant in 1846 was within settled rules of construction a grant *in præsenti*, (*Desert Salt Company v. Tarpey, ante* 241, and cases cited in the opinion,) the act of 1862, which was a mere extension of the grant, took effect and passed title at once to the State; and the resolution of 1861, which was in terms a relinquishment, also operated as an immediate transfer of title. By the reservation therefore, full title was retained in the United States; and by the resolution of 1861, and the act of 1862, the same full title passed *eo instanti* to the State. But if by the resolution title passed to the State, it also at the same time passed through the State to the real beneficiaries of this resolution, to-wit, *bona fide* purchasers under the State of Iowa. Section 1202 of the Code of Iowa, of 1851, reads as follows:

"Where a deed purports to convey a greater interest than the grantor was at the time possessed of, any after-acquired interest of such grantor to the extent of that which the deed purports to convey inures to the benefit of the grantee." The deeds made by the State to the navigation company recite that, "The State of Iowa does hereby sell, grant, bargain and convey to the said Des Moines Navigation and Railroad Company the following referred to and described lands, to-wit:" (describing them) "to have and hold the above described lands and each and every parcel thereof, with all the rights, privileges, immunities and appurtenances of whatever nature thereunto belonging." These were deeds purporting to convey a full title. That is the general rule, and such is the import of section 1202, Code of Iowa, 1851, prescribing forms for deeds. Even if there were no such statute with respect to after-acquired titles, the manifest intent of Congress in the resolution was, not to transfer the title to the State to be by it disposed of as it saw fit, but to the State solely for the benefit of *bona fide* purchasers.

The inference from the language, standing by itself, is made certain by the act of 1862, where it refers to the lands covered by this resolution as lands "released by the United States to the grantees of the State of Iowa, under the joint resolution of March 2, 1862." This is an interpretation by Congress of the scope of that resolution, and shows to whom Congress intended that the lands should pass. Was the Navigation Company a *bona fide* purchaser under the State? Of course if it was, the other defendants who hold under it also were. It is claimed by the appellant that the *bona fide* purchasers referred to were certain parties who had bought portions of these lands from the State of Iowa, paying cash therefor, for the purpose of making homes, and who had taken possession thereof and were then occupying the same. But the term, "*bona fide* purchaser," has a well settled meaning in the law. It does not require settlement or occupancy. Any one is a *bona fide* purchaser who buys in good faith and pays value. To limit the term as here used to settlers is to interpolate into the statute a restriction which neither the language nor the surrounding circumstances justify. The term itself, as stated, has no such restricted meaning; and while it may be that there were individuals holding tracts which they had separately settled on and paid for, yet it was also true that the great body of the lands had been conveyed to the Navigation Company in payment for work done on the Des Moines improvement. This was a well-known fact; and if Congress had intended to distinguish between settlers and other purchasers, it would not have used language whose well-understood meaning included both. If anything can be drawn from the debates in Congress at the time of the passage of this resolution, it sustains this construction. As appears from the Senate proceedings, when the resolution was pending, the fact that a large portion of these lands had been conveyed to the navigation company for work done on the improvement, was stated, and an attempt was made to limit the relinquishment to lands "by the said State sold to actual settlers." Instead of that, the words now used were inserted, to-wit, "*bona fide* purchasers under the State of Iowa." Congressional Globe, part 2, 2d Sess. 36th Congress, 1130 to 1133. Independently, however, of any influence from these Congressional proceedings, there can be no doubt that a party doing work under a contract with the State, making a settlement and receiving a conveyance of these lands in payment for that work, is a *bona fide* purchaser. If so, this cause of action fails, and the bill must be dismissed. But the case does not rest here. The title to these lands has often been brought in question in cases determined by this court, and its uniform ruling has been in favor of the validity of the title of the navigation company. A review of some of these cases will be instructive. In *Walcott v. Des Moines Company, supra*, it appeared that Walcott had purchased from the navigation company, the principal defendant in this case, a half section of land above the Raccoon Fork, and received a warranty deed therefor. On the decision in *Dubuque & Pacific Railroad v. Litchfield, supra*, that the grant extended only to the Raccoon Fork, he sued the navigation company for breach of covenant, alleging that the title to the tract sold had failed. This court affirmed the judgment of the circuit court against him. After referring to its decision in respect to the extent of the grant of 1846, it quoted the resolution of 1861 and the act of 1862, and added: "if the case stopped here it would be very clear that the plaintiff could not recover; for, although the State possessed no title to the lot in dispute at the time of the conveyanceto the Des Moines Navigation and Railroad Company, yet, having an after-acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff. This is in accordance with the laws of the State of Iowa."

It then noticed the contention of the plaintiff, that the title to this tract did not pass to the navigation company by this later legislation, because prior thereto, and on May 15, 1856, Congress had made a grant to the State of six alternate sections on each side of certain proposed railroads, to aid in their construction. The tract was within the limits of this grant, but the court held that the title to it did not pass thereby, because of the previous reservation made in 1849, the grant by its terms excepting from its operation all lands reserved by "any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any objects of internal improvements, or for any purpose whatsoever." It will be seen that this decision not only determined the validity and scope of the reservation, but also interpreted the effect of the resolution, as operating to transfer full title to the navigation company.

In 1873, the cases of *Williams v. Baker*, and *Cedar Rapids Railroad Co. v. Des Moines Navigation Co.*, 17, Wall., 144, and *Homestead Company v. Valley Railroad*, 17, Wall., 153, were decided. The first two cases were disposed of by one opinion. Both were suits to quiet title. One side claimed under the river grant and the other under the railroad grant of 1856. Decrees in favor of the river grant were sustained. In the opinion, the court noticed the long contest as to the scope of the original grant, and the final determination thereof, in the case of *Railroad Company v. Litchfield*. It then observed: "This decision was received as a final settlement of the long contested question of the extent of the grant. But it left the State of Iowa, which had made engagements on the faith of the lands certified to her, in an embarrassed condition, and it destroyed the title of the navigation company to lands of the value of hundreds of thousands of dollars, which it had received from the State for money, labor and material actually expended and furnished. What was also equally to be regretted was that many persons, purchasers for value from the State or the navigation company, found their supposed title an invalid one." And after referring to the legislation of 1861 and 1862, it added: "This legislative history of the title of the State of Iowa, and of those to whom she had conveyed the lands certified to her by the Secretary of the interior, as a part of the grant of 1846, including among her grantees the Des Moines Navigation and Railroad Company needs no gloss or criticism to show that the title of the State and her grantees is perfect, unless impaired or defeated by some other and extrinsic matter which would have that effect," and closed the opinion in these words:

"We therefore reaffirm, first, that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines river grant of 1846; and, second, that by the joint resolution of 1861, and the act of 1862, the State of Iowa did receive the title for the use of those to whom she had sold them as part of that grant, and for such other purposes as had become proper under that grant."

In the third case, which was also a contest between a claimant under the railroad grant and parties claiming under the river grant, the validity of the latter was affirmed, and in its opinion the court said:

"It is, therefore, no longer an open question that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines river grant of 1846, and that the joint resolution of 2d of March, 1861, and the act of 12th of July, 1862, transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant."

Again, in 1879, the question of this grant came before this court in *Wolsey v. Chapman*, 101 U. S., 755, 771. In that case the claim adverse to the river grant originated in this way: On September 4, 1841, Congress passed an act (5 Stat. 453, c. 16), by the eighth section of which there was granted to each State 500,000 acres of land for the purposes of internal improvement. By the Constitution of Iowa, under which the State was admitted, this grant was appropriated to the use of common schools (Constitution of Iowa, 1846, Article 9, "School Funds and Schools," Section 3), and this appropriation was assented to by Congress by a special act. (9 Stat. 349.) On July 20, 1850, the agent of the State having charge of school lands selected the particular tract in controversy as a part of this school grant; and thereafter, and in 1853, the appropriate proceedings being had, a patent issued by the State to Wolsey.

The grant of 1841 was one which required selection, and so no rights accrued to the State to this tract under such grant until the selection on July 20, 1850, but that as we have seen, was several months after the lands had been reserved for the river grant. The court, in an elaborate opinion by Chief Justice Waite, reviewed all the legislation and the previous decisions of the court, and reaffirmed those decisions. The deed from the State to the navigation company, under which Chapman claimed, being subsequent to the patent from the State to Wolsey, it was contended that the former could not question the title thus previously conveyed. Upon this matter the court said: "Of this we entertain no doubt. If the State had no title when the patent issued to Wolsey, he took nothing by the grant. No question of estoppel by warranty rises, neither does the after-acquired title inure to the benefit of Wolsey, because when the United States made the grant in 1861, it was for the benefit of *bona fide* purchasers from the State, under the grant of 1846. This is evident as well from the tenor of the joint resolution of 1861 as from the act of 1862 The relinquishment under the joint resolution is of all the title which the United States retained in the tracts of land above the Raccoon Fork, 'which have been certified to said State improperly by the Department of the Interior as part of the grant by the act of Congress approved August 8, 1846, and which is now held by *bona fide* purchasers under the State of Iowa;' and by the act of 1862 the lands are in terms to be held and applied in accordance with the provisions of the original grant. This legislation, being in *pari materia*, is to be construed together, and manifests most unmistakably an intention on the part of Congress to put the State and *bona fide* purchasers from the State just where they would be if the original act had itself granted all that was finally given for the river improvement. The original grant contemplated sales by the State in execution of the trust created, and the *bona fide* purchasers referred to must have been purchasers at such sales. This being so, the grant when finally made inured to the benefit of Chapman rather than Wolsey." At the same term the case of *Litchfield v. County of Webster* was decided, 101 U. S. 773, 775. The question in that case was at what time the title to these lands passed from the United States, and the lands became subject to taxation. In disposing of that question, the Chief Justice, speaking for the court, observed: We think, however, that for the year 1862 and thereafter, they were taxable. By the joint resolution, Congress relinquished all the title the United States then retained to the land which had before that time been certified by the Department of the Interior as part of the river grant, and which were held by *bona fide* purchasers under the State. No further conveyance was necessary to complete the transfer, and the description was sufficient to identify the property. The title thus relinquished inured at once to the benefit of the purchasers for whose use the relinquishment was made. All the lands involved in this suit had been certified, and Litchfield, or those under whom he claims, were *bona fide* purchasers from the State." Again, in 1883, the case of *Dubuque & Sioux City Railroad v. Des Moines Valley Railroad*, 109 U. S , 329, came to this court on error to the supreme court of the State of Iowa. This was an action to recover lands and quiet title, and in which the parties respectively claimed under the railroad grant of 1856 and the river grant; and, again, the Chief Justice delivered the opinion of the court, and in it said: "The following are no longer open questions in this court: That the act of July 12, 1862, c. 161, 12 Stat. 543, 'transferred the title from the United States and vested it in the State of Iowa, for the use of its grantees under the river grant.' *Wolcott v. Des Moines Company*, 5 Wall., 681; *Williams v. Baker*, 17 Wall., 144; *Homestead Company v. The Valley Railroad Company*, 17 Wall., 153; *Wolsey v. Chapman*, 101 U. S., 755, 767."

Still later, and in 1886, another attempt was made to disturb the title held under the river grant in the case of *Bullard v. Des Moines & Fort Dodge Railroad*, 122 U. S. 167, which also came here on error to the supreme court of the State of Iowa. The contention in that case in behalf of the plaintiff in error was that the resolution of 1861, which relinquished to the State the title to lands held by *bona fide* purchasers under it, operated to terminate the reservation from sale made by the Land Department for the benefit of the river grant, and thus left all lands above the Raccoon Fork not then held by *bona fide* purchasers open to settlement and free for the attaching of any other grant from that time and up to the act of 1862, which in terms extended the river grant to the northern limits of the State, and, of course, included all lands, whether held by *bona fide* purchasers or otherwise. But this court sustained the decision of the supreme court of Iowa, and ruled that the reservation from sale made by the Land Department was not terminated by the resolution of 1861, but continued in force until the act of 1862. Such have been the decisions of the court in respect to this grant and titles, decisions running through twenty-five years, all affirming the same thing, and all without dissent. It would seem, if the decisions of this court amount to anything, that the title of the navigation company to these lands was impregnable. Indeed, the emphatic language more than once used, as quoted above, appears like a protest against any further assault upon that title.

Nor has this line of decisions been confined to this court. It runs through the reports of the supreme court of Iowa. In addition to the two cases, heretofore referred to, coming from that court to this, and in which its decisions were sustained, may be noticed the following: *Bellows v. Todd*, twice before that court, and reported in 34 Iowa, 18, and 39 Iowa, 209. This was an action of ejectment brought by Bellows, holding under the navigation company, against Todd, claiming to have settled upon the premises under the pre-emption and homestead laws of the United States in 1860. On the first trial the court refused to give the following instruction:

"If the jury find from the evidence that the lands in controversy were certified to the State of Iowa in 1853, under the act of Congress of 8th August 1846, and that the same have been conveyed by the State of Iowa to the Des Moines Navigation and Railroad Company, and by said company to plaintiff's grantors, and by them to the plaintiff in this action, then the plaintiff is entitled to recover." When the case came before the supreme court, (34 Iowa,) the refusal to give this instruction was adjudged error, and the case remanded for a new trial. On the second trial the plaintiff requested the following instruction:

"The plaintiff in this action claims title to the lands described in his petition under conveyances from the grantees of the Des Moines Navigation and Railroad Company, and the defendant, as one ground of his defense, alleges that he has been in the continuous occupation and possession of said land for ten years prior to the commencement of this action, and that by reason of such occupation and possession his title is superior and paramount to that of the plaintiff; but if the jury find from the evidence that this land was certified to the State of Iowa, under the act of Congress of August 8, 1846, and has been conveyed by the State to the Des Moines Navigation and Railroad Company, under which plaintiff holds, then the State having acquired title to said land by the joint resolution of Congress of March 2, 1861, the title of the State, so acquired, inured to the benefit of said company and its grantees and the plaintiff, and if this action was commenced within ten years from the date of the passage of said joint resolution, then the plaintiff is entitled to recover in this action, notwithstanding the alleged occupation and possession of defendant," which was refused; and in 39 Iowa the refusal to give this instruction was adjudged error, and the judgment reversed and the case remanded. The significance of this instruction is apparent, inasmuch as the action was commenced on May 19, 1870, less than ten years from the resolution of March, 1861.

In its opinion in this last case the court observes "that the title which the State acquired under the resolution of March 2, 1861, inured to the benefit of the Des Moines Navigation Company and its grantees, under the circumstances set forth in the instruction, is elemental. Revision, §2210; Code, §1931."

In addition, there is a series of cases of which *Stryker v. Polk County*, 22 Iowa, 131; *Litchfield v. Hamilton County*, 40 Iowa, 66; and *Goodnow v. Wells*, 67 Iowa, 654, are examples, in which it was held that these lands were subject to taxation for the year 1861. Of course, they could not be subject to taxation unless by the resolution the title had passed not simply from the United States, but also through the State to its grantees; and repeatedly, in different ways, it is asserted in the opinions in these cases that the title had so passed.

We have thus a concurrence of opinion on the part of the supreme court of Iowa and this court for a quarter of a century in favor of the validity of the title acquired by the navigation company. It would seem as though the period of rest as to this question of title ought by this time to have been reached. But the Government is the complainant, induced doubtless to bring this suit by the act of the legislature of March 28, 1888, which purports to relinquish for the State its trust and to reconvey to the United States all its right and title to these lands, as well as by the urgent appeals of the settlers, and the claim is, that its presence as a party introduces new questions into the litigation, questions not at all affected by the prior decisions. It is the original grantor, and its contention is that while the title of its grantee may be unassailable by other persons, it has the right to challenge it because the grant was made in trust for a specific purpose, and that trust has not been properly executed, nor the lands appropriated to the purposes thereof. That the proposition of law which underlies this claim is correct, cannot be doubted.

The grantor of lands conveyed in trust may be the only party with power to complain of the breach of that trust, or, on account of such breach, to challenge the title in the hands of the trustee or others holding under him; and the title conveyed, voidable alone at its instance, may be good as against all the world besides. Before, however, examining the applicability of this proposition of law to the cause at hand, one or two preliminary thoughts naturally arrest the attention. There has been long delay in presenting this claim. A third of a century has passed since the State conveyed to the navigation company, and more than a quarter of a century since Congress relinquished and granted to the State the title to these lands. During that time there have been marvelous changes in the population, the industries, the business interests of the State: legislatures and courts have been busy determining rights and establishing relations based upon the vesting of title in the navigation company. A proposition to destroy this title, and to put at naught all that has been accomplished in respect thereto and based thereon during these years, is one which may well make us pause.

While it is undoubtedly true that when the government is the real party in interest, and is proceeding simply to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation, *United States v. Nashville, Chattanooga, etc., Railway*, 118 U. S., 120, 125; *United States v. Insley*, 130 U. S., 263; yet it has also been decided that where the United States is only a formal party, and the suit is brought in its name to enforce the rights of individuals, and no interest of the government is involved, the defense of laches and limitation will be sustained as though the government was out of the case, and the litigation was carried on in name, as in fact, for the benefit of private parties. *United States v. Beebe*, 127 U. S., 338.

In that case a bill was brought by the United States to set aside certain patents issued to one Roswell Beebe and the charge was that Beebe by fraudulent practices obtained the patents. But it also appeared that certain individuals claimed to have equitable title to the land by virtue of prior locations; and that the effect of a decree cancelling the patents would be simply to enable such other parties to perfect their equitable titles. Forty-five years had elapsed since the patents were issued, and this court declining to enter into any inquiry as to whether the patents were fraudulently obtained, ruled that the defense of laches was complete, because the government was only a nominal and not the real party in interest. The history of the present litigation shows that the long contest has been between the navigation company and its grantees on the one side and settlers claiming the right to pre-emption or homestead, or parties claiming under the railroad grants, on the other. The bill alleges:

"And complainant further alleges and charges that, at the time of said settlement of 1858, and that at all other times theretofore, there existed in the constitu-

tion of the State of Iowa, from the time of the admission of said State into the Union in 1846, a provision in the words following, to-wit:

'The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of any occupant so exempted shall not exceed three hundred and twenty acres.' That at the time of the pretended settlement, so made between the State of Iowa and the said navigation company, and at all times when the State has attempted to dispose of lands covered by the grant of 1846, and the said act of 1862, which are in controversy in this suit, said lands were occupied by persons who had settled upon them in tracts of not more than 320 acres to each person, in the belief that they were open to location, settlement, pre-emption and purchase under the land laws of the United States, and at said time they were occupying said lands in tracts not larger than 320 acres to each, and the said State of Iowa was thereby and therefore prohibited under said constitutional provision from disposing or attempting to dispose of any of the lands in controversy, since none of said persons so occupying said lands consented to any sale or disposition of them whatever." And in the brief of the Attorney General it is stated that "the contest here is not between *bona fide* settlers as against each other, but this litigation is in the interest of *bona fide* settlers against speculators who have appropriated these lands in violation of law and of the principles of common honesty."

The district judge, deciding this case in the court below, said: "Any purpose to call in question the title of parties in actual possession, holding under the State or the navigation company, is expressly disclaimed in the bill, it being averred that the benefit of a decree in favor of complainant is sought only as to such lands as are now actually occupied by settlers who do not hold title under the State or the navigation company, the same amounting to 109,057 acres." And, after deciding the legal question in favor of the navigation company, he goes on to discuss and suggest what in equity and justice the government should do for the benefit of these settlers. We should be closing our eyes to manifest facts if we did not perceive that the government was only a nominal party, whose aid was sought to destroy the title of the navigation company and its grantees, in order to enable the settlers to perfect their titles, initiated by settlement and occupancy; and in that event, the delay of thirty years is such a delay as a court of equity forbids. At any rate, it makes most apt the observation of Mr. Justice Miller, speaking for the court in the case of *United States v. Throckmorton*, 98 U. S. 61, 64, in which case a bill had been filed to set aside a decree rendered more than twenty years before:

"It is true that the United States is not bound by the statute of limitations, as an individual would be. And we have not recited any of the foregoing matters found in the bill as sufficient of itself to prevent relief in a case otherwise properly cognizable in equity. But we think these are good reasons why a bill which seeks under these circumstances to annul a decree thus surrounded by every presumption which give it support, shall present on its face a clear and unquestionable ground on which the jurisdiction it invokes can rest."

Even if this be regarded as a bill brought by the United States simply to protect its own interest, and recover its own property, still it is well settled that where relief can be granted only by setting aside a grant, a patent or other evidence of title, issued by the government, in the orderly administration of the affairs of the land department, the evidence in support must be clear, strong and satisfactory. Muniments of title issued by the governmennt are not to be lightly destroyed. *Kansas City, Lawrence, etc. Railroad v. Attorney-General*, 118 U. S., 682; *Maxwell Land Grant Case*, 121 U. S., 325, 381; *Colorado Coal Company v. United States*, 123 U. S., 307. In the second of these cases, Mr. Justice Miller, speaking for the court, said:

"It is not to be admitted that the titles by which so much property in this country, and so many rights are held, purporting to emanate from the authoritive action of the officers of the government, and, as in this case, under the seal and signature of the president of the United States himself, shall be dependent upon the hazard of successful resistance to the whims and caprices of every person who chooses to attack them in a court of justice; but it should be well understood that only that class of evidence which commands respect, and that amount of it which produces conviction, shall make such an attempt successful." Returning now to the special contention on the part of the government: It is scarcely necessary to determine whether the trust was one following the lands, or merely in the proceeds of the sales of the lands, and whose faithful performance is a question only between the United States and the State, as was finally determined to be the state of the trust created by the "Swamp land" grant. *Mills County v. Railroad Companies*, 107 U. S., 557.

We pass rather to inquire in what manner the State performed the duties or trust imposed by the acceptance of this grant, in so far as such performance affects the title to the lands in controversy. The general purpose of the grant was to aid the Territory or State in improving the navigation of the Des Moines river. The second section of the act prescribed the conditions under which the Territory or State might sell the lands, as follows:

SEC. 2. And be it further enacted, that the lands hereby granted shall not be conveyed or disposed of by said Territory, nor by the State to be formed out of the same, except as said improvements shall progress: that is, the said Territory or State may sell so much of said lands as shall produce the sum of thirty thousand dollars, and then the sales shall cease, until the Governor of said Territory or State shall certify the fact to the President of the United States that one-half of said sum has been expended upon said improvement, when the said Territory or State may sell and convey a quantity of the residue of said lands, sufficient to replace the amount expended, and thus the sales shall progress as the proceeds thereof shall be expended, and the fact of such expenditure shall be certified as aforesaid.

The third section declared that the price should not be less than the minimum price of other public lands. So that all that the act provided for was, that the State should appropriate the lands to the improvement of the river; that it should make no sales at less than $1.25 per acre; and that its sales should not anticipate its expenditures by more than $30,000. Now, it is not pretended that the State appropriated the lands to any other purpose, or that the price at which it sold was less than $1.25 per acre. The contract between it and the navigation company provided for conveyances only as the work progressed, and money was expended by the company; and the settlement proposed by the legislature and accepted by the company, and the certificate made by the Governor to the President, showed that the navigation company had expended money enough to justify the conveyance of all the lands which were in fact conveyed.

On the face of the transaction, therefore, the duties imposed by the trust were exactly and properly performed, and the title of the navigation company passed to it in strict compliance with the very letter of the statute. But it is earnestly

contended that the navigation company was not a *bona fide* purchaser; that while it claimed to have expended $330,000 on the improvement, in truth it had not expended half that amount; that by means of its false representations, and by threats of bringing suit against the State and obtaining damages against it, it induced the legislature to pass the resolution of 1858, offering terms of settlement; that the work of improving the river was unfinished, not more than one-tenth of the work necessary therefor having been done; and that the State has wholly abandoned the undertaking. With respect to the last two allegations it is not perceived how, if true, they can affect the title of the navigation company to lands deeded by the State to it in payment of work done.

Surely the title to lands which the State conveyed at the inception of the undertaking, either for cash or for work done thereon, cannot fail because the State failed to complete the improvement.

No land could have been sold if the purchaser's title had depended upon such a condition. If we examine the testimony, there is nothing in it worthy of mention tending to impeach the *bona fides* of the transaction between the State and the navigation company. Only one witness was offered by the plaintiff to prove the amount of work done by the navigation company, and the influences by which the action of the legislature was induced, and his testimony carries on its face abundant evidences of its own unworthiness. In the face of the deliberate proceedings of the legislature and the executive officers of the State in respect to a matter of public interest, open to inspection and of common knowledge, something more than the extravagant and improbable statements of one witness, made thirty years after the event, is necessary to overthrow the settlement. Indeed, counsel for the government make slight reference to this testimony, but rest their case upon the allegations of the bill, which, as against the principal defendant, the navigation company, were admitted by demurrer.

It is urged that there is an express averment that the navigation company and its grantees are not and never were *bona fide* purchasers of the lands, or any part thereof. But such a general averment, though repeated once or twice, is to be taken as qualified and limited by the specific facts set forth, to show wherein the transaction between the State and navigation company was fraudulent. Where a bill sets out a series of facts constituting a transaction between two parties, a demurrer admits the truth of those facts and all reasonable inferences to be drawn therefrom, but not the conclusion which the pleader has seen fit to aver. And the fact which stands out conspicuously, is the resolution proposing settlement which passed the legislature of the State of Iowa, in March, 1858. That act is beyond challenge. The knowledge and good faith of a legislature are not open to question. It is conclusively presumed that a legislature acts with full knowledge, and in good faith.

It is true the bill alleges that its passage was induced by the navigation company, by false representations and threats of suits, but such an allegation amounts to nothing. In Cooley's Constitutional Limitations (5th ed. 222), the author, citing several cases, observes: "From what examination has been given to this subject, it appears that whether a statute is constitutional or not is always a question of power; that is, a question whether the legislature in the particular case, in respect to the subject matter of the act, the manner in which its object is to be accomplished and the mode of enacting it, has kept within the constitutional limits and observed the constitutional conditions. In any case in which this question is answered in the affirmative, the Courts are not at liberty to inquire into

the proper exercise of the power. They must assume that legislative discretion has been properly exercised if evidence was required; it must be supposed that it was before the legislature when the act was passed; and if any special finding was required to warrant the passage of the special act, it would seem that the passage of the act itself might be held to be equivalent to such finding.

And, although it has sometimes been urged at the bar that the courts ought to inquire into the motives of the legislature where fraud and corruption were alleged, and annul their action if the allegations were established, the argument has in no case been acceded to by the judiciary, and they have never allowed the inquiry to be entered upon." See also *Fletcher v. Peck*, 6 Cranch, 87; *Ex parte McCardle*, 7 Wall., 506; *Doyle v. Continental Insurance Co.*, 94 U. S., 535; *Powell v. Pennsylvania*, 127 U. S., 678. And in this case the circumstances surrounding the transaction preclude the idea of misconduct or ignorance on the part of the legislature. The threat of suit, when the State could not be sued except at its own will, could not have been very persuasive. The work done by the navigation company was open to inspection. It was done along the line of the principal river in the State.

It was in fact made a matter of examination and report; and while the amount expended by the navigation company might not have been known to the exact dollar, yet in a general way, the cost of what had been done could easily have been ascertained and must have been known. But if no lack of good faith can be imputed to the State, the party making the offer of settlement, does it not follow necessarily that none can be imputed to the navigation company, the party accepting the offer; for how can fraud be imputed to one who simply accepts terms of settlement voluntarily offered by another? And if this settlement was made in good faith and without fraud, it is not clear that the navigation company, taking the lands which the State offered in payment for the work which it had done, took those lands as a *bona fide* purchaser, and, therefore, comes within the letter and spirit of the resolution of 1861?

And here the significance of this resolution is evident. It was passed by Congress after the settlement proposed by the Iowa legislature in 1858, had been accepted by the navigation company, and deeds had passed in accordance therewith. Its passage imports full knowledge of antecedent facts upon which it is based. In *Powell v. Pennsylvania*, 127 U. S., 678, 686, referring to action had by the legislature of the State, this court said: "The legislature of Pennsylvania, upon the fullest investigation as we must conclusively presume, and upon reasonable grounds, as must be assumed from the record," etc. So Congress, by this resolution of 1861, knowing that this settlement had been offered by the State of Iowa, and accepted by the navigation company, knowing that such act on the part of the legislature conclusively implied full knowledge and good faith, and that an acceptance of such offered settlement by the navigation company also implied good faith, knowing also that the conveyances made under this settlement embraced the major portion of the lands, must be assumed to have approved such settlement and intended to relinquish to the navigation company the title supposed to have been conveyed by the settlement and deeds. Surely it cannot be, that when it knew the import and implication of the legislative act, Congress thought to repudiate it, or invite investigation into a matter which otherwise stood foreclosed of all inquiry.

As its own acts were free from imputation, it knew that the acts of the legislature of the State of Iowa were also free from imputation, and that a settlement

which that legislature had offered could not be challenged for fraud; and with that knowledge it confirmed the title which the legislature of Iowa had attempted to convey. Surely, under those circumstances, the courts are not at liberty to probe the matters surrounding this settlement, to see if some party did not misrepresent the facts and utter falsehoods. So, if we narrow the inquiry to the mere language of the bill, in view of all the facts disclosed therein, and of those legislative and judicial proceedings which are matters of common knowledge and need not be averred, it is evident that the government has not made out its case. And, if we broaden the inquiry to all the facts disclosed by the testimony, it is clear beyond doubt that the navigation company was a *bona fide* purchaser within the meaning of the resolution of 1861, and intended as a beneficiary thereunder. It follows from these conclusions that there was no error in the ruling of the Circuit Court dismissing the bill, and its decree is affirmed.

So much has been said in previous reports relative to the Des Moines River land grant, that I have thought it unnecessary to occupy space here with a repetition of the history of said grant. There was published in the last biennial report of the Land Department, a complete list of the Des Moines River land patents issued by the State of Iowa to individuals who purchased those lands that were approved and certified to the State under the original Des Moines River grant of August 8, 1846. About nine hundred of these patents are safely deposited in this office ready for delivery to the persons entitled to them, upon the return of the certificate of purchase given to the original purchaser of the land.

MISCELLANEOUS.

Under this subdivision of my report I have included a statement, with some information under the head of "Meandered Lakes," and the conveyance of lands which do not belong to any of the Congressional grants.

THE MEANDERED LAKES.

A quite general opinion prevails that the title to the meandered non-navigable lakes in the State, is in the United States government, and that Congress should release the title to the State in order to preserve them by legislation from drainage, keeping these bodies of water, as near as possible, in their native beauty, as permanent places of resort for the pleasure and recreation of the people.

If the State should be recognized as owner of the beds of these lakes, it would not be for the purpose of selling. It would be owner only as a trustee for the public use.

Some have entertained the opinion that the title to these lakes passed to the State as swamp lands under the act of September 28, 1850, but the Secretary of the Interior has rendered decisions adverse to such view, and denied requests for such lakes to be drained, surveyed and listed as swamp lands.

In view of obtaining information in relation to the title to lake beds, I addressed a letter to the Secretary of the Interior, and the following letter was received in reply:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., May 17, 1893.

The Secretary of State, Des Moines, Iowa:

SIR—I am in receipt, by reference from the Department, of your letter, dated April 21, 1893, requesting information relative to the title to beds of meandered lakes in the State of Iowa.

In reply, I have to state that when in the extension of the lines of the public surveys a lake is meandered, and the fractional lots bordering thereon have been entered under the general land laws or disposed of by the Government in accordance with the official plats, any land which may exist within the area of such lake, is not subject to survey and disposal by the United States.

See U. S. supreme court decisions in the cases of *Hardin v. Jordan* and *Mitchell v. Smale*, 140 U. S., 371, 406.

Very respectfully,
EDW. A. BOWERS,
Assistant Commissioner.

In support of the ruling given by the Hon. Commissioner in the foregoing letter, I submit herewith a decision of the Secretary of the Interior of March 17, 1892.

APPLICATION FOR SURVEY—MEANDERED LAKES.

F. M. PUGH ET AL.

The government has no jurisdiction to order a survey of lands lying within the meander line of a non-navigable lake, where the lands adjacent thereto have been patented or applications filed therefor.

Secretary Noble to the Commissioner of the General Land Office, March 17, 1892:

F. M. Pugh et al. have appealed from your decision of November 7, 1889, denying their application for the survey of lands within the meander lines of Saltese lake, in townships 24 and 25 north, range 45 east, Olympia, Washington.

The application was met by the protest of Lucy A. Sims, who claims a part of the land on the west side of the lake, which appears to be a body of non-navigable fresh water, three or four miles in length and from one-half to one mile in width.

The township was surveyed in September, 1877, and the plat was approved September 30, 1878. The lake was meandered by the survey, and lots contiguous to and surrounding the lake of various areas were designated as lots 1, 2, 3, etc. The lots in the odd numbered sections were listed by the Northern Pacific Railroad Company June 27, 1888, list 12.

Mrs. Sims claims lots 1 to 8, inclusive, bordering on the west side of the lake in Sec. 29, as grantee of said railroad company.

Lots 1 and 2, in Sec. 28, and bordering on the lake, were patented to F. A. Pugh, December 27, 1888; and lots 3, 4, and 5 in said section, also bordering on the lake, were patented to Adolph Rivers, May 26, 1888.

Homestead certificate 2390 was issued to Francis McK. Pugh, on April 22, 1889, for lot 6, in Sec. 28, and lots 1, 2, and 3, in Sec. 33, also bordering on the lake.

Lots 4 and 5, in Sec. 4, T. 24 N., R. 45 E., bordering on the lake, were patented to Hattie Wates October 12, 1891; and lot 7, in Sec. 5, in the last named township, was selected by said railroad company in list 12, June 27, 1888.

It is alleged that there is a considerable strip of dry land between the original meander line and the waters' edge of the lake, and that large quantities of hay have been cut therefrom.

E. H. Donivan, one of the applicants, alleges that he has purchased improvements, within the meander line of the lake, for which he paid $500; and that he has built a house thereon, in which he has resided since September, 1889. William A. McWharton alleges that he has a house, a barn, and about eighty rods of fence within the meandred line of the lake, and Francis M. Pugh, another applicant, alleges that he built a house worth $300 within the meandered line of the lake in April, 1889, and has established his residence therein. F. A. Pugh alleges that he has also located on a portion of the land.

Homer B. Taylor alleges that he bought a squatter's right to a portion of the lake, paying $400 therefor, and has resided thereon since 1889. Felix M. and Francis McK. Pugh swear that they cut thirty tons of hay from the "so-called" lake in 1880; that they did ditching on the north side of the lake in October, 1880, by removing a small bar that prevented the egress of the water; that in 1881 they cut a ditch one-half mile long, eighteen inches to two feet deep, and four feet wide, for the purpose of carrying off part of the water through a natural outlet; in 1883 they run another ditch of about the same size and about one hundred and twenty-five yards long, and again in 1889 they dug another ditch about one mile long. They allege that the improvements put upon the lake by themselves and others are of the value of $3,500, and that vast quantities of hay have been cut during nearly every season since 1880, from the "so-called" lake bed, and that all the land surveyed as a lake is natural meadow land.

Protestant, Mrs. Sims, swears that during every spring the waters in the lake extend out to and beyond the meander line, that the lake is fed all the year round by two mountain springs, and none of the waters are carried off by any outlet or channel, but remain in the lake until absorbed by evaporation.

She claims to have made the purchase of the lands bordering on the lake because of the advantages which the lake afforded for stock raising, and she therefore protests against the application for the survey.

It is manifest from the showing made by the several applicants that much of the land within the meander line of the lake is valuable for agricultural purposes; also that considerable labor and money have been expended looking to the reclamation of the land, surveyed and reported by the government officers as "lake." But, inasmuch as the lots immediately contiguous to and surrounding the meandered line of the lake have been either patented or applied for by various claimants, riparian rights have intervened.

The applicants for the survey insist that the facts in this case are similar to those in the case of James Popple, *et al* (12 L. D., 433), where the survey was ordered. That may be conceded, but the Popple case was overruled in the case of John P. Hoel (13 L. D., 588), and the latter case was based upon the case of *Hardin v. Jordan* (140 U. S., 371), where it is said:

> It has never been held that lands under water (inland lakes and ponds) in front of such grants are reserved to the United States, or that they can be afterwards granted out to other persons to the injury of the original grantees.

It further says:

> The meander lines along the margin of such waters are run for the purpose of ascertaining the exact quantity of the upland to be charged for, and not for the purpose of limiting the title of the grantee to such meander line.

In the Hoel case (*supra*), referring to the case of *Hardin v. Jordan* it is said:

> It follows from said decision that non-navigable inland lakes and ponds, when the public survey shows the same meandered, and the fact appears that the contiguous lands or lots have been disposed of by the government, that the land covered by such lakes and within the meandered lines does not belong to the government, but to the adjoining proprietors under the common law right of riparian ownership.

It appears that some of the applicants for the survey own land bordering on the meander line of the lake; if so, they have their riparian rights to the center of he lake, and the improvements placed thereon are not necessarily lost. But whatever loss may have been suffered in the expenditure of money to reclaim the lands and putting improvements thereon, the Department is powerless to give relief; it has no jurisdiction over the lands within the meander line of the lake, and therefore no power to order the survey applied for.

The decision appealed from is therefore affirmed.

MEANDERED LAKES.

A Statement of the Meandered Lakes of Iowa, their Locality, Area, and Shore Line, as shown by the Meander Notes of Government Survey of same.

LAKE.	LOCALITY OF LAKE.			Estimated area in acres.	ESTIMATED SHORE LINE.		
	Town.	Range.	County.		Miles.	Chains.	Links.
	N.	E.					
*Goose Lake in secs 28, 29, 32 and 33	83	5	Clinton	301.55	2	65	48
	N	W					
Muscatine Slough in secs 7, 17, 18, 20, 21, 28 and 29	74	2	Louisa	570.00	19	31	40
Wapello Lake	75	2 & 3	Louisa	152.00	3	15	11½
Green Bayou, in secs 26, 27, 28, 29, 31, 32 and 33	68	3	Lee	271.00	8	48	37
Keokuk Lake, in secs 13, 22, 23, 24, 26 and 27	76	3	Muscatine	454.00	5	26	33
Lake in secs 1 and 2	96	3	Allamakee	163.86	2	50	68
Lake in secs 16, 20 and 21	88	4	Delaware	44.25	1	52	27
Two lakes in secs 13, 24 and 25	100	4	Allamakee	200.00	3	33	...
Swan Lake	80 & 81	7	Johnson	45.00	1	10	55
Lake in secs 4, 5, 8, 9, 16 and 17	99	3	Allamakee	679.00	6	16	39
Lake in secs 30 and 31	81	7	Johnson	62.73	2	6	...
Clear Lake	96	22	Cerro Gordo	3,643.37	13	35	42
Lake Rice	99	22 & 23	Worth and Winnebago	600.00	7	56	75
Silver Lake, in secs 14 and 15	100	22	Worth	318.00	3	8	95
Bright's Lake, in secs 7, 8 and 17	100	22	Worth	155.00	2	18	50
Iowa Lake, in secs 14, 15, 22, 23, 24, 25 and 26	88	23	Hamilton	886.84	6	34	13
Wall Lake, in secs 9, 10, 15 and 16	86	24	Hamilton	304.56	2	67	...
Lake in sec 27	87	24	Hamilton	142.00	2	1	55
Cairo Lake	87	24 & 25	Hamilton	1,382.00	8	53	43
Walled Lake, in secs 2, 3, 10, 11, 14 and 15	90	24	Wright	986.85	5	73	91
Cornelia Lake, in secs 9 and 16	92	24	Wright	333.42	7	71	97
Elin Lake, in secs 21, 22, 27 and 28	92	24	Wright	450.38			

Twin Lake, in secs 28 and 29	93	24	Wright	107.07	1	67	32
Lake, in secs 19, 20, 29 and 30	94	24	Hancock	193.00	3	4	20
Lake	96	24 & 25	Hancock	106.00	..	..	...
Lake	96	24 & 25	Hancock	915.00	5	22	84
Duck Lake, in secs 20 and 21	100	24	Winnebago	71.30	1	27	40
Lake, in se qr sec 24	96	25	Hancock	59.00	1	7	47
Lake, in secs 9, 10, 15 and 16	97	25	Hancock	252.68	2	63	13
†Impassable marsh	91 & 92	27	Humboldt	1,743.20	9	22	15
Owl Lake, in secs 21, 22, 27 and 28	92	27	Humboldt	772.14	4	65	...
Lake	90 & 91	29	Webster and Humboldt	211.00	3	40	...
Bass Lake	91	29 & 30	Humboldt	208.00	2	60	87
Bancroft Lake, in secs 10, 14 and 15	100	29	Kossuth	125.00	3	60	79
Lake	84	30 & 31	Greene	715.00	3	68	73
Lake, in sec 17	100	30	Kossuth	76.43	1	35	...
Lake, in sec 28	100	30	Kossuth	147.40	2	40	...
Lake, in secs 9 and 10	100	30	Kossuth	48.00	..	75	...
Lizard Lake, in secs 22 and 27	91	31	Pocahontas	252.38	2	75	75
Iowa Lake, in secs 11, 12 and 14	100	31	Emmet	285.00	3	42	75
Walled Lake	88 & 89	32 & 33	Calhoun	571.00	6	33	51
Lake (Medium)	96 & 97	32 & 33	Palo Alto	980.00	12	57	21
Swan Lake (7 or 8 miles long)	99	32 & 33	Emmet	2,300.00	22	30	70
Lake Okamanpadu, in secs 10, 11 and 12	100	32	Emmet	945.00	3	58	...
Tremont Lake	100	32 & 33	Emmet	147.00	2	16	86
Lake, in sec 10	86	33	Calhoun	160.84	2	3	79
Lake, in secs 1, 2, 11 and 12	88	33	Calhoun	490.00	4	41	59
High Lake, in secs 11, 12 and 13	98	33	Emmet	461.00	3	43	...
Lake, in secs 14, 15 and 23	98	33	Emmet	337.00	4	70	29
Swan Lake, in secs 27, 28, 33 and 34	99	33	Emmet	442.28	5	40	...
Lake in secs 16 and 17	100	33	Emmet	177.20	2	68	...
Tow Head Lake, in secs 23 and 24	89	34	Calhoun	195.05	2	16	6
Clear Lake	91 & 92	34	Pocahontas	170.00	3	2	62
Two Lakes, in secs 9, 15, 16 and 17	93	34	Pocahontas	616.00	7	15	28
Rush Lake, in secs 20 and 21	94	34	Palo Alto	501.15	4	1	20
Silver Lake, in secs 18, 19, 21, 28 and 29	95	34	Palo Alto	656.00	5	71	23
Lake in secs 29 and 30	96	34	Palo Alto	192.57	7	29	35
Lake in secs 16, 17, 19, 20 and 21	96	34	Palo Alto	458.42			

MEANDERED LAKES—CONTINUED.

LAKE.	LOCALITY OF LAKE.			Estimated area in acres.	ESTIMATED SHORE LINE.		
	Town.	Range.	County.		Miles.	Chains.	Links.
Lost Island and Pelican Lakes	96 & 97	35 & 36	Palo Alto and Clay	3,425.00	28	3	15
Trumbull Lake	96 & 97	35	Clay	1,773.00			
Twelve Mile Lake, in secs 20, 21 and 29	98	34	Emmet	300.95	3	27	23
Cheever Lake, in secs 20, 21 and 29	99	34	Emmet	316.43	4	74	16
Lake	99	34 & 35	Emmet and Dickinson	219.00	1	69	32
Lard Lake, in secs 4, 5, 8 and 9	89	35	Sac	246 19	2	48	31
Rush Lake, in secs 8 and 17	89	35	Sac	63.60	1	26	5
Lake	93 & 94	35	Buena Vista and Clay	172.97	2	13	60
Lake in secs 25 and 26	94	35	Clay	235.23	2	22	62
Lake	95 & 96	35	Clay	306.00	1	40	95
Lake, in secs 8, 9, 16, 17 and 20	97	35	Clay	319.00	4	32	97
Lake, in secs 7 and 18	99	35	Dickinson	127.00	1	63	...
Lake	99	35 & 36	Dickinson	110.00	2	7	75
Lake, in secs 22, 23, 26 and 27	100	35	Dickinson	375.15	4	38	73
Wall Lake	86 & 87	36	Sac	907.00	9	30	30
Spirit Lake	100	36	Dickinson	5,600.00	13	73	86
Okoboji, east	99 & 100	36	Dickinson	1,842 00			
Okoboji, west	99	36 & 37	Dickinson	3,993.00	38	38	7
Gar Lakes, in secs 29, 30 and 32	99	36	Dickinson	406.00			
Two Lakes	99 & 100	36	Dickinson	194 00	3	32	84
Lake, in secs 5, 6, 7 and 8	99	36	Dickinson	293.42	3	7	85
Lake in sec 23	99	36	Dickinson	136.37	2	1	20
Lakes, four, just west of Spirit Lake	100	36	Dickinson	900.00	12	25	25
Storm Lake	90	37	Buena Vista	3,224.47	9	61	67
Lake in secs 31 and 32	99	37	Dickinson	143.00	3	12	24
Lake in secs 30 and 31	99	37	Dickinson	157.40	2	62	24

Diamond Lake, in secs 10, 11, 14 and 15	100	37	Dickinson	164.55	2	4	15
Lake in secs 23, 24, 25 and 26	100	37	Dickinson	70.90	1	24	20
Lake	100	36 & 37	Dickinson	50.00	1	14	21
Silver Lake, in secs 27, 28, 29, 32, 33 and 34	100	38	Dickinson	1,047.40	6	41	79
Lake on Minnesota State line	100	39	Osceola	165 90	2	1	70
Rush Lake	100	39 & 40	Osceola	357.53	3	33	61
Wabonsie Lake, in secs 2 and 3	70	43	Fremont	260.00	1	67	38
Lake in secs 29 and 32	74	43	Pottawattawie	72.48	1	53	50
Lake in secs 11, 14, 15, 22 and 23	75	44	Pottawattamie	430 79	6	39	40
Lake in secs 2, 3, 10 and 11	76	44	Pottawattamie	234 63	4	19	77
Boyer Lake, in secs 21, 22, 27 and 28	76	44	Pottawattamie	593.00	5	10	25
Lake	77 & 78	45	Pottawattamie and Harrison	76.78	2	4	85
Lake in secs 22, 23 and 26 (Soldier)	78	45	Harrison	266.91	4	48	99
Lake in secs 2, 11, 14, 15, 22 and 27	80	45	Harrison	532.00	8		20
Lake in secs 13, 14, 23 and 24	80	45	Harrison	416.88	3	25	69
Blue Lake	83 & 84	45 & 46	Monona	1,598.60	10	28	63
Lake in secs 10, 11, 12, 13, 14, 23, 24, 26, 27 and 34	86	47	Woodbury	991.27	13	8	59

*Goose Lake, in Clinton county, was drained, surveyed and approved as swamp land and patented to the county as swamp land, October 7, 1886.

†The "Impassable Marsh," in Humboldt, has been surveyed and approved and patented to the State as swamp land, and patented by the State to Humboldt county.

CONVEYANCES FOR REAL ESTATE TAKEN ON ACCOUNT OF DEBTS DUE THE STATE.

During the last biennial period the following conveyances were issued by the State for real estate taken on account of debts due the State:

Taken as the property of Samuel E. Rankin, on account of Indebtedness to Agricultural College fund.

PARTS OF SECTIONS.	SEC.	TP.	RNG	ACRES.	NAME OF GRANTEE.	DATE OF PATENT
ne qr.....	21	100	48	160	J.W. Roach and S. S. Wold.....	Nov. 17,1891
All.....	28	100	48	640		
All.....	29	100	48	640		
se qr.....	30	100	48	160		
Total....	....	....	....	1,600	Consideration,$23,504.00	
s hf sw qr....	1	97	40	80	I. N. Drake..... Consideration. $1,000.	April 23, '92

In accordance with section 1, chapter 159, Acts of the Twenty-fourth General Assembly, patent was issued by the State of Iowa to Felix Garten and C. F. Garten December 8, 1892, for the W ½ of N W ¼ of section 20, town 70 north, range 21 west, containing 80 acres, and being a part of the lands taken on account of loans of school fund by James D. Eads, Superintendent of Public Instruction.

ESCHEATED REAL ESTATE.

The following real estate to-wit: Lot number seven (7), block number five (5), in the town of Bristow, Butler county, Iowa, escheated to the State, and was under the order and direction of the Auditor of State, sold by an administrator duly appointed and qualified as provided by the laws of Iowa, relative to the disposition of escheats.

On the 19th day of March, 1892, patent was issued by the State of Iowa to J. C. Underwood for said lot, upon a certificate of final payment filed in this office by the county auditor of Butler county, showing that said J. C. Underwood was the purchaser, and that full and complete payment had been made therefor.

It may be said that the law in relation to the sale and conveyance of escheated realty is not easily interpreted, but the law governing the sale and conveyance of school lands is regarded as authority for the disposition of realty which has escheated to the State, and the proceeds of which become a part of the permanent school fund. Respectfully submitted.

W. M. McFARLAND.

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