

a condition as to sell or encumber more than one hundred and twenty sections in such a way as to affect the rights of the State. Before doing any work, the company were authorized to sell one hundred and twenty sections of the land, and if they have done so, and the title has passed to *bona fide* holders, it is beyond your reach and control.

By section 4, of the original grant, the residue of the lands were placed beyond the absolute disposal of the company. Neither the State or the company could convey or encumber any greater interest than they possessed. Every mortgage or *cestui que use* accepted their security, subject to the conditions of the grant. Any act, therefore, that under the grant would divest the title of the grantees would also extinguish their liens, except as limited above.

Assuming that the State has the right to resume, the enquiry arises in what way should it proceed in order to do so? Is an act of the General Assembly sufficient to re-invest the title? I am of the opinion that the title by the mere omission of the company to comply with the conditions of the grant does not re-invest in the State, but in order to resume the title the State must first assert it, by some positive act on its part, as by actual notice to the grantee or the passage of a public act which would operate as notice to all persons. Although it might be desirable first to have a judicial decision which should settle and confirm the rights of the State, yet it is by no means a condition precedent to her acting upon those rights as if already so determined. The act of resumption can in no just sense be termed a judicial one. It can only proceed from the party entitled thereto; it is perfect in itself and independent of any action of the Court. It follows, therefore, that the General Assembly may proceed to make such disposition of the laws in question as they may deem proper, keeping of course within the limitations of the grant from Congress. In conclusion, permit me to say, that the foregoing views are submitted not without some diffidence, arising from the fact that the questions presented involve not only the interests of the State with reference to the Iowa Central Railroad, but to all the other great lines provided for in the act of July 1856, under the grant of which some two million five hundred thousand acres of land have been set apart to the various companies. No one question of State policy embraces a greater magnitude of pecuniary interests, or is more worthy of a well considered and judicious action.

SAMUEL A. RICE.

REPORT

OF

THE COMMITTEE ON

SCHOOLS AND STATE UNIVERSITY.

The Committee on Schools and State University, to whom was referred the report of the Trustees of the State University, respectfully report:

That they have examined the same, and find it in accordance with the law.

From this report and other sources of information, the committee learn that the State University, with the exception of the Normal department, has been closed since the summer of 1858. The reasons assigned for the closing of the University by the Trustees then in office, were, 1st, the pecuniary embarrassments of the country, rendering it difficult to collect the interest on the funds; and, 2d, the want of suitable buildings for lecture-rooms and students' apartments; in consequence of which the citizens of the State, generally, could not avail themselves of the advantages of the University.

There were complaints that it was conducted at an expense of many thousands of dollars per annum, for the sole benefit of Iowa City; that students from abroad could not procure board and suitable rooms for study unless at great expense, and that an institu-

tion which belonged to all the people of the State, was no better than a high school for the benefit of a single city.

To remove these causes of complaint, by providing proper accommodations for the students from abroad, an application was made to the General Assembly, for the means to repair and fit up the State-house, which had been given to the University, and also for erecting on the grounds, a building called a boarding hall, and intended mostly for students' rooms.

A grant of \$13,000 was made for these purposes—\$3000 for repairs, and \$10,000 for the erection of a boarding hall. The appropriation proved inadequate. More extensive repairs on the State-house were required than were anticipated, and the plan adopted for the boarding house was too large and expensive, to be completed with ten thousand dollars. Five thousand were borrowed from the interest fund, to finish the enclosing and roofing of this building in order to protect it from the weather and preserve the work already done. It still remains in an unfinished state, and requires a further expenditure to make it of any use to the University, while the State-house needs further repairs and alterations.

Under these circumstances, the Trustees apply for an appropriation of \$20,000;—\$5000 to replace the money borrowed from the interest fund,—\$10,000 for the completion of the new building, and \$5000 for repairs and alterations in the State-house, and for the purchase of necessary apparatus.

Believing that the University is of the first importance to the educational interest of the State, and that it should be re-opened at the earliest possible day, your Committee would, under ordinary circumstances, cheerfully recommend that the appropriation asked for should be made; but such is the straightened condition of our finances, and the pecuniary embarrassment of the people of the State, oppressed with debt and taxes, that they are constrained to recommend the smallest possible appropriation, that will put the University in a condition to be opened next autumn.

Your Committee are of opinion that with strict economy, the old State-house may be fitted up, and a portion of the new building sufficient to answer the purposes of the University for a year or two to come, can be finished at a cost of \$10,000.

Your Committee would also respectfully represent, that unless this appropriation is made, the University must remain closed till another General Assembly, (two years hence) shall make the appropriation, and after that, till the building and repairs can be completed; so that nearly three years must elapse, before the people of the State can reap any advantage from the University.

The law restrains the Trustees from applying the income of the University fund to building purposes, and they are compelled to look to the General Assembly for the means to enable them to execute the trust committed to them.

But while your Committee earnestly recommend an appropriation of \$10,000 for the relief of the University, they cannot pass over the action of the Trustees in office, when the last appropriation was expended, without notice.

The law was explicit, \$10,000 were to be expended in the erection and *completion* of a boarding hall. The Trustees laid the foundation of a building which takes more than twice that sum to finish, and whether this was done designedly or carelessly, it was a breach of the law. That the building was such as the University needed—that when finished it will not be too large for the purpose intended—that it is thus far built in the most substantial manner, and that the money was faithfully expended, for the benefit of the University, are freely granted; but all this does not justify a departure from an express law.

But, however much your Committee disapprove of the action of the Board of Trustees of 1858, they see no reason why, on this account, the General Assembly should withhold the means necessary to put the University in operation.

The Trustees were not the party for whose benefit the grant was made. They were but the agents of the State, appointed to execute a trust, for the benefit of the people of the State. They have relinquished that trust, and a new Board has been appointed in their place. It is our duty to act for the good of the University, and through it for the benefit of the people of the State, and to make such provision, that our young men may be educated and well educated, upon our own soil, and not be compelled for three years longer, to resort to the literary institutions of other States in order to complete their education.

Your Committee would further state, that while they have entire confidence in the present Board of Trustees, they have nevertheless incorporated in the bill which they beg leave to report, a provision, which in their opinion, will effectually prevent the misapplication of the appropriation which they recommend, and also save the University the delay and expense of a special meeting of the Board of Trustees.

JESSE BOWEN,
C. BUSSEY,
A. F. BROWN,
J. J. WATSON,
G. W. GRAY,

Committee on Schools and University.

SIXTH ANNUAL REPORT

OF THE

SUPERINTENDENT

OF

PUBLIC INSTRUCTION,

OF THE

STATE OF NEW YORK.

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