

Proposed Improvement of the  
Iowa State Capitol Grounds

E. R. Harlan

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PROPOSED IMPROVEMENT OF THE  
IOWA STATE CAPITOL GROUNDS

An Address before the  
Iowa Chapter American Institute of Architects  
at the  
State Historical Building  
Des Moines, Iowa, October 22, 1913

BY  
EDGAR R. HARLAN  
Curator Historical Department of Iowa  
Secretary Allison Memorial Commission  
Honorary Member American Institute of Architects  
Honorary Member National Sculpture Society

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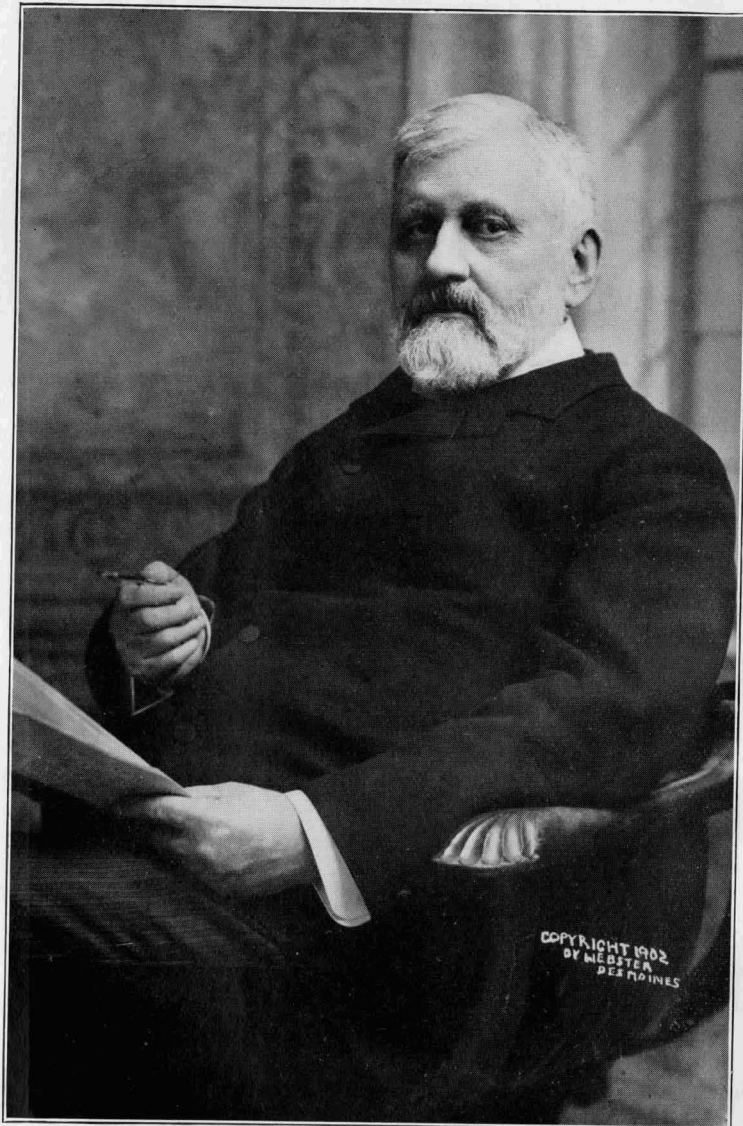


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*W. B. Allison*

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Des Moines, Iowa



To  
General Grenville Mellen Dodge  
Builder of Monuments

*Iowa  
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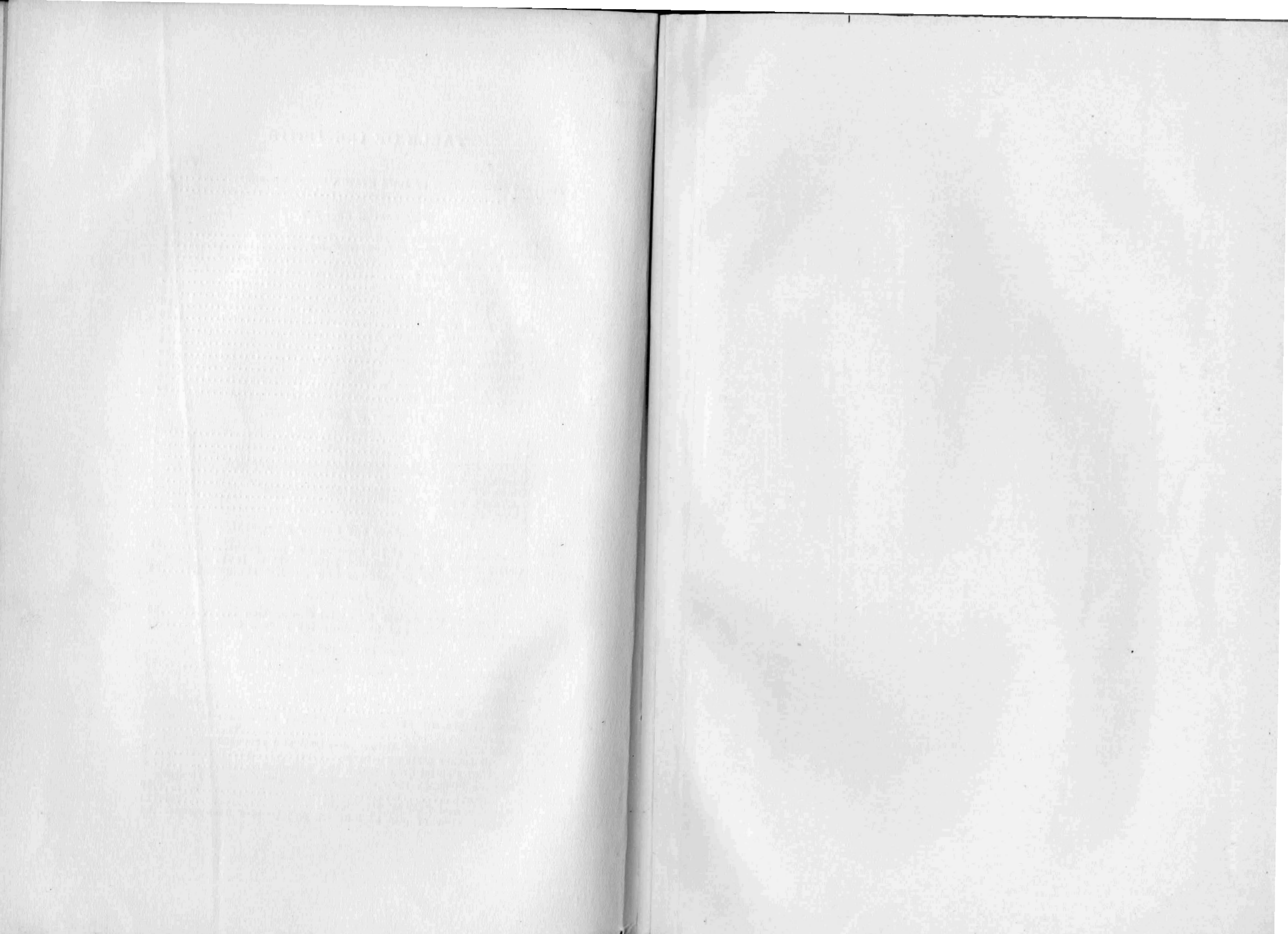
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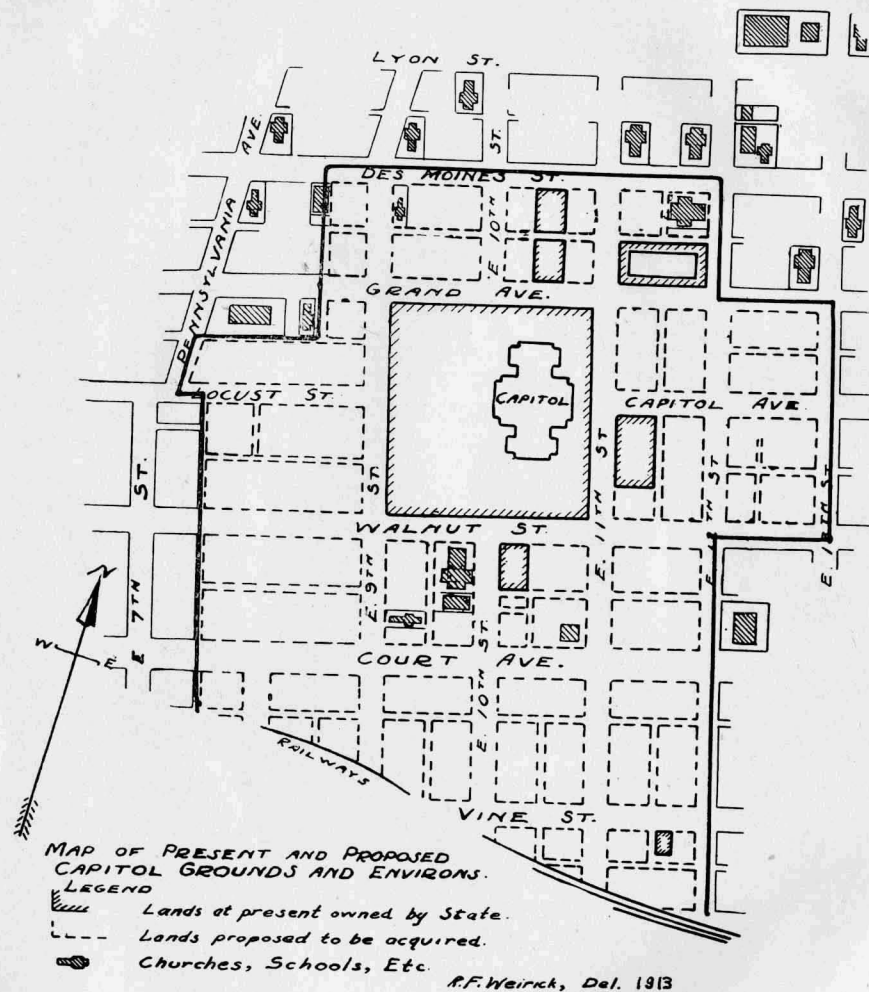
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Outline map of present and proposed Iowa State Capitol grounds and environs, Des Moines, Iowa.

## PROPOSED IMPROVEMENT OF THE IOWA STATE CAPITOL GROUNDS.

BY EDGAR R. HARLAN.

It is a part of the business of the Historical Department of Iowa to co-operate and exchange thought with every other Iowa person and institution standing for true culture. In that service it has exchanged courtesies with creators as well as lovers of painting, sculpture, literature, and all the other arts. It is with peculiar satisfaction and appropriateness that the opportunity is accepted today, of exchanging thought with your society as our guests.

The Curator of the Historical Department of Iowa began early in his service with the Allison Memorial Commission (a duty conferred upon him by statute<sup>1</sup>) to confer with members of your profession in Des Moines and other cities, with a view to fully fortifying his judgment along architectural lines. He thus arrived for the first time at a full comprehension of the ability of his associates on the Commission, and of their perception that their duty was not only to avoid mistake, but also to embrace a really magnificent opportunity; that is, while commemorating in sculpture, Iowa's great statesman, the Commission could and should in the selection of a site lead the State from an aimless policy of random placement of its State buildings, out upon the broad, sensible ground of regular, permanent, artistic arrangement. This would at once be a further tribute to the memory of Senator Allison<sup>2</sup> and a monument to the business ability of his generation.

The law creating the Commission provided that the memorial should be placed "upon the capitol grounds or some extension thereof." Your trained minds instantly perceive that however well the sculptor may say in plastic language, "This

1. Appendix, page 30.  
2. Appendix, page 13.

was one of the great American minds," our indifference as to where the work shall stand will say, "But it was a short sighted generation in which that famous statesman closed his fruitful life."

And so it was that the chairman of this Commission, Gen. Grenville M. Dodge<sup>3</sup>, one of the great builders of America, instantly approved the scheme of having the expert committee of trained men which had been invited to assist in the selection of the model, also advise upon the selection of the site. The National Sculpture Society, which delegated this committee, assigned to us, as sculptor expert, Mr. Karl Bitter<sup>4</sup>, and as architect expert, Mr. E. L. Masqueray<sup>5</sup>. But the day for the competition falling on the day of a previous engagement of Mr. Bitter, he yielded to Mr. Charles Grafly<sup>6</sup>, head of the sculpture department of the Pennsylvania Society of Fine Arts. So in the place of Mr. Bitter, Mr. Grafly came to Des Moines, and with Mr. Masqueray, Governor Carroll, General Dodge and the Secretary, under the provisions of the statute began the service of selecting the model and determining the site.<sup>7</sup> Membership on the Commission from the Senate and House had expired, and vacancies remained until the convening of the Thirty-fifth General Assembly.

Mr. Masqueray led in the study of the placement of the memorial; with your speaker he visited the Capitol and all the grounds, streets, and alleys within a reasonable radius. We consulted General Dodge, Governor Carroll<sup>8</sup>, Secretary of State Hayward<sup>9</sup>, State Auditor Bleakly<sup>10</sup>, State Treasurer Morrow<sup>11</sup>, Secretary Davison<sup>12</sup> of the Executive Council and many others with reference to the immediate and eventual need of other structures.

We searched pertinent resolutions and bills introduced into the different legislatures; we read reports of departments for

3. Appendix, page 13.
4. Appendix, page 14.
5. Appendix, page 14.
6. Appendix, page 14.
7. Appendix—Rule as to site for monuments, page 29.
8. Appendix, page 14.
9. Appendix, page 14.
10. Appendix, page 15.
11. Appendix, page 15.
12. Appendix, page 15.

ten years or more and ascertained the present and proposed improvements of like nature in other states<sup>13</sup>; we examined all the Executive Messages, and took special notice of those of Governors Larrabee<sup>14</sup>, Shaw<sup>15</sup>, Cummins<sup>16</sup>, Garst<sup>17</sup>, Carroll and Clarke<sup>18</sup>. There is probably no better way of tracing currents of popular thought. State pride is revealed, shortcomings are stated and remedies suggested, limitations are defined and ways and means outlined. The subject of correcting and completing the Capitol equipment as a part of State policy is usually expressly advocated. Even at the time the removal of the capital from Iowa City and the construction of the Capitol were bitter political issues, no Chief Executive ever stood against providing that the future might build as it needed. In the evolution of the plan to correct and complete the Capitol grounds, this series of Executive expressions had tremendous effect.

The great Soldiers and Sailors' Monument, conceived in a holy enthusiasm and carried out with every good intention<sup>19</sup>, has never been officially dedicated. In the published proceedings of the Iowa Department G. A. R. are found the bitterest complaints of the site it occupies<sup>20</sup>.

Special attention therefore has been given to the eventual appropriate treatment of our great Soldiers and Sailors' Monument. With grounds ideally enlarged and treated, with the certainty that the monument will outlast even the Capitol itself, the center of the viewing population upon State property will be eastward of the latter. The mass and height of the monument, the honor in which the men and events it commemorates will forever be held, demand its placement at the intersection of the two principal streets of the enlarged grounds, on the easterly axis of the Capitol. There in the center of such a parade ground as would admit of appro-

13. Appendix—Six months' record of proposed improvements—page 29.
14. Appendix, page 15.
15. Appendix, page 16.
16. Appendix, page 16.
17. Appendix, page 16.
18. Appendix, page 16.
- 19.—Appendix—Abstract of account of erection and placement of soldiers and sailors' monument—page 21.
20. Appendix—Surviving soldiers' sentiments in G. A. R. proceedings—page 24.



priate patriotic or military occasions, now impossible except in streets, with its four sides clearly visible a thousand feet and more, its grandeur and impressiveness would be incalculably enhanced. The best thought is that this great work, after its ideal placement, shall be regarded as the deliberate artistic expression of the generation producing it and even if any slight deficiency of artistic merit then remain, the whole will be of too sacred a character to be touched by other hands. For the average mind will more and more revere it as the sacrifice which it betokens farther and farther recedes, and as tradition more and more hallows the monument itself.

Out of all this was brought a plan contemplating:

1st. The immediate and correct placement of the Allison Memorial, contracted to be erected in 1915, at a cost of \$50,000.00.

2d. The eventual appropriate placement of our great Soldiers and Sailors' Monument.

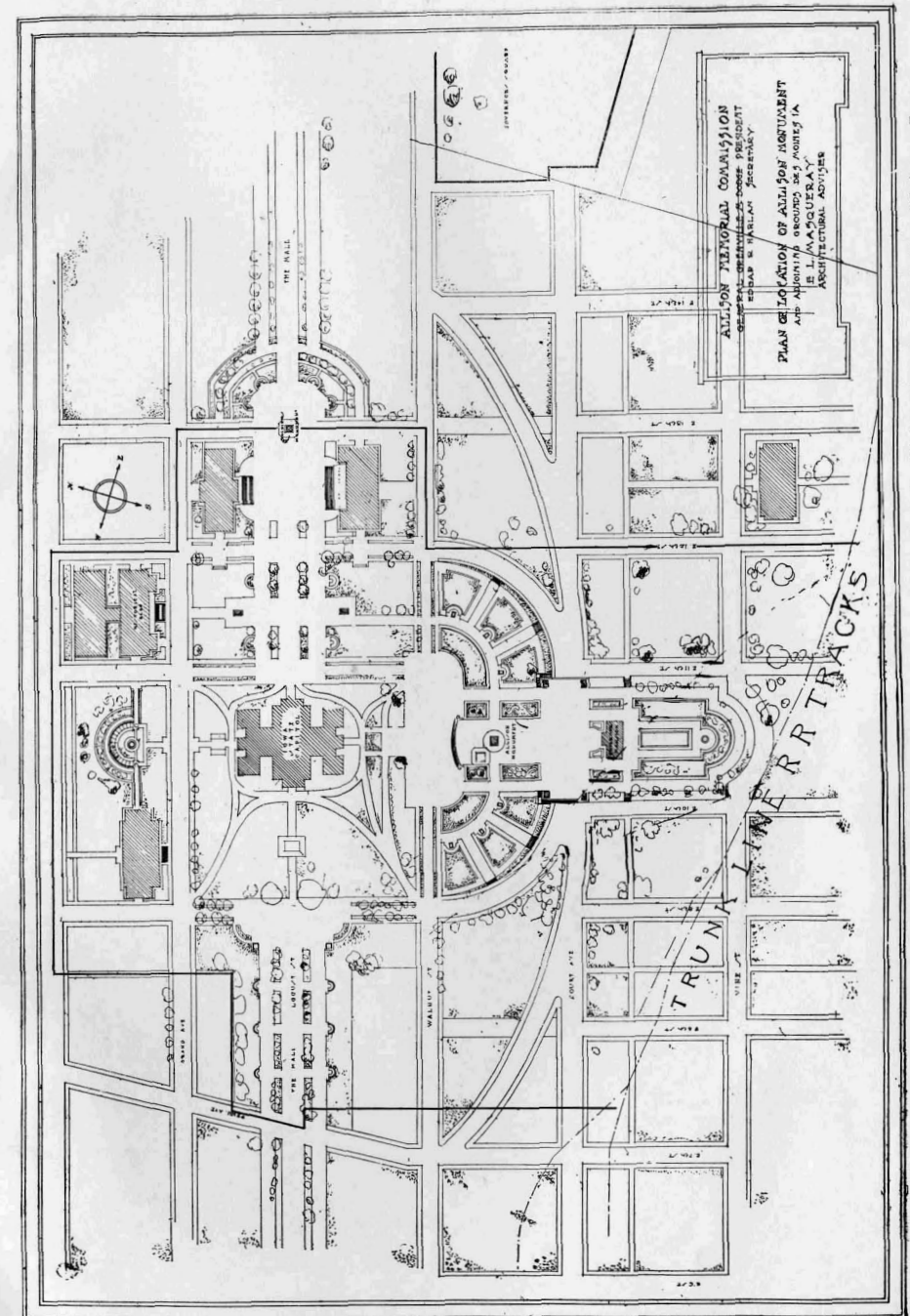
3d. The eventual removal of the heating plant to the railroad, relieving the State of the perpetual hauling of coal and ashes and saving the priceless property from the insidious but fatal work of gas and smoke.

4th. Provision for an eventual office and storage room for the Adjutant General, which at present costs the State an annual rental of about \$5,000.00.

5th. An eventual Executive Mansion, such as has already been provided in Montana, Nevada, Tennessee, Texas, Virginia, West Virginia, Nebraska and New York, and is proposed in other states.

6th. Provision for eventual office buildings such as are proposed in California, where ornamental grounds of some thirty-one acres, instead of being impinged upon for a building site, are being protected by the purchase of adjacent grounds at a cost of nearly \$700,000.00. Many other states already have or contemplate similar equipment in buildings other than their capitols.

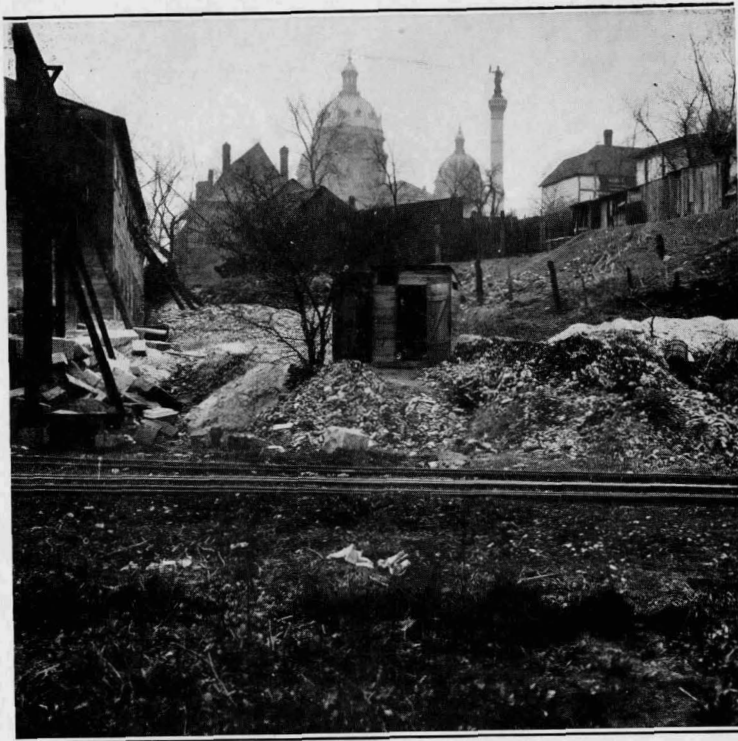
7th. Provision for an eventual Supreme Court building, wherein the priceless records of that tribunal, together with



Plan of location of Allison Memorial and proposed placement of future State structures at Des Moines, Iowa.







View of Iowa State Capitol from trunk line railroads.  
Restoration of original grass terrace is proposed.

The writer was of the company when Right Hon. James Bryce, British Ambassador, on his last visit to our State, inquired what building it was whose gilded pinnacle he could see from his train. "That is the Capitol of Iowa," Governor Carroll responded, "I think our people will improve the surroundings soon." The Ambassador then uttered the substance of his well-known remarks to the American Civic Association, to which he said:

"The world seems likely to last a long, long time, and we ought to make provision for the future.

"The population of the world goes on constantly increasing and nowhere increasing so fast as in North America.

"A taste for natural beauty is increasing, and as we hope, will go on increasing.

"The places of scenic beauty do not increase, but, on the contrary are in danger of being reduced in number and diminished in quantity, and the danger is always increasing with the accumulation of wealth, owing to the desire of private persons to appropriate these places. There is no better service we can render to the masses of the people than to set about and preserve for them wide spaces of fine scenery for their delight.

"From these propositions I draw the conclusion that it is necessary to save what we have got, and to extend the policy which you have wisely adopted, by acquiring and preserving still further areas for the perpetual enjoyment of the people."—*Annals of Iowa*, Vol. XI, No. 2-3, page 112.

its library and other indispensable auxiliaries may have perpetual growth and constant accessibility; such buildings have been provided in the states of Connecticut, Florida, Illinois and Missouri, and are proposed in other states.

8th. Mr. Masqueray observed and proposed the restoration of the natural scenic value of the capitol site; recognized the probable commemoration in future by monuments and other structures of noted men and events of Iowa; the lack of parade grounds so greatly needed on occasion; the value of an unobstructed view from trunk line trains but a thousand feet away<sup>21</sup>.

There is danger of surrounding areas becoming unsightly rendering the whole in some sense incomplete. It was, therefore, thought proper to suggest the acquisition of an area in addition to that indispensable for foundations of all eventual structures. Thus the State, through its own work or the work of other owners under its restrictions, would complete the group and grounds in harmony with the State's own standards. Your minds, far more quickly than my own, will comprehend, and I believe, more resolutely sustain this thought. The business mind as easily comprehends the profits inuring to the State in adjacent areas, if any such should be acquired and finally be found unnecessary to the plan of improvement adopted by the State.

Please observe that much of the space on the edge of the proposed enlargement is occupied by schools and churches<sup>22</sup>. You easily foresee that if Iowa abandons haphazard placement and keeps to the best in grounds and architecture, no inferior structure will ever be obtruded by public fund or private benefaction, as witness the quality of recent buildings of Des Moines. By harmonizing with the State's standards others will thus enhance the beauty and value of all adjacent property.

Your profession could scarcely have better revealed its talent for the instant and accurate statement and solution of structural problems than to have produced through one of

21. See view on opposite page.

22. See map of proposed Capitol grounds and environs opposite page 5.

10 IMPROVEMENT OF IOWA STATE CAPITOL GROUNDS.

its members this plan<sup>23</sup> for the most certain, economical, yet desirable correction and completion of the Iowa State Capitol grounds<sup>24</sup>.

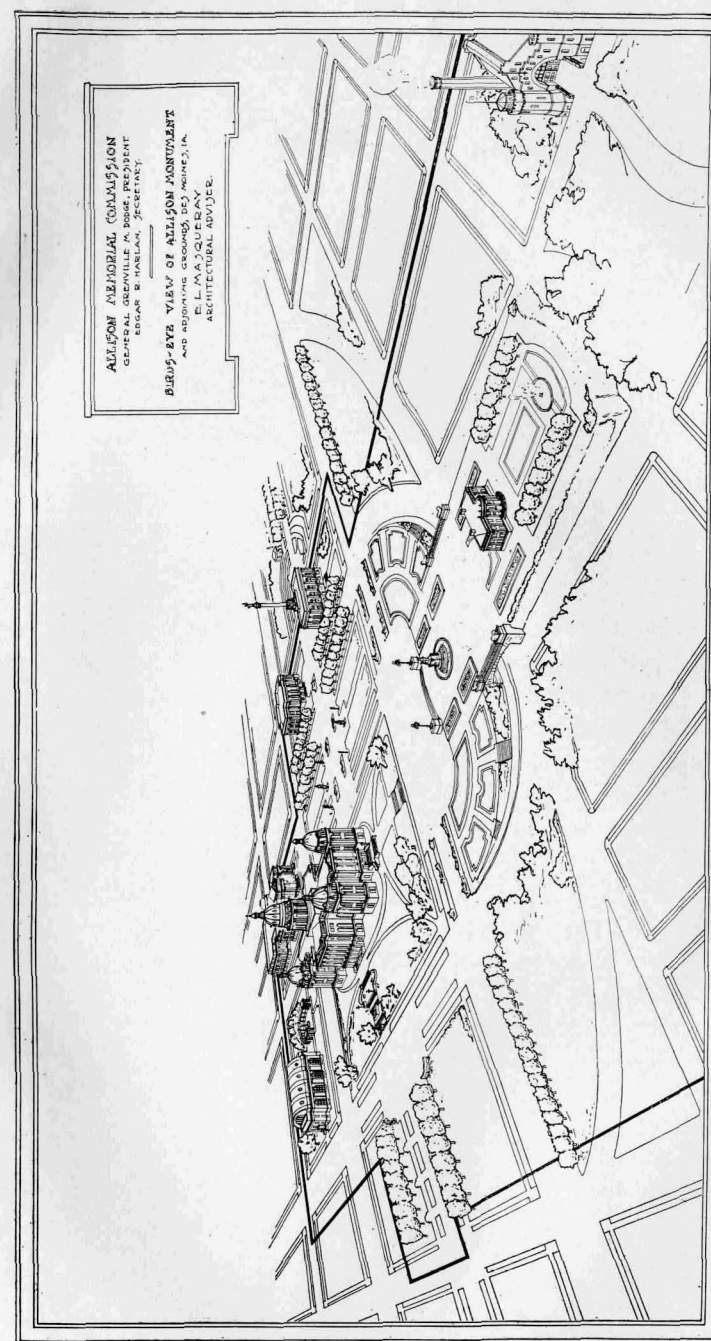
The selection of some plan, immediate and final, as to the placement of the Allison memorial, having regard for the artistic and economic values of the Capitol and the splendid Soldiers and Sailors' Monument, a plan upon which could be expended not vast funds, but any money, with every care and all skill, was, and is, manifestly obligatory on the present and will be advantageous to all the future. To your profession I feel the Allison Commission should and does, in this acknowledgment, pay its respects.

It is with extraordinary satisfaction I say to you that this plan and the law<sup>25</sup> enacting it, when submitted to individual members of your society and of your profession in this country and in Europe, has never failed to evoke expressions of respect and even praise for our governors, for the members of the General Assembly and for General Dodge. It is regarded as the most complete seizure of opportunity, through public law, an American commonwealth has recently made. If this were not deserved, surely technical minds, such as you possess, would long since have warned me. The popular thought has never been at rest upon the random placement of the structures about the Capitol. It is not a question of art or beauty more than of business. No man owning and living in his own house likes to concede the right of careless use or unsightly appearance of adjacent property. The cleanly, sightly, safe and lasting arrangement of permanent property is now mere household taste, not a professional question in Iowa. As for myself, driven rather by hunger than ambition, and led rather by appreciation of things done or diagrammed than by imagination, I can yet say I have had the greatest satisfaction of my whole life in a connection with men, whose tribute to achievement is by way of eternal bronze and stone—whose best work like your own is by fixed principles and once completed is forever done.

23. See E. L. Masqueray's plan of location of Allison Monument opposite page 8.

24. See E. L. Masqueray's birds-eye view of Allison Monument and adjoining grounds opposite page 10.

25. Appendix—Supreme Court opinion on Capitol Grounds Extension law, page 36.



Outline birds-eye view of possible improvement upon grounds authorized to be acquired by the State at the Capitol, Des Moines, Iowa.



## APPENDIX

## BIOGRAPHICAL.

WILLIAM BOYD ALLISON was born in Wayne county, Ohio, March 2, 1829. He received his early education at Allegheny College, Meadville, Pa., and Western Reserve College, Ohio. He took up the study of law, was admitted to the bar in 1850 and practiced in Ohio for seven years. Immediately upon his removal to Dubuque, Iowa, in 1857, he became an active and influential factor in Iowa politics. He served as delegate to the Republican State Convention in 1859 and to the National Convention that nominated Lincoln at Chicago in 1860. He was a member of the Governor's staff and aided in raising troops for the Civil War. He was elected Representative in Congress in 1863 and served until 1871. In 1873 he was elected United States Senator and was a member of that body continuously until his death, giving effective service as member and chairman of the appropriations committee and member of the finance committee. He was chairman of the National Monetary Conference at Brussels in 1892. He declined Cabinet positions offered him by Presidents Garfield, Harrison and McKinley. He was a candidate for presidential nomination at the National Republican Conventions of 1888 and 1896. He died at his home in Dubuque, August 4, 1908.

GRENVILLE MELLEN DODGE was born at Danvers, Mass., April 12, 1831. He attended Norwich University in Vermont and graduated in 1850 with the degree of C. E. The next year he graduated from Captain Partridge's Military Academy. In 1871 he was employed by the Illinois Central Railway and the next year by the Chicago & Rock Island Railway, and was assistant engineer during the construction of the Mississippi & Missouri Railway across the State of Iowa. Under the direction of Peter A. Dey, Chief Engineer of the Mississippi & Missouri Railway, and Henry Farnam, he made the survey along the Platte for a railway to the Pacific, one of the first surveys to be instituted for that purpose. He fought through the Civil war and rose to the rank of Major-General of U. S. Volunteers. He was chief engineer of the Union Pacific Railway, 1866 to 1870, and of the Texas and Pacific Railway, 1871 to 1881. From 1867 to 1869 he served as member of congress from the Second Iowa District. In 1898 he was made president of the commission appointed to investigate the charges of mismanagement relative to the Spanish-American war. In addition to his interest in the Allison Monument Commission, General Dodge has been connected with many movements for perpetuating the memories of famous Americans. He was vice-president of the trustees in charge of the erection of the Grant monument, New York, and marshal of the day at its dedication, April 27, 1897; chairman of the committee from the Society of the Army of the Tennessee which obtained the appropriation and erected the Grant monument, Washington; chairman of the Sherman monument committee and commission, Washington; member of the committee in charge of the Logan monument, Washington; Chairman of the committees in charge of the erection of the Lincoln and W. H. Kinsman monuments, Council Bluffs. He personally erected a monument to James Bridger at Kansas City and to Marshall F. Hurd at Denver. He has placed in West Point Memorial Hall a portrait of Maj. Gen. H. W. Halleck, one of Maj. Gen. J. B. McPherson and a bronze tablet commemorating the service of West Point men in the army. General Dodge was the representative of the Government to whom was assigned the duty of accepting



the Iowa monuments placed in the national military parks at Shiloh, Vicksburg and Chattanooga.

KARL THEODORE FRANCIS BITTER, sculptor, was born in Vienna, Austria, December 6, 1867, and was educated in the gymnasium there. He studied art in the Vienna Academy of Fine Arts, and came to the United States in 1889 and was employed in architectural sculpture.

He won a prize in the competition for the Astor memorial gates, Trinity church, New York, and executed sculpture on the administration and manufactures buildings of the Chicago exposition and for the residences of C. P. Huntington, Cornelius Vanderbilt, and others.

He obtained a silver medal at the Paris exposition, 1900, and gold medals at the Buffalo exposition, 1901, Philadelphia, 1902, and St. Louis exposition, 1904. He became a National Academician, 1902. He is a member of the National Institute of Arts and Letters and of the National Sculpture Society.

EMMANUEL LOUIS MASQUERAY, architect, was born in Dieppe, France, September, 1861. He was educated at the Ecole des Beaux Arts, Paris, France, and received the Deschaume prize, 1879, Chaudesaigues prize, 1880, and a gold medal at the Salon, 1883. Mr. Masqueray came to America in 1887, locating in New York. He was chief of design at the St. Louis exposition, 1904, erecting there the Cascades, Colonnade of States and Pavilions, Transportation, Agriculture, Horticulture, Fisheries and Forestry buildings; also Louisiana Purchase monument and twelve bridges. He has also erected many important structures in various parts of the country, including Long Island College Hospital, Brooklyn, Cathedral of St. Paul, Pro-Cathedral of Minneapolis and a cathedral at Wichita, Kansas. He is at present erecting Archbishop Ireland's great cathedral at St. Paul. He is a charter member of the Society Beaux Arts Architects, and also a member of the Architectural League, New York, and of the American Institute of Architects.

CHARLES GRAFLY, sculptor, was born at Philadelphia, December 3, 1862. He was a pupil of the Philadelphia Academy of Fine Arts and of Chapu and Damp, Paris. He received honorable mention Salon of 1891; Temple Trust Fund, Philadelphia, 1892; medal at the Chicago Exposition, 1893; silver medal, Atlanta Exposition, 1895; Converse gold medal, Pennsylvania Academy of Fine Arts, 1899; gold medal, Paris Exposition, 1900; Charleston Exposition, 1901; Buffalo Exposition, 1901. He was a member of the International Jury of Awards, St. Louis Exposition, 1904, and has been instructor in the Pennsylvania Academy of Fine Arts since 1892. Mr. Grafly is represented in the permanent collections of the Pennsylvania Academy of Fine Arts, Detroit Art Museum, St. Louis Museum and is a member of the National Institute Arts and Letters, National Sculpture Society and Philadelphia Art Club. He has done much notable work in busts, life size and colossal figures and portraits and ideal figures in groups, largely in bronze.

BERYL F. CARROLL was born in Davis county, Iowa, March 15, 1860. He graduated from the Missouri State Normal, Kirksville, Missouri, in 1884, and received the degree of LL.D. from Simpson college in 1909. He was editor of the *Davis County Republican* from 1891 to 1902. He was Republican candidate for Iowa House of Representatives, 1893; member of Iowa Senate, 1895-8 (resigned); postmaster of Bloomfield, Iowa, 1898-1902; state auditor of Iowa, three terms, 1903-09; governor of Iowa, 1909 to 1913.

WILLIAM C. HAYWARD was born in Cattaraugus county, New York, November 22, 1847. He removed to Winnebago county, Iowa, in 1867. He taught school for several terms and entered the Iowa State College of Agriculture and Mechanic Arts as a member of its first class. He returned

to Winnebago county, was elected county surveyor and purchased a half interest in the *Winnebago Press*. In 1873 he removed to Garner, purchased the *Hancock Signal*, and served as postmaster for eleven years. He was one of the organizers of the City Bank of Garner and its cashier. He later engaged with William Finch in the grain, coal and stock business, operating twenty-five stations in Iowa, Minnesota and South Dakota. The headquarters of the firm were removed to Davenport in 1886 and Mr. Hayward removed to that city. He was president of the Union Savings Bank of Davenport, president of the Davenport National Bank, and a member of the Davenport school board for nine years. He was elected State Senator in 1897 and served through the Twenty-seventh, Twenty-eighth, Twenty-ninth, Thirtieth and Thirty-first General Assemblies. In 1906 he was elected Secretary of State and held that office for three terms.

JOHN L. BLEAKLY was born in County Fermanagh, Ireland, February 17, 1857. He emigrated with his parents to the United States in 1863, settling in Illinois and removing to Linn county, Iowa, in 1872. He was educated in the public schools of Illinois and Iowa and the Cedar Rapids Business College. After teaching for several years he engaged in the banking business and later in the mercantile business in Ida Grove. In 1903 he was elected State Senator from the forty-sixth district and served in the Thirtieth, Thirty-first, Thirty-second and Thirty-second Extra General Assemblies. He was elected Auditor of State in 1908 and re-elected in 1910 and 1912.

WILLISON W. MORROW was born in Guernsey county, Ohio, January 4, 1850. He removed with his father's family in August, 1864, to Iowa, and located near Afton, in Union county. The land upon which the family settled in 1864 is a part of the farm now owned by Mr. Morrow. He was educated in the public schools of Afton and graduated from the high school. Mr. Morrow represented Union county in the Twenty-third and Twenty-fourth General Assemblies and was a member of the board of directors of the State Fair Association for eight years, serving one year as vice president. He was state treasurer from 1906 to 1912.

ARTHUR HENRY DAVISON was born in Blooming Valley, Crawford county, Pennsylvania, March 6, 1857. He attended the public schools of that county and graduated with the degree of Bachelor of Didactics from the Pennsylvania State Normal School at Edinboro. He removed to Lyon county, Iowa, and engaged in school teaching and the real estate business. He served as county superintendent of schools of Lyon county. For eleven years he was a director and for several years chairman of the board of directors of the Rock Rapids schools. In 1893 he was elected to the Iowa House of Representatives from Lyon and O'Brien counties and served through the Twenty-fifth General Assembly. Mr. Davison was appointed Secretary of the Executive Council of Iowa in January, 1899, continuing in that office to the present time.

WILLIAM LARRABEE was born in Ledyard, Connecticut, January 20, 1832. He received a common school education in Connecticut and spent two months in a private academy; came to Iowa in 1853; taught school in Hardin, Allamakee county, for a time and worked on a farm for three years. In 1856 he engaged in the milling business in Clermont and continued until 1873, when he sold his milling business and spent three months in Europe. On his return he engaged in banking and farming and continued in the enlargement of his interests in Iowa banks and Iowa farms throughout his life. He was one of the arbiters which appraised the property of the Green Bay and Mississippi Canal company preparatory to its transfer to the United States government. In 1867 Mr. Larrabee was elected to the State Senate and was four times thereafter nominated by acclamation. In 1885 he was elected governor and



his administration was marked by the influence he exerted on legislation, especially along the lines of railroad regulation and the suppression of intemperance. Larrabee's "Railroad Question" is considered an authority. When the legislature passed the Board of Control law, Governor Larrabee was selected for chairman of the board. He was chairman of the executive committee of the Iowa commission of the Louisiana Purchase Exposition at St. Louis. He died at Clermont, Fayette county, Iowa, November 16, 1912.

LESLIE MORTIER SHAW was born in Morristown, Vermont, November 2, 1848. He received his early education in the common schools and academy in Vermont. He moved to Iowa in 1869 and in 1874 graduated from Cornell college, Mt. Vernon, Iowa. In 1876 he graduated from the Iowa College of Law, located in Denison and combined the practice of law with an extensive loan business. He was elected governor of Iowa on the Republican ticket in 1897, and served for two terms. He was chairman of the sound money convention which convened in Indianapolis in 1898. At the expiration of his second term as governor, in 1902, he was appointed secretary of the treasury by President Roosevelt and held that position until 1907.

ALBERT BAIRD CUMMINS was born at Carmichaels, Pennsylvania, February 15, 1850. He was educated in the academy of Waynesburg, Pennsylvania, and received the degree of LL.D. at Waynesburg college in 1903 and at Cornell college, Iowa, in 1904. Mr. Cummins studied surveying and became assistant chief engineer of the Cincinnati, Richmond and Fort Wayne R. R. He studied law in the offices of McClellan and Hodges, Chicago. He was admitted to the Illinois bar in 1875 and practiced in Chicago from 1875 until 1878, when he removed to Des Moines, Iowa. He was a member of the Iowa House of Representatives, 1888; presidential elector-at-large, 1892; candidate for United States senator, 1894 and 1900; chairman of the Republican state convention, 1892 and 1896; member of the Republican National Committee, 1896-1900; delegate to the Republican National conventions, 1892, 1896, 1900, 1904; governor of Iowa from 1902 to 1908; elected United States senator November 24, 1908, for unexpired term (expiring March 3, 1909), of Senator Allison, deceased; re-elected for term, 1909-15.

WARREN GARST was born at Dayton, Ohio, December 4, 1850. He removed to Illinois with his parents in 1858, and in 1859 he established himself in business at Boone, Iowa, later going to Coon Rapids, Carroll county, where he and his brother opened a general merchandise store. To this business Mr. Garst has devoted himself for years. In addition to this he has been interested in farming and banking. He served during the Twenty-fifth, Twenty-sixth, Twenty-sixth Extra, Twenty-seventh, Twenty-eighth, Twenty-ninth, Thirtieth and Thirty-first General Assemblies. He assumed the office of Lieutenant governor on January 17, 1907, and became Governor on November 25, 1908, on the election of Governor Cummins to the United States Senate.

GEORGE W. CLARKE was born in Shelby county, Indiana, October 24, 1852. He removed with his parents to Davis county, Iowa, in 1856, and worked on a farm until manhood. He taught school twelve months and graduated from Oskaloosa college in 1877, and from the law department of the State University of Iowa in 1878. Immediately upon his graduation he began the practice of law in Adel and continued in this profession until his election as governor in 1912. He was a member of the House of Representatives in the Twenty-eighth, Twenty-ninth, Thirtieth and Thirty-first General Assemblies and was speaker in the Thirtieth and Thirty-first General Assemblies. Mr. Clarke was elected Lieutenant-governor in 1908 and re-elected in 1910. On January 17, 1913, he became Governor of Iowa.

## MESSAGES OF OUR GOVERNORS.

WILLIAM LARRABEE, *Second Biennial Message*, February 13, 1890.

The improvement of the capitol grounds ought to be begun at an early day. The grounds should be in keeping with the capitol, which is one of the most beautiful on the continent. The expense of properly laying out the grounds was estimated by the board of capitol commissioners at \$130,786.11. Since that estimate was made some grading has been done without expense to the State. The sum of \$125,000 would probably be sufficient to complete this work. The custodian recommends that \$50,000 per annum be appropriated for three years for the work on the grounds and the interior of the building.

LESLIE M. SHAW, *First Biennial Message*, January 8, 1900.

When the present capitol was built it was believed to be as commodious as the needs of the State would ever require. It has now been occupied sixteen years, and several of the departments are seriously congested. An arsenal is needed for the accommodation of the Adjutant-General's department. Storage of quartermaster supplies is now provided in a building rented for the purpose. It was found necessary to locate the board of control in committee rooms back of the senate chamber, which cannot well be spared from their designed use during session of the General Assembly. A warehouse for the storage and proper distribution of and reshipment of supplies for the various institutions under the management of the Board of Control is much needed and should be provided for at an early date. A new building for the memorial, historical and art department has been erected, and partitions and changes in various offices have been found imperative to make room for the several departments connected with the State government. Evidently additional buildings will be needed in the near future, and these, when erected, should be fireproof, and of substantial and presentable architecture, and should be so located as to improve and add dignity to the present capitol.

I recommend that the two blocks directly north of the capitol grounds be immediately purchased, or obtained under condemnation proceedings. Nothing will be saved by delay, and the erection of substantial buildings by the owners upon this property may materially add to the expense. Location of public buildings is a matter of prime importance, and I think it will be conceded that these two

blocks are very desirable. No location is too good for Iowa, and none but the best should be considered.

ALBERT B. CUMMINS, *Biennial Message*, January, 1906.

In accordance with an act of the Thirtieth General Assembly, the Executive Council sold State Square for \$8,500. The authority so to do was accompanied with a direction to invest the proceeds of the sale in lots fronting upon Capitol Square. The Council has purchased one lot fronting on Eleventh St., between Capitol Ave. and Walnut, for \$2,250. It has endeavored to purchase other property, but has hitherto been unable to agree with the owners upon a price.

WARREN GARST, *Biennial Message*, January 12, 1909.

I feel that you and all the people of the State ought to be deeply interested in the matter of providing a suitable setting for our magnificent State Capitol. It stands today a monument to the good judgment of those who planned it and provided for its creation, and to the faithfulness and integrity of the self-sacrificing men who devoted the best of their lives to its building. Iowa can never pay its debt to Finkbine, Dey, Foote, Wright, Foreman and others of the Capitol Commission. They did their full duty; and partly in their honor and partly that we may complete what they so well begun, it seems to me there is an obligation upon this generation that we make the surroundings and approach to this great structure comport with its dignity and architectural beauty. We have provided in part for the interior decoration; we have neglected the exterior and environment. I would recommend, therefore, a commission authorized to purchase land adjacent to the capitol grounds, with the right of condemnation where necessary, and with funds sufficient to secure such land as may be deemed necessary to provide a beautiful boulevard of approach and surroundings. An appropriation of \$150,000 would probably suffice.

In making this recommendation I realize that there are those among you who may feel I have gone far out of my way; but I would call your attention to the fact that a very large part of the total cost of the present Capitol represents ornamentation. We ought to make the building and its surroundings beautiful. We ought to make the whole an object of pride to all our people, something that will be an inspiration to better citizenship and that will give Iowa higher standing in the family of states. I feel so deeply upon this question, I am loath to leave it for the more practical matters, but I have full faith that after mature consideration you will see your way clear to provide for this commission.

BERYL F. CARROLL, *Biennial Message*, January 14, 1913.

A comprehensive scheme for enlarging the Capitol grounds should be adopted by you and plans be made for the eventual acquiring of

the lands to be added to the present holdings of the State. I would recommend that the State buy all the grounds lying between East Ninth and East Twelfth Streets, beginning at Capitol Avenue and extending to the railroad tracks at the foot of the hill to the south. The grounds thus acquired, lying south of Walnut Street, should be parked and beautified, and upon them should be placed the Allison monument and such other monuments as may be erected in the future, and when the State shall build an Executive Mansion, it should be placed upon the high point of ground to the southeast of the Capitol building. Upon the block immediately east of the State House and south of Capitol Avenue should be located a judicial building. I would also suggest that when the time comes that it is necessary to make any considerable improvement in the State's power plant, it would be wise to consider moving it to the foot of the hill, south and southwest of the State House, where it could be reached by a switch, thereby saving the large amount of money that is annually paid for hauling coal with teams and wagons, and also getting rid of the dirt and smoke and the somewhat unsightly appearance of a heating plant immediately in front of the Capitol building.

In suggesting the enlargement of the Capitol Grounds, I wish to say that the owners of some of the lots included in that which I have referred to, have already expressed a willingness to sell the same and some have submitted a price for their holdings. I want also to say that at two or three different times efforts have been made to secure a change of grade in some of the streets about the State House, which change would have a very material effect upon the surroundings if additional lands are to be acquired. The Council has each time objected to these changes and asked the parties interested therein to wait and take the matter up with you with a view to securing co-operation with the City of Des Moines and the State in some general plan of improving the State House surroundings, and I recommend the appointment by you of a committee to take this matter into consideration and co-operate with the officials of the city to the end suggested.

In my opinion the State might profitably dispose of Governor's Square, allowing the city to purchase it for a park if so desired, and invest the proceeds in lands above suggested for purchase.

GEORGE W. CLARKE, *Inaugural Address*, January 16, 1913.

The subject of the extension of the Capitol Grounds is a matter that should have consideration. The day is now here when these grounds surrounding us should be more spacious and they should be made more beautiful. They do not meet the material demands of the present and for the future they will be entirely inadequate. The future should ever be in mind. We build for those who are to come

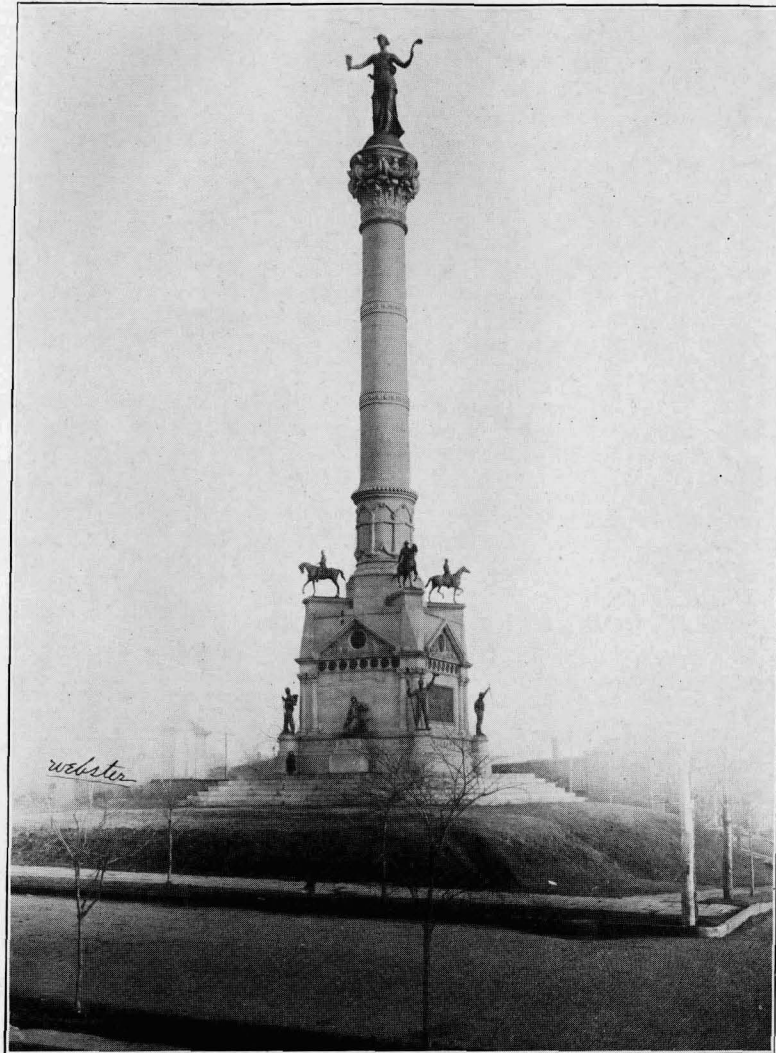


after us. We should have a vision of what Iowa is to do and be. In the extension of the grounds regard should be had for a better setting of the Capitol. The whole question of the enlargement and location of buildings and monuments should at once be placed in the hands of the best landscape artist that could be found with instructions to prepare a plan commensurate with the needs and ideals of a great, progressive and cultured people. It cannot all be done at once, but a beginning can be made. Every day of postponement only makes the realization more expensive and difficult. What is done should be in accordance with a plan to end in both utility and great artistic beauty.

GEORGE W. CLARKE, *Special Message*, March 26, 1913.

I desire to submit a word with reference to the extension of the Capitol Grounds. It is the need of the present—it is the imperative demand of the future. It is a matter of the very best business policy. If looked at only as an investment it would be a remarkably good one. By extending the payment for the grounds over a period of ten years it would bring no burden at all upon the people. Never again can the purchase of ground be so advantageously made as now. Iowa should do business as competent successful business men do. Advantage should be taken of the time and the opportunity. Iowa should announce that she is of age and full-grown. She should step out of the old conditions that hamper and restrain her into the new. The legislature should be unafraid. The people will sustain you. When the work is done they will ever refer to you as the legislature that was far-seeing and wise enough to extend the Capitol Grounds, \* \* \* What man is there of you that will lose this the greatest opportunity of his life to render a great public service. Listen not to the voice of selfishness. Tolerate not the "invisible" man. For more than ten years practically all legislation and all political agitation in this country has been against human selfishness. Let it proceed. The rights of all men must be put above the selfishness of a few men. Go forward. Your duty, as it seems to me, is plain.





Iowa Soldiers and Sailors' Monument from a point on the Capitol Grounds about 100 feet northwest.

## OUR SOLDIERS AND SAILORS' MONUMENT AND ITS PLACEMENT.

James Harlan, in the *Midland Monthly* for February, 1896, states that the sentiment for an adequate structural memento to the valor of Iowa soldiers originated with McFarland Post, G. A. R. at Mount Pleasant; that the memorial addressed to the various Posts in Iowa resulted in legislative attention to the request; that, "The request thus made was a very modest one coming from such heroes, of whom the world-famed traveler, author and statesman, Bayard Taylor, wrote these truthful and undying words, under the caption,

### IOWA PATRIOTISM.

'Out of the breathless wilderness of sixty years ago 84,017—I linger lovingly on the number—84,017 boys in blue have swelled the federal legions. There has been precisely time enough since 1840 to grow one man to prime, and in that year of grace there was not that many human beings in all the State by more than 40,000. She had 43,112 men, women and children all told in 1840, and seventy-one soldiers in the army. Four batteries have spoken for her. Ten regiments of cavalry have heard the bugles and thundered to the carnage. Forty regiments of infantry closed up the solid front. And 15,000 have fallen. And what heroes they were, and how splendid the record they have made for Iowa, liberty and God. How rich the meaning they have lent the legend of her coat of arms, "Our liberties we prize, our rights we will maintain,"'

That various acts and appropriations resulted in a final expenditure of some hundred and sixty thousand dollars through commissions on which membership was held by Governors Boies, Jackson and Drake; Samuel J. Kirkwood, War Governor, United States Senator and Secretary of the Interior; George G. Wright, Ex-Chief Justice of the Iowa Supreme Court and Ex-United States Senator; Edward Johnstone, a noted Iowa man who had served on the commission for erecting the Capitol; D. N. Richardson, a noted Iowa journalist, extensive traveler and scholar; Hon. E. Townsend, and Hon. L. E. Mitchell, both of whom were widely and well known in Iowa as public officials, and James Harlan, Ex-United States Senator and Ex-Secretary of the Interior.

He states that the commissioners were not authorized to adopt a plan, but were required to report their opinion of relative merits of the several plans and designs submitted. The commission recommended the model which the General Assembly directed to be built, and in which "The leading thought suggested by the entire structure may be said to be the courageous and effective service of Iowa's citizen soldiers in the field to enforce the laws and to preserve the Union, and their joyous return to their quiet homes, with Victory hovering over their heads, preferring peace to the circumstance and panoply of war, after having won its highest honors."

The General Assembly in adopting the report of the commission as to the model also enacted that the monument should be erected on the site known as "The Old Capitol grounds." The area of the ground and the mass of the structure are set out as follows:

	Feet	Inches
Size of old capitol lot on which the monument stands .....	160x100	..
Distance of base from 10th Street curb.....	20	..
Distance of base from Walnut Street curb.....	50	..
Distance from Alley.....	50	..
Height of platform base above curb.....	6 19-100	..
Height of platform.....	5	02
Square of platform at base.....	60	..
Base course above platform.....	3	02
Star course .....	3	06
Column course .....	10	06
Frieze course .....	2	08
Pediment course .....	8	..
Top die course .....	2	..
Height of top die.....	35	..
Plinth course .....	3	08
Shaft base course.....	3	02
Anchor fillet course.....	10	06
Height top anchor fillet.....	17	04
First band of shaft.....	3	04
Shaft .....	13	04
Second band of shaft.....	2	03
Shaft .....	13	04
Third band of shaft.....	2	03
Shaft .....	13	04
Capital .....	12	10
Statue of the Goddess of Victory.....	22	..
Height from bottom of lower step of monument to top of granite shaft .....	113	..
Total height to top of Victory.....	135	..

He states that after the appropriation for the construction and the selection of the ground by the act of April 7, 1892, nothing was done with respect to the actual construction upon the ground until the General Assembly convened in January, 1894, and

"In the meantime it had become obvious to the contractors, whose professional reputations were involved, as well as to all other architects, artists and builders conversant with the facts, and to all the members of the Commission, that the site selected by the Legislature, although intrinsically beautiful, was in some respects unfortunate.

*First.* Because the plat of ground designated, even with the slight enlargement authorized by the statute, is too small for the proper display of an art structure of its elaborate character and dimensions.

*Second.* Because, however imposing it would appear if placed on a sufficiently large plat of ground, at a proper distance from the capitol building, it will be regrettably minified in appearance by contrast, standing under the shadow of that massive edifice towering far above its crown.

*Third.* Because on this plat of ground it will be greatly obscured by adjacent private buildings now in existence, and probably by others, still more obstructive, hereafter to be erected.

*Fourth.* Because on this site it will be in constant danger of destruction by conflagration of the surrounding buildings.

But, happily, it is within the power of the General Assembly to obviate all of these defects of location, except near proximity to the capitol, by the purchase of additional ground and the removal of obstructing buildings. And the near proximity of the monument to the capitol, although

seriously objectionable, is not fatal to a proper appreciation of its excellence in plan, design and execution as a superior work of art by the public at large, because the most of these spectators will see it from the vicinity or interior of the State House, or in passing to and fro along the street lying between the monument and that magnificent edifice, from which positions it will not obtrude either as an obstruction to vision between the spectator and the monument or as an object of comparison. And well informed critics of this location need not be reminded that many of the greatest works of monumental art erected by the most enlightened nations, ancient and modern, are somewhat similarly encumbered. \* \* \* \* \*

"In the opinion of modern architects and artists structures like the Iowa Soldiers and Sailors' Monument should be located on open ground, at least sufficiently removed from all other buildings to enable spectators to see it as they pass, readily and easily, from every side; that considerable open ground is desirable; but that publicity of location is an indispensable element. They are builded to be seen by the public; and, therefore, should not be put in remote places, or be otherwise obscured. And in this respect the Iowa Soldiers and Sailors' Monument is fairly well located. And although the lot of land on which it stands is regrettably small, that defect can be easily removed by the General Assembly, whenever it may choose to make the necessary appropriation.

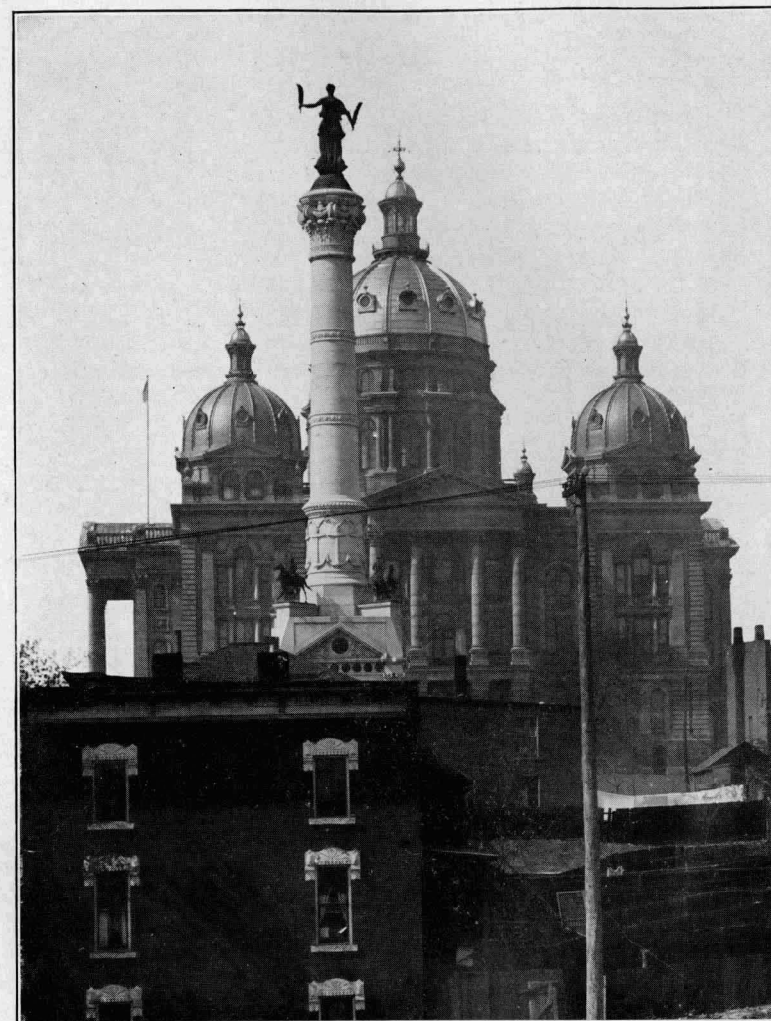
"And it is deemed proper to mention in this connection that the attention of the General Assembly was specifically called to the objectionable features of this site, by the Commission, before any part of the material for its construction had been put in place; and that after protracted consideration that admittedly able body of statesmen failed to order a change, apparently on account of the inability of the two Houses to agree with each other in the selection of another site."



### SENTIMENT ON PLACEMENT OF OUR SOLDIERS AND SAILORS' MONUMENT.

The Iowa Soldiers and Sailors' Monument, which fitly commemorates the heroic acts of her sons during the greatest epoch of her history as a State, was completed and erected several years ago at a cost of over one hundred and fifty thousand dollars. The artistic merit of both design and execution is universally admitted. The reason for its erection was found in two well defined motives of our people: First, to commemorate the heroic deeds of her citizen soldiers and sailors, and second, to teach the present and all future generations of her people, the lesson of individual patriotism and collective appreciation of that virtue. The location of this beautiful monument is defeating both motives. Dwarfed and overshadowed by our Capitol Building, and hemmed in between a small church building on one side and unfit surroundings on the other, few if any of our people give it more than a passing glance. With such surroundings, the question may well be raised, does this monument in its present location fitly commemorate the deeds of the men for whom its erection was deemed proper? Its chief purpose is being daily defeated. If it were worth while to build this monument at all, it surely is entitled to a location where it can and will be seen by the citizens of this great State, who so generously erected it at great cost. Would it not be just as reasonable to turn the keys in the locks of our other great educational institutions, as to leave this educational factor securely put away from their view in its present location? It has been recently suggested that this monument be removed to the east bank of the Des Moines river, and located on an open square between the two main thoroughfares to the Capitol Building. There it would stand opposite and facing the City Library on the west bank of the river, and adjacent to the block where the new City Hall is being erected, and would rear its shaft in the open, and daily teach its lessons of patriotism and duty to thousands of the people of Iowa.

If the City of Des Moines can be induced, as I believe they can, to deed the State a sufficient plat of ground at the place suggested, I most cordially recommend that this organization use its influence with the next Legislature to pass an act authorizing and directing the removal of the monument to the proposed location. While I believe the cost of the removal will be fully compensated and warranted by the more perfect accomplishment of its purpose, I am



Iowa Soldiers and Sailors' Monument from a point about 250 feet south.



persuaded that the project will in effect finance itself. The State must soon provide locations near the Capitol for additional State Buildings, and the vacating of the present site of the monument will release a valuable and suitable site for such purpose, which will more than compensate in value for the cost of removal.

I therefore recommend that this department, through its representatives, approve the suggestion of the removal of the monument to the proposed new site, and that it use all honorable efforts to accomplish the same, and I would urge all comrades attending this Encampment to visit both the present and the proposed locations, that you may know personally the advantage of the proposed new site, and that each of you use your influence to bring about this change.

It will be a matter of great personal pride to your present Commander if this suggestion shall be adopted during his incumbency of the office, and I believe my successor will be equally gratified if the accomplishment of this loyal purpose should mark his administration.

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Address of Commander M. McDonald, Iowa Department G. A. R., Des Moines, June, 1910. *Journal of Proceedings, 36th Annual Encampment*, p. 18-20.

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At the same Encampment there was adopted the following:

Resolved, That it is the sense of this Department, in annual Encampment assembled, that all possible honorable efforts should be made to move the monument to the proposed site on the east bank of the Des Moines river, and that each Post in this Department be requested and urged to bring its utmost influence to bear upon the Representative and Senator from its district to bring about the proposed change.

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Resolution, Iowa Department G. A. R., June, 1910. *Journal of Proceedings, 36th Annual Encampment*, p. 81.

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To the Thirty-seventh annual Encampment in session at Muscatine the Commander, quoting this resolution, added these words:

Desiring to carry out the unanimously expressed wish of the Encampment, the attention of the Legislative Committee was called to the matter, and Senator Brown, a member of the committee drafted a bill, amply protecting the State in every way, for the purpose of carrying into effect the removal. Comrade Brown was untiring in his efforts to carry out your wishes, as he was in support of all measures that came before that body in the interest of the

Veterans. So successful was he that he secured every vote of the Senate for the measure. The bill then went to the House and was taken charge of by Comrade Zeller, a member of that body. It was late in the session before the bill could be acted on, and some opposition developed in the House Committee on Appropriations to which the bill had been referred. A majority of this committee finally voted for indefinite postponement, with a minority report headed by Comrade Zeller for passage. Both reports were smothered in committee, the chairman refusing to report the bill to the House. Thus the project failed. It was not deemed necessary to have the full Legislative Committee in attendance, although they would have responded if notified that their services were needed. Past Commander M. McDonald came on call more than once, and Comrade R. L. Chase, a resident of Des Moines, was continually on the ground, and his efforts were unceasing and valuable. He secured the assistance of the sub-committee of the Greater Des Moines Committee who rendered valuable aid. They are all entitled to your approbation. Senator Brown should receive the especial thanks of this Encampment for his faithful and untiring efforts to carry out your expressed desires. Considering what there was to contend against, most of the State Department being opposed to the removal, it is remarkable that it passed the Senate without a dissenting vote; and I am informed the votes were pledged for its passage in the House provided it came upon the floor. This Department will feel grateful to the Senate, and to those members of the House who pledged their support. Your Department officers had no more interest in the matter than any comrade, but felt it their duty to carry out so far as they could your commands. We failed; but the monument belongs to the State, and if the patriotic people of Iowa are satisfied to allow it to remain in a location that an expert in such matters remarked, "that it was almost an insult to the men it was intended to honor," to allow it to remain in its present location, where all the objects for which it was erected are lost, we ought to be able to stand it. My advice would be to allow all future efforts in that direction to be furthered by those interested, without suggestion from the Grand Army of the Republic.

Address of Commander H. A. Dyer, Iowa Department G. A. R., Muscatine, June, 1911. *Journal of Proceedings, 51th Annual Encampment*, p. 15.

The Encampment adopted a special resolution as follows:

Past Department Commander M. McDonald: I wish to offer a resolution for the benefit of the Encampment. It is this:

"Resolved, That the thanks of this Encampment are tendered to Comrade John D. Brown, a Senator in the Thirty-fourth General

Assembly, for his untiring efforts to carry out the expressed desires of the Department, and also for his zealous activity for all legislation in the interest of the Veterans."

Commander, in my report a year ago I suggested that the monument that was scarcely seen by a few be removed down to the river bank, where it would be an instructive object for all time to come. The Committee on Commander's Address approved of it, and as I was on the Committee on Legislation we went down to see if we could induce the legislature to appropriate a small sum of money to carry out the request of that Encampment. Through the activity of Comrade Brown it passed the Senate, as you were informed, with no vote against it. It went into the House and we were overjoyed, thinking that our request would be carried out, and that that beautiful monument would stay down there on the river bank where everyone who visited the City of Des Moines could not help but see it, and those that didn't know anything about your valor would ask: "What did that represent?" And they would say: "It represents the valor of the soldiers of Iowa." It was defeated in the House, much to our regret, but I want to say to you, my comrades, being there two or three times during the winter, and seeing the activity of Comrade Brown, there is nothing in the gift of this Department that is too good for that man. That is the reason I want to say that I would like some time to see him rewarded for his generosity.

Comrade T. R. Bickley, Post 69: Second the motion.

Past Department Commander Chas. A. Clarke: Commander, I am glad to second the adoption of the resolution.

The motion to adopt the resolution was then put and duly carried.

Resolution, Iowa Department G. A. R., June, 1911. *Journal of Proceedings, 51th Annual Encampment*, p. 92-3.

To the Thirty-eighth Annual Encampment the Department Commander said:

Your Commander deems it wise to have your attention again called to the propriety of remedying a great mistake by a former General Assembly, in location of the monument. It should not require a great amount of wisdom to understand that the monument, to be of any educational advantage, should be located where large numbers of people continually pass and repass in its vicinity. And where its public location would protect it from vandals, which is not the case now. All the walks that can be built from any angle leading from the State House will not persuade or cajole people to go out of their way to visit the monument. The walk now under



construction is a poor makeshift, suggested by those opposed to the monument's removal. It is a modest suggestion, that it might be well to change the location during the lifetime of a few of the men in whose honor and memory it was erected. It might thereby create sufficient interest among our people to at least dedicate it to the purpose for which it was intended. I leave the matter in your hands for such action as you deem best.

Address of Commander Lot Abraham, Iowa Department G. A. R. Mason City, June, 1912. *Journal of Proceedings, 38th Annual Encampment*, p. 15-16.

Among the resolutions adopted is the following:

Resolved, That we heartily endorse that part of the report of Department Commander Abraham concerning the removal of the Iowa Soldiers and Sailors' Monument to a more suitable site in the City of Des Moines.

Resolution, Iowa Department G. A. R., June, 1912. *Journal of Proceedings, 38th Annual Encampment*, p. 73.

At the Home-Coming Encampment, in Des Moines, June, 1913, the Thirty-ninth Annual Encampment, the Commander, Capt. John D. Brown, in his annual address, made no reference to the removal of the Soldiers and Sailors' Monument, but at the Camp Fire, Tuesday evening, June 10, 1913, Gen. Grenville M. Dodge, being introduced, spoke as follows:

This year our governor and legislature have performed a great service to the veterans of the State, in enlarging our Capitol Grounds and in giving the proper setting to our Memorial Monument (applause), to our war veterans, and when their work is completed as planned, then those that follow us will look back upon it as one of the most beneficial acts of our State, and give the credit due to our governor and our legislature for their foresight and patriotism. And I hope every comrade while he is here will go up on the Capitol Grounds and look at it as it is today, and then go into the Capitol and see the plan of what it will be in a few years more, and what our monument there will be, that everyone will go to see it, and I hope that Commander Brown, the commander of the G. A. R., will take the proper action for the veterans of Iowa in thanking that legislature and the governor for their great work for us. (Applause.)

Address of Gen. G. M. Dodge, before Iowa Department G. A. R., Des Moines, June, 1913. *Journal of Proceedings, 39th Annual Encampment*, p. 124-5.

In the session of June 12th, the committee on resolutions, consisting of John F. Lacey, Henry H. Rice, A. W. Jaques, Henry Karwarth, E. A. Snyder and M. W. Harmon, reported among other resolutions the following:

Resolved, That we approve of the enlargement of the Capitol Park so as to make the grounds suitable in area and character for the patriotic monuments and memorials already erected and that may hereafter be required by our prosperous commonwealth.

On motion of Major Lacey, adopted.

Resolution, Iowa Department G. A. R. June, 1913. *Journal of Proceedings, 39th Annual Encampment*, p. 49.

#### RULE AS TO SITE FOR MONUMENTS.

As a monument should be designed to fit its surroundings, it is important that before preparing the programme, the exact site or location of the proposed work should be determined upon, and that the promoters of the competition should be ready to supply competitors with plan and photographs of the site. The placing of a monument is a matter of the greatest moment, and to select the best site is more difficult than is generally supposed. It is a matter upon which the committee should secure expert advice. \* \* \* The Society, while not assuming to dictate the owner's course in conducting competitions, entertains definite convictions as to the conduct of its own members, and in its by-laws has declared that it is unprofessional conduct for a sculptor to take part in any competition the terms of which are not in harmony with the principles approved by the Society as stated in its Suggestions Relative to Competitions for Sculpture.—*Suggestions for Sculptural Competitions by National Sculpture Society.*

#### SIX MONTHS RECORD OF PROPOSED IMPROVEMENTS.

Buenos Aires, city plan, removing 40 squares.....	\$200,000,000
India, city plan, new civic center.....	50,000,000
San Francisco, city plan, architect awarded for design.....	25,000
San Francisco, exhibition buildings.....	80,000,000
Queens County, N. Y., city development.....	10,000,000
Philadelphia parkway system.....	2,000,000
Madison, Wis., city plan and capitol.....	5,000,000
Texas, Steel City, Schwab interests.....	5,000,000
Utah, state capitol.....	2,500,000
New York City, new thoroughfares, Ernest Flagg, architect....	24,000,000
Jefferson City, Mo., city plan and capitol.....	10,000,000

—Abstract from six months' file of the *American Contractor*, in letter of J. Devereux York.

## LEGISLATION.

LAWS OF IOWA, THIRTY-THIRD GENERAL ASSEMBLY, 1909,  
CHAPTER 251.PEDESTAL FOR A MONUMENT TO BE ERECTED IN MEMORY OF  
WILLIAM B. ALLISON.

AN ACT to create a commission authorized to locate and erect a pedestal for a monument to the memory of the late William B. Allison and making an appropriation to defray the expense thereof.

*Whereas*, Certain patriotic citizens have undertaken to create by public subscription a fund to be expended in the erection of a monument at the city of Des Moines, Iowa, to the memory of the late Senator William B. Allison, and

*Whereas*, It is necessary to provide a pedestal for said monument and a site for the same, therefore  
*Be it enacted by the General Assembly of the State of Iowa:*

Section 1. Commission—how constituted. A commission of five persons, to consist of the chairman of the Allison monument committee, the governor of the state of Iowa, the curator of the historical collections, a member of the senate, to be named by the president of the senate, and a member of the house of representatives, to be named by the speaker of the house, is hereby created for the purpose of erecting a suitable pedestal upon which shall be placed a monument to the memory of the late William B. Allison.

Sec. 2. Powers. Said commission is hereby clothed with full authority to locate and erect upon the capitol grounds, or any extension thereof, a suitable pedestal to be used by the Allison monument committee in erecting thereon a monument to the memory of the late William B. Allison, and such commission shall have authority to do all things reasonable and necessary to the location and erection of such pedestal, and the design for said statue shall be approved by said commission; provided, however, that said commission shall not expend in the erection of such pedestal a sum in excess of thirty (30%) per cent of the amount of the popular subscription made for the erection of said monument, and in no event shall said commission expend to exceed ten thousand (\$10,000.00) dollars.

Sec. 3. To serve without compensation—expenses. Said commission shall serve without compensation and shall be allowed only its actual expenses reasonably incurred while engaged in the discharge of its duties.

Sec. 4. Appropriation—how drawn. There is hereby appropriated from the funds in the state treasury not otherwise appropriated the sum of ten thousand dollars (\$10,000.00) or so much thereof as may be necessary to defray the authorized expense of erecting said pedestal and of said commission. The auditor of state is authorized to draw warrants against said appropriation upon the certificate of said commission showing that the several sums have, in good faith, been expended in the erection of said pedestal or in paying the necessary expenses of said commission.

Sec. 5. In effect. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Register and Leader and the Des Moines Capital, newspapers published in the city of Des Moines, Iowa.

Approved, February 23, A. D. 1909.

LAWS OF THE THIRTY-FIFTH GENERAL ASSEMBLY,  
CHAPTER 14.EXTENSION AND IMPROVEMENT OF STATE CAPITOL  
GROUNDS. H. F. 669.

AN ACT to provide for the levy of a special tax upon the assessed valuation of the taxable property of the state for a period of ten years for the purchase of real estate for the extension and for the improvement of the state capitol grounds: To define the limits of said extension: To authorize the purchase by executive council of all grounds within said limits: To adopt a plan for the location of buildings, monuments, etc., on said extended ground, and to provide for the sale of certain real estate known as "Governor Square." [Additional to chapter seven (7) of title two (II) of the code relating to the executive council.]

*Be it enacted by the General Assembly of the State of Iowa:*

SECTION 1. Special tax—purchase real estate. That for the purpose of providing for the purchase of real estate for the extension of the capitol grounds and improvement of the same, there shall be levied annually for a period of ten (10) years, commencing with the first levy made after the passage of this act, a special tax as



follows: in each of the years 1913 and 1914 one-half mill on the dollar of the taxable property in the state, and in each of the remaining eight years such rate of levy to be fixed by the executive council, as will yield approximately one hundred and fifty thousand dollars (\$150,000) annually. The proceeds of such levies shall be carried into the state treasury to the credit of a fund to be called the capitol grounds extension and improvement fund. The amount so realized by said levies shall be in lieu of all of the appropriations for said purposes during the said period of ten (10) years.

SEC. 2. Plat. That for the purpose of the extension of the capitol grounds the executive council is hereby authorized, empowered and directed to purchase from time to time within said period of ten (10) years any or all of the real estate not already owned by the state of Iowa within the following limits: beginning at a point where the east line of Pennsylvania avenue crosses the north line of East Locust street, thence northerly along the east line of Pennsylvania avenue to the north line of the alley between Locust street and Grand avenue, thence easterly along the north line of said alley between Locust street and Grand avenue to a point one hundred and thirty (130) feet west of the west line of East Ninth street, thence northerly parallel with the west line of East Ninth street to the south line of Des Moines street, thence easterly to a point where the south line of Des Moines street crosses the east line of East Twelfth street, thence southerly to where the east line of East Twelfth street crosses the north line of East Grand avenue, thence easterly to where the north line of East Grand avenue crosses the east line of East Thirteenth street, thence southerly to where the east line of East Thirteenth street crosses the south line of Walnut street, thence westerly along the south line of Walnut street to where the same crosses the east line of East Twelfth street, thence southerly to the north line of the right of way of the Des Moines Union Railway Company, thence westerly along the north line of the right of way of the Des Moines Union Railway Company, to the east line of the alley running north and south east of East Seventh Street, thence northerly along the east line of said alley to the south line of East Locust street, then northwesterly to the place of beginning.

SEC. 3. Erection of buildings. That all buildings, monuments, statuary, memorials, fountains and improvements hereafter erected upon said capitol grounds shall be located in accordance with the plan covering said extended grounds as contemplated herein submitted as the Allison memorial commission plan now on file in the office of the secretary of state and that said grounds shall be laid out with respect to drives, streets, avenues, malls, walks, bridges, terraces and other improvements in all respects as contemplated and

suggested by said plan and said plan is hereby adopted and made a part of this act.

SEC. 4. Options—purchase—how paid. That the executive council is hereby authorized, empowered and directed to acquire any or all the real estate included within the territory described in section two hereof for the state and may purchase the same on option or contracts or in any other way which said council may deem expedient but payment for said real estate shall be made only upon the certificate of the attorney general that the vendor has furnished the state an abstract of title showing perfect title of record. The executive council may make said purchase or enter into said contracts at any time within said period of ten (10) years at its discretion and as the amount of money in said fund at any time may enable them to do but only after the most diligent inquiry and investigation as to the fair, just and reasonable value of said property. Payment for said real estate may be made by the said executive council certifying to the state auditor the amount due to any person at any time, and the auditor then drawing a warrant in his favor on the state treasury payable out of the fund herein created.

SEC. 5. Condemnation. That if the executive council shall at any time be unable to purchase said real estate, or any part of it at such price or prices as it may deem just and reasonable upon its request the attorney general shall on behalf and in the name of the state and in accordance with the statute applicable to such cases institute and prosecute to a final determination an action or actions for the condemnation of the premises to said use as is contemplated by this act. [Sec. 2024-d, Supplement to the Code of 1907, providing for the condemnation of grounds for public use under the right of eminent domain, was amended by chapter 161, Acts of Thirty-fifth General Assembly approved April 18, 1913, requiring the Chief Justice of the Supreme Court of the State of Iowa instead of the sheriff of the county wherein the property lies, to select the jury for determining valuations, and restricting his appointment of more than one, if any, jurymen from the county wherein the property to be condemned lies. Section 2009 of the Code was amended by Chapter 160, Acts of Thirty-fifth General Assembly, so that change of venue from the district court of the county in which property to be taken by the state is located can be taken by either the owner or the state.—Editor.]

SEC. 6. Leases. That the executive council shall have charge of all buildings that may be on any of the grounds acquired under the provisions of this act and may lease any or all of said buildings and grounds on behalf of the state until, in the judgment of said council, it is advisable to remove them. That at such times said

buildings may be sold by said council or are razed and the salvage thereon sold or such other disposition made of said buildings as said council may deem to the best advantage of the state. And all money realized from such sources and from rentals shall be carried into the state treasury to the credit of the capitol grounds extension and improvement fund.

SEC. 7. Sale of Governor Square. That the executive council is hereby authorized, empowered and directed to sell or cause to be sold either as it now stands or to cause the same to be platted and subdivided into lots and sold in parcels the real estate now owned by the state known as Governor Square and more particularly described as follows, to-wit:—commencing at a point south thirty-two degrees west thirty minutes west, one and sixty-five one hundredths chains from the northwest corner of the southwest quarter of section two, township seventy-eight north range twenty-four west of the fifth principal meridian, thence north seventy-four degrees, thirty minutes east, six hundred eighty feet to a stone, thence south fifteen degrees thirty minutes east three hundred and sixty feet, thence south seventy-four degrees thirty minutes west six hundred eighty feet to a stone, thence north fifteen degrees thirty minutes west three hundred sixty feet to the place of beginning, containing five and sixty one-hundredths acres more or less. All proceeds derived from the sale of said real estate, except the expense of selling the same, including the agent's commission, if any, shall be carried into the state treasury to the credit of the capitol grounds extension and improvement fund herein created. All patents or deeds of conveyance to said above described real estate shall be executed and acknowledged by the governor in the name of the state upon resolution of the executive council authorizing such conveyance.

SEC. 8. Only special fund to be used. That no part of the purchase price of any of said grounds nor of any warrants or certificates issued in payment for the same and no part of the interest accruing thereon shall ever be paid from the general revenues or funds of the state or out of any fund or from the proceeds of any tax other than funds arising from the tax provided for herein and from the sale of the real estate herein authorized to be sold or from the proceeds or accumulations thereof.

SEC. 9. Interest bearing certificates—how paid. That for the purpose of accomplishing the earliest possible completion of the work contemplated herein and the carrying out of the plans provided for in this act the executive council may anticipate the collection of the tax herein authorized to be levied for the extension and improvement of the capitol grounds, and for that purpose may issue interest bearing warrants or certificates carrying a rate of interest not to exceed five per cent per annum to be denominated

“capitol grounds extension and improvement warrants or certificates” and said warrants or certificates and interest thereon shall be secured by said assessment and levy and shall be payable out of the respective funds hereinbefore named, pledged to the payment of the same, and no warrants shall be issued in excess of taxes authorized or to be levied to secure the payment of the same. It shall be the duty of the state treasurer to collect said several funds and to hold the same separate and apart in trust for the payment of said warrants or certificates and interest and to apply the proceeds of said funds pledged for that purpose to the payment of said warrants or certificates and interest. Such warrants or certificates shall be issued in sums of not less than one hundred nor more than one thousand dollars each running not more than ten years bearing interest not exceeding five per cent per annum, payable annually or semi-annually and shall be substantially in the following form.

The state of Iowa, for value received, promises to pay to bearer .....dollars, lawful money of the United States of America, on.....with interest on said sum from the date hereof until paid, at the rate of.....per cent per annum, payable.....annually on the first day of.....and.....in each year, both principal and interest payable at Des Moines, Iowa. This warrant or certificate is issued by the state of Iowa pursuant to the provisions of section....., chapter....., of the acts of the thirty-fifth general assembly of Iowa. And it is hereby certified and recited that all acts, conditions and things required by the laws and constitution of the state of Iowa to be done precedent and in the issue of this warrant or certificate, have been properly done, happened and been performed in regular and due form, as required by law.



### INTERPRETATION OF THE CAPITOL GROUNDS EXTENSION LAW.

The Iowa Supreme Court on December 15, 1913, unanimously concurring in an opinion by Hon. Scott M. Ladd, one of its members, sustained in all its essential parts Chapter 14, Acts of the 35th General Assembly. The opinion follows:

Appeal from District Court, Polk County, J. H. Applegate, Judge.

Action by citizens of Van Buren and Wapello Counties to enjoin the executive council of the state from purchasing certain real estate and from issuing interest-bearing certificates in payment thereof as authorized by chapter 14 of the Acts of the Thirty-Fifth General Assembly. Decree was entered enjoining the issuance of certificates in payment of said property; otherwise the relief prayed was denied. Both parties appeal, that of defendants being first perfected. Reversed.

LADD, J. The executive council of the state consists of the Governor, Secretary of State, Treasurer of State, and the Auditor of State. It employs a secretary. The object of this action is to enjoin the executive council as such and each member thereof from acquiring for the state the property described in and issuing the certificates authorized by chapter 14 of the Acts of the Thirty-Fifth General Assembly, for that, as is contended, the provisions thereof are in violation of sections 2 and 5 of the seventh article of the Constitution of the state. Section 2 of the act in question authorizes and directs the executive council, for the purpose of extending the capitol grounds, to "purchase from time to time within said period of ten years any or all of the real estate not already owned by the state" appearing on the annexed plat.

Lots 1 to 6, inclusive, in block 5, four lots in block 4, and five lots in block 7 belong to the state as, of course, does the tract on which the capitol building is located. The purchase directed is of all other lots in the plat. With streets vacated there are over 50 acres in all and, if laid out and improved, as required, in accordance with the Allison Memorial Commission plan on file in the office of the Secretary of State made a part of the act by section 3, the grounds undoubtedly would be artistic and of great beauty. For the purpose of acquiring the land necessary and improving the grounds, section 1 of the act provides that "there shall be levied annually for a period of ten (10) years, commencing with the first

levy made after the passage of this act, a special tax as follows; in each of the years 1913 and 1914, one-half mill on the dollar of the taxable property in the state, and in each of the remaining eight years such rate of levy to be fixed by the executive council as will yield approximately one hundred and fifty thousand dollars (\$150,000) annually. The proceeds of such levies shall be carried into the state treasury to the credit of a fund to be called the capitol grounds extension and improvement fund. The amount so realized by said levies shall be in lieu of all of the appropriations for said purposes during the said period of ten years." Section 4 authorizes the executive council to acquire any or all of said real estate for the state and in so doing purchase same "on option, contracts or in any other way which said council may deem expedient, \* \* \* at any time within said period of ten years at its discretion and as the amount of money in said fund at any time may enable them to do. Payment for said real estate may be made by said executive council certifying to the State Auditor the amount due to any person at any time and the auditor then drawing a warrant in his favor on the State Treasurer out of the fund herein created." Section 5 relates to condemnation of any property the council is unable to purchase, and section 6 to the leasing of property purchased until buildings thereupon are removed and the disposition of said buildings, the proceeds to be included in the said fund. Section 7 directs the sale of a tract of land known as Governor Square, the proceeds to be turned into said fund, and section 8 declares that no part of the purchase price nor warrants or certificates issued therefor or interest thereon shall be paid otherwise than from said fund.

Were the lots to be paid only from this fund known as the capitol extension and improvement fund derived from the source mentioned on warrants drawn on the state treasury, the foregoing sections, it will be noted in passing, are complete in themselves and adequate for the objects intended. The sections following relate entirely to the anticipation of part or all of said fund. Section 9 enacts: "That for the purpose of accomplishing the earliest possible completion of the work contemplated herein and the carrying out of the plans provided for in this act, the executive council may anticipate the collection of the tax herein authorized to be levied for the extension and improvement of the capitol grounds, and for that purpose may issue interest-bearing warrants or certificates carrying a rate of interest not to exceed five per cent. per annum to be denominated 'capitol grounds extension and improvement warrants or certificates' and said warrants or certificates and interest thereon shall be secured by said assessment and levy and shall be payable out of the respective funds hereinbefore named, pledged to the payment of the same, and no warrants shall be issued in excess of taxes authorized or to be levied to secure the payment of the same.

It shall be the duty of the State Treasurer to collect said several funds and to hold the same separate and apart in trust for the payment of said warrants or certificates and interest and to apply the proceeds of said funds pledged for that purpose to the payment of said warrants or certificates and interest. Such warrants or certificates shall be issued in sums of not less than one hundred nor more than one thousand dollars each running not more than ten years bearing interest not exceeding five per cent. per annum, payable annually or semi-annually and shall be substantially in the following form." Following this is a form of such certificate, not necessary to be set out. Section 10 directs that the certificates be issued only in pursuance of a resolution of the executive council specifying conditions as to amount, rate of interest and the like. Section 11 provides for the registry of said certificates, with the Treasurer of State, and section 12 authorizes the sale thereof at not less than par value. The contention of the plaintiffs is that the entire act is in violation of sections 2 and 5 of article 7 of the Constitution of the state, in that it authorized the creation of an indebtedness in excess of that therein permitted, without submitting the question to a vote of the people. These constitutional provisions may as well be set out:

"Sec. 2. The state may contract debts to supply casual deficits or failures in revenues; or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever."

"Sec. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by, or on behalf of the state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein throughout the state, for three months preceding the election at which it is submitted to the people."

In determining whether the act in authorizing the issuance of interest-bearing certificates or warrants is inimical to these provisions of the Constitution, several questions necessarily are involved: (1) Would these certificates, if issued, constitute "expenses not otherwise provided for" within the meaning of section 2 of article 7 of the Constitution? (2) Can the executive council anticipate the revenues collectible within the biennial period by the issuance of certificates in advance payable therefrom as authorized without creating a debt within the meaning of these sections? (3) If these inquiries be answered in the affirmative, should the act be interpreted as empowering the executive council to issue certificates in anticipation of current revenues and in an amount beyond these not exceeding \$250,000, or equaling the collectible taxes during the entire ten years within which levies are directed to be made? (4) If the latter be the true construction, then does the act authorize the creation of a debt in excess of the constitutional limitation?

I. Plainly enough, the certificates contemplated in section 9 of the act were not intended "to supply casual deficits or failure in revenues." Might they be issued "to meet expenses not otherwise provided for"? The state was created by the people to perform for them certain functions, the necessity for the performance of which was the only object of its creation. These are in part defined in the Constitution and more fully in the statutes. The three co-ordinate branches of government created for the protection and well-being of the people must be maintained and afforded facilities and equipment essential to the efficient discharge of the duties devolving upon them. The insane and feeble-minded are to be cared for, those convicted of crime restrained of their liberty, the free school system maintained, opportunities for higher education afforded, and institutions provided for the deaf, dumb, and blind, as well as for such others as the humane sentiments of modern life deem proper subjects for the care of the state. The attainment of these objects involves the exercise of great business sagacity and the expenditure of large sums of money, and the manifest design of the people in inserting this clause in the Constitution was to enable those charged with the duty of providing necessary funds for the maintenance of the government to exercise some discretion in distributing the burden of taxation, in event unusual or extraordinary expenditures are deemed necessary beyond the period for which ordinary revenues are provided. To meet expenses not otherwise provided for—that is, not made available in some other or different way or manner—the General Assembly is authorized to incur an indebtedness to a limited amount precisely as is done in the exigencies of private business. In other words, the state is not denied the advantage of postponing payment of expenses which may be extraordinary or



unusual which are found beneficial in the ordinary enterprises of life. The objects for which "expenses" may be incurred are not defined, but left to the discretion of those endowed with the power of incurring them. "Expense" is defined in Webster's Dictionary as meaning "that which is expended, laid out or consumed; outlay; and hence the burden of expenditure; charge; cost." And "price" is said to be a synonym. Expenses when incurred is evidently what is meant, for there could be no expense by the state unless made in pursuance of law and the debt authorized may be created to meet such expenses. Manifestly, the levy of a tax collectible in the future would not constitute a provision for expenses presently created, and the mere fact that a future levy of taxes is authorized and the collection of these may subsequently be available to discharge the obligation assumed in the present expenditures does not obviate right to create debt therefor. In other words, a statute may authorize expenses to be incurred, and at the same time direct the issuance of evidence of debt in the way of bonds, warrants, or certificates, to meet such expenses and in the same act provide for taxation out of which to extinguish the debt. The act under consideration directs the executive council to purchase the grounds about the capitol and thereby to incur an expense. For this purpose, the levy of one-half of a mill on all taxable property of the state is ordered for each of the years of the biennial period, 1914 and 1915. Whether the revenue for these years available for the purchase of the grounds will be sufficient was not known. Were this inadequate, however, there would be no fund to meet this deficiency, and such deficiency might not be anticipated as will hereafter appear without incurring an indebtedness by the state. True, the levy of taxes sufficient to provide \$150,000 per annum thereafter is authorized by the act, but this might not be available "for the purpose of accomplishing the earliest possible completion of the work contemplated."

The manifest design in allowing the executive council to issue certificates payable out of funds other than those collected during the biennial period was to assure "the earliest possible completion of the work," and we are of opinion that any deficiency in the revenues collectible within that period and available for this purpose would be an expense to meet which a debt against the state not exceeding \$250,000 may be incurred by the issuance of certificates or warrants in pursuance of the last four sections of the act under consideration.

II. Certificates or warrants issued in anticipation of revenues collectible within the biennial period and payable therefrom do not create a "debt" within the meaning of that term as used in the Constitution. The General Assembly convenes on the second Monday of January of the odd-numbered years and provides for reve-

nues necessary to the performance of the different governmental functions during the ensuing two years. Its power of taxation is unlimited, and the taxes authorized to be levied and collected are legally certain to reach the state treasury, and therefore are as certainly available to meet the expenses authorized as are those collectible annually by a municipality.

It is well settled in this state that a municipality may anticipate the collection of taxes, and in defraying ordinary expenses may make appropriations and incur valid obligations to pay "in advance of the receipt of its revenues," even though the treasury be empty, and no actual levy made, and the city be otherwise indebted to the full limit. *Grant v. City of Davenport*, 36 Iowa, 396; *Dively v. City of Cedar Falls*, 27 Iowa, 227; *French v. City of Burlington*, 42 Iowa, 614; *Phillips v. Reed*, 107 Iowa, 331, 76 N. W. 850, 77 N. W. 1031; *City of Cedar Rapids v. Bechtel*, 110 Iowa, 198, 81 N. W. 468. In some other states the levy of taxes must actually have been made in order to warrant the anticipation of revenues by issuing warrants in advance.

In the *Phillips Case* it was said, in speaking of certain warrants: "If the city had on hand or in prospect, at the time these warrants were issued, funds with which to meet them without trenching upon the rights of creditors for current expenses of the city, then the warrants were valid, although such funds may have been thereafter wrongfully applied to another purpose."

Warrants issued in anticipation of taxes are held not to constitute a debt on the theory that moneys, the receipt of which is certain from the collection of taxes, are regarded as for all practical purposes already in the treasury and the contracts made upon the strength thereof are treated as cash transactions. Even though a municipality is indebted to the constitutional limit, this does not prevent it from levying such taxes as are authorized by law nor from issuing warrants within the limits of such levy in anticipation of their collection, and, if the warrants issued are within the amounts lawfully levied, they do not create an additional debt. The proper officers of the state, as the executive council in this state, may anticipate the revenues to be expended by it which the Legislature has authorized to be collected within the biennial period, and contracts contemplating the appropriation of these are not regarded as debts against the state. As said by Field, C. J., in *State v. McCauley*, 15 Cal. 430: "The eighth article (that limiting the state indebtedness corresponding to this state) was intended to guard the state from running into debt, and to keep her expenditures, except in certain cases within her revenues. These revenues may be appropriated in anticipation of their receipt as effectually as when actually in the treasury."

The same rule was laid down in *State v. Medberry*, 7 Ohio St. 529; the court saying: "So long as this financial system is carried

out in accordance with the requirements of the Constitution (two years' restriction), unless there is a failure or defect of revenue, or the General Assembly have failed, for some cause, to provide revenue sufficient to meet the claims against the state, they do not and cannot accumulate into a debt. Under this system of prompt payment of expenses and claims as they accrue, there is, undoubtedly, after the accruing of the claim, and before its actual presentation and payment, a period of time intervening in which the claim exists unpaid; but to hold that for this reason a debt is created would be the misapplication of the term 'debt,' and substituting for the fiscal period a point of time between the accruing of a claim and its payment, for the purpose of finding a debt; but, appropriations having been previously made and revenue provided for payment as prescribed by the Constitution, such debts, if they may so be called, are, in fact, in respect of the fiscal year, provided for, with a view to immediate adjustment and payment. Such financial transactions are not therefore to be deemed debts." The same rule was laid down in *State v. Parkinson*, 5 Nev. 15.

The Supreme Court of South Dakota was called upon to advise the Governor of that state concerning the anticipation of the revenue by the issuing of warrants, and in response thereto said: "By general law, the Legislature has provided for the levy of an annual tax for meeting the ordinary expenses of the state. By so providing, in a constitutional manner, for the levy of a sufficient tax, it has provided a revenue, to the extent of the tax, for the payment of the ordinary or current expenses of the state. It may then make appropriation of such revenue for diverse and specific purposes, included within the ordinary expenses of the state, and may authorize the issue of evidence of such appropriation in the form of warrants, without incurring an indebtedness therefor, within the meaning of said section 2, art. 13, of the Constitution. If this were not so, then the appropriations of each Legislature in excess of the cash actually in the hands of the State Treasurer, and in the fund from which such appropriations were made, would, to the extent of such excess, constitute the creation of a debt against the state. It is well understood that the aggregate of the general appropriations of each Legislature in this, as in other states, generally greatly exceeds the amount of actual cash in the hands of the State Treasurer when such appropriations are made. The taxes levied and in process of collection are treated as in the state treasury, though not yet actually paid over to the State Treasurer. It has been ruled in several cases, and by high judicial authority, that state funds, so in sight, but not yet in hand, may be anticipated and appropriated as though actually in possession of the State Treasurer. Critically considered, it may constitute the incurring of an indebtedness; but it is not an indebtedness repugnant to the Constitution,

because its payment is legally provided for by funds constructively in the treasury. If the drawing of a warrant upon the state treasury is the incurring of indebtedness by the state, then the drawing of such warrant would violate the Constitution, even if there was money in the state treasury to pay it, if the constitutional limit of indebtedness had been reached; for there must always be some time intervening between the drawing of the warrant and its payment, and during such time the indebtedness of the state would be increased beyond the constitutional limit. Such an interpretation of the constitutional limitation would obviously be too hypercritical to be practicable or reasonable. It being once established, as we think, it is by the authorities already cited, that the revenues of the state, assessed and in process of collection, may be considered as constructively in the treasury, they may be appropriated and treated as though actually and physically there; and an appropriation of them by the Legislature does not constitute the incurring of an indebtedness, within the meaning of section 2, art. 13."

See, also, *In re Incurring of State Debts*, 19 R. I. 610, 37 Atl. 14, where the court said, in answer to the inquiry from the Governor as to whether the General Assembly could in time of peace incur state indebtedness or borrow money in excess of the limit in the Constitution, that "in thus answering (in the negative) we do not mean to be understood that the General Assembly may not make appropriations or authorize the expenditure of money to an amount exceeding the sum named. The power of taxation resides in the General Assembly, and therefore it has power to raise by taxation such sums as it may deem necessary for the expenses of the state and the public benefit; and it may appropriate or authorize the expenditure of the money so raised for the purposes for which they are raised, and even, as we think, in anticipation of their actual payment into the state treasury."

The principle seems well established in reason and by authority. The power of General Assembly to tax is unlimited save by the two years' period. Of course, it may enact laws exacting the levy of a tax annually for any period in the future, but this is always subject to repeal or modification by subsequent General Assemblies. But revenues provided for during the biennial period are available to a legal certainty, for no General Assembly will convene to repeal or modify within that time. The anticipation then by the issuance of warrants or certificates to be paid therefrom is of the revenues certainly to be collected, and therefore is in the nature of a previous appropriation of funds subsequently to reach the treasury, the setting apart a portion thereof for a specified purpose, rather than the creation of an indebtedness against the state.



III. In so far then as the act authorizes the issuance of warrants or certificates in anticipation of taxes to be collected during a biennial period and to cover any deficiency therein to meet expenses incurred in executing its purposes, not exceeding \$250,000, it ought not to be denounced as inimical to the provisions of the Constitution quoted. If the last four sections of the act were to be construed as plaintiffs contend these should be, however, a different conclusion would necessarily follow. They say that these authorize the executive council to anticipate the taxes to be levied during the entire ten years amounting in the aggregate to over \$2,200,000, \$1,200,000 of which must be collected after the first biennial period. Were it to be so construed, the limit of \$250,000 might be exceeded, and unless the principle which governed in *Swanson v. City of Ottumwa*, 118 Iowa, 161, 91 N. W. 1048, 59 L. R. A. 620, shall obtain, this would be in violation of section 2 of article 7 of the Constitution. There, the city was authorized to levy a tax annually for a series of years out of which to create a sinking fund for the purpose of the purchase or erection of a system of waterworks, and, in order to meet the present cost, to create a specific fund, by issuing bonds payable only from said sinking fund, from which and the sinking fund on hand to pay the contract price for the erection and completion of said system of waterworks. For the payment of these bonds with interest "shall be pledged the entire proceeds of the two mills sinking fund tax," "and so much of the proceeds of the water rates and rentals collected from consumers and of the water tax \* \* \* as shall not be needed for maintenance and operation, repairs and proper and necessary extensions, additions and improvements of said waterworks." The plan was approved by a vote of the electors, a contract entered into, and the city was about to issue bonds such as contemplated, when suit was instituted to enjoin the issuance of the bonds for that, as was claimed, the indebtedness of the city then equalled the constitutional limit and such bonds would create a debt within the meaning of section 3, art. 11, of the Constitution, declaring that "no county or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate, exceeding five per centum on the value of the taxable property within such county or corporation." On great consideration, the bonds were held not to create a "debt" such as contemplated in the above section; the court, after an exhaustive review of the authorities, saying: "Were we to give the word 'debt' the broad significance that some of the authorities would justify, we should destroy the corporate life and efficiency of every municipality which reached the allowed limit of indebtedness. But the construction we give it has strong support in the decisions of the courts of other states, is in strict line

with the opinion we have heretofore frequently expressed, and preserves the integrity of the Constitution according to its evident meaning and intent, while entailing no disastrous consequences to the city or to its citizens. The right of a city to construct and own works of public utility, if such rights exist, is one of great importance, and should not be embarrassed or rendered nugatory by strained or technical construction of the Constitution or of the statutes. Its importance is not so much in the fact that public ownership is in itself wise or desirable (concerning which there may be much difference of opinion) as in the fact that with such power in reserve municipalities are placed in position to deal with private owners on equal terms, and avoid vexations which their helplessness might otherwise invite."

That case is readily distinguishable from that now before us. After the bonds were issued and the system of waterworks purchased or erected, the municipality would have no escape from the levy and collection of the taxes stipulated and the application thereof to the satisfaction of the bonds and interest. In this case, however, the action of one General Assembly is not binding on its successor unless so declared in the fundamental law, and, though the Thirty-Fifth General Assembly did enact these statutes relating to the extension of the state capitol grounds, the succeeding General Assemblies are in no manner inhibited from repealing them. Indeed, it will be within the power of the next General Assembly, or any of its successors, if so disposed, not only to repeal chapter 14 of the acts of the Thirty-Fifth General Assembly in its entirety but to dispose of the property acquired thereunder. It is said that the holders of the certificates or warrants take that risk, as these are payable only from the taxes provided in the act. But this is so with every state debt. Though the debt created may constitute a legal obligation, no remedy exists for its enforcement, unless possibly held by another state except as the state may permit, and necessarily the holder must rely upon payment at the option of the state from the only resource available, i. e., taxation. *State v. Young*, 20 Minn. 474, 9 N. W. 737. Being nonenforceable, such a debt is akin to a moral obligation, and, though condemned as in violation of good morals and as against sound public policy, no one has ever questioned the power of a state to repudiate its debts. A subsequent Legislature might repeal chapter 14, and this would leave the certificate without a fund from which to be paid; but it is scarcely conceivable that, after having received the proceeds of the certificates and made use of its own purposes the state would deem the denial of any obligation to repay as consistent with the honor and integrity of a great people. Moreover, section 5 of article 7 of the Constitution prescribes how a debt exceeding \$250,000 shall be created and paid: (1) For some single work or object; (2) to be paid

with interest from an annual tax within 20 years; and (3) applied only thereon. The particular method of creating a fund out of which the state debt, authorized by a vote of the people, shall be paid, is precisely like that contemplated in this act and approved in the Swanson Case. The only possible distinction between the statutory method of providing for the payment of municipal bonds and the constitutional method of providing for the payment of a state debt, voted by a majority of the people, is that, under the former, the bonds are expressly made payable from the sinking fund created by the levy and collection of the taxes authorized only while under the latter the limitation of payment therefrom only is plainly to be implied. The Constitution having particularly prescribed the manner of raising a revenue out of which a debt of the state shall be satisfied, an obligation for an object such as defined in the Constitution and to be discharged as therein directed ought not to be denominated as other than a debt of the state.

Nor do we find the weight of authority otherwise. Section 10 of article 7 of the Constitution of New York, though differing some, is in substance like section 2 of article 7, and is in words following: "The state may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not at any time, exceed one million of dollars; and the money arising from the loans creating such debts, shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever." Section 12, art. 7, Const. 1846 (section 4, art. 7, Const. 1894) is, in all essential particulars, like section 5 of our article 7, and the Court of Appeals, in *Newell v. People*, 7 N. Y. 11, declared an act authorizing the creation of a fund by the sale of canal revenue certificates for the enlargement and completion of the Erie, Genesee Valley, and Black River Canals and the payment of these from revenue to be derived from taxation during 21 years void as creating a debt in excess of the limitation contained in the section quoted.

Article 12 of the Constitution of North Dakota declares that "the state may, to meet casual deficits, or failure in revenue, or in case of extraordinary emergencies, contract debts but such debts shall never in the aggregate exceed the sum of two hundred thousand dollars," with provisions like those contained in sections 4 and 5 of article 7 of our Constitution following. In *State v. McMillan*, 12 N. D. 280, 96 N. W. 310, the Supreme Court of that state, speaking through Young, C. J., declared an act of the Legislature authorizing the issuance of bonds for the construction of school buildings and payable in the future out of funds derived from the sale of lands set apart for the schools of a state debt and, as that outstanding equalled the limit fixed by the Constitution, the act was held to be in violation thereof; the court following *Newell v. People*, supra.

Section 5 of article 9 of the Constitution of Minnesota reads: "For the purpose of defraying ordinary expenditures, the state may contract public debts, but such debts shall never, in the aggregate, exceed \$250,000; every such debt shall be authorized by law, for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two thirds of the members of each branch of the Legislature, to be recorded by yeas and nays on the journals of each house respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed or diminished, until the principal and interest of such debt shall have been wholly paid." In *Brown v. Ringdal*, 109 Minn. 6, 122 N. W. 469, the Supreme Court of that state upheld an act authorizing the issuance of interest-bearing certificates of indebtedness, as funds were needed for the construction of a new state prison costing \$2,250,000, said certificates to be payable out of a fund produced by the levy and collection of taxes amounting to \$225,000 per year, following *Flecten v. Lamberton*, 69 Minn. 187, 72 N. W. 65, the court saying: "Counsel for plaintiff differentiates the *Lamberton* Case by the fact that no certificates of indebtedness were there authorized to be issued, and earnestly insists that this feature of the act under consideration renders it wholly void. We are unable to concur in this claim. The certificates in and of themselves create no indebtedness against the state. On the contrary, they are mere evidence of the holder's right to demand and receive 'from the State Treasurer the proceeds of the tax authorized by the act to be levied and collected, and known and classified as the "Prison Building Fund."' Fairly construed, the act contemplates their payment from this fund exclusively, and they are not general obligations of the state. Whatever indebtedness, if any, was created by this act, is, within the *Lamberton* Case, found in the provisions thereof appropriating \$2,250,000 for the construction of the new prison and the levy of a tax extending over a period of nine years to produce the same, and not by the issuance of certificates indebtedness evidencing the right of the holders thereof to the fund when collected. If the certificates could be construed as creating an indebtedness against the state payable from the general revenue fund, a different question would be presented. But they are not. They are to be issued in anticipation of funds provided for and appropriated, rightfully under the *Lamberton* Case, and are valid only as respects that fund when paid into the state treasury."



The majority intimate that but for the prior decision a different conclusion might be reached, but the act considered in the former case merely appropriated any surplus thereafter in the state treasury and the proceeds of an annual levy of two-tenths of a mill upon the assessed valuation of the state for not exceeding ten years to the purchase of a site and the erection of a capitol building at a cost of not exceeding \$2,000,000. It in no manner contemplated the creation of a debt nor authorized the revenues to be anticipated by the issuance of evidence of debt. It might have been repealed by any subsequent Legislature, but, of course, was the law of the state until repealed in authorizing the levy and collection of this like other taxes. This was pointed out by Lewis, J., in his dissenting opinion in the Brown Case, adding: "The majority hold that the Legislature may provide for the present capitalization of such future conditions by issuing certificates of indebtedness to draw interest to be sold to the public upon the assurance that the credit of the state is behind them, and that the money will be forthcoming when the certificates mature. By this arrangement the entire amount of the tax levy is anticipated, and the amount is available for present purposes. Thus the evidence of a present indebtedness is furnished which may be received with confidence in the commercial world."

The opinion in *Flecten v. Lamberton*, supra, does not disclose that the point now being considered was involved, and as the court in *Brown v. Ringdal*, supra, gave the question scant, if any, consideration, the latter decision is not persuasive authority. Moreover, in that state a debt in excess of the limit may be authorized by a two-thirds vote of the members of each House of the General Assembly, and whether the act for the construction of the prison was so passed does not appear.

California adopted a Constitution in 1849, article 7 of which provided that the "Legislature shall not in any manner create any debt or debts, liability or liabilities, which shall singly, or in the aggregate, with any previous debts or liabilities exceed the sum of three hundred thousand dollars." Then follows an exception in case of war, invasion, or insurrection, similar to section 4 of article 7 of our Constitution, and provisions for the creation of a debt exceeding that amount like section 5 of that article. In *People v. Pacheco*, 27 Cal. 175, the Supreme Court of that state, speaking through Sawyer, J., held an act of the Legislature, in substance agreeing to pay the interest on \$1,500,000 of bonds issued by the Central Pacific Railway Company for a period of 20 years and directing that an annual tax of 8 cents on the \$1,000 taxable property of the state for that purpose, any deficiency to be paid from the general fund on hand and in consideration thereof, the company undertook to carry public messages, lunatics and convicts to and from

asylums and prisons, materials for the construction of the state capitol, and munitions of war without other compensation. The preamble indicated it was a war measure and the court upheld it as such. But it also declared that, though the state was indebted beyond the constitutional limit, the act did create a "debt" within the meaning of the article a part of which we have quoted. In doing so, the court, after full consideration, concludes: "Here is a provision for raising a fund and setting apart and appropriating it to the payment of the interest on the bonds in question, more specific than those in the cases of *State v. McCauley*, 15 Cal. 429, *McCauley v. Brooks*, 16 Cal. 24, and *Koppikus v. State Capitol Commissioners*, 16 Cal. 249, because in those cases the payment was to be made, generally, out of 'moneys in the treasury not otherwise appropriated,' without providing any specific fund and devoting it to that use alone, or knowing whether or not there would in fact be any unappropriated moneys in the treasury at the time payments would fall due. In this case, a specific fund is provided and set apart, to be devoted to the payment of the interest in question alone; and it would seem to be more than ample for the purpose, as the tax provided for on a sum much less than the present assessed valuation of the taxable property in the state, would produce the required amount, and the appropriation from the general fund will not be required until the specific fund is exhausted, which may, and in all probability never will, occur. For these reasons there would be even less propriety in holding this appropriation to be a debt or liability, within the meaning of the constitutional restriction, than those which were the subjects of discussion in the cases cited. The Legislature has provided a fund, and made an appropriation for the entire amount. No further legislation is required upon the subject. Nothing further remains to be done on the part of the state, but the ministerial duty of collecting taxes and paying the interest out of the proceeds, as it from year to year accrues. Of course the state cannot, without a breach of good faith, refuse through its officers to perform this ministerial duty."

An examination of the earlier cases relied upon discloses that, while the contracts entered into extended beyond the time for which taxes were available, no liability was created in excess of which would be in the treasury to meet it. No attention was given the thought that the scheme was like that provided in the article for the creation of an indebtedness in excess of the amount limited. The court appears to have relied largely on *State v. Medberry*, 7 Ohio St. 526; but there the decision was that the state might anticipate the revenues to be collected within the biennial period for which the General Assembly may authorize the levy and collection of taxes, and, as a clause in the Constitution forbade appropriations for more than two years, the act authorizing a contract extending over a period of five years was denounced as invalid.

For the reasons already stated, we are not inclined to follow the California decisions. To do so would defeat the manifest design of the people in adopting the section of the Constitution in limiting indebtedness the General Assembly may create. The salutary purpose was to prevent mortgaging the revenues of the state in the future, beyond a specified amount, and, if this is to be rendered, it is quite as essential to denounce a scheme to incur a debt for the payment of which provision is made by a scheme of taxation as a debt to the payment of which no thought has been given. In either event, the funds to meet the obligation must be raised by taxation, and, in either, it is certain to be paid.

The decision in *Swanson v. City of Ottumwa*, supra, then is not controlling, and, were the act to be construed as authorizing the issuance of certificates payable from taxes levied beyond the biennial period exceeding \$250,000, it would have to be denounced as inimical to section 2 of article 7 of the Constitution.

IV. The last four sections of the act then are valid, if they may be construed as authorizing the issuance of certificates in anticipation of taxes to be levied and collected in the biennial period during the period of such issue and for any deficiency beyond that to meet the expenses incurred in pursuance of the first eight sections not exceeding \$250,000. If, however, the act must be construed as conferring authority to issue certificates to cover such deficiency in excess of such amount, the last four sections must be denounced to be inimicable to the fundamental law. The test, as contended by plaintiffs, is not what has been or may be done under the act, but what is authorized to be done in pursuance thereof. As said in *City of Beatrice v. Wright*, 72 Neb. 689, 101 N. W. 1039: "The vital point to be determined is: What is authorized to be done? The constitutional validity of the law is to be tested, not by what possibly has been or may be done under it," but what can "be done under and by virtue of its provisions," and in the light of the Constitution. The members of the General Assembly which enacts and the Governor who approves, a statute have sworn quite as solemnly to support the Constitution as the members of this court and are to be assumed to have intended to conform their conduct with such obligation. If then two constructions are open and possible without doing violence to the language of the act, one upholding the act as not in violation of the Constitution and the other denouncing it as inconsistent therewith, the courts should assume that the lawmakers intended the former and so construe the language thereof as to render it harmonious with the fundamental law. This is in accord with the rule that only when clearly and palpably in violation of some provision of the Constitution will a statute be denounced as inimicable thereto.

In *McCullough v. Virginia*, 172 U. S. 122, 19 Sup. Ct. 138, 43 L. Ed. 382, the principle is well stated: "It is elementary law that every statute is to be read in the light of the Constitution. However broad and general its language, it cannot be interpreted as extending beyond those matters which it was within the constitutional power of the Legislature to reach. It is the same rule which obtains in the interpretation of any private contract between individuals. That, whatever may be its words, it is always to be considered in the light of the statute, of the law then in force, of the circumstances and conditions of the parties. So, although general language was introduced into the statute of 1871, it is not to be read as reaching to matters in respect to which the Legislature had no constitutional power, but only as to those matters within its control and if there were, as it seems there were, certain special taxes and dues which under the existing provisions of the state Constitution could not be affected by legislative action, the statute is to be read as though it in terms excluded them from its operation."

Again, in *Chesapeake & Ohio Ry. Co. v. Kentucky*, 179 U. S. 388, 394, 21 Sup. Ct. 103, 45 L. Ed. 244: "Indeed, we are by no means satisfied that the Court of Appeals did not give the correct construction to this statute in limiting its operations to domestic commerce. It is scarcely courteous to impute to a Legislature the enactment of a law which it knew to be unconstitutional, and if it were settled that a separate coach law was unconstitutional, as applied to interstate commerce, the law applying on its face to all passengers should be limited to such as the Legislature were competent to deal with. The Court of Appeals has found such to be the intention of the General Assembly in this case, or, at least, that if such were not its intention, the law may be supported as applying alone to domestic commerce. In thus holding the act to be severable, it is laying down a principle of construction from which there is no appeal."

Reverting to the terms of the act, it will be noted that, from the capitol grounds and extension fund, the executive council may purchase the lands included in the plat "from time to time, within said period" (section 2) "on option or contracts or any other way which said council may deem expedient \* \* \* at any time within said period of ten years" (section 4). When the several tracts are to be acquired for the state is entirely within the discretion of the executive council. "For the purpose of accomplishing the earliest possible completion of the work contemplated herein and the carrying out the plan provided for in this act, the executive council may anticipate the collection of the taxes here authorized, \* \* \* may issue interest-bearing warrants or certificates" payable from the contemplated fund "each running not more than ten years." Section 9. The executive council may but is



not bound to complete the work at the earliest moment. It may but is not bound to issue certificates. If it so elects, the entire ten years may be taken within which to acquire the land. Even if it should elect to purchase all of that included in the plat, not owned by the state, immediately the evidence is without dispute, that this can be accomplished from the funds available from the taxes to be levied and collected for the years 1913 and 1914 together with the proceeds of certificates not exceeding \$250,000 in amount. Surely then the act ought not to be construed as authorizing the creation of a "debt" in excess of the limitation contained in section 2 of article 7 of the Constitution. Even if this would not suffice, it is not to be assumed that the executive council would issue certificates exceeding such limit. Every act of the General Assembly is to be read in the light of the Constitution, and the limitations contained therein are as effective as though written into the legislative act. The judiciary is not the only department of government upon which the duty of observing and obeying the provisions of the Constitution devolves. Each of the other departments, legislative and executive, are under precisely the same obligation to know these and obey, and it ought not to be said that such obligation rests more lightly on the one than on the other. All are representatives of the people with different functions to perform, and though the courts are by the Constitution itself made the final arbitrators, in construing its terms and interpreting its meaning, it is never to be lost sight of that, until the contrary appears beyond reasonable doubt, the courts will proceed on the theory that the legislative and executive departments have obeyed its commands and will yield to its injunctions. With the wisdom or expediency of legislation, the courts as such have no concern. Their duty is to construe, apply, and interpret the law, not to enact it, and in so doing we conclude that, when construed in connection with the provisions of the Constitution, the act under consideration cannot be said to authorize the executive council to violate any of its provisions, and, in our opinion, the district court erred in construing any portion of the act as unconstitutional.

Reversed. All the Judges concur.

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