

The official report of the Secretary of the Interior for 1871-2 gives the following table of the total swamp lands segregated to the several States, under acts of Congress approved March 2, 1849, September 28, 1850, and March 2, 1860, up to and ending September 30, 1870:

	Acres.
Ohio.....	54,428
Indiana.....	1,354,732
Illinois.....	3,267,732
Missouri.....	4,004,418
Alabama.....	479,514
Mississippi.....	3,920,645
Louisiana, Act of 1849.....	774,978
Louisiana, Act of 1850.....	543,329
Michigan.....	7,275,894
Arkansas.....	8,652,432
Florida.....	11,700,467
Wisconsin.....	4,333,082
Iowa.....	2,583,509
California.....	1,158,026
Oregon.....	
Minnesota.....	1,129,774

That the Land Department of the United States has done nothing to assist in segregating the swamp lands, can in no manner defeat the title of the State; for I know of no rule of law whereby a grantor under covenants of diligence will be permitted to defeat his own grant by his own neglect.

The title of the State to the swamp and overflowed lands within her borders became vested on 12th day of March, 1860, and subject to the rightful legislation of the State.

In order to save innocent parties settling on the lands of the State before the State took possession and before it was publicly known what the title of the State was, the Board of School Land Commissioners has caused such settlers' claims to be omitted from the selections of swamp lands. As to these, I recommend the passage of an act granting to such settlers the right of the State thereto, without cost to them—the State looking to the United States for indemnity for involving this title subsequently to the grant to the State by the action of her local land offices. This legislation is necessary to quiet titles and to prevent further litigation and disastrous losses.

TIDE LANDS.

Upon the seacoast of this State, it is estimated that we have a half-million acres of lands lying between the ebb and flow of the tide. These lands belong to the State by virtue of its sovereignty, or the right of eminent domain, independent of any title from the General Government. The public surveys of the United States should have been limited to the line of ordinary high tide of the ocean. But owing to inattention to the right of the State, on the part of those having in charge the work of extending these surveys, the United States government lines have been extended upon the salt marshes, and these surveys have been from time to time approved by the General Land Office, and the tide lands so embraced have been, in many cases, disposed of to donation, homestead and pre-emption claimants, as public lands of the United States. These transactions give no title as against the right of the State. The right to the lands lying between the ebb and flow of the tide has been asserted and maintained in all the States bordering on the sea, and in such cases where, by inadvertency, or claim of right, they have been disposed of by the United States, such lands have been recovered by those claiming by right of the State title after the same have been patented by the United States, and even after such patents have been confirmed by special Acts of Congress. It is no favor to settlers for the local land offices, or anybody else to induce them to take lands under claim of property in the United States, which belong to the State of Oregon. The greatest effort and care on the part of the Executive officers may not save them harmless.

It is the part of wisdom in us to see to it that the primary disposal of all our public lands be properly made. No greater public service can be rendered at this period of the development of our State, than to assure to the people sound titles to their lands. I have called the attention of the Commissioner of the General Land Office to this subject, and I now recommend that an Act be passed providing for the legal disposal of tide lands belonging to the State. In framing such legislation, I will suggest that the rights of all settlers who are now in possession of any portion of these lands, claiming under the United States, be protected, and that all the tide flats be held for sale in limited quantities to adjacent settlers at a certain price, for a fixed period, after which those remaining might be disposed of at public auction to the highest bidder.

PENITENTIARY BUILDING.

The act of the Legislative Assembly, approved October 21, 1864, providing for the location of suitable grounds for a Penitentiary and Insane Asylum and for building a Penitentiary, created a Board of Commissioners, who were required "to have constructed, as soon as convenient, suitable wooden buildings wherein to confine the State convicts, preparatory to the erection of permanent buildings for a Penitentiary; to obtain plans and specifications for such permanent buildings; to purchase material for the same, and to transact all business, by themselves or their authorized agents, necessary for the erection of such portion of such permanent buildings as to them may seem necessary." Specific directions are also given to this act to the Commissions, how to proceed in the work, and in what manner to incur liabilities and how to adjust them.

Commissioners were elected, who constructed the temporary wooden prison, but proceeded no further. At the session of the Legislature of 1870, Commissioners were elect-

ed to fill the vacancies in the Board created by the act of 1865 who have proceeded according to the act and have erected such portion of such permanent buildings as to them seemed necessary for the safe keeping of prisoners. The Assembly, at its last session, also facilitated this work, by an appropriation of fifty thousand dollars.

The temporary wooden structure had become absolutely useless as a prison. It had been condemned as such by two Grand Jurors, by the former building Commissioners, and by the report of the last Superintendent; and the duty of the Commissioners to build a permanent Penitentiary was absolute.

I state with certain confidence, that that the work is well and economically done. The plan and style of the buildings are after the most improved models; and for safety and sanitary arrangements, the structure is quite complete. The prison is also planned with reference to future enlargements, and to the grading of prisoners according to the improved methods of discipline. The labors of the Commissioners have been laborious and faithful, and the results have had my approval. I call your attention to the report of the Building Commissioners, herewith submitted, and recommend an early appropriation to cover the contracts made by them, as I consider them most economically made. Provision should also be made for painting the buildings outside and for ceiling on the inside. The amount of convict labor represented in the new Penitentiary and works, is three millions of brick, and 9,325 days' labor on the buildings. This prison will hold our State prisoners until we reach the number of four hundred, by simply adding iron cells for their keeping.

The buildings, as they now stand, have cost the State \$159,000, represented as follows: \$50,000 cash appropriated; \$58,000, convict labor and proceeds of convicts; \$51,000, now outstanding in vouchers, issued under the provisions of the act of 1864.

A limited appropriation should be made to assist convict labor in the erection of permanent walls around the prison, and to help the completion of workshops for the employment of convicts. Provisions should also be made for utilizing the water power belonging to the State within the prison grounds, which is of first-class character.

These things done, and Oregon may boast one of the most complete Penitentiaries in the whole country.

MANAGEMENT OF THE PENITENTIARY.

I call your special attention to the report of the Superintendent of the Penitentiary herewith transmitted. There has been a marked improvement in the control of this institution. More than double the relative amount of labor has been done than ever before, while expenses have been reduced. The discipline, health and moral conduct of the prisoners have been improved, and the whole prison has been managed in a manner to reflect credit upon the Superintendent and upon the State. A progressive system of improved discipline is entered upon. A library is provided by the liberality of the citizens of Salem, instruction is given to those who are uneducated, and an earnest effort is being made to make the prison a school of reformation as well as a place of punishment for crime.

In the religious services, which are held regularly at the Penitentiary, several of the clergy, resident at the Capital, have manifested a great interest and freely devoted much time and labor to assist and instruct the unfortunate inmates. The report of the Rev. A. F. Waller and the Rev. I. D. Driver, who have acted as voluntary chaplains, is herewith accompanying.

I recommend that authority be given by law for leasing the convicts as practiced in other States, and for their continued employment under such a system.

It will be noticed by the prison accounts, that the earnings of convicts have reached the sum of their expenses during the last biennial period, within \$11,000. As soon as the permanent walls are constructed and work-shops completed, the Penitentiary, under the present mode of management, will be self-sustaining.

PARDONS.

In accordance with the provisions of our statute, a report of the pardons granted by me during the past two years, giving the reasons why said pardons were granted, is herewith accompanying. There is no subject within the duties of the Executive more delicate, or one requiring more solicitous attention and well balanced judgment, than the exercise of the power of pardon. Petitions and personal urgency for Executive clemency, toward those who have been so unfortunate as to fall beneath the ban of the law, are almost constant. To examine and weigh all cases presented, has been with me a matter of conscientious labor, in the performance of which, I have reached such conclusions as the facts presented seemed to warrant at the time.

The number of persons who have been pardoned during the present Executive term, out of two hundred and eighty-six different persons who have been confined in the Penitentiary, is seventeen—of which number six have been released on physician's certificates, showing that they were suffering from incurable disease, rendering longer imprisonment improper without hospital conveniences, with which the State was not provided at the time of

these pardons. It has been held in these cases that further imprisonment would extend punishment beyond the sentence of the law, and inflict such harsh and cruel penalties as are forbidden by our Constitution. One pardon—that of an Indian—was granted on the ground of mistaken identity made clearly to appear; and one for the reason that no conviction could have been had unless the jury before whom the case was tried agreed to a recommendation to Executive clemency placed in the record of their verdict, which was done. This pardon was granted after nearly five months' imprisonment. The remaining nine pardons were granted on the usual grounds of clemency stated in the report. In addition to the list of pardons issued by me, I have given a list of the names of five convicts pardoned by my predecessor on the day before the close of his official term, not reported by him to the last Legislature, and the reasons of the pardons not being assigned.

RAILROAD SUBSIDIES.

Subsequent to the adjournment of the last Legislature the bill passed at that session known as the Portland Subsidy Bill was refused Executive approval, and, as directed by the Constitution, the same was filed in the office of the Secretary of State, with the objections thereto. This bill, with said objections, will be laid before you by the Secretary of State, to be treated "in like manner as if it had been returned by the Governor." After much further reflection on the question of taxing the people to aid private railroad corporations, involved in said veto, I have been unable to arrive at any other conclusion than those stated; and the subject is now submitted to the final action of your honorable body.

BOARD OF SCHOOL LAND COMMISSIONERS.

The duties of the Board of School Land Commissioners have been arduous and have been promptly and successfully performed. During the past two years they have deeded and bonded 98,740 acres of Common School lands; 10,935 acres of University lands; 149,189 acres of State or internal improvement lands.

The entire quantity of these lands disposed of prior to September, 1870, on account of the want of record, cannot now be stated.

The Board have heard and determined all conflicts of title, and have kept complete records of all their work. They have also preserved in bound volumes a duplicate original of every deed executed by them. In connection with the work of the Board, I call your attention to Sec. 9 of the Act of October 26, 1868, creating the La Grande Land Office, which provides that upon the failure of purchasers to make prompt payment for lands mortgaged to the State for part of the purchase money, the purchaser shall forfeit all right and title to the land, and the land be sold to another purchaser forthwith. This is a harsh and crude provision, and, if enforced, would have done infinite injustice.

This provision should be modified with a saving clause against all summary forfeitures under it.

The efficient work of this Board is swelling the amount of educational funds to such importance that more complete provisions should be made for the custody and control of funds in the hands of local agents; and particularly in reference to the collection and return of interest for distribution to the schools. Local agents should be required to give bonds to the Board for the safe custody of the moneys in their hands, and for the faithful performance of their official trusts.

COMMON SCHOOL FUND.

The irreducible Common School Fund, arising from the sales of the sixteenth and thirty-sixth sections in each township of the public lands in Oregon, and those taken in lieu thereof, has now reached the amount of \$150,000, in round numbers.

The grant of two sections of land in each township throughout the State for common school purposes will give to the public education over 3,000,000 acres; yielding one-third of this amount for mountain lands, not now available, and we have two million acres which may be gradually sold and the proceeds invested for common schools. Adding to this the proceeds of the sales of the Internal improvement lands and the revenue from the Canal and Locks at Oregon City, and it will be readily seen that our Common School Fund may easily reach three million dollars within a reasonable time.

There was distributed last March, to the several counties, as interest collected on the invested school fund, the sum of \$39,453 71. This is the first assistance which our schools have ever received from the common school grant. A considerable larger sum will be distributed next year, and the work will be followed up by a progressive increase of the distributions from year to year.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

I recommend that there be provision of law for the election of a Superintendent of Public Instruction. The Constitution provides that the Governor shall perform the duties of this office, but that the Legislature, after the term of five years from the adoption of the Constitution, may provide for a separate officer, fix his compensation and prescribe his powers and duties. It has been fourteen years since the adoption of the constitution, while the growing importance of the subject of common schools requires that the entire time of an energetic and competent officer be devoted to its development and control.

As to the amendments to the com-

mon school law, there are several which may well be adopted, but they can better be explained to a committee of your honorable body than to be discussed in general message.

AGRICULTURAL COLLEGE.

I recommend the passage of an act providing for the more efficient organization and support of the State Agricultural College. The State, in receiving the grant made by Congress for this institution, places itself under obligations to maintain a school of agriculture and the mechanic arts. The number of students provided to be appointed to this institution by the State ought to be doubled, and the funds to arise from the sale of the land belonging to the College should be marshaled and made available. In all respects we have fallen far behind our sister States in the management of our Agricultural College grant and the organizing of the institution.

The report of the President of the Agricultural College, also a report of the Board of Commissioners appointed by the last Legislature to devise rules, regulations and by-laws and a course of study for said institution are hereby submitted.

STATE UNIVERSITY.

Of the 16,800 acres of land constituting the University grant, about 30,000 acres remain yet unsold. The fund accumulated from sales and interest, is nearly \$42,000 00. As the lands yet to be disposed of are not as favorably located as those first sold, the whole fund to be realized from this grant will hardly exceed one hundred thousand dollars.

I will suggest in organizing this institution, if this fund be not added to the Agricultural College Fund, as suggested by me two years ago, that the University be located in the county, appropriately situated, which will donate the most valuable site, and erect the best buildings, free from charge to the fund, so that the public fund may be kept invested, on interest, for the current support of the University. SCHOOL FOR MUTES AND THE BLIND. The School for Mutes, provided for two years ago by resolution, appropriating \$2,000 per annum for its support, has proved a striking success, and under the tuition of a most competent instructor, the pupils have made good progress. With this small beginning as an example, a permanent State Institution for Mutes may be organized, with no misgivings as to the mode of undertaking the same or as to the problem of successful progress in learning by this unfortunate class in a school of our own.

I recommend that a further appropriation be made for the support of the School for Mutes, and that also that appropriation be made for the establishment of an Institution for the Blind. We will be unable to establish such large and expensive endowments for these purposes as are witnessed in older States, but economical provisions for a beginning in the proper way, what humanity and the best interests of the State demand, should be made now. The report of Rev. P. S. Knight to the Board of Education, giving views obtained by a late visit to institutions for the deaf and dumb of the State of California, also the report of the Board of Education on this subject, will be found accompanying the report of the Secretary of State.

APPORTIONMENT.

As this is the first session of the Legislative Assembly after the official publication of the United States census of 1870, it will be proper to make a new apportionment of the members of the Senate and House of Representatives, based on said census, according to the provisions of our State Constitution. I will suggest, that in apportioning the Senate, every county having sufficient number of population is entitled to one Senator and cannot constitutionally be districted with any other county in the election of a member to which she is entitled alone; and no county can be districted with another county except on account of fractions of the number of population making the amount required for one Senator.

CANAL AND LOCKS AT WILLAMETTE FALLS.

This work of constructing a canal and locks for the passage of steamboats and other water craft, over the falls of the Willamette river at Oregon City, provided for at the last session of the Legislature, has been prosecuted by the company who undertook the same, with vigor and success, although the construction of these works will prove a much more expensive enterprise than was at first estimated; yet the dispositions of the company are such as give warrant to state that the undertaking will be completed within the time required by law, and in the most substantial and durable manner. The importance of this project cannot now be estimated.

WAGON ROADS.

The Coast range of mountains is twice crossed by military wagon roads. The Cascade range is also crossed at two different points by wagon roads from the Willamette valley to eastern Oregon. There yet remain two important points of the Cascade range demanding wagon roads. A road should be constructed from the Rogue River valley to the Klamath Lake basin, and another from Portland to the Dalles, along the left bank of the Columbia river.

The Meacham toll-road over the Blue Mountains should be purchased by the State and made free, on condition that the neighboring counties shall keep it in repair. The toll road running through the canyon of the Umpqua Mountains, in Douglas county, should also be purchased by the State, and made free on the same conditions.

The expenditure on account of all these projects need not exceed \$200,000, and the funds might be provided from moneys arising from sales of swamp and tide lands.

In case provision should be made for constructing these wagon roads, the act should provide that they be built under contract with the State directly, and that the roads, when built, should be free from toll.

INSANE ASYLUM.

I lay before you, also, the official report of Dr. J. C. Hawthorne, physician in charge of the insane. Ever appealing to the best sympathies of our nature for aid and protection, this unfortunate class of our citizens has not been left without assistance. Our State Asylum still maintains its former high reputation for good management, sanitary arrangements, and successful treatment of its inmates. Nearly forty-three per cent. of those sent to the Hospital have been cured. Those permanently insane are humanely kept, and all their ills alleviated to such extent as can be accomplished in institutions of this class.

The buildings of the Asylum have been greatly enlarged and improved, to meet the wants of the constantly increasing number of inmates.

I call your attention to that portion of this report referring to appropriations to cover former deficiencies, and to sufficient future appropriations to cover all contract allowances for keeping the insane. It is but just to the contractor to make his contract rate equal to cash when negotiated on a cash basis. I concur in the suggestions of the report upon this subject; also, with those made relative to an allowance for the purpose of assisting indigent patients, discharged as cured, in reaching home, or their friends.

I further lay before you the report of Dr. A. D. Ellis, Visiting Physician to the Asylum, which is interesting in its reference to sanitary suggestions.

STATE CAPITOL.

We have reached the time when we may properly enter upon the construction of Capitol buildings. The increasing membership of our Legislative Assembly, the growing importance of our public offices, and the general facilities required for all our extending public interests, demand larger and more appropriate accommodations than we now possess. But economy and prudence should still characterize our undertakings in this respect. A reasonable appropriation to begin the structure of a State House would be commendable.

STATE GEOLOGIST.

It may safely be stated that no State in the Union surpasses Oregon in undeveloped mineral resources. Her geology is bold, peculiar, and interesting. Her wealth in the useful and precious metals is undoubted. But we do not know what are our hidden treasures. It is probable that no money could be expended more usefully to our future development than a reasonable sum appropriated to sustain a State Geologist.

IMMIGRATION.

It is customary in the younger States to offer public inducements for the immigration of new settlers within their borders. Much interest is felt by many of our citizens upon this subject, and many inquiries are made relative to it by those in other American States and in foreign countries, who are contemplating removal to Oregon. This subject is worthy of your careful consideration.

SECRETARY AND TREASURER OF STATE.

The reports of these officers submitted to your Honorable body will be found complete and instructive, giving all the detailed workings of the accounting departments of the State. These officers have been most diligent and faithful in the execution of their several official duties, and I trust their accounts will meet with full approval.

CLERICAL FORCE.

The clerical force allowed the several departments is greatly disproportionate to the work required to be done. The Private Secretary of the Executive office, after performing all the ordinary duties of his office, has performed all the clerical labors of listing in triplicate all the public lands of the State, which have been selected and approved within the past two years. He has recorded the minutes of the Board of School Land Commissioners, kept the accounts of the Mute School, purchased supplies for the same, and performed an immense amount of general clerical labor not belonging strictly to his official duty, while his proper duties in the Executive office have been exacting and laborious.

The Agent of the Board of School Land Commissioners has written all the correspondence relative to the disposal of lands and the conflicts of titles in western Oregon, which has been voluminous and tedious, in addition to his duties touching the lands themselves.

A clerk of swamp lands has been employed in assisting to execute the swamp land act of October 26, 1870, and one also to conduct the correspondence with the Land Office at La Grande, and to keep the accounts of that office.

The services of all these gentlemen have been unremitting, and their work is well exhibited in the permanent records of the State.

CONCLUSION.

In conclusion, I will assure you of my cordial co-operation in all measures calculated to secure the best interests of the State, and to promote the general welfare; and I express the hope that the results of your deliberations and actions may be satisfactory to your constituents, and a lasting blessing to the whole people.

L. F. GROVER,
Executive Department,
Salem, Sept. 1872.