

## REPORT OF THE SECRETARY OF THE INTERIOR.

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DEPARTMENT OF THE INTERIOR,  
*December 3, 1857.*

SIR: In presenting an exhibit of the operations of this department, attention is first invited to the important and diversified interests connected with the administration of our public domain, respecting which the accompanying report of the Commissioner of the General Land Office furnishes interesting details, with a gratifying view of our extended land system. American legislation has shown its superior practical wisdom by its simplicity and adaptation to the wants of our people in its code of land laws, in regard to the improvement of which few suggestions can be made.

The leading fact attracting our attention is the vast extent of the operations of the Land Bureau.

The public domain covers a surface, exclusive of water, of one thousand four hundred and fifty million of acres. It stretches across the continent, and embraces every variety of climate and soil, abounding in agricultural, mineral, and timber wealth, everywhere inviting to enterprise, and capable of yielding support to man.

This great inheritance was acquired, first, by the voluntary cessions of several of the original thirteen States; then by the Louisiana purchase obtained from Napoleon by the treaty of 1803. The next enlargement of our territory was effected by the treaty of 1819 with Spain, ceding the Floridas to the United States; then its further extension was effected by the treaty of 1848, at Guadalupe Hidalgo, with Mexico, ceding New Mexico and California. Subsequently, Texas accepted the proposition of this government establishing her boundaries, for the "relinquishment by the said State of all territory claimed by her exterior to said boundaries." The last accession to the public domain is that, in 1854, from Mexico, known as the "Gadsden purchase," covering a surface of 23,161,000 acres, south of the Gila river.

The Supreme Court has said, in reference to acquired lands, that "the people change their sovereign, their right to property remains unaffected by this change." Consequently, when the United States succeeded to the ownership of that portion of our territory derived from treaties with foreign powers, the first and paramount duty in the disposal of the public lands was to separate private from public property.

In obedience to this well settled principle of public law, and under the special obligations of treaties, the United States have established boards of commissioners, conferred powers on registers and receivers, opened the courts of the United States for the adjudication of foreign

titles, and in multitudes of cases confirmed such titles by special acts of legislation.

These classes of titles are known under the generic description of "private land claims," and are of every species, from minute parcels in the form of lots in Spanish towns to rural claims, ranging in size from one hundred arpents and less to a million and a half of acres.

These titles are of British, French, Spanish, and Mexican origin, all depending for validity on the colonial laws of their different sovereignties. And there is no branch of jurisprudence where greater research and extent of legal erudition have been displayed by our judicial tribunals than in the determination of the intricate questions which have arisen, been discussed, and judicially determined in connexion with this branch of the service. These foreign claims are of every diversity of shape, and everywhere scattered over the public domain, interrupting the regularity of our surveys, with which they are necessarily interlocked, and exhibit in striking contrast the irregularities of the foreign surveys, when compared with the simplicity and beauty of our own rectangular system; showing the difference in the modes of distributing estates, one of which concedes to the favorites of princes immense bodies of the choicest lands, whilst the other subdivides the public territory so as to deal with every citizen in a spirit of enlarged liberality. In the growth of our immense territory, in the way and by the means already mentioned, there remained and still remain unextinguished the claims, rights, and possession of the aborigines. The general government of the Union, at the dawn of our political existence, adopted the principle asserted by the colonizing governments of Europe, to the effect that the absolute title was in the United States, subject only to the Indian right of occupancy, and with the unconditional privilege of extinguishing that right.

Under the operation of these principles, the purchase and extinguishment of the Indian right has been gradually progressing in the ratio in which lands in Indian occupancy were demanded by our people for settlement. *Pari passu* have the lines of the public surveys been carried, in preparing the way for homesteads, and the means by which to pass to our people unincumbered and indefeasible titles.

The surveying system is now organized into twelve different districts, and the lines of the public surveys have already been extended over more than one-fourth of the whole surface of the public domain. That surface, as heretofore stated, is..... 1,450,000,000 acres.

Of this, there have been surveyed and prepared  
 for market, of net public lands, that is, exclu-  
 sive of school lands, &c ..... 401,604,988 acres,  
 Of which quantity..... 57,442,870 acres  
 have never been offered, and are, consequently,  
 now liable to public sale; in addition to which,  
 there were upwards of..... 80,000,000 acres  
 subject to entry at private sale on the 30th September last.

Of the public domain, there have been disposed of by private claims, grants, sales, &c., embracing surveyed and unsurveyed land..... 363,862,464 acres,  
 which, deducted from the whole surface, as  
 above stated, leaves undisposed of an area of 1,086,137,536 acres.

During the fiscal year ending June 30, 1857, and the quarter ending September 30, 1857, public lands have been surveyed and reported to the extent of..... 22,889,461.00 acres.  
During the same period..... 21,160,037.27 acres  
have been disposed of, as follows:  
For cash..... 5,300,550.31 acres.  
Located with military warrants..... 7,381,010.00 "  
Returned under swamp land grant..... 3,362,475.96 "  
Estimated quantity of railroad grants, of March, 1857..... 5,116,000.00 "

The amount of money received on cash sales is \$4,225,908 18.

This shows a falling off in land receipts from those for the corresponding period of the preceding year of \$5,322,145 99. With a falling off during the same period, in the *location* of lands with warrants, of more than 20 per cent.

Whatever may have been the cause of this diminution, the fact demonstrates that, long before the prostration of all credit by the suspension of the banking institutions, the investment in wild lands had greatly decreased.

In the territory of the United States there are eighty-three organized land districts, each having a register and receiver, for the sale and disposal of the public lands. Yet we have no land district for either the Territory of New Mexico or Utah. In New Mexico the public surveys have been executed to a very limited extent, owing to Indian hostilities. In Utah the surveys had rapidly progressed, until the surveyor general abandoned his post owing to reported hostilities of the Mormon authorities at Salt Lake City. The extent of the surveys, since the beginning of the operations in Utah, exhibits a sphere of field work embracing 2,000,000 acres.

A due regard for the public interests, as well as a proper respect for the prosperity and advancement of New Mexico, would justify, if not loudly call upon Congress to establish a land office and a board of commissioners for the adjudication of Spanish and Mexican claims in that Territory. It is important to its future prosperity promptly to separate private property from the public lands before the settlements become dense, and consequent conflicts of claim and title arise.

By the act of April 24, 1820, the old credit system of sales of land was abolished, the cash system instituted, and the minimum price fixed at \$1 25 per acre. This is the great basis of our present system of sales. The policy of the law is to favor the actual settler. It is a humane, wise, and just policy. When the hardy pioneer breaks off from the comforts and security of a long-settled community, and encounters the hazard and endures the hardships and deprivations of a new settlement in the forest, he has rendered a positive service to the government; and to deny him the right of securing his home and improvements, in preference to all others who would profit by his sacrifices, would be a crying injustice.

When an actual settler goes upon lands which have been offered for sale, and builds himself a house, the law allows him twelve months within which to pay for a pre-emption right of 160 acres.

If he enters upon unoffered land, or lands which have never been surveyed, he is permitted to file his declaration of intention to enter, and is not required to pay for his pre-emption till the day appointed by proclamation for public sale of the lands. Public policy may cause an indefinite postponement of the sale of the land, and the consequence is, that with this inchoate, imperfect right, he continues to occupy without perfecting his title. This privilege to enter being a personal right, its transfer or assignment is prohibited by law.

By thus conceding a privilege, and fixing no time in which he is required to perfect his title, an interest is created in opposition to a public sale by proclamation, when the good of the country may require it. The suggestion, therefore, that settlers upon unoffered lands should be required to make their proof and payment within a specified period, is approved.

Pre-emptions upon unsurveyed lands are now limited to particular States and Territories. A general law authorizing pre-emptions upon lands of this character, superseding or repealing special statutes on the subject, would conduce to the harmony of the system; and such a law is recommended.

In order to remove all doubt in the construction of existing law, pre-emption privileges should also be extended to alternate reserved railroad sections, in cases where settlements have been made after the final allotment. The enhanced value of such lands presents only a stronger reason why preference should be given to settlers over all others.

The mode of disposing of the public lands under existing legislation is simple, uniform, and complete. Lands are introduced into market and opened to free competition at public sale by the President's proclamation, which, at the same time, notifies settlers to come forward and secure their homes at the minimum price, without risk of competition at public sale. Then such lands as remain thus undisposed of, are open to free purchase at private sale, at the ordinary minimum of \$1 25 per acre, or when in market ten years and upwards, at reduced prices; always, however, with the preference right of purchase awarded to the actual settler.

The public domain is the property of the United States, and the individual citizens thereof have equal rights of purchase. Actual settlers, as already shown, are amply protected by law from interference, and efficient safeguards are thrown around their rights. As an evidence of this, it is estimated that in the sales of the last year three-fourths of the sold and located lands were taken for actual settlement. Large districts of the public lands are valuable, however, only for the timber found upon them; they are unsuitable for settlement; and to restrict their purchase to settlers alone, would prevent their sale for an indefinite period, and hold out a standing temptation to trespass and plunder.

An amendment of the law fixing the maximum compensation of the registers and receivers, so as to restrict the payment for any one quarter or fraction of a quarter to a *pro rata* allowance, both for salary and commissions, is approved and recommended.

Under the bounty land law of 3d March, 1855, large sums have

been received at some of the local land offices, for the location of warrants, and claims have been presented by several of the officers, for the whole amount of fees collected. The General Land Office has decided, and the decision has been sanctioned by the department, that, in view of the limitation as to maximum, in the act of 20th April, 1818, and the terms of the 2d and 3d sections of the act of 22d March, 1852, in connexion with the act of 1855, there is no authority of law for the allowance of any excess over the maximum compensation for commissions, as fixed by said act of 1818.

The act of 12th January, 1825, authorizes repayment of purchase money to be made from the treasury in all cases of sales of lands made by the local land officers, where the government is unable, from want of title in itself, to issue patents to the purchasers.

My predecessors have construed this act as providing for repayments in all cases where from any cause the sale could not be confirmed; and the uniform practice has been in conformity with that view of the law.

This practice is unquestionably founded in strict justice, and I have not deemed it best to disturb it, although inclined to the opinion that a strict construction of the law would limit its operation to the class of cases specifically embraced therein. Should any doubt be entertained of the propriety of my action in this particular, such amendatory legislation is respectfully recommended as may be called for in the premises.

The interesting communication, which accompanies this report, of the late secretary of the Territory of New Mexico, respecting the mineral resources of that distant Territory, suggests the propriety of providing for a geological survey thereof. It is not doubted that vast quantities of gold and silver, copper, lead, and iron ores are to be found embedded in its soil; and their discovery and development could not fail to conduce to the public prosperity.

The report of the Commissioner of Indian Affairs furnishes an interesting view of a peculiar people, with whom this government holds the most complicated relations.

The members of the Indian tribes within our limits, while they are not citizens, cannot, with strict propriety, be termed foreigners. "Domestic dependent nations, their relations to the United States resemble those of a ward to his guardian. They look to our government for protection, and appeal to it for relief to their wants." While we negotiate treaties with them, which are ratified with all the solemnity befitting a contract to which nations are parties, we undertake to construe and execute their provisions, acknowledging no responsibility but such as we may owe to truth, honor, and justice. As the limits of our civilization have been extended, the number of these children of the forest, with whom our people are brought into immediate contact, is greatly increased. Treaties multiply; rights are acquired; mutual obligations are assumed; obedience is promised on the one part, protection is guaranteed on the other. The Indian Bureau is grown to be a great foreign office, conducting the correspondence and adjusting the relations of more than sixty interior governments; while it is at the same time charged with the control,

regulation, and protection of the rights of the individual members of those governments.

In the performance of these duties questions are presented of the most difficult character, in the solution of which it is almost impossible to arrive at a conclusion which shall reconcile the necessities of sound policy with the requirements of the law. The intercourse act of 1834 was adapted to a condition of affairs which no longer exists, and it might be judiciously modified. The wide dissimilarity, too, of the provisions of the various treaties recently negotiated with the several tribes, agreeing, however, in this, that legislation by Congress is made a pre-requisite to the full enjoyment by the Indian of the rights they were intended to secure to him, furnishes a weighty reason for the revision and codification of the laws now in force; and it is to be hoped that Congress will give its early attention to the subject, and prescribe, in one comprehensive enactment, a well considered, compact, and uniform system of laws for the regulation of Indian intercourse.

The Indian tribes within our limits, numbering about three hundred and twenty-five thousand souls, may be divided into three classes: The first—wild, roving, fierce, retaining all the traditionary characteristics which marked the race before the advent of the white man—eke out by plunder the uncertain subsistence derived from the chase. To this class, comprising nearly three-fourths of the whole number, belong most of the bands whose hunting grounds lie in the interior of the continent, and in the Territories of Oregon and Washington. These tribes are controllable only through their fears. They are, ostensibly, our friends, because they dare not openly avow hostility; and this must continue to be the case as long as they retain their roving habits. The Indian office is powerless to effect any amelioration of their condition until they can be induced to adopt fixed habitations. To the accomplishment of this preliminary step the efforts of the Indian Bureau are now directed; and it is hoped that, with the aid of the military arm of the government, the system of colonization, which has elsewhere been so productive of good, may be successfully applied to these tribes.

The tribes of California, Utah, Texas, New Mexico, and a portion of those in Oregon, constitute the second class. Some three years since the policy was adopted of concentrating these Indians on small reservations, where they might be practically taught the industrial arts, and labor for their support under the immediate supervision of their agent. These establishments are, in fact, manual labor schools on a large scale; and I am gratified to be able to state that the happiest results have followed their introduction. The two great difficulties to be encountered in effecting the civilization of the Indian, are his impatience of restraint and his aversion to labor, and these are not to be overcome by abstract teachings. He must be taught *practically*, if at all, the immense superiority of a settled over a roving life, and the value and dignity of labor. This, the colonization system appears to be accomplishing, and it is certainly the most effectual and economical plan yet devised for his reclamation.

The Indians along the west bank of the Missouri, those of Kansas, and the four great tribes occupying the territory west of Arkansas,



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form a third class, differing in many particulars from either of the others. Generally true and reliable, they constitute a people for whom we justly feel the deepest sympathy and the greatest solicitude. The degree of civilization to which these tribes have attained varies greatly in different localities. Some of them, steeped in ignorance, thoroughly degraded, seem, in their contact with our people, to have lost the rude virtues that characterized them in a savage state, and acquired from civilization only its vices. Others have rapidly advanced, socially, morally, and in the knowledge of the useful arts, until they have become fit to be recognized as citizens. Here and there is found one whose talents, attainments, and integrity, constitute him an ornament to his race, and, while he challenges our admiration and respect, furnishes practical evidence of the capacity of the Indian for high civilization.

When those tribes who once resided east of the Mississippi river were induced to leave the graves of their fathers and emigrate to the west, the Congress of the United States gave them a solemn pledge that the country where they now reside should be forever "secured and guarantied" to them. The westward march of emigration, however, has overtaken the Indian, and now begins to press upon him, and it is evident that a critical period in his history has been reached. To attempt his removal still further west is impracticable. The country is unsuited to his wants; it has no sufficient supply of wood or water, and a removal there would but be the means of hastening on his bitter fate. Where he now is, he must make a stand and struggle for existence, or his doom is sealed. If he cannot adopt the habits, and rise to the level of his white neighbor, he must pass away; and the necessity of devising some policy which shall meet the emergency presses itself upon the government at this time with peculiar force. So far as the Indians of the central and northern superintendencies are concerned, the question is especially embarrassing. Treaties have, within the last three years, been negotiated with most of these tribes, by which their lands, with the exception of small reservations, have been ceded to the United States. Other treaties have been made, by which individual reservations have been secured, in the expectation that the Indian would settle down, each upon his own farm, and gradually and insensibly attain the level of his neighbors. Unhappily for the success of this scheme, an unprecedented tide of emigration pressed into Kansas and Nebraska. The fertility of the reservations, greatly enhanced in value by the rapid settlement of the country, tempted alike the cupidity of the land speculator, and of a class of settlers by no means punctilious in their respect for the right of the Indian. The result has been disastrous. Trespassed upon everywhere, his timber spoiled, himself threatened with personal violence, feeling unable to cope with the superior race that surrounded and pressed upon him, the Indian proprietor has become disheartened. Many of them have abandoned their reserves, and still more desire to sell. These Indians now ask for patents, as they have a right to do, for their selections. The treaties vest in Congress the power of providing for their issuance, "with such guards and restrictions as may seem advisable for *their protection therein.*" There can be no

doubt that our people will succeed in getting possession of these homes of the Indians. If Congress shall fail to act, and thus open no door by which the Indians can divest themselves of their titles, it may be apprehended that unscrupulous men will, without law, obtain possession of their lands for a trifling consideration, and stand the chances of an ultimate title. The interest of the reserve requires the passage of a law regulating the alienation of his right to his land, and securing him the payment of a fair equivalent for the same.

For their numbers, the income of most of these tribes, in the way of annuity, is large; but experience has shown that the system heretofore pursued, of paying them in money at stated periods, has been productive of evil rather than good. It represses industry and self-reliance; it encourages idleness and extravagance, and draws around them a swarm of unprincipled traders. In many of the treaties which have lately been negotiated with these tribes, this provision has been inserted:

"The object of this instrument being to advance the interests of said Indians, it is agreed" that "Congress may hereafter make such provision by law as experience shall prove to be necessary."

If Congress, in the exercise of this power, should clothe this department with some discretion in the payment of annuities, so that the same could be used as a means of their moral reform and elevation, instead of the injurious system now prevailing, of distributing money *per capita*, decided advantages may be reasonably anticipated.

The plan which has suggested itself as the most likely to arrest the demoralization now rapidly increasing, and, at the same time, lay a solid foundation for their ultimate civilization, may be briefly outlined thus:

They should be gathered on smaller reservations and in denser settlements. They must be familiarized with the idea of separate property, by encouraging them to erect houses as homes for themselves and their families. For this purpose the reservations should be divided into farms of suitable size, and distributed among the individuals of the tribes, to hold, in severalty, as their separate and private estate, but without the power of selling, mortgaging, leasing, or in any manner alienating the same, except to members of the same tribe with themselves. Settlements by white men within the reserves should be prohibited, and the *prohibition rigidly enforced*; and increased efforts should be made to suppress the sale of ardent spirits, to effect which the co-operation of the Indian authorities should be secured. Farms should be established in central positions, at which all the children of the tribe should be collected and required to labor, and where they could be taught the rudiments of an education. A certain portion of them should be apprenticed to useful trades, and the surplus of the proceeds of their labor, whether on the farm or in the workshop, should be divided among their parents. Here they would be taught the great truths—that labor is honorable, and that want and suffering inevitably follow in the train of improvidence and idleness. Implements of husbandry, blankets and clothing, useful articles of furniture, books, and, indeed, everything which promises



to give comfort to their homes, should be purchased and divided *per capita*.

Should their income be more than sufficient to meet the outlay required for these purposes, then the remainder might be paid in money. Now the annual indiscriminate distribution of their national funds among the Indians is gradually working their ruin; whereas a wise policy, such as any parental government should adopt, would necessarily produce the happiest results.

The details of the system should, of course, be modified to suit the varied conditions of the several tribes; but the uniform application of its leading ideas to the government of the tribes in the central and northern superintendencies is, I conceive, indispensable.

The condition of affairs in the southern superintendency presents a gratifying spectacle. The four great tribes of Choctaws, Chickasaws, Cherokees, and Creeks, with the kindred band of Seminoles occupying the territory west of Arkansas, have steadily improved in morals, in education, in the comprehension of, and respect for, the rights of persons and of property, and in a knowledge of the theory and principles of government. They have regularly organized governments, constructed upon the model of our own. State constitutions, governors, legislatures, codes of laws, and judicial magistracies to expound them. There the path of duty is plain. Every encouragement should be held out to them to persevere in well doing, until the period arrives when, ripe for citizenship, they shall be admitted to the full enjoyment of all its rights and privileges.

One grievance, however, to which they are subjected, and of which they justly complain, deserves the consideration of Congress. While the Constitution, laws, and treaties of the United States are in force over this territory, there is no local tribunal empowered to take cognizance of the causes which arise under them; which, therefore, are sent for trial to the United States district courts in the State of Arkansas. This not only causes great expense and inconvenience to the suitors, but, in criminal cases especially, interferes with the impartial administration of justice. A Choctaw or Chickasaw, accused of an offence against the laws of the United States, is hurried away from his friends, to be tried at a remote point, in a community which has no sympathy with him. Unable to compel the attendance of his witnesses, and deprived of the aid and comfort extended to the white man similarly situated, he defends himself under great disadvantages. There is a manifest injustice in this which should be remedied at once; and I would suggest the establishment, by Congress, of a district court of the United States for this territory, to hold at least one term annually for each of the four tribes of Cherokees, Creeks, Choctaws, and Chickasaws. Among these tribes there are educated, well read lawyers, and the holding of a court in their country would create, in the minds of the people, respect for the laws, and give dignity to the administration of justice.

The Indians of the Territories of Washington and Oregon are still restive and belligerent. This disposition on their part evidently springs from disbelief in the strength and ability of this government to punish them for trespasses committed upon our settlements. It is

the duty of the government to disabuse their minds. This can best be done by peaceful means. Let an appropriation be made to defray the expenses of a delegation from each of the large tribes in those distant Territories, to Washington and other eastern cities. Let them know, by personal observation, our numbers, see our improvements, and estimate our strength. They would readily conclude that further hostility would be absurd; and when they carried the story of our greatness and power to their people, a change would come over their minds, and we might then reasonably hope for the establishment, by treaties, of good understanding and perpetual peace between us. Such an appropriation would be, in my judgment, an act of true economy.

During the past year a large amount was paid into the treasury of the United States on account of moneys belonging to certain Indian tribes. The several treaties under which this amount was derived devolved upon the President the duty of causing it to be invested in some "safe and profitable stocks," to be held by the Secretary of the Interior in trust for the respective tribes. In pursuance of your directions, these Indian trust funds were invested in State stocks which were deemed safe and profitable. The amount of bonds purchased was \$1,496,477 03, costing \$1,303,932 49.

The investment having been made at a time of unusual financial embarrassment, we were enabled to make a profit of \$192,544 54 for the Indian tribes, and at the same time to afford relief, to some extent, to the business community.

The report of the Commissioner of Pensions presents a satisfactory view of the operations of that bureau during the last year. The business of the office has been brought up to date, as nearly as it is practicable; and the large clerical force, required to despatch the heavy labors devolved upon it by the recent laws granting bounty land, has been reduced, so as to conform to the present exigencies of the office.

For some years past the practice has prevailed of paying to the children, and sometimes to the administrators, of deceased revolutionary soldiers and their deceased widows, the amount of pension to which such soldiers or widows would have been entitled had they succeeded in making good their claims during their lifetime, but never to grandchildren, as such. At the last term of the Supreme Court it was decided, in a case involving the distribution of certain pension moneys which had been paid to an administrator for the exclusive benefit of the children of a deceased widow of a revolutionary soldier, that grandchildren, *per stirpes*, stood in the same relation to such claims as children; and it was subsequently contended that the effect of that decision was not only to affirm the legal correctness of the practice alluded to, but to enlarge it, so as to embrace a class of claimants not previously recognized by it.

Seeing that a large amount of money had already been drawn from the treasury under the practice of the office, and doubting whether the court had gone beyond the mere question of distribution involved in the cause before it, and decided as to the law on which that practice was founded, I availed myself of the first case that arose to elicit the views of the Attorney General, both as to the effect of the decision of the court and the legality of the previous ruling of the office. He

thoroughly investigated the whole subject, and gave a most lucid and convincing opinion on the law of the case; in which he came to the conclusion, that soldiers or widows who might have been entitled to pensions in their lifetime, but died without establishing their right or receiving the same, left no estate in their claims which could be inherited either by grandchildren or children; that arrears of pension, which alone, by the statute, were inheritable, only existed in cases where a pension had once been received, and, at the death of the pensioner, a portion was left unpaid; and that the Supreme Court, in the decision referred to, had not passed upon that question. In this opinion I concurred; and as there was no law for the payment of pensions in such cases, and as no money could be drawn from the treasury without a previous appropriation, any payment ordered by me would have been against law, and would have amounted to a naked act of legislation by an executive officer. I felt no hesitation, therefore, in ordering a discontinuance of the practice in question, and all the cases coming within it will be indefinitely suspended, unless Congress shall pass a law, giving to children and grandchildren the pensions their deceased ancestors would have received had the proper proof been made out during their lifetime.

A pension is a bounty given by government for meritorious personal service, and the first law granting pensions for revolutionary services confined the bounty to the *indigent* soldiers. But, whether this restriction be correct or not, it is self-evident that the great inducement, in all pension laws, is to relieve and compensate, in his own proper person, the self-sacrificing soldier, who risked his life, wasted his energies, and neglected his private affairs in the service of his country. The law has extended its beneficence from the soldier to his widow, and there it has stopped. If Congress shall take one step further, and provide for children and grandchildren on account of the services of their ancestors, the question arises, why take care of the children and grandchildren of those whose fortune it was to live till Congress had passed a pension act, and not of those, equally meritorious, who died in the service, or who dragged out a miserable existence uncared for and unrecognized by the government?

The children and grandchildren and great grandchildren should be contented in the rich inheritance derived from a glorious ancestry, in the liberties they enjoy, and in the institutions which give them protection. Congress has not been unmindful of our revolutionary heroes. It has dealt out to them with no sparing hand. Up to the 30th June, 1857, under the pension laws of 1818, 1828, and 1832, \$43,011,960 had been paid to revolutionary soldiers; and under the acts of 1836, 1838, 1848, and 1853, \$18,302,660 had been paid to the widows of our revolutionary soldiers—making an aggregate, in money, of sixty-one millions three hundred and fourteen thousand six hundred and twenty dollars, besides large donations of land and disbursements of money, under other laws, on account of revolutionary services.

The discriminations pointed out by the Commissioner of Pensions as existing between the invalid and half-pay pensions for the army and the navy, would seem to demand revision and correction by Con-

gress. Some reorganization of the systems upon which those pensions are granted is desirable, not only because of the inadequacy of the lower rates to relieve the wants of those intended to be benefitted, but because of the manifest propriety of making like provision for those of corresponding grades in the two arms of the service who may become disabled while in the faithful discharge of duty.

During the past year 41,483 warrants for bounty land have been issued, requiring, to satisfy them, five millions nine hundred and fifty-two thousand one hundred and sixty acres of the public domain; and the number issued under all the bounty land acts of Congress from the revolutionary war to the present time is 547,250, requiring, to satisfy them, sixty millions seven hundred and four thousand nine hundred and forty-two acres of land.

The frauds practised upon the Pension Office in attempts to procure, and in the actual procurement of land warrants, are numerous; but, owing to the short statutory limit of two years, the frauds are not discovered, and many guilty persons escape. I would, therefore, recommend an extension of the limit now made by the law for the prosecution of offences of this kind.

The Commissioner of Pensions has called my attention, also, to the fact, that the forging of land warrants is rendered penal by no existing law. The extent to which this evil practice exists is not known, but the importance of some legislative action upon the subject is obvious, and I would respectfully recommend that Congress provide some law which may serve as a protection to the government.

The report of the Commissioner of Public Buildings furnishes a detailed and satisfactory statement of the application of the appropriations placed under his more immediate direction.

The west wing of the Patent Office building is nearly completed throughout, and presents an elegant and tasteful appearance. The north front of the building is in the process of erection. Satisfactory contracts have been entered into for the granite and marble work; the sub-basement has been finished; and the contractors are pressing forward their operations with a commendable zeal. This portion of the building will be completed by the appropriations already made, and no estimate is now deemed necessary for the improvement and enclosure of the grounds around it.

An extraordinary flood, during the last winter, swept away several sections of the bridge across the Potomac. The authorities of the city of Washington repaired the breach, and the bridge has been otherwise placed in such condition as to make its passage safe. This, however, is a temporary arrangement, but it is the only one by which a convenient connexion between the city of Washington and the shore of Virginia can be had at present. A permanent bridge across the Potomac is a necessity, and it is for Congress to determine its location and its character.

The District of Columbia has been set apart for the capital of the nation, and the relations of its people to the general government are altogether anomalous. Without a representative in Congress, and with no voice in the election of their chief magistrate, so far as political rights are concerned, its inhabitants occupy the attitude of a dependent people.

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But they are nevertheless American citizens, and, as such, have rights and interests which are dear to them, to guard which facilities should be afforded them, as to every other portion of our fellow citizens, of making known their wants, through their own representative, to the only body clothed with the authority to supply them. There can be no just reason for the distinction which has heretofore prevailed—allowing a Territory, with a meagre population, a delegate upon the floor of Congress, to make known its requirements and advocate its interests, and denying the same privilege to this District, with its seventy-five thousand inhabitants. It would be an act of justice to provide a seat on the floor of the House of Representatives for a delegate to be chosen by the people of the District of Columbia. Such an arrangement would remove a just ground of complaint, that they have no accredited organ by which their interests can be fairly and favorably brought to the consideration of Congress.

In the act to incorporate the city of Washington, passed May 15, 1820, Congress invested the corporation with full power and authority to "lay and collect taxes;" "to erect and repair bridges;" "to open and keep in repair streets, avenues, lanes, alleys, drains, and sewers, agreeably to the plan of the city;" "to erect lamps, and to occupy and improve for public purposes, by and with the consent of the President of the United States, any part of the public and open spaces and squares in said city, not interfering with private rights."

In conferring these powers upon the corporation, Congress must have acted on the conviction that it was the duty of the city, and not of the general government, to open and repair streets and avenues, as well as to make the other improvements indicated.

It is evident that the city authorities, acting under the influence of a city constituency familiar with the localities, and well informed as to the true interests and requirements of the people, are less liable to be misled in such matters by the representations of private interests than those whose attention is chiefly taken up with subjects of more general concern, and who are not supposed to be specially interested in the material advancement of the city.

It seems to be eminently proper, therefore, that these improvements should be made, in pursuance of the provisions of the charter, under the direction of the city authorities; and hence no estimates have been submitted therefor by this department. Beyond the appropriations made by Congress for these objects, neither the Commissioner of Public Buildings nor the Secretary of the Interior has been entrusted with this duty. The law relieves this department from the obligation, not unfrequently urged, of initiating plans and suggesting appropriations for the opening, improvement and lighting of streets and avenues, and for the construction of drains and sewers in the city.

The government, however, is a large real estate proprietor in the city of Washington, and provision is made in the charter of incorporation, by which the Commissioner of Public Buildings is directed to reimburse the corporation a just proportion of the expense incurred in opening and improving streets passing through and along public squares. This expense has been heretofore defrayed out of money arising from the sale of lots belonging to the government; but this

resource has now failed us, and an estimate has been submitted for an appropriation out of the national treasury on that account.

The reservations owned by the United States within the city of Washington require to be improved by the general government. Much attention has been bestowed upon these during the last few years, and several of them have been substantially enclosed and tastefully embellished. But while much has been accomplished, more remains to be done; and liberal appropriations might, with propriety, be made for the continuation of these improvements whenever the condition of the treasury will admit of it.

The grounds around the Capitol are particularly commended to the favorable consideration of Congress, in the hope that early measures may be taken to relieve them of their present uncomely appearance. The time has come when some plan should be agreed upon for their extension; but how far they should be extended is a question to be determined by congressional action.

The auxiliary guard is a police force provided by the government for the protection of property and the preservation of the peace within the city of Washington. Its members are paid from the public treasury, through the Commissioner of Public Buildings, but derive their appointments from the mayor of the city, to whom alone they are responsible for the faithful discharge of their duties. It is respectfully recommended that the law on this subject be so far amended as to require these appointments, before they can take effect, to be reported to and approved by some officer of the government, either the Commissioner of Public Buildings or the marshal of the District of Columbia, and to give such officer the power of removal from office whenever, in his opinion, the public good may render it necessary.

The reports of the superintendent and the board of visitors of the government hospital for the insane accompany this report. The number of patients in the hospital, July 1, 1856, was ninety-three. During the fiscal year ending June 30, 1857, fifty-two were admitted, and thirty-five discharged, leaving in the institution, at the last-mentioned date, one hundred and ten, four of whom are independent or pay patients. This number exceeds the rated capacity of that part of the building now completed; but an appropriation has been made for the construction of the centre building and three sections of the wings, according to the original plan adopted, which are in process of erection, and which will be pressed to completion with all proper despatch and economy. When these portions of the building are finished, it is believed its capacity will be sufficient to meet all present demands for the accommodation of this unfortunate class of our people.

The institution is conducted with skill and fidelity, and reflects credit upon all who are concerned in its management.

At the last session of Congress, an act was passed incorporating the Columbia Institution for the Instruction of the Deaf, Dumb, and Blind. In the charter of incorporation it is made the duty of the Secretary of the Interior, whenever he is satisfied that "any deaf and dumb or blind person of teachable age, properly belonging to this District, is in indigent circumstances, and cannot command the means



to secure an education," to authorize the said person to enter the said institution for instruction, and to pay for his or her maintenance and tuition therein, at the rate of \$150 per annum. In pursuance of this provision of law, fourteen pupils have been placed in the institution.

The report of the president of the institution, which he is required to make annually, is herewith communicated. It exhibits the institution in rather a crippled condition. It is in debt, and it needs more land, better buildings, and a larger income, to pay the teachers. It has fifteen pupils, fourteen of which are maintained by the government. The charity is a noble one, but as it is not a government institution, it is for Congress to determine whether further assistance shall be extended to it.

The report of the inspectors of the penitentiary, with the accompanying reports of the warden, clerk, physician, matron, and chaplain, are herewith submitted. They furnish a detailed account of the administration of the affairs of the penitentiary for the past year. The views expressed by the inspectors of the present working of the penitentiary, and their recommendations for its future improvement, are approved and commended to your favorable consideration.

The report of the engineer in charge of the construction of the bridge across the Potomac at Little Falls exhibits the progress of that work, and the probability of its early completion. There have been unavoidable delays, which are explained, but the work, when finished, will be creditable alike to the engineer and the government.

By a joint resolution of the last Congress the duty was devolved upon this department of distributing a portion of the journals and congressional documents to public libraries, &c., previously distributed by the Department of State. As the resolution prescribed no rule by which the distribution should be made, it is proposed to send to each State copies in proportion to its federal representation, and the distribution will be made on that basis, unless Congress shall otherwise direct. It is respectfully suggested that a law be passed for the future government of the department in reference to this subject.

To this department belongs the supervision of the accounts of marshals, district attorneys, and clerks of the circuit and district courts of the United States, and no other branch of the public service is encompassed with greater difficulties in its administration. In some respects advantageous changes might be made, and additional legislation is recommended.

By the act of February 28, 1799, fees for services rendered by district attorneys in the performance of their duties were specifically prescribed, and in certain districts named an annual salary was provided, "*as a full compensation for all extra services.*" All district attorneys, except the one in southern New York, now draw a salary, the greater part of them at the rate of, and none less than, two hundred dollars per annum. But the repeated applications for compensation for extra services by these officers is becoming a serious evil.

Some of the district attorneys assume that they are under no official obligation to render any service for the government for which no fee is prescribed under existing laws, such as preparing a case for trial, procuring and examining witnesses, examining title to property

purchased for the use of the United States; and they insist, as a matter of equity, if not of strict legal right, that they are entitled to compensation for all professional services other than those specifically enumerated in the fee act, notwithstanding they receive a fixed compensation for all extra services, and the act itself declares, "no other compensation shall be taxed or allowed" than the fees therein prescribed.

I recommend an increase of the salaries of the respective district attorneys, graduated by some equitable rule, coupled with a provision devolving upon those officers the duty of faithfully performing all such services, in the line of their profession, as should be required of them in every case in which the interests of the government are in any way involved, and declaring that the receipt of such salary shall operate as a full discharge of all claim on the part of the recipient for compensation for all services not enumerated in such fee bill as may at the time be in force.

Experience has demonstrated that a change may be made with propriety in the law providing for the appointment of clerks of the several United States courts.

These officers are now appointed by the judges, to whom alone they are responsible for their official conduct. The law requires them, semi-annually, to make returns of their fees and emoluments. But in case of failure or refusal, this department is powerless to enforce obedience, or to remove the delinquents. It can, however, withhold any money that may be due them by the United States, until they shall render their accounts. This is the whole extent of its power.

It is made the duty of this department to restrict the expenditures of these officers within proper limits, although defrayed out of the proceeds of their offices; to allow no one clerk to retain of his fees and emoluments a sum exceeding three thousand five hundred dollars per annum, for his personal compensation; and to require him to pay into the treasury of the United States, semi-annually, any surplus of the same. A duty is thus imposed upon the head of the department, while he is clothed with no adequate authority to enforce a compliance with his orders and requirements. As an evidence of this, it is proper to state, that in order to answer a resolution adopted by the last House of Representatives, circulars, calling for the requisite information, were addressed to all these officers on the 1st of September last, and although proper commendation is due to those who replied promptly, yet fourteen in the States, and nineteen in the Territories, have wholly failed to respond thereto. Some remedy for this state of things should be provided, and it is respectfully suggested, as the most effectual, to change the tenure of the office, so as to require all the clerks of all the courts to be appointed in the same manner as marshals and district attorneys.

Clerks of courts, in many cases, are appointed and act as United States commissioners. This practice, it is believed, adds largely to the expenses of that branch of the public service, especially in the large cities, where it becomes necessary, in the absence of the clerk, to employ an additional number of deputies in his office. This evil requires correction at the hands of Congress.

The clerk of the Supreme Court cannot, by the received construction of the law, be required to make a return of the fees and emoluments of his office, nor is his compensation limited; yet the policy and spirit of the law includes this officer, as well as the clerks of the circuit and districts courts. If the existing law be wise and ought to be maintained, then no valid reasons exists why this officer should be made an exception.

The late Attorney General gave an opinion that a clerk was a "collecting agent of the government, and should be held to account for all the fees of his office, received or receivable, deducting therefrom the maximum allowed by law." Now, although the clerk or other officer may earn a large surplus, still one-half of the maximum may not have been actually received. And, notwithstanding the fact that they are legally powerless in some cases to collect their earnings, they are positively required to pay into the treasury, with each semi-annual return, any surplus which the same exhibits. The officers claim, generally, that they have a right to *retain* the compensation to which they are entitled, and that they are not in a position to *retain* it until it is actually collected, which leads to much difficulty.

To remedy this, it is suggested that all clerks and marshals in the respective States and territories, and in the District of Columbia, be explicitly authorized to demand the payment of their fees, or take security therefor, when they are not properly chargeable to the United States, in advance of the rendition of all official services.

During the last session of Congress an appropriation of one hundred thousand dollars was made for the erection of a court-house in the city of Boston. This was construed not to authorize this department to purchase a building, however suitable for the purpose. The masonic temple, conveniently situated in the business part of that city, was offered to the department for one hundred and five thousand dollars. The proposition was accepted, subject to the approval of Congress; and an estimate has been submitted covering the expenditure.

The fourth section of the act of 26th February last, authorizing the people of Minnesota "to form a constitution and State government," made it the duty of the United States marshal for said territory "to take a census, or enumeration, of the inhabitants within the limits of the proposed State, under such rules and regulations as should be prescribed therefor by the Secretary of the Interior, with the view of ascertaining the number of representatives to which said State may be entitled in the Congress of the United States."

The necessary instructions have been issued to enable the marshal to perform that duty, and an appropriation will be asked, as soon as full returns of his operations have been received, to defray the expenses he has thus been directed to incur—no provision therefor having yet been made.

By an act of the last Congress, this department was charged with the construction of the following wagon roads: one from Fort Kearney, Nebraska, by way of the South Pass, to the eastern boundary of California, near Honey lake; one from El Paso, on the Rio Grande, to Fort Yuma, at the mouth of the Gila river; and one from the

Platte river, via the Omaha reserve and Dacotah city, to the Running Water river.

Provision had been previously made for opening a road from Fort Ridgely, Minnesota, to the South Pass, and operations had been commenced thereon, under instructions from my predecessor.

Work has been commenced on all these roads, and measures have been taken for its vigorous prosecution. The obvious design of Congress, in these appropriations, was to locate and open roads which should meet present emergencies and the demands of emigration, and not to introduce a system of improvements which would require other and larger appropriations to be made, from year to year, for their completion. With this view, and to secure the speedy and economical construction of these great and extended thoroughfares, it was deemed expedient to appoint a superintendent, and organize a suitable corps of operatives on each road. Each superintendent was instructed to pass over the entire length of the section of the route assigned him, locating it on the most direct and advantageous ground, and opening and improving it in such a manner as to admit of the easy passage of a loaded wagon.

The immediate direction of the movements of these several parties was placed by me in charge of a gentleman of experience; and so soon as full information of the operations of the past season is received, I will cause him to make a detailed report of their progress, for the purpose of laying it before Congress.

The Fort Ridgely and South Pass road has already been opened as far west as the Missouri river, a distance of about two hundred and fifty miles, and the country through which it runs is reported to be a rich and desirable one for settlement. The appropriation for this work has, however, been exhausted, although some four hundred and fifty miles remain to be completed. To finish this portion of the road, should it be the pleasure of Congress to carry out its original design, an additional appropriation of thirty thousand dollars will be required, and it should be made at an early day.

The joint commission for running and marking the boundary between the United States and Mexico, under the treaty of December 30, 1853, concluded its labors and adjourned on October 1; and the commissioner on our part has turned over to this department the maps, (with one or two exceptions, which are in the hands of the engraver,) journals, astronomical determinations, and other public property in his possession.

Of the report heretofore ordered by Congress to be printed, the first volume is completed, and will be ready for distribution early in January. The second volume, or appendix, which contains the reports upon the zoology and botany of the region surveyed, is still incomplete. The engraved plates to illustrate this part of the work are in the custody of this department, so far as they are completed.

During the last Congress, the Senate, by resolution, ordered the printing of five thousand extra copies of the report proper and accompanying maps, and two thousand extra copies of the second volume, or appendix, to be paid for out of the fund appropriated for running the boundary. The execution of this order will cost from thirty-five

to forty thousand dollars. The resolution of the Senate, without the concurrence of the House of Representatives and the President, will not furnish to this department a sufficient warrant to justify the payment of these expenses out of the fund designated.

By the 14th section of the act approved March 3, 1837, the Commissioner of Patents is required annually, in the month of January, to make a report to Congress, detailing the operations of his bureau. This law was enacted while the office was under the supervision of the Secretary of State; and as it was not required of him to make an annual report, it was deemed more convenient, without doubt, for the Commissioner to report directly to Congress. The act approved March 3, 1849, transferred the supervisory and appellate powers, in relation to the acts of the Commissioner of Patents, previously exercised by the Secretary of State, to the Secretary of the Interior. All the other bureaus of the department make annual reports to the Secretary to be laid before the President, and by him communicated to Congress. But, in the case of the Commissioner of Patents, while the rules and regulations for the management of his office, his acts, and the conduct of all those under his immediate supervision are subject to the control of the Secretary, and, through him, of the President, yet the annual report required of him is not, in any way, under existing law, open to the revision of either. There is nothing in the peculiar nature of the subjects or duties pertaining to that bureau which makes this exception necessary; and as the reason for the law has ceased to exist, it might be changed with propriety.

From the 1st of January to the 30th of September, 1857, 4,095 applications for patents have been received, and 820 caveats filed; 2,066 patents have been issued, and 2,287 applications rejected.

The receipts for the three quarters ending 30th September, 1857, were \$161,415 97. The expenditures were \$163,942 04. Excess of expenditures over receipts, \$2,526 07.

The policy indicated in the law establishing the Patent Office is, that it should be a self-sustaining bureau. This policy is a sound one, and should be observed.

The law now authorizes a return, upon the rejection of an application, of two-thirds of the fee required to be deposited by the applicant on presenting his claim. Of the \$163,942 04 expended during the last three quarters, \$27,939 99 was made up of fees restored to applicants, after the labor of examining their cases had been performed. There seems to be neither justice nor expediency in this requirement. Its consequence has been to bring into the office a large amount of business, frivolous in its character, and which seems, in fact, obtruded but as an experiment upon its credulity. If it is desired that this bureau should be, as heretofore, supported by its own earnings, this feature of the financial administration of the office should be revised and reformed.

By the ninth section of the act approved July 4, 1836, the applicant for a patent, if a subject of the King of Great Britain, was required to pay a fee of five hundred dollars. At that time, an American citizen applying for a patent in that kingdom was required to pay a fee of one hundred pounds. But recently the English government has re-

duced the fee required of an American citizen from one hundred to twenty pounds. As the fee originally required seems to have been determined on a principle of retaliation, it is proper and becoming in our government to respond to the liberal policy shown by Great Britain toward our citizens, by reducing the fee in such cases to one hundred dollars.

The existing law authorizes an appeal from the decision of the Commissioner to either of the judges of the circuit court for the District of Columbia. This law is an anomaly in our legislation. It confounds the executive and judicial departments, which the genius of our institutions requires should be kept separate and distinct from each other. Its violation of principle is not a more serious difficulty than its practical operation. The appellant not only selects the judge who shall try the case, but also pays the fee of twenty-five dollars allowed him. The amount of compensation thus received will depend upon the number of cases brought before him; that number will inevitably be influenced by his course of decision. The judge is thus placed in a position of embarrassment, if not of humiliation, alike to be deplored by himself and the country.

This law should be repealed, and some other system substituted which will put this office in a position of independence in its executive action, and at the same time secure all the rights of inventors. The most feasible plan yet suggested to effect this is, in my judgment, to authorize the creation of a permanent Board of Review, to consist of three members, selected from the examiners of the office, and who shall be known as examiners in chief. This board shall be charged with the duty of hearing and determining upon all appeals from the judgment of the primary examiners, except in cases of appeal where any of these may have previously formed and expressed an opinion; in which case another examiner may be substituted to act in his stead; and then their judgment and action will be subject to the supervision and review of the Commissioner. This alteration of existing law must necessarily increase the efficiency of the office, and at the same time secure uniformity and certainty in its rules of action. And while the inventor will be saved from vexatious delays, and heavy costs to judges and counsel, he must feel satisfied that, in the provision made for the thorough examination of his application by the examiner in the first instance, then by the board of examiners in chief, and, lastly, by the Commissioner, he has secured to him the amplest opportunity for the establishment of his rights.

The activity and success of the inventive genius of the country, the limited circumstances of this worthy class of our fellow-citizens, who are badly prepared to brook delay or expense in the prosecution of their claims, the rapid enlargement and growing importance of this branch of business, and the fact that this office asks nothing from the national treasury, but only seeks such an organization of its internal machinery as will place this branch of the public service upon the most efficient footing, justify an earnest invocation of the attention of Congress to the wants of this office.

The agricultural division of this office is growing in popularity with the country and increasing in usefulness. It may be well ques-



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tioned whether any other expenditure of the public money has ever proved so largely remunerative and so beneficent in its influences. The crop of Chinese and African sugar-cane alone, for the present year, will more than compensate for the money heretofore expended in this behalf.

Measures have been taken for the establishment of a more satisfactory system for the distribution of seeds; the introduction of the tea plant; the collection of the seed and cuttings of the native grape vines with the view of testing their value for the manufacture of wine; the investigation of the nature and habits of the insects that infest the cotton plant, with the view of ascertaining whether some plan can be devised for the protection of the cotton planter; and for the chemical analysis of various plants and soils.

The cases required by the act of March 3, 1857, to be constructed in the hall of the Smithsonian Institution for the reception of the collections of the Exploring Expeditions and other objects of curiosity and interest, now in the main hall of the Patent Office building, have been contracted for, and sufficient progress has been made to warrant the belief that the removal can be made before the expiration of the current fiscal year. The object of the transfer of these collections to the Smithsonian Institution evidently was to relieve the Patent Office from the responsibility and trouble of their custody; the force, therefore, heretofore employed to take care of them will then be no longer needed by this office, and no estimate has been submitted for that purpose.

I am, sir, very respectfully, your obedient servant,

J. THOMPSON,  
*Secretary of the Interior.*

To the PRESIDENT OF THE UNITED STATES.