

FIRST
ANNUAL REPORT
OF THE
BOARD OF REGENTS
OF THE
STATE UNIVERSITY,
TO THE
LEGISLATURE OF MINNESOTA.
SESSION OF 1861.

Two Thousand Copies Ordered Printed for the Use of the Legislature.

SAINT PAUL:
WM. R. MARSHALL, INCIDENTAL PRINTER.
1861.

FIRST

ANNUAL REPORT

OF THE

BOARD OF REGENTS

OF THE

St. ANTHONY, }
January 10th, 1861. }

To his Excellency, Alex. Ramsey, Governor of the State of Minnesota:

Sir: The Act establishing the State University requires that the Report of the Board of Regents shall be transmitted by you to the Legislature.

Accompanying this note is the First Annual Report of the Regents, which please transmit at your convenience.

I have the honor to be, with respect, your obedient servant,

URIAH THOMAS,

Secretary Board Regents, State Minnesota.

REGISTRATION OF BOOKS

Two thousand Copies Ordered Printed for the Use of the Legislature.

WILLIAM T. BENTLEY
WILLIAM T. BENTLEY, PRINTER
1861

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FIRST ANNUAL REPORT.

In accordance with the provisions of the Act entitled "An Act providing for the government and regulation of the University of Minnesota," the Board of Regents of the State University submit to the Legislature their

FIRST ANNUAL REPORT

The Senate during the last Session confirmed the following gentlemen, appointed by the Governor, as Regents of the University :

Simon Smith, of Fillmore County, term of four years,		
John M. Berry, of Rice County,	"	"
E. O. Hamlin, of Benton County	"	"
Uriah Thomas, of Hennepin County,	"	two
W. M. Kimball	"	"

Simon Smith Esq., having forwarded his resignation, after the adjournment of the Legislature, the vacancy was filled by the appointment of Jared Benson, of Anoka county, subject to the confirmation of the Senate.

Pursuant to the requirement of the thirtieth section of the University Act, the Chancellor of the Regents of the State University met at the Office of Public Instruction, in the Capitol, on the fifth of last April, who organized by the election of the following officers :

Gov. Alexander Ramsey, President.

Uriah Thomas, of Minneapolis, Secretary.

W. M. Kimball, of St. Anthony, Treasurer.

Edward D. Neill, of St. Paul, Chancellor.

The attention of the Regents since their organization, has chiefly been occupied in investigating the condition of the Territorial University, which by the Constitution of the State, becomes the State University.

The first mention of a University occurs in a message of Governor Paine to the second Legislative Assembly of the Territory of Minnesota, in the year 1851.

After referring to the School Lands the message adds, "As the endowment of a University will also naturally in this connection attract your attention, it might be proper further to memorialize Congress for a grant of

one hundred thousand acres of land applicable and available at a future day, for this most desirable object."

The Committee on Schools of the House of Representatives, through their Chairman, the Hon. J. W. North, on Feb. 3d 1851, made a report, in which they say :

"The Committee would therefore recommend the passage of an Act (a Bill for which is herewith submitted) to incorporate the University of Minnesota. Though such an institution should not come to maturity in many years, it may now receive an endowment in lands that will increase in value with the growth of the country, and when wanted will be amply sufficient to erect and furnish an institution commensurate with our wants.

* * * The Committee therefore respectfully concur in the recommendation of the Governor, that Congress be memorialized for a grant of lands for the endowment of such a University."

Shortly after this report an Act establishing the University was passed, and continued in force until its repeal by the last Legislature.

In accordance with the suggestion the Legislature memorialized Congress for one hundred thousand acres of land "for the endowment of a University which shall be the property of the Territory, to be governed and taught in such manner and by such officers as the Legislative assembly of the Territory may direct and appoint."

Simultaneous with the passage of the Memorial by the Legislative Assembly, Congress on February 19th, 1851, passed an Act similar to those for the benefit of Michigan and Wisconsin, *reserving* certain lands for the uses of a Territorial University. The language is, "That the Secretary of the Interior be and he is hereby authorized and directed to set apart and reserve from sale out of the public lands, within the Territory of Minnesota, to which the Indian title has been or may be extinguished, and not otherwise appropriated, a quantity of land not exceeding two entire townships for the use and support of a University in said Territory, and for no other use and purpose whatever, to be located in legal subdivisions of not less than one entire section."

The projectors of the University, as the passages cited from the Legislative journals show, had no intention of *forcing a University into existence* before there were students to profit by its instructions, and a legitimate income secured from a grant of lands or in some other way.

In order that there might be no undue haste and waste of funds, there were placed in the act creating the Territorial University the same guards, in the same language, as those found in the Constitution of Wisconsin, viz: "The proceeds of all lands that may hereafter be granted by the United States to the Territory for the support of a University, shall be and remain a perpetual fund, to be called the 'University Fund,' the interest of which shall be appropriated to the support of a University."

The first meeting of the Territorial Regents was held at St. Anthony on the seventh of June, 1851, and liberal offers for a University site were made by several persons. At this meeting no decision on the subject was attained, but the Secretary was instructed to prepare a notice to the land holders in the vicinity, and an adjournment until the 14th inst took place.

In accordance with resolution, there was published the following

"NOTICE.

Land holders in the vicinity of St. Anthony Falls are respectfully requested to make offers of land to the Board of Regents for the purpose of a site for the location of the University of Minnesota.

Propositions in writing will be received until the morning of the 14th inst, addressed to the Secretary.

By order of the Board of Regents,

I. ATWATER, Secretary."

At the adjourned meeting several propositions from land owners were received. Among others

W. A. Cheever, offered 12½ acres,

J. McAlpine, " 20 "

Farnham and others " 16 "

The Board viewed the different localities, and after a careful survey and consultation, Wm. R. Marshall, Esq. "moved that the offer of ground made by Franklin Steele, being that part of the green set apart for public purposes, together with six lots in the rear, be selected as the site for the location of the University of Minnesota." The motion appears to have been unanimously adopted, and it was then resolved to erect a building for a Preparatory Department, with the understanding that the whole cost should be defrayed by private subscription. The location appears to have given satisfaction, and the Editor of the "St. Anthony Express," also Secretary of the Board, concludes an editorial, commending the situation, in this language "To the generosity of Franklin Steele are the citizens of the Territory indebted, more than to any other man, for this most splendid location."

The citizens of Minnesota, with full confidence in the Board of Regents contributed sufficient to erect the edifice for the Preparatory School, and there has been no little astonishment since it has been known that the property has been employed for another purpose, that the Regents should have neglected to obtain a deed for the property.

In the minutes of the meeting of the Board held October 29th 1852, the following statement occurs:—

"An inquiry having been made by Mr. Rice in regard to the title of the ground selected as a site for the University, it was stated that no deed for the same had ever been given."

A resolution was introduced by Mr. Stevens as follows:

Resolved, That a Committee of five be appointed to investigate the title of the ground selected as a site for the University, and that the said Committee have power to examine locations for the purpose of selecting a more eligible site, and to treat for the same and report to the Board of Regents at their next meeting."

The Regents divided the resolution, and considering that the title needed no investigation, negated that point by the following vote:

Affirmative—Messrs. Rice and Stevens.

Negative— " Ramsey, Sibley, Meeker and Atwater.

The latter part of the resolution was also decided in the negative.

It was then moved by Mr. Sibley, that a Committee of three be appointed by the Chair, to inquire into the propriety of a change of the location of a site of the University and to report at the next meeting; which was carried.

At a meeting held January 27th, 1854, Mr. Steele proposed to give *five acres in Tuttle's Grove*, to be selected by a Committee, and erect *another building of equal value* with that now used by the Preparatory Department, or pay the Board the cost of the same; but on March 3d, 1854, it was

Resolved, That the property owned by Messrs. George and Taylor, near St. Anthony, be purchased for the site of the University, if the same can be had at a cost not exceeding \$5,500.

Mr. Steele was appointed to negotiate for the same.

At a meeting on October 24th, of the same year, the following action was had.

Mr. Steele made a statement "in regard to the steps taken to obtain a title to the Taylor and George property, as a site for the University." The terms of the purchase, as finally agreed upon by Mr. Steele, were as follows: One thousand dollars in cash to J. L. Taylor—one thousand dollars in six months, and one thousand dollars in twelve months after the date of the deed. The payments to Mr. George were to be one thousand dollars in six months, one thousand dollars in twelve months, and one thousand dollars in eighteen months from date of the deed.

The terms were accepted by the Board, and on motion it was

Resolved, That the President and Secretary of the Board be authorized to execute and sign the necessary mortgages and notes of hand to Paul R. George and Joshua L. Taylor, as security and evidence of indebtedness on the part of the Regents for the purchase of real estate made by them.

Messrs. Taylor and George being present, executed a warranty deed of their property to the Board of Regents, which was acknowledged and recorded. Notes and mortgages were then executed by the President and Secretary of the Board to secure the payment of the purchase money.

In this transaction commences the University embarrassment—a transaction wholly unnecessary, illegal, and careless.

UNNECESSARY, because the University had a site and a building ample for twenty years; and, if they had not, unnecessary, because, by a proper effort, a site just as eligible, could have been obtained without cost.

ILLEGAL, because the second section of their charter was as follows: "The proceeds of all lands that may hereafter be granted by the United States to the Territory, for the support of a University, shall be and remain a perpetual fund, to be called 'the University Fund,' the interest of which shall be appropriated to the support of a University;" and section thirteenth declares, that "the Regents may proceed to the erection of University buildings as soon as funds are provided."

But the transaction referred to exhibits the Regents purchasing a site when there was no fund with which payment could be made; and also exceeding the powers conferred on them by the Act of Incorporation, in executing notes to satisfy the indebtedness they had created.

The CARELESSNESS of the Regents is seen, by a reference to the minutes of July 7th, 1856: "The committee, through R. B. Meeker, made a report in reference to the title to the University site, and reported that the deed from Messrs. Taylor and George covered only some seventeen acres of land instead of twenty five acres, the quantity of land that Messrs. Taylor and George proposed to the University."

There had always been a number in the Board who felt that steps were being taken that were premature and unwise. As yet not a committee had been appointed to report a plan of organization and course of instruction, and still there was a disposition to hurry up a costly pile of stone and mortar, as if the idea of a University was comprised in a building or buildings.

On Feb. 13th, 1856, Mr. Van Vorhes, Sr., representing the more conservative element of the Board, offered the following preamble and resolution:

Whereas, It is important that the Regents of the University of Minnesota should have the benefit of the experience of similar institutions, therefore,

Resolved, That Edward D. Neill be appointed a Commissioner to visit the Universities of the State of Wisconsin, Michigan, Ohio, and Virginia, and obtain information in relation to the steps taken to organize their institutions; their mode of managing the finances; the disposition of lands donated by Congress; the local legislation in regard thereto; the number of departments; the salary of the professors; the system of instruction; the plan and expense of edifices; and that he report the results of his inquiries on or before the first of July next.

Mr. Stevens moved, as an amendment, that the name of Mr. Neill be stricken out, and that of Mr. Riheldaffer substituted.

Mr. Van Vorhes then withdrew the resolution, for reasons which do not appear.

Here ended all attempts to become acquainted with the policy and

experience of other States, and the same month an act was passed by the Legislature, authorizing the Regents to issue bonds to an amount not exceeding fifteen thousand dollars—*five thousand dollars* to be applied in liquidation of a debt incurred in the purchase of a site for the University, and *ten thousand dollars*, to be expended under direction of the Board of Regents, in erecting suitable buildings for the same. To secure the payment of the bonds they were empowered to mortgage any lands they might hereafter obtain. It was further provided that all sums received from the sale of the bonds should be used for *no other purpose than the payment for a site, and constructing a suitable building or buildings.*

The object of the Legislature was plain, that the sum of *ten thousand dollars* should be expended in erecting suitable buildings. The Regents had no power given to contract for the erection of any building that would cost more, yet, in the face of a statute so explicit, on motion of A. M. Fridley, seconded by B. B. Meeker, it was, on August 26th, 1856,

Resolved, "That the Building Committee be instructed to accept the bid of Messrs. Alden & Field, and contract with them for the erection of the extension, and one wing, at the price for which they have bid, viz: \$49,000."

The yeas and nays were called for:

YEAS.—Fridley, Meeker, Stevens and Atwater.

NAYS.—Ramsey, Sibley, Nelson and Black.

There being a tie, Mr. STEELE gave the casting vote.

From that hour every step has been a plunge in the dark. With no pleasure we record the fact that the affairs of the Institution have been conducted in utter disregard of all prudential maxims, but it seems due to the *Bondholders*, the *Legislature*, and the *Friends of Education*, that an impartial statement should be made, of *everything* which will illustrate the past history and the present difficulties which environ and overwhelm the Territorial University. We have, therefore, freely used all the documents and records to which we have had access.

The utter disregard of charter restrictions, properly caused comment and dissatisfaction in the Constitutional Convention of 1857, and in the debate relative to the Territorial University, by a proviso of the Constitution, being made the State University, the following remarks were elicited:

"Mr. EMMETT. I do not like the phraseology of Section 4. It seems to me there is an attempt to cover up something. I know this, however, to be a fact. there has been a great deal of difficulty about the University, and about the funds which have been raised for its support, and the manner of raising them. * * * * *

"Mr. SIBLEY. I am opposed to the amendment, not that I care a great deal what is done with the whole Article, since it has been put in its

present shape, but the gentleman seemed, by his remarks, to have rather animadverted upon the manner in which the University is conducted. As I happen to be a Regent of that University, I have something to say in reply.

"Mr. EMMETT. The gentleman will allow me to disclaim any reflection upon him. I said there have been difficulties connected with that Institution. I do not know whether they have arisen from mismanagement or otherwise.

"Mr. SIBLEY. I do not know that there have ever been any very serious difficulties. The gentleman should not make such sweeping assertions without specifying to what he refers. It is true there have been a variety of opinions as to whether the University ought to be located here, there, or in some other place, but I know of no important difficulty which has arisen.

"Mr. EMMETT. I do not know that I can specify precisely the nature of the difficulty to which I referred. I have been consulted as a lawyer upon a subject which, I think, has reference to the raising of some fund by an Act of the Legislature.

"Mr. SIBLEY. The Legislature passed an Act authorizing the University to issue bonds, and probably the gentleman was asked his professional opinion as to whether these bonds could be legally issued. However, if the gentleman meant nothing by his reflections, as far as I am concerned, I have nothing more to say.

"Mr. EMMETT. I meant nothing of the sort.

* * * * *

"Mr. EMMETT. This University has been located by an Act of the Legislature. If it has been properly located, there is no necessity of affirming it here. If it has been improperly located, of course, we ought not to affirm it. The location has been in consequence of authority by law, and I do not see why we should have anything to do with it. If you look a little further on in the Section, you will see that its phraseology, which, on its face, seems to be intended to secure the immunities, franchises and endowments, which it has already received, has really the effect of securing also to it all other donations for University purposes, which may hereafter be made by Congress to the State. Now, Sir, the gentleman has disclaimed all intention of covering up anything, and of course, I take his word for it, but I tell you, Sir, there is a nigger under the fence in some place. (Laughter.)

"The CHAIRMAN. The gentleman is out of order in saying there is a nigger in the Convention. (Great laughter.)

"Mr. EMMETT. The effect of this Section, is simply to lay at the feet of that University every donation that may hereafter be made for University

purposes. Now, sir, I repeat that if this Institution has been located by authority of law, as they claim, there is no necessity under Heaven, for putting any provision in the Constitution to affirm it. It seems to me the whole provisions in this Section are wrong, and I hope the Section will be stricken out.

Mr. SIBLEY. The gentleman seems to be disposed to put the University of Minnesota, on trial before this Convention. Now, sir, I am perfectly willing it should be tried here. I have no particular interest in the matter, as far as I am personally concerned, but as a citizen of Minnesota, I have some pride in having a State Institution which will reflect credit upon the State. The gentleman speaks, in his eloquent phraseology, of a nigger under the wood pile. I don't know what the gentleman means by the assertion I think, as the Chair suggested, that he was out of order. Now, sir, I think the University of the State of Minnesota, should be provided for in the Constitution, and with all due respect to my friend from Ramsey, I think that this is the proper place, and that the provisions reported in this Section are such as this Convention should adopt. A great portion of the funds with which the University is endowed, have been donated by the citizens of the Territory, and when the gentleman talks of a nigger in the wood pile, he must suppose that there has been some misapplication or mis-management of those funds. I stand here as a Regent of this Institution, having been a Regent for the last eight years, ever since its commencement, and defy any scrutiny that any man may choose to exercise with reference to its Managers and Regents."

A few months after this discussion, and before Minnesota was admitted into the Union, the Legislature, on March 8th, 1858, passed an Act authorizing the Regents of the University to borrow money, to an amount not exceeding \$40,000, and issue bonds for the payment of the same secured by mortgage on any lands the University might acquire, which should be a *lien upon said lands*, until all sums owing upon said bonds are fully discharged.

During the year these bonds were sold to Sewell, Ferris & Co., of New York city, and \$5,800 were retained by the firm to meet the interest on all the bonds issued to D. C. 1st. 1859 *

But a large proportion of the moneys received from the sale of the last bonds, was absorbed in the payment of exorbitant interest and discounts on notes illegally given, so that in February, 1859, it became necessary in the settlements with the contractors of the University building to take another step wholly unauthorized, and issue notes to the contractors to the amount of \$16,000.

The report of Messrs. Hamlin and Barry, Regents of the State University in relation to the validity of these notes is appended. †

* See Appendix for letter on this subject.

† See Appendix.

Allusion has already been made to the offer of Mr. Steele to give five acres in Mr. Tuttle's Grove and erect a building at the same cost as that of the Preparatory Edifice erected on the site given by Mr. Steele, provided the Regents give up all claims to the former site.

Afterwards, it appears, Mr. Steele modified his proposition, and on June 12th, 1855, the Regents "Resolved, That the proposition of Mr. Steele to pay into the Treasury of the Board of Regents the amount expended in the erection of the Preparatory School Building on the lands donated by Mr. Steele, be and is hereby accepted, and that the amount be paid forthwith into the hands of the Treasurer of the Board."

To this day the money remains unpaid, and the claims of the University to the original site remains unimpaired.

The University holds an agreement signed by Richard Chute, Agent and Attorney of the St. Anthony Falls Water Power Company, which in this connection is submitted:

ST. ANTHONY, June 28, 1856.

On a settlement this day made with Isaac Atwater, Secretary of the Board of Regents, a Chairman of the Committee appointed for that purpose, there is found due the University of Minnesota for the old University Building, the sum of twenty-five hundred dollars which we promise to pay by assuming that sum on its indebtedness to Paul R. George from this day; the Regents giving a quit-claim deed to the property.

ST. ANTHONY FALLS WATER POWER Co.

By Richard Chute, Agent and Attorney.

At a meeting of the State University, held at the Capitol on November 8, 1860, the Treasurer was directed to prepare a report on the following subjects: Cost of building; interest paid on building account; amount due on building; amount on Bonds, when, and to whom issued; description of property mortgaged to secure the payment of Bonds; also the receipts of the Territorial University for Stumpage, the names of persons making payments, the amounts still due on permits issued by the Territorial Regents; and any other information which may aid in giving a full statement of the actual condition of the affairs of the Territorial University.

As a condensation of the report is impracticable it is also submitted.

To the Chancellor of the State University of Minnesota:

In accordance with the vote of Regents at our last meeting, I should have reported to you immediately, but the most diligent effort has not enabled me to do so until this late day. My delay has been caused chiefly by the incompleteness of the Secretary and Treasurer's Records of the business—compelling me to gather its history from a confused mass of papers, many of which contain simply a hint of the transaction, and tended greatly to confuse and delay progress.

The business was transacted so long ago that the parties effecting it have become ignorant of its particulars, and although I have made earnest efforts to get information, have been unable to a great extent.

Therefore I give you this report with the expectation that my tardiness will be excused, and if it should appear that my record is incorrect in some particulars, that also should be excusable.

ANALYSIS OF THE BUSINESS.

1. SITE.

Purchased of Paul R. George and Joshua L. Taylor for \$6,000 (\$5,000 paid by note, \$1,000 with borrowed money).	\$ cts.	\$ cts.
Interest paid on Taylor's 12 mos. note, 15 and 14-30 mos., at 10 per ct.....	128 89	
Interest allowed in addition to the above.....	92 58	
		221 47
Interest paid on Taylor's 6 mos. note, 8 mos., at 10 per ct....	66 67	
Interest allowed in addition to the above.....	33 33	
		100 00
Interest on Regents' note, order F. Steele, for one of Taylor's notes, at 3 per ct.....		656 38
Interest on Regents' note, order F. Steele, above note and interest at 3 per ct.....		153 48
Interest on Regents' note, order R. Martin, 2½ per ct. per month, semi-annually.....		750 00
Interest on Regents' note, given for money advanced on pur- chase.....		1,129 57
Interest on Regents' note, order R. Martin, 2½ per ct. per month, semi-annually.....		254 12
Interest alleged as due on Paul R. George's notes to Dec. 1, 1860.....		1,833 34
Amount of interest to Dec. 1, 1860.....		5,103 36
Add purchase cost.....		6,000 00
Add cost of surveying grounds.....		28 00
Cost of site, Dec. 1, 1860.....		11,126 36
Amount alleged to be due on site 1st Dec. 1860, to Paul R. George, on notes.....	3,000 00	
Interest at 10 per ct. per annum.....	1,833 34	
		4,833 34
Less, amount due from Chute, Agent of Mill Co.....	2,500 00	
And interest.....	1,106 25	
		3,606 25
True amount due 1st Dec., 1860.....		1,227 09
Actual amount of interest due 1st Dec., 1860.....		727 09

2. BUILDING.

Proposed cost as per contract.....	49,600 00
Allowed for extra work.....	20 74
Allowed Alden on expenses, trying to negotiate bonds.....	117 00
Paid for measurement of building.....	12 00
Paid Alden on account of bonds.....	25 00
Paid Hill expense of recording mortgages.....	20 00
Paid discount on Regents' note sold contractor, \$730, at 2 per ct.....	14 60
Paid S. W. Farnham & Co. interest on Regents' note, at 3 per ct.....	43 55
Paid interest on Atwater note, order Sibley, at 3 per ct.....	72 81
Paid discount on Geo. Aikin draft, \$7,500, at 1 per ct.....	75 00
Paid interest on Craig & Kidder note, at 5 per ct.....	1,500 00
Paid interest and protest expense to Irvine, Stone & McCor-	

mick.....	346 61	
Paid interest on note to Stein & Bro., at 3 per ct.....	371 80	
Paid discount on Dana & White, at 3 per ct.....	186 00	
Paid interest on note to John Steele.....	63 00	
Paid interest to Atwater on \$2,100.68, eighteen mos., at 2½ per ct., semi-annually.....	1,094 82	
Paid interest on notes to Dana & White, at 3 per ct.....	388 09	
Paid interest on drafts.....	139 07	
Paid interest on acceptance.....	62 49	
Paid interest on notes to Stein & Bro. in full, at 3 per. ct....	1,800 00	
Paid interest to contractors on deferred payments, at 12 per ct. per annum.....	4,930 00	
	<u>11,098 59</u>	
Less interest paid Atwater on \$99 included in \$2,100.68 pay't.	51 55	
Amount of interest paid on account of building.....	11,047 04	
Add interest due on notes given contractors to Dec. 1, 1860..	3,449 78	
	<u>14,496 82</u>	
Cost of building Dec. 1, 1860.....		64,291 56
Amount of notes given contractors on settlement.....	15,630 91	
Interest on above to Dec. 1, 1860, at 12 per ct.....	3,449 78	
Amount alleged to be due Dec. 1, 1860.....	<u>19,130 69</u>	

3. J. G. RHELDAPPER, TREASURER.

Salary, four years, at \$150.....	600 00
Paid him.....	482 53
Due him.....	<u>117 47</u>

4. BONDS.

Issued May 1, 1857, to Sewell, Ferris & Co.....	15,000 00
Issued Feb. 2, 1859, to Sewell, Ferris & Co.....	40,000 00
Amount issued.....	<u>55,000 00</u>
Interest on first issue to Dec. 1, 1860, at 12 per ct.....	6,450 00
Interest on second issue to Dec. 1, 1860, at 10 per ct.....	7,333 34
Amount of interest.....	<u>13,783 34</u>
Interest paid at sundry times.....	\$8,500 00
Interest due from S. F. & Co., on deferred payments.....	<u>771 64</u>
	9,271 64
Interest due 1st Dec., 1860.....	4,511 70
Add amount of bonds issued.....	<u>55,000 00</u>
Interest and principal due 1st Dec., 1860.....	<u>59,511 70</u>
In addition to the above interest paid on bonds, there has been paid on money borrowed to pay first six month's inter- est on \$15,000 issue.....	278 32
Cost of printing bonds.....	31 00
Commission paid Ramsey, Crooks & Co., for making third payment of interest.....	14 00
Interest paid Ramsey, Crooks & Co.....	25 52
Total.....	<u>348 84</u>
Add interest paid at sundry times as above.....	8,500 00
Add interest due due on bonds.....	4,511 70
Amount of expenses on bonds Dec. 1st, 1860.....	<u>13,360 54</u>

5. SUNDRY EXPENSES.

Paid for seal.....	13 25
Paid for printing bonds.....	30 00
Paid to A. H. Barber for teaching.....	325 03
Paid for treasurer's book.....	3 25
Paid for chairs, black board and stand.....	8 00
Paid for wood and sawing, and broom.....	4 80

Paid Croffut & Clark for printing.....	5 00
Paid Minnesotian for advertising land.....	3 00
Paid St. Anthony Express for advertising.....	18 00
Paid Treasurer.....	482 53
	<hr/>
Received from tuition.....	892 86
Total.....	40 00
	<hr/>
	852 86

6. STUMPAGE.

Whole amount sold.....	12,073 42
------------------------	-----------

RECEIPTS IN CASH.

From Burnell, Gillett & Co.....	2,314 30
From Wm. & G. Hanson.....	2,342 50
From McKusick & Co.....	1,000 00
From Day & Hanscome.....	474 08
Amount of cash receipts.....	6,130 88

RECEIPTS IN NOTE.

From Stanchfield, Brown & Hanson, joint note.....	1,000 00
From Samuel Stanchfield.....	2,644 00
Amount of receipts in note.....	3,644 00

The above notes are unpaid and unsecured.

DUE FROM PERMITS.

From Lennon & Day.....	141 75
From Wm. & G. Hanson.....	270 85
From David T. Day, (deceased).....	50 42
From Samuel Stanchfield.....	1,835 52
Amount due on permits.....	2,298 54
Add cash receipts, as above.....	6,130 88
Add note receipts, as above.....	3,644 00
	<hr/>
	12,073 42

INTEREST RECEIVED.

From Burnell, Gillett & Co.....	187 06
From S. Stanchfield.....	160 00
Amount of interest received.....	347 06
Deduct amount paid for scaling.....	55 10
	<hr/>
	291 96

7. BILLS PAYABLE.

Issued.....	37,246 23
Redeemed.....	18,565 32
Balance outstanding.....	18,680 91

To Alden, Cutter & Hull, \$15,680 91 } as above.
 To Paul R. George, 3,000 00 }

8. BILLS RECEIVABLE.

Received.....	10,047 81
Disposed of.....	3,284 89
Balance in hand.....	6,762 92

Of the above, received on account of stumpage...	4,262 92
Do. on account of old University, from Mill Co.,	
Richard Chute, Agent.....	2,500 00
	<hr/>
	6,762 92

9. ISAAC ATWATER, SECRETARY.

University has paid him at sundry times.....	10,406 69
Treasurer has paid him Feb. 2, 1859.....	2,100 68

Interest on same 18 months, at $2\frac{1}{2}$ per ct. paid semi-annually.....	1,094 82	3,549 82
Treasurer paid him \$99 00 and interest \$51 55 in above amt, which he received previously of Treasurer to pay contractor,		150 00
Day & Hanscom paid for stumpage not accounted for.....		474 08
Part of endorsement on Stanchfield note.....		497 66
Day & Hanscom's note lost (balance due on it).....		793 55
Treasurer says Atwater sent order for it, saying he could negotiate it, and that he sent it to him.....		
Amount paid him.....		15,872 35
Amount received from him.....		14,822 54
Balance in favor of University.....		1,049 81
Could not ascertain what Day & Hanscom's note was received for, but think it must have been for the end. and stumpage not accounted for above. (Amount of note, \$937 47.) In the event that is proven, he should have credit.....		937 47
Supposed balance.....		112 34
He has rendered bill for salary, 6 years, at \$250.....	1,500 00	
Interest on annual amount at 7 per ct. to 1st March, 1860....	290 00	
Ten days service collecting and paying contractor.....	100 00	
Expenses while doing the above.....	20 00	
Expenses at New York and Boston, trying to negotiate bond,	115 00	
	2,025 00	
Deduct the above balance.....	112 34	
Supposed balance due him.....	1,913 66	

I mention in connection with this, that some one paid S. W. Farnham & Co, May 13, 1857, for Regents' note to the order of F. Steele, (\$850 00, and interst \$53 55—amount \$903 55) whom I have not been able to find.

10. LAND.

Paid M. Black for examining pine land.....		90 00
Paid I. Atwater, as per receipt, for John Rollins' bill locating land.....	37 80	
Paid for interest on same, 9 months, at 3 per ct.....	10 20	
Paid for Amos Bean's bill locating land.....	36 00	
Paid for interest 19 months, at 3 per cent.....	24 89	
Paid for S. Young's bill locating land.....	38 00	
Paid for interest on same $8\frac{1}{2}$ months, at 3 per ct.....	9 69	156 58
Paid B. B. Meeker for locating land.....		650 00
Paid Wm. Dwelley for examining and locating land.....		63 25
Paid John Rollins for examining and locating land.....		600 00
Paid C. D. Dorr for examining land.....		10 00
Amount of expense on land.....		1,569 83

11. SUMMARY OF INTEREST.

Interest paid on account of site.....	3,270 02
Interest due on account of site 1st Dec., 1860.....	727 09
Interest paid on account of building.....	11,047 04
Interest due on account of building 1st Dec., 1860.....	3,449 78
Interest paid on bonds.....	9,271 64
Interest due on bonds 1st Dec., 1860.....	4,511 70
Interest paid on account of bonds.....	303 32
Interest paid I. Atwater on money advanced contractors....	1,043 27
Interest paid I. Atwater on land account.....	44 78
Interest charged by I. Atwater, unsettled account.....	290 00
Amount of interest expense, Dec. 1st, 1860.....	33,958 64
Amount of interest paid on the above.....	24,980 07
Amount of interest due and unpaid 1st Dec., 1860.....	8,978 57

12. SUMMARY OF ALLEGED INDEBTEDNESS.

Site—amount due on it.....	1,227 09
Building—amount due on it.....	19,130 69
Bonds—amount due on them.....	59,511 70
J. G. Riheldaffer—amount due him.....	117 47
Isaac Atwater—amount due him (probably).....	1,913 66
Alleged liabilities 1st Dec., 1860.....	<u>81,900 61</u>

13. PROPERTY MORTGAGED TO SECURE PAYMENT OF BONDS.

The site and building, to secure payment on first issue, I believe, 15,000 00.

In the Counties of Pine and Mille Lac:

In Township No. 39, Range 25 West: Secs. 5, 6, 7, 8, 9, 15, 17, 18, 21, 22, 23; S hf of 24; N hf. of 25; 26, 27 and 28.

In Township No. 39, Range 26 West: E hf. of NE qr. of Sec. 9; W hf. and SE qr. of Sec. 10; W hf. of SE qr. and SW qr. of Sec. 11; NE qr., NE qr. of SE qr., W hf. of SE qr., and E hf. of SW qr. of Sec. 12; NW qr. of NE qr. and N hf. of NW qr. of Sec. 13; NE qr. of NE qr., S qr. of NE qr., N hf. of SE qr., SE qr. of SE qr., and NE qr. of SW qr. of Sec. 14; and N hf. of NW qr. of Sec. 15.

In Township No. 40, Range 27 West: E hf., E hf. of SW qr., and SE qr. of NW qr. of Sec. 10; Sec. 11; Sec. 12; N hf. of NE qr., W hf. of SW qr., W hf. of NW qr., and NE qr. of NW qr. of Sec. 14; all of Sec. 15; SW qr. of Sec. 24; W hf. of NW qr., and NW qr. of SW qr. of Sec. 25; NE qr., S hf. of NW qr., SW qr., N hf. of SE qr., and SW qr. of SE qr. of Sec. 26; SE qr. of Sec. 33; NE qr., SE qr., SW qr., and SE qr. of NW qr. of Sec. 34; W hf., W hf. of SE qr., and SW qr. of NE qr. of Sec. 35; and N hf. of Sec. 13;—containing sixteen thousand three hundred acres—to secure the payment of \$31,000, in Bonds of \$1,000 each.

In the Counties of Pine and Sherburne:

In Township No. 41, Range 17 West: SE qr. of Sec. 11; SW qr. of Sec. 12; NW qr. of Sec. 13; W hf. and NE qr. of Sec. 14; E hf. of Sec. 15; and all of Sec. 22.

In Township No. 35, Range 28 West: W hf. of Sec. 28; E hf. of Sec. 29; W hf. of Sec. 33; E. hf. of Sec. 32; and all of Sec. 34;—containing thirty-eight hundred and forty acres, to secure the payment of \$9,000, in Bonds of \$1,000 each.

I believe the above is all of the property that has been mortgaged to secure the payment of Bonds.

I have extended the report in one respect that you might see the rate per cent. of interest paid during the course of the business, &c. &c. &c.

Very respectfully submitted,

(Signed)

WM. M. KIMBALL,

Treasurer of the Board of Regents of the State University of Minnesota.

St. ANTHONY, Dec. 15, 1860."

From the accompanying Journal and Documents will be learned all the proceedings of the Regents of the State University for the year eighteen hundred and sixty.

It would be improper, after the examination of the transactions which we have made, to conclude this report without a distinct expression of our belief that there was no design on the part of the Territorial Regents to injure the cause of learning or aggrandize themselves, but that, blinded by the glare of imaginary riches, so prevalent in 1856 and '57, they supposed that the University, like themselves, could never be embarrassed for the want of money.

All which is respectfully submitted in behalf of the Board of Regents.

URIAH THOMAS,

Secretary of Board of Regents of State University.

JOURNAL OF PROCEEDINGS
OF THE
BOARD OF REGENTS.

MEETING FOR ORGANIZATION, APRIL 5, 1860.

The first meeting of the Board of Regents of the Minnesota State University under the "Act providing for the Government and Regulation of the University of Minnesota," approved Feb. 14, 1860, was held at the rooms of the Historical Society, in St. Paul, on the 5th of April, 1860.

Present, Gov. Ramsey, and Regents Kimball, Hamlin, Benson and Thomas.

On motion of Gov. Ramsey, Regent Benson was called to the Chair for the purpose of organization.

The following permanent officers of the Board were duly elected.

Uriah Thomas of Minneapolis, Secretary.

W. M. Kimball of St. Anthony, Treasurer.

Rev. E. D. Neill of St. Paul, Chancellor.

The Chancellor being a member of the Board, *ex officio*, then took his seat.

The Governor of the State was then elected permanent President of the Board.

The following resolutions were separately presented, discussed and adopted:

Resolved, That the Chancellor be appointed a Committee to prepare By-Laws for the Government of the Board and report at the first Annual Meeting.

Resolved, That the Secretary of the Board call upon the late Secretary and Treasurer, and procure the minutes, papers, seal, library books, and all other documents, belonging to the University.

Resolved, That A. J. Hill be requested to procure for the use of the University and those who may select lands, two of Sewall's maps, with proper lines marked thereon, indicating the University reservations.

Resolved, That Regents Kimball and Thomas be appointed to inquire

what disposition has been made of the edifice built by private contributions for a Preparatory School. If purchased, by whom, and the price paid, and report at the next meeting.

Resolved, That the Treasurer be requested to examine the books and papers of the Board of Regents, and make an exhibit, as far as in his power, of the liabilities and assets of the University.

Resolved, That the Governor of the State be requested to take proper steps for the selection of the remainder of the lands reserved for the Territorial University by Congress.

A memorial to the Governor of the State was adopted, asking him to take the steps indicated in the "Enabling Act," and, at an early day, appoint some one to make a selection of lands.

[MEMORIAL.]

OFFICE OF PUBLIC INSTRUCTION, }
St. Paul, Min., April 5, 1860. }

His Excellency Alex. Ramsey, Gov. Minnesota:

DEAR SIR: In February, 1851, the Territorial Legislature passed an Act incorporating "a Territorial Institution of learning under the name of the University of Minnesota" to which were granted "the proceeds of all lands that may hereafter be granted by the United States to the Territory for the support of a University." On the 19th of February, of the same year it was enacted by Congress:

"That the Secretary of the Interior be, and he hereby is, authorized and directed to set apart and reserve from sale, out of the public lands, within the Territory of Minnesota, to which the Indian title has been or may be extinguished, and not otherwise appropriated, a quantity of land not exceeding two entire townships, for the use and support of a University in said Territory, and for no other use and purpose whatever, to be located in legal subdivisions of not less than one entire section."

Shortly after this Congressional enactment the Regents of the Territorial University organized, obtained a site, erected a building thereon, and commenced instruction therein—the first instance on record of a Territorial University going into operation at so early a period in the history of a Territory.

The Regents also, with the approbation of the Secretary of the Interior, proceeded to select a large portion of the lands granted for the Territorial institution. Subsequently they erected a costly edifice and mortgaged it, by virtue of a power granted by the Territorial Legislature of 1856, for \$15,000, to secure the payment of certain bonds, and by another Act passed in 1858, on the eighth day of March, before the admission of Minnesota into the Union, mortgaged lands that had been selected by the Regents, to secure the payment of a further sum of \$40,000 borrowed by the Regents for the Territorial institution.

Heretofore Congress has made grants to Territories not having organized any Universities, and the lands being free from all prospective incumbrances, the Enabling Acts of Michigan, Wisconsin and Iowa, have used the following similar phraseology.

"Seventy-two sections of land, set apart and reserved for the use and support of a University by an Act of Congress approved on _____ day of _____ are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such University in such manner as the Legislature may prescribe."

The condition of Minnesota being different, so far as a Territorial University was concerned, we expect and find different language in the Enabling Act. There is no reference, as in acts alluded to, to previous reserves, but it is prospective. It says, if certain provisions are accepted:

"That seventy-two sections of land shall be set apart and reserved for the use and support of a *State University to be selected by the Governor of said State*, subject to the approval of the Commissioner of the General Land Office."

Although a Territorial University had been in existence for years, and the Regents had selected lands, there is no reference thereto, but the language prescribes selections for a *future State University*.

Certainly it was not the intention of Congress to turn over the debts and prospectively encumbered lands of an old and badly managed territorial institution, but to give the State that was to be, a grant for a State University, free from all connections with territorial organizations.

Will you, therefore, take the steps indicated in the Enabling Act, and appoint, at an early day, some one to select two townships of land for the State University, incorporated by the last Legislature?

In behalf of the Regents of the University of the State of Minnesota.

(Signed,)

E. D. NEILL, Chancellor.

It was on motion,

Resolved, That Regent Hamlin, the Secretary, and Treasurer, be appointed Curators of the University Building and grounds, and be requested to take proper steps to secure the same from dilapidation.

Resolved, That the Secretary be directed to procure an Abstract of Title of University property in St. Anthony.

Resolved, That the papers of St. Anthony, Minneapolis and St. Paul, be requested to publish the minutes of this meeting.

On motion, the Board adjourned.

(Signed,)

URIAH THOMAS, Secretary.

ANNUAL MEETING, JUNE 26th, 1860.

The Annual Meeting required by charter, was called at the Winslow House, in St. Anthony, on the 26th of June, 1860.

Present, Gov. Ramsey, Rev. E. D. Neill, Chancellor of the Board, and Regents Kimball and Thomas.

The Chancellor requested the privilege of reading the following communication, but no quorum being present, no action was taken thereon :

“SAINT PAUL, June 26, 1860.

“*His Excellency Alex. Ramsey, Governor of Minnesota:*

“DEAR SIR:—The Board of Regents of the State University, appointed by the provisions of the charter, establishing a State University, passed by the last Legislature, at their first Annual Meeting, are environed with embarrassments.

“As already set forth in a communication addressed to you, and adopted by the Board, at the meeting held for the purpose of organization, on the first Thursday in April, we feel that the desire of Congress was to donate to the State two unincumbered townships of land ‘for the use and support of a State University, to be selected by the Governor of said State.’

“But they discover that an old Territorial University, to which we succeed by the Constitution, has selected certain lands under an Act of Congress, of February 19, 1851, and mortgaged a valuable portion of said lands, erected an expensive building, and incurred a debt of at least \$75,000.

“The Regents of the State University, cannot feel that the assumption of lands reserved for a Territorial University, now heavily encumbered, is in any sense, the munificent donation to the young State by Congress, ‘for the use and support of a State University, to be selected by the Governor of said State.’

“The Enabling Act, it appears to us, makes your duty clear. In phraseology entirely different from that of Michigan, Wisconsin, or Iowa, it prescribes what the Governor of the new State shall do, and we desire, if it is consistent with a sense of your official duty, that you shall proceed to select the lands donated to us, as we have already stated in the communication of last April.

“At the same time, we wish information in relation to what course we shall pursue in adjusting the affairs of the Territorial University. The lands reserved for that Institution have never been donated to the State, as similar lands were by the Enabling Acts of Michigan, Wisconsin and Iowa; nevertheless, they will be required to meet the indebtedness of the old Institution of the Territory.

“We desire you to ascertain at an early day, whether, in addition to the donation for a State University, we can dispose of the lands reserved for

the uses of a Territorial Institution, for the purpose of liquidating the indebtedness incurred by the Territorial Regents.

"In behalf of the Regents of State University.

"(Signed,)

E. D. NEILL, Chancellor."

Adjourned to meet July 25th, 1860.

(Signed,)

URIAH THOMAS, Secretary.

ADJOURNED MEETING, JULY 25th, 1860.

An adjourned meeting of the Board of Regents was held at the Winslow House, in St. Anthony.

Present, Chancellor Neill, and Regents Hamlin, J. M. Berry, Kimball and Thomas.

In the absence of Governor Ramsey, Regent Hamlin was appointed President *pro tem*.

The minutes of the two preceding meetings were read and approved.

The letter of the Chancellor to Gov. Ramsey, presented at the last meeting, was then taken up, and after consideration, unanimously adopted.

The following preamble and resolution was unanimously adopted :

WHEREAS, difficulties have arisen in reference to certain notes amounting to several thousands of dollars, given to Alden, Cutter and Hull, dated February, 1859, and purporting to have been executed under the authority of the Board of Regents of the Territorial University, therefore,

Resolved, That Messrs. Berry and Hamlin be appointed to examine the notes, and report at the next meeting of the Board, their opinion of the proper policy to be pursued in relation to said notes.

Treasurer Kimball reported that he had taken measures in behalf of the Board, for the collection of moneys due the Board of the Territorial University.

It was on motion therefore

Resolved, That the course of the Treasurer in regard to the same be hereby approved.

The following resolutions were adopted unanimously :

Resolved, That the Treasurer be hereby requested and directed to take the control and management of the personal and real estate of the University, and he be hereby authorized to make such contracts, and to enforce the same in relation thereto, as in his judgment may be deemed best calculated to advance the interests of the University.

Provided, That nothing herein contained shall be construed to confer any authority upon the Treasurer, to in any way transfer or alienate the title to said real estate.

Resolved, That so much of the moneys as may come into the Treasurer's hands, as may be necessary for that purpose, be employed in defraying necessary and legal expenses.

REPORTS OF COMMITTEES APPOINTED AT THE FIRST MEETING OF THE BOARD.

The Curators reported that they had granted the use of a portion of the University building to Mr. Clinton A. Cilley for a private school, upon condition that he make certain small repairs and preserve the edifice from injury.

The Committee on the Preparatory School building reported, that they found that the title to the land upon which the building was situated was not vested in the Regents, and had never been conveyed to them; that the building was disposed of to Franklin Steele, for which the Regents hold an obligation amounting to \$2,500, from the St. Anthony Water Power Company. The committee was discharged.

The Treasurer reported progress in the examination of the old accounts, and asked for further time, which was granted.

The Chancellor, as Committee on By-Laws, asked further time. Granted.

The Secretary reported that he had called upon Secretary Atwater, and procured the seal and records, and such library books as were in his possession.

The Secretary also placed before the Board, a bill for services rendered by Hon. I. Atwater while Secretary of the late Board of Territorial Regents, of which the following is a copy:

University of Minnesota	To Isaac Atwater, Dr.	
To 6 years' salary as Secretary, at \$250.....		\$1,500 00
To interest on annual amount at 7 per ct. to March 1, 1860.....		290 00
To 10 days' service collecting and paying contractor.....		100 00
To expense while doing the above.....		20 00
To expense at New York and Boston trying to negotiate bonds.....		115 00
		<u>2,025 00</u>

The bill was laid on the table.

On motion, the Secretary was authorized to procure a plat of the University grounds in St. Anthony.

On motion, the Board adjourned.

(Signed)

URIAH THOMAS, Secretary.

SPECIAL MEETING, AUGUST 28, 1860.

A special meeting of the Board was held at the Capitol in St. Paul, Aug. 28, 1860.

Present, Gov. Ramsey, Chancellor Neill, and Regents Hamlin, Kimball and Thomas.

Minutes of last meeting read and approved.

The following resolutions were unanimously adopted:

Whereas, The Regents have doubts in relation to the equity of the Act of the Legislature of 1858, by which the rights of the University in certain lands in Rice county were alienated, therefore

Resolved, That the Treasurer be requested to examine the books of the Land office at Saint Peter, and ascertain whether they sustain the facts alleged in the Preamble of Chapter 70, Special Laws, 1858, and that he be requested to visit the lands in question, and report to the Board their present value, and such other facts as may be of interest to the Board.

Whereas, The embarrassments which environ the University are such as to preclude, for a long period, the liquidation of the indebtedness incurred by the Territorial Regents, therefore

Resolved, That the Chancellor be authorized to confer with the holders of the bonds of the University, to ascertain whether any compromises can be made.

Gov. Ramsey reported, that in accordance with the resolution of the Board passed April 5, 1860, he had instructed Mr. A. Van Vorhes to select the remainder of the lands reserved by the Congressional act of 1851 for the Territorial University, and laid before the Board a copy of his letter of instructions to Mr. Van Vorhes.*

He also presented a report from Mr. Van Vorhes, of the partial execution of the work.

The Treasurer reported progress upon the examination of accounts, and asked further time.

The committee appointed to examine the notes given to Alden, Cutter and Hull, asked further time.

The Chancellor, a Committee on By-Laws, also asked time.

The Secretary reported that he had procured an abstract of title and a plat of the University grounds at St. Anthony, in accordance with instructions; also a book of Record. The bill for the whole, amounting to \$10.75 the Treasurer was authorized to pay.

On motion, the Board adjourned.

(Signed)

URIAH THOMAS, Secretary.

SPECIAL MEETING OF THE BOARD.

THURSDAY, NOV. 8, 1860.

Board met at the Governor's room in the Capitol, pursuant to a call of the Chancellor.

Present, Gov. Ramsey, W. Kimball, J. M. Berry, Jared Benson, E. O. Hamlin, and Chancellor E. D. Neill.

In the absence of Secretary Thomas, Jared Benson was elected Secretary, *pro tem*.

Reading of minutes of last meeting dispensed with.

*See Appendix.

Letter read from representations of Sewell, Ferris & Co. to the Chancellor of the University, in relation to certain moneys left in their hands for the payment of interest, which was for the present laid on the table.*

The report of Messrs. Berry and Hamlin, on the policy proper to be pursued by the Board in relation to certain notes issued by the Territorial Regents, in February, 1859, was presented, accepted and adopted, and ordered to be filed in the office of the Chancellor for future reference.

On motion of John M. Berry,

Whereas it is proper that there should be prepared an accurate and complete record of the Transactions of the Regents of the Territorial University, together with a full statement of its affairs, for the information of all parties;

Resolved, That the Chancellor, in behalf of the Regents, prepare such report, to be submitted by the Secretary as the First Annual Report of the Regents of the State University to the Legislature.

Resolved, That the Treasurer immediately place in the hands of the Chancellor the following items:—Cost of University site; interest paid on notes given for site; balance on site unpaid; cost of building; interest paid on building account; amount yet due on building; amount of bonds issued, when, and to whom; description of property mortgaged to secure the payment of bonds; also the receipts of the Territorial University for stumpage; the names of persons making payments; the amount still due on permits issued by Territorial Regents; and any other information which may aid in giving a full statement of the actual condition of the affairs of the Territorial University.”

Adopted.

On motion of John M. Berry,

Whereas, the Hon. H. M. Rice has always manifested an interest in the educational affairs of the State, and has been active in the endeavor to relieve the Territorial University from embarrassment,

Resolved, That the Chancellor furnish him with a copy of the Memorial of the Regents, adopted at a meeting held on the 25th of July last, and request him to use his influence at the next session of Congress, to obtain, in addition to the lands donated by the Enabling Act for a State University, those that were reserved by an Act of Congress, Feb. 19, 1851, for a Territorial University, and not yet donated, inasmuch as the indebtedness of the Territorial University was predicated on the lands still in reserve, and it does not appear to have been the intention that the lands donated for a future State University should be sacrificed to meet the indebtedness of the old Territorial University.

On motion of E. D. Neill,

Resolved, That the Treasurer be appointed a general agent of the Regents, to inspect and protect the University Lands, and that, until he receives compensation as Treasurer, his salary as Agent shall be three dollars per diem and expenses, payable out of the receipts from leased lands and permits to cut timber; said Agent to report quarterly, to the Chancellor, the number of days occupied in the service of the University, and the nature of the service performed.

*See Appendix.

Resolved, That the President, Chancellor and Treasurer of the University be appointed a committee to lease the farming lands of the University for a period not exceeding two years, and such other lands as their judgment may dictate, and also to grant permits to cut timber.

Resolved, That to all leases shall be affixed the seal of the University and the signature of the Chancellor.

Resolved, That the committee be required to keep an accurate record of all their transactions, and report at the annual meeting a list of all lands leased, the names of the lessees, the moneys received, and also a list of the tracts of pine lands upon which persons have been permitted to cut timber, and the amounts realized from the granting of permits.

Resolved, That all previous action on the subject of permits to cut timber be rescinded.

On motion of W. M. Kimball,

Resolved, That the Board of Regents protest against the issuing of patents for reserved University Lands for the Territory of Minnesota, properly selected and approved, to alleged pre-emptors, and that the President request the General Land Office to notify the Regents of any declarations that may be filed.

On motion of E. D. Neill,

Whereas the Seal of the Board of Regents is out of order,

Resolved, That the Secretary, Chancellor, and Treasurer be authorized to devise a new Seal, with appropriate motto, and procure the engraving of the same; and that the cost of said Seal be paid by the Treasurer out of the first moneys not appropriated.

Board adjourned.

(Signed)

JARED BENSON,
Sec. pro tem.

STATE OF MINNESOTA, EXECUTIVE OFFICE, }
Saint Paul, April 11, 1860. }

ABRAM VAN VORHES, ESQ.

SIR: The Legislature at its last session appropriated five hundred dollars, or so much thereof as might be necessary "for the purpose of locating the remainder of the University lands donated by the United States," and I hereby appoint you an agent for that purpose.

The presumption is that the Legislature contemplated the remainder of the first grant of 1851. About fourteen thousand one hundred and ninety-one (14,191) acres, equal to twenty-two and 17-100 (22.17) sections of that grant are yet to be entered. Of farming lands I would suggest that the fatness of the soil, convenience to markets, railroads, rivers, running water, settlements, &c., rather than timber, should determine

your selection, as the danger is that it will be impossible to preserve the latter. These lands should generally be selected on the West of the Mississippi, in the valley of the Crow, the Minnesota, &c., and an equal portion south of the Minnesota river.

The Regents have indicated a desire that 3000 or 4000 acres of pine lands, well timbered and convenient to floating streams, be selected. Mr. Kimball, a member of the Board residing at St. Anthony, is well informed as to the pine lands on Rum River, and I would advise you to consult with him in reference thereto. As far as can be done, I should prefer that you would personally inspect the lands you may select, and in your journey it is desirable, if convenient, that you should visit the lands already entered and furnish the Board a brief report of their character, probable value, &c.

In whatever District these lands may be selected by you, you will receive and return to this office, or to the Board of Regents, some proper evidence of the Land office that the lands have been entered upon their plats and books as for the use of the University.

The Act of July 22nd, 1858, a copy of which is herewith enclosed, concedes to certain parties in Rice county lands that it is alleged were pre-empted in ignorance of their selection for University purposes. These in the aggregate amount, I am informed, to twenty-six hundred and forty-four (2,644) acres. The records at Henderson and St. Peter Land offices will enable you to ascertain the amount precisely, and as the University is entitled to other lands in lieu of these, you will select an equivalent quantity in place of them. These 2644 are a part of the aggregate of 11,191 at first referred to.

These, of course, are intended to be but general instructions in your work. From your great experience in surveying, your knowledge of lands, &c., much is left to your own discretion.

As to your compensation, I can only say that the whole charge for services, expenses, &c., must not exceed the appropriation of five hundred dollars, and may be as much less as is consistent with a faithful performance of the duties entrusted to you.

For various reasons it is expected that you will enter upon the work immediately. I furnish you herewith a list of the lands heretofore entered, including the aforesaid 2,644 acres in Rice county.

Very respectfully, yours, &c. ,

(Signed.) ALEX. RAMSEY.

AN ACT FOR THE RELIEF OF CERTAIN PERSONS WHO HAVE BEEN ALLOWED TO
PRE-EMPT UNIVERSITY LANDS.

Whereas, Certain lands situated in Rice county in the Winona Land District, in the State of Minnesota, which have been selected by the Regents of the University of Minnesota, have been pre-empted by persons who were ignorant of such selection, and who have been suffered to remain upon said lands since 1855, without any notice from the Land Department, until recently, that there was any adverse claim upon their lands; therefore,

Be it enacted by the Legislature of the State of Minnesota :

Section 1. That the State of Minnesota hereby relinquishes all rights and claim to and in all lands in Rice county, in the State of Minnesota, in the Winona Land District, which have been pre-empted by Edward P. Jones, William Miller, Lyman M. Benson, John D. Benson, Nathan Morris, Edward L. Dungay, Alexander Young, John Manahan, Daniel P. Smith, John Murray, Edward Davis, John Grag, Jr., Benjamin L. Van Horn, Heinrich Swanbeck, Asa Fuller, Elferd Gager, Frederick Payinkoff, Augustus Hinckley, and for which duplicates have been issued to said pre-emptors. *Provided*, That the Governor of the State of Minnesota shall be allowed by Congress, or by the General Land Office, at Washington, to select other vacant lands instead of those thus pre-empted.

Sec. 2. This act shall take effect from and after its passage.

(Signed.)

GEORGE BRADLEY,

Speaker of the House of Representatives.

(Signed.)

WILLIAM HOLCOMBE,

President of the Senate.

Approved July twenty-second, one thousand eight hundred and fifty-eight.

(Signed.)

HENRY H. SIBLEY.

SECRETARY'S OFFICE, MINNESOTA, }
July 22, 1858. }

I hereby certify the foregoing to be a true copy of the original on file.

(Signed.)

FRANCIS BAASEN.

Secretary of State."

GENERAL LAND OFFICE, }
May 14th, 1860. }

To His Excellency, the Governor of Minnesota, St. Paul Minnesota :

Sir: On the 4th of August, 1858, a letter was addressed to the Surveyor General of Minnesota, relative to making selections for Schools,

Universities, Salt Springs, &c., a copy of which was enclosed in letter of same date to your predecessor, Hon. H. H. Sibley.

In that letter of 4th August you will perceive that the Governor was requested to inform this office what course he would take in reference to the selections for University purposes; and as no reply has yet been received, I have the honor to call your especial attention to said letter, and respectfully request your views upon the points presented in the first part of the aforesaid letter, in order that this office may act properly in the matter.

Very respectfully, your obedient servant,
 (Signed.) JOS. S. WILSON,
 Commissioner.

STATE OF MINNESOTA, EXECUTIVE OFFICE, }
 St. Paul, June 2d, 1860. }

Hon. Jos. S. Wilson, Commissioner of General Land Office:

DEAR SIR: Yours of the 4th ult. calling attention to a correspondence of your office with my predecessor in reference to University land, etc., has been received. I will present the papers to the Regents of the University at their next meeting, and will then write you further.

The lands appropriated to the Territory of Minnesota, by the Act of February 19, 1851, and upon the faith of which the then Regents contracted a large debt and encumbered these lands, were all selected as appears by the records of the Board of Regents, except some 11,547 acres.

It appears also that of the lands selected and approved, 2,644 acres were pre-empted by private parties, and the Legislature of Minnesota consented to the withdrawal of the University claim to those lands on condition that the Government will allow us the selection of other lands in lieu of them.

Anticipating, and indeed inferring, that you would do so, I have directed the selection of other lands in place of them. At the request of the Regents I have directed an Agent to select 14,191 acres, including 2,644 acres in lieu of those claimed by pre-emptors.

Will you be so good as to direct the several land officers to allow the selections?

Very respectfully, your obedient servant,
 (Signed.) ALEX. RAMSEY,

STATE OF MINNESOTA, EXECUTIVE OFFICE, }
 Saint Paul, June 30, 1860. }

Hon. Jos. S. Wilson, Commissioner of General Land Office:

SIR: In my communication of the 2d inst. I stated that at the approaching meeting of the Board of Regents of the University of this State, I would bring to their attention the subject matter referred to in your letter of the 4th ultimo.

This was done on the 26th inst., at a meeting held at St. Anthony, and although action was postponed, the discussion then had drew from the Chancellor of the University the enclosed letter, which I beg you to peruse, as it fully explains our difficulty, and I trust will induce your good offices to aid us in removing them. I also enclose the former communication of the Chancellor spoken of in his last.

Neither the present Board nor the Chancellor have had anything to do with the complications that embarrass them; they only took office a few months since, and are desirous, if it be possible, to disembarass the University of its heavy load of debt.

A liberal construction of the several Acts of Congress in relation to University lands for Minnesota, would, it is believed, entitle the State to the grant indicated in the Act of Feb. 26, 1857, as well as the reserved sections provided for by Act of Feb. 19, 1851, and which, as you will see by the letter of the Chancellor, were virtually absorbed by the action of the Territory, leaving the State nothing but an inheritance of debt.

Very respectfully, your obedient servant,

(Signed.)

ALEX. RAMSEY.

STATE OF MINNESOTA, EXECUTIVE OFFICE, }
 St. Paul, August 30, 1860. }

Mr. A. M. Van Vorhes:

DEAR SIR: The only knowledge I could acquire at the time I wrote you, April 11, 1860, as to the University Lands entered by and on behalf of the Regents, was from the Report of B. B. Meeker, Esq., a former agent of the Board, and a paper accompanying the report; from which it appeared that selections had been made amounting to 34,533 acres. I now learn from one of the papers submitted by you that there was error in this, and that 39,537,24 acres had really been selected, which with the 5,124,38 acres now selected by you amount in all to 44,661,52, leaving a balance of 1,418,48 acres yet to be selected.

In addition to this 2,644 acres may, upon examination, which the Regents have ordered, be wanted to replace the lands that are claimed by pre-emptors in Rice county. Of these lands I wrote you before, and I would now, seeing the remnant to be selected is but small, advise you to select the 1,418,48 acres of agricultural lands, as also the 2,644 acres. The list of the latter I would have kept separate so that the Department may defer the confirmation of them until final action may have been had under the direction of the Regents as to the Rice Co. lands.

As I shall have to report final action in the premises to the next Legislature, would you please at once proceed to select these 4,062,48 acres.

Very truly, yours, &c.,

(Signed.)

ALEX. RAMSEY.

121 BROADWAY, NEW YORK,;

October 9th. 1860.

Hon. E. D. Neil, Chancellor University, Minnesota :

SIR: Your letter dated Oct. 5, and addressed to Mr. Robert Sewell, has just been put into my hands—with instructions to answer the same.

The firm of Sewell, Ferris & Co. deny *in toto* that there is any claim on them by reason of any transactions arising out of purchases made by them of Minnesota Bonds. On the contrary, they have a demand for large damages against the Regents or the State. The Bonds bought by S. F. & Co. were represented by Gov. Sibley as State Bonds, and on the fact of his representations were bought by S. F. & Co. as State Bonds. It afterwards turned out that the Bonds were University Bonds, of greatly inferior value, and almost unsaleable.

Yours, respectfully,

(Signed.)

HENRY BRACE.

LIST OF APPROVED UNIVERSITY LANDS.

In Tp. 40, North, R. 27, West, (1st selection.)

	S ^{ec} .	Acres.
Entire Section.....	12	709.33
" ".....	11	700.72
E. hf. ; E. hf. S. W. qr and S. E. qr. N. W. qr.....	10	474.15
N. hf.	13	320 ..
N. hf. N.E. qr. ; N. hf. N.W. qr. ; S.W. qr. N.W. qr. ; and W. hf. S.W. qr.	14	240 ..
Entire Section.....	15	640
N. W. qr.....	24	160 ..
W. hf. N.W. qr. and N.W. qr. S.W. qr.....	25	120 ..
N.E. qr. ; S. hf. N.W. qr. ; W. hf. S.E. qr. ; N.E. qr. S.E. ; S.W. qr. 26	26	520 ..
S.E. qr.....	33	160 ..
N.E. qr. ; S.E. qr. ; S.W. qr. ; and S.E. qr. N.W. qr.....	34	520 ..
N.W. qr. ; S.W. qr. ; W. hf. S.E. qr. ; and S.W. qr. N.E. qr.....	35	440 ..
Total.....		5004.25

In Tp. 29, N. R. 26, W. (1st selection.)

N.E. qr. ; W. hf. S.E. qr. ; N.E. qr. S.E. qr. ; and E. hf. S.W. qr... 12	340 ..
N.W. qr N.E. qr. ; and N. hf. N.W. qr..... 13	120 ..
E. hf. N.E. ; E. hf. S.E. ; N.W. qr S.E. qr. ; N.E. qr S.W. qr. ; and S.W. qr N.E. qr..... 14	280 ..
E. hf. N.E. qr..... 9	80 ..
N.W. qr. ; S.W. qr. ; and S.E. qr..... 10	480 ..
S.W. qr. ; and W. hf. S.E. qr..... 11	240 ..
N. hf. N.W. qr..... 15	80 ..
Total.....	1620 ..

In Tp. 40, N. R. 27, W. (2d selection.)

W. hf. S.E. qr..... 24	80 ..
W. hf. N.E. qr. ; E. hf. N.W. qr. ; E. hf. S.W. qr. ; S.W. qr S.W. qr. ; and N. hf. S.E. qr..... 25	360 ..
S.E. qr S.E. qr..... 26	40 ..
E. hf. N.E. qr. ; N.W. qr N.E. qr. ; and E. hf. S.E. qr..... 35	200 ..
Total.....	680 ..

In Tp. 41, N. R. 17, W. (3d selection.)

Entire Section..... 22	640 ..
E. hf..... 15	320 ..
W. hf..... 14	320 ..
N.E. qr..... 14	} 640 ..
N.W. qr..... 13	
S.E. qr..... 11	
S.W. qr..... 12	
Total.....	1920 ..

In Tp. 40, N. R. 27, W. (4th selection.)

Entire Section..... 7	743.24
" "..... 8	681.08
N. hf..... 9	384.40
N. hf..... 17	320 ..
N. hf..... 18	350.76
Total.....	2479.43

In Tp. 39, N. R. 25, W. (5th selection)

Entire Section.....	5	631.08
" ".....	6	668.59
" ".....	7	702.40
" ".....	8	640 ..
" ".....	9	640 ..
" ".....	15	640 ..
" ".....	17	640 ..
" ".....	18	711.40
" ".....	21	640 ..
" ".....	22	640 ..
" ".....	23	640 ..
South half.....	24	320 ..
North half.....	25	320 ..
Entire Section.....	26	640 ..
" ".....	27	640 ..
" ".....	28	640 ..
Total.....		9753.47

Selections in Winona District.

T. 109, R. 20, S.E. qr.....	15	160 ..
" " E. hf S.W. qr.....	15	80 ..
" " S. hf N.E. qr.....	15	80 ..
" " W. hf S.W. qr.....	14	80 ..
" " W. hf N.W. qr.....	14	80 ..
" " E. hf.....	26	320 ..
" " W. hf.....	25	320 ..
" " all except S.E. qr N.E. qr.....	12	600 ..
" " all of section.....	13	640 ..
T. 110, R. 20, " ".....	*5	643.04
" " " ".....	6	634.01
T. 110, R. 21, S. hf.....	*13	320 ..
" " S. hf N.E. qr.....	13	80 ..
" " W. hf.....	27	320 ..
" " E. hf.....	28	320 ..
" " S.E. qr.....	32	160 ..
" " S.E. qr S.W. qr.....	32	40 ..
" " N. hf.....	29	320 ..
" " S.W. qr.....	29	160 ..
" " All of.....	20	640 ..
T. 109, R. 22, " ".....	18	647.08
" " N. hf.....	17	320 ..
" " S. hf.....	8	320 ..
" " All of section.....	9	640 ..
" " " ".....	21	640 ..
" " N. hf.....	22	320 ..
" " S. hf.....	15	320 ..
Total acres.....		9204.18

*S.W. qr, Sec. 5, T. 110, R. 20, approved to pre-emptors 160 acres.
 S.W. qr, Sec. 13, T. 110, R. 21, " " " " " " 160 "

320 "
 Total amount as above..... 9204.18
 Deduct approved to pre emptors... 320.00

Total acres..... 8884.18

Selections in Red Wing.

T. 113, R. 19, all of section.....	31	639.20
" " " ".....	32	640 ..
T. 112, R. 19, N.W. qr.....	6	149.92
" " S.W. qr.....	6	151.36

T. 112, R. 26, N.E. qr.....	1	157.86
“ “ E. hf N.W. qr.....	1	78.65
“ “ E. hf S.W. qr.....	1	80 ..
T. 111, R. 19, all of section.....	1	640.92
“ “ “ “	14	640 ..
“ “ “ “	23	640 ..
“ “ “ “	22	640 ..
Total acres.....		4457.91

SUMMARY OF APPROVED LANDS.

First selection, Stillwater.....	6,624.25	acres.
Second “ “	680 ..	“
Third “ “	1,920 ..	“
Fourth “ “	2,479.48	“
Fifth “ “	9,753.47	“
Selection Winona.....	8,884.18	“
“ Red Wing.....	4,457.91	“
Total.....	34,799.24	“

UNIVERSITY LANDS, NOT YET APPROVED.

1ST, SELECTED BY A. VAN VORHES, MAY, 1860.

T. 116, R. 31, N.W. qr N.W. qr, and Lots Nos 4, 5 and 6.....	5	193.39
“ “ N.E. qr.....	6	159.87
“ “ Lots Nos. 2, 3, 8 and 9.....	6	159.91
“ “ N.E. qr of S.E. qr, and lot No. 1, and W. hf of S.E. qr	6	147.70
“ “ Lots Nos. 10, 11, 16 and 17.....	6	160 ..
“ “ Lots Nos. 1, 2, 3, and 8.....	7	150.65
T. 117, R. 31, entire Section.....	8	640 ..
“ “ entire Section.....	18	947.10
“ “ Lots Nos. 2, 3, 4 and N.W. qr, and S.E. qr of S.W. qr.	20	566.36
“ “ entire Section.....	22	640 ..
“ “ E. hf of Sec. and Lots Nos. 1, 2, 7, 8, 9, 10, 15, and 16.	31	640 ..
“ “ Section.....	32	639.70
“ “ N.W. qr of S.W. qr, and Lot No. 1.....	33	79.60
Total.....		5124.28

2D, SELECTED BY A. VAN VORHES, OCT.-NOV. 1860.

T. 117, R. 33, S.E. qr, E. hf S.W. qr, E. hf N.E. qr, and Lots Nos. 2 and 3.....	18	399.74
T. 117, R. 33, S. hf.....	19	320.31
“ “ entire section.....	20	640 ..
“ “ “ “	30	640.32
“ “ “ “	31	640 ..
T. 117, R. 33, entire Section.....	22	640 ..
“ “ “ “	24	640 ..
“ “ “ “	25	640 ..
“ “ “ “	26	640 ..
“ “ “ “	27	640 ..
“ “ S.E. qr and S.E. of N.E. qr, and Lots Nos. 2 and 3....	14	272.78
“ “ and Lot No. 4.....	8	43.20
Total.....		3515.96

ENTIRE SUMMARY.		46,060
Total amount of reserve, 72 square miles, or.....	40,680... acres	
Amount of selections approved of.....	34,799.24 "	
	Balance yet to be selected	11,280.76 "
5,124.28 } Selected as above, not yet approved.....	11,280.61 "	
6,156.33 }		
11,280.61 j Balance of land due the State.....	0.15	

To the Board of Regents of the University of the State of Minnesota:

The following preamble and resolution were adopted by your Board in July last.

"WHEREAS difficulties have arisen in reference to certain notes amounting to several thousand dollars given to Alden, Cutter and Hull, dated February, 1859, purporting to have been executed under the authority of the Board of Regents of the Territorial University:

Resolved, That Messrs. Berry and Hamlin be appointed to examine the notes and report at the next meeting of the Board their opinion of the proper policy to be pursued in relation to said notes."

In compliance with the resolution your Committee have examined a copy of one of the notes referred to, which reads as follows:

"\$107 19 Saint Anthony, Minnesota, Feb. 24, 1859.

Three months after date for value received, the Regents of the University of Minnesota promise to pay 'o the order of Alden, Cutter, and Hull one hundred seven and 19.100 dollars, with interest at the rate of one per cent. per month until due; and interest after maturity at the rate of one per cent. per month until paid.

(Signed.) The Regents of the University of Minnesota.
Franklin Steele, President."

Per I. Atwater, Secretary.

Your Committee assume what they understand to be the facts that all notes alluded to in the foregoing preamble are substantially alike, that they were all given on account of the University building, and respectfully report as follows:

The question which naturally arises at the outset is, had the Board of Regents power to issue notes? We understand the law to be quite well settled as laid down by Messrs Angell and Ames in their work on corporations, Section 275, page 303, viz: "that a corporation keeping within the scope of its general powers may control or bind itself to do any act at any place," and again section 271, page 292 where the same authors say "when the charter or act of incorporation and valid statutory law are silent as to what contracts a corporation may make, as a general rule, it has power to make all such contracts as are necessary and usual in the

course of business as means to enable it to obtain the object for which it was created and none other. The creation of a corporation for a specified purpose implies a power to use the necessary and usual means to effect that purpose."

To apply these principles of law. The notes in question were all given prior to the passage of the present law concerning the regulation and government of the University and are of course to be governed by the law as it stood at the time of their execution and delivery. This is found on pages 350 to 353 inclusive of the compiled statutes.

The laws there published are special acts relating to the University and we do not see anything in the general statute regulating corporations which would effect the inquiry submitted to us. The power to issue notes must be conferred or prohibited by express provision or by implication. But the statute contains no express provision on the subject, so we are left to implication. By the Act of Feb. 25, 1856, page 352, compiled statutes, the Regents were authorized to issue mortgage bonds to purchase a site and erect buildings, and by the act of March 8, 1858, page 353, compiled statutes, the Regents are authorized to issue mortgage bonds without restriction to any specified object. Both of these acts have been exhausted and neither of them repeals or modifies the original law providing for the establishment, etc., of the University, as found on page 350 Compiled Statutes, except so far as those limited amounts, of bonds are concerned. So that we are to look at the original charter for all the light which legislation can furnish us. The second section of that act, page 350 Compiled Statutes, read as follows: "The proceeds of all lands that may hereafter be granted by the United States to the Territory for the support of a University shall be and remain a perpetual fund to be called 'the University fund,' the interest of which shall be appropriated to the support of a University." Section 13th provides among other things that the Regents may proceed to the erection of University buildings as soon as funds may be provided for that purpose, and by section 15, the regents are authorized to expend such portions of the funds which by the provisions of this Chapter may come under their control as they may deem expedient for the erection of suitable buildings. From these and analogous provisions of the Statute your Committee draw the following inferences:

First. The proceeds of the lands were originally intended to be a sacred fund the interest only of which was to be appropriated to University purposes. This original intention has only been so far modified as to allow the issue of certain fixed amounts of mortgage bonds. Of course it retains its original force except so far as these bonds are concerned.

Second. The 13th and 15th sections above cited which are the only

sections from which the power to erect buildings can be derived, authorize such erection by means of a "fund provided" or a fund coming under the control of the Board.

Third. That the maxim of legal construction "expressum facit cessari tacitum," applies to the matter under consideration so that inasmuch as the Legislature have pointed out a particular manner of erecting buildings first by a "fund provided" and afterwards by mortgage bonds every other manner is excluded and unauthorized by law.

Fourth. That the sections above cited show that the whole intent of the Legislature was to limit the powers of the Board to the expenditure of funds on hand and the fact that it was afterwards found necessary to pass two successive acts authorizing an issue of mortgage bonds furnished a fair ground of inference that without those acts no such power would have existed in the Regents.

Fifth. If these inferences are correct, it follows that the Board of Regents "exceeded their general powers as conferred by and implied from" the act of incorporation and valid statutory law, in creating the debt which is the consideration of the notes, and of course in making the notes themselves, and so the old Territorial University as a corporation was not bound and had no right by law to discharge these notes.

Another question which arises is whether the form of executing the notes was such as to bind the Regency. The resolution under which the notes were issued reads as follows, viz:

"Resolved, That the President and Secretary be authorized to sign on behalf of the Board of Regents the notes to be given to the contractors to liquidate the amount of indebtedness that shall be found due them after settlement according to the resolution this day adopted."

The objection urged against the manner of executing the notes arises from the fact that they are signed by Mr. Steele who was not the regular President of the Board. Even if it were proper to resist the payment of the notes on any such ground there still would remain some doubt as to whether Mr. Steele acting as President pro tem at the time when that resolution was passed was not justified in executing those notes if any person would have been. And even though the objection might prevail technically against the notes themselves, it could not of course be urged against the debt which was the consideration of the notes, because if there was power to contract debts of this nature, no matter whether all formalities were complied with or not, it is the opinion of your committee that the acceptance of the work done would amount to a ratification. See Section 304, page 355 Angell and Ames on Corporations. So that if these views are correct we fall back upon the absolute want of authority on the part of the Board to create any such indebtedness, a want which no ratification could supply.

There is one other matter proper to be considered here, and that is the relation which the University of the State as at present constituted, sustains to the old University and its liabilities."

Section 4 of Article 8 of the Constitution is as follows: "The location of the University of Minnesota as established by existing laws is hereby confirmed, and said Institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred are hereby perpetuated unto the said University, and all lands which may be hereafter granted by Congress, or other donations for said University purposes shall vest in the Institution referred to in this Section." It is not perhaps necessary to enter into any metaphysical discussion of this question. It is perhaps a fair view of the matter to say that the position which the present University holds in reference to the Territorial University is very like that which the State of Minnesota bears to the late Territory. There was a transition from one political status to another, a peaceful revolution, the results and effects of which are to be determined not on any narrow technical grounds of strict legal right, but on larger and liberal principles of natural equity and justice. By the provisions of the section just quoted the University of the State succeeds to all the rights of the University. To allow the State University to take possession of and appropriate the property of its predecessor without any reference to the just indebtedness of that predecessor would plainly be nothing more nor less than to permit a fraud upon creditors, according to well understood principles. The State University so far as anything which it has received from the Institution which it succeeds is concerned, stands equitably in the position of a trustee. As such trustee it is its clear duty to apply the trust fund so received to the discharge of the legitimate indebtedness of its predecessor as far as necessary. In other words whatever the Territorial University ought to have done in the premises *that's me thing* it is the duty of the State University to do so far as it has received anything from the Territorial University. But while such is the evident duty of the present Regency, it should also be recollected that the Regency is also a trustee for the State.

The responsibilities to the State which the present Board has assumed are as binding and as weighty as any others. They must be discharged with scrupulous fidelity. And when we turn to the examination of this point we are met at the outset by the fact that the indebtedness in question was unauthorized and by the additional fact that the legislation to which the State University owes its powers does not confer any authority bearing upon the case which was not possessed by its predecessor. There would seem to be a propriety and magnanimity becoming to an institution of learning and to a young State of coming greatness in a willingness and

readiness honorably to adjust any indebtedness of which it has received the benefit, no matter how informally that indebtedness may have been created. At the same time if the foregoing views are correct the Board of Regents is not without further legislation invested with power to make such adjustment.

Whenever such power can be obtained it will be time to consider the manner of payment and settlement. In the present position of affairs only one proper policy can in the opinion of your committee be pursued in regard to the notes issued to Messrs. Alden, Cutter, and Hull, and that is to decline to take any action upon them.

JOHN M. BERRY,
EDWARD O. HAMLIN, } Committee.

August 28, 1860.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND REGULATION OF THE UNIVERSITY OF MINNESOTA.

[Chapter 28, Revised Statutes.]

Sec. 1. There shall be established in this Territory an institution, under the name and style of the University of Minnesota.

Sec. 2. The proceeds of all lands that may hereafter be granted by the United States to the Territory for the support of a University, shall be and remain a perpetual fund, to be called the "University Fund," the interest of which shall be appropriated to the support of a University; and no sectarian instruction shall be allowed in such University.

Sec. 3. The object of the University shall be to provide the inhabitants of this Territory with the means of acquiring a thorough knowledge of the various branches of literature, science, and the arts.

Sec. 4. The government of the University shall be vested in a Board of twelve Regents, who shall be elected by the Legislature as hereinafter provided.

Sec. 5. The members of the Board of Regents shall be elected at the present session of the Legislature, and shall be divided into classes, numbered one, two and three; class numbered one shall hold their offices for two years; class numbered two, for four years, and class numbered three, for six years, from the first Monday in February, one thousand eight hundred and fifty-one; biennially thereafter there shall be elected in joint convention of both branches of the Legislature, four members to supply the vacancies made by the provisions of this section, and who shall hold their offices for six years respectively.

Sec. 6. Whenever there shall be a vacancy in the office of Regents of

the University, from any cause whatever, it shall be the duty of the Governor to fill such office by appointment, and the person or persons so appointed, shall continue in office until the close of the session of the Legislature, then next thereafter, and until others are elected in their stead.

Sec. 7. The Regents of the University and their successors in office, shall constitute a body corporate, with the name and style of the "Regent, of the University of Minnesota," with the rights as such, of suing and being sued, of contracting and being contracted with, of making and using a common seal, and altering the same at pleasure.

Sec. 8. The Regents shall appoint a Secretary, a Treasurer, and a Librarian, who shall hold their respective offices during the pleasure of the Board. It shall be the duty of the Secretary to record all the proceedings of the Board, and carefully to preserve all its books and papers; the Treasurer shall keep a true and faithful account of all moneys received and paid out by him, and shall give such bonds for the faithful performance of the duties of his office as the Regents may require.

Sec. 9. The Regents shall have power, and it shall be their duty to enact laws for the government of the University; to elect a Chancellor, who shall be, *ex officio*, President of the Board of Regents, or when absent, or previous to the election of such Chancellor, the Board may elect one of their own number President *pro tem*. They may also appoint the requisite number of Professors and Tutors, and such other officers as they may deem expedient; also to determine the amount of their respective salaries; *provided*, that the salaries thus determined, shall be submitted to the Legislature for their approval or dissent.

Sec. 10. The University shall consist of five departments: the department of Science, Literature and the Arts; the department of Law; the department of Medicine; the department of the theory and practice of elementary Instruction; the department of Agriculture. The immediate government of the several departments shall be intrusted to their respective faculties; but the Regents shall have power to regulate the course of instruction, and prescribe under the advice of the professors, the books and authorities to be used in the several departments, and also to confer such degrees and grant such diplomas as are usually conferred and granted by other Universities.

Sec. 11. The Regents shall have power to remove any officer connected with the institution, when in their judgment the interest of the University requires it.

Sec. 12. The admission fee to the University and the charges for tuition in the several departments thereof, shall be regulated and prescribed by the Board of Regents; and as soon as in their opinion, the income of the University fund will permit, tuition in all of the departments shall be

without charge to all students in the same, who are residents of the Territory.

Sec. 13. The University of Minnesota shall be located at or near the Falls of St. Anthony; and the Regents, as soon as they may deem expedient, shall procure a suitable site for the erection of the University buildings, and they may proceed to the erection of the same as soon as funds may be provided for that purpose, after such plan or plans as may be approved by a majority of said Board.

Sec. 14. The Regents shall have the power, and it shall be their duty as soon as the requisite funds shall have been secured for that purpose, to establish a preparatory department of said University, and employ teachers for the same, who shall be qualified to give instruction in all the branches of learning usually taught in academies; which preparatory department may be discontinued whenever the Regents may think proper, after the other departments of said University shall have been established.

Sec. 15. The Regents are authorized to expend such portions of the fund, which by the provisions of this chapter may come under their control, as they may deem expedient for the erection of suitable buildings, and the purchase of apparatus, a library, and a cabinet of natural history; and the selection, management and control of all lands, which may hereafter be granted by Congress for the endowment of said University, is hereby vested in the Board of Regents.

Sec. 16. The Regents shall make a report annually, to the Legislature, at its regular session, exhibiting the state and progress of the University in its several departments, the course of study, the number of professors and students, the amount of expenditures, and such other information as they may deem proper, or may from time to time be required of them.

Sec. 17. Meetings of the Board may be called by any seven members thereof, at such time and place as they may deem expedient, and a majority of the said Board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

Sec. 18. The Regents, if they shall deem it expedient, may receive into connection with the University, any college within the Territory, upon application of the Board of Trustees; and such college so received, shall become a branch of the University, and be subject to the visitation of the Regents.

Sec. 19. No religious tenets or opinions shall be required to entitle any person to be admitted as a student in said University; and no such tenets or opinions shall be required as a qualification for any professor, tutor, or officer of said University.

Sec. 20. The legislative assembly may at any time alter, amend, modify, or repeal this chapter.

AN ACT TO AUTHORIZE THE REGENTS OF THE MINNESOTA UNIVERSITY TO BORROW MONEY.

[*Passed Feb. 21, 1856.*]

Sec. 1. *Be it enacted by the Legislative Assembly of the Territory of Minnesota:* That the Board of Regents of the University of Minnesota, are hereby empowered to issue bonds in the name of the said University of Minnesota, and under the corporate seal of said University, signed by the President, and attested by the Secretary of the said Board of Regents, and payable at such times and in such manner as the said Board may deem best, to an amount not exceeding the sum of fifteen thousand dollars, with interest thereon, at a rate not exceeding twelve per cent. per annum of said sum, five thousand dollars to be applied in liquidation of a debt incurred in the purchase of a site for said University, and ten thousand dollars to be expended under the direction of the Board of Regents, in erecting suitable buildings for the same.

Sec. 2. And the said Regents are hereby further empowered, in order to secure the payment of said bonds, to make, execute and deliver, in the name of the Territory of Minnesota, a mortgage or mortgages on any lands now belonging, or which may hereafter belong to the said University, and said mortgage or mortgages, signed, by the President of the Board of Regents, and duly acknowledged by the said President before any person authorized to take acknowledgments of deeds in this Territory, and recorded in the office of Register of Deeds of the county in which said lands so mortgaged are situated, or in the county to which it is attached for judicial purposes, shall be a lien upon the said lands, until all sums owing upon said bonds are fully discharged.

Sec. 3. And the said Regents are further empowered to authorize by majority vote of the whole Board, any one or more of their number to negotiate the said bonds on such time and terms, and in such places as they may deem best to subserve the purposes contemplated by this Act, and receive the money therefor.

Sec. 4. Any or all sums received from the sale of the bonds aforesaid, shall be used for no other purpose than to pay the expenses incurred in carrying out the provisions of this Act, and for constructing a suitable building or buildings, to be used for educational purposes solely, under the requirements of chapter 28 of the Revised Statutes of the Territory of Minnesota.

Sec. 5. This Act shall take effect and be in force from and after its passage.

AN ACT TO AUTHORIZE THE REGENTS OF THE UNIVERSITY OF MINNESOTA TO
BORROW MONEY.

[*Passed March 8, 1858.*]

Sec. 1. *Be it enacted by the Legislature of the State of Minnesota:* That the Board of Regents of the University of Minnesota, are hereby empowered to issue bonds in the name of the said University of Minnesota, and under the corporate seal of the said University, signed by the President, and attested by the Secretary of the said Board of Regents, and payable at such times and in such manner as the said Board may deem best, to an amount not exceeding the sum of forty thousand dollars, with interest thereon, not exceeding twelve per cent. per annum.

Sec. 2. And the said Board of Regents are hereby further empowered, in order to secure the payment of said bonds, to make, execute and deliver, in the name of the State of Minnesota, a mortgage or mortgages, on any lands now belonging, or which may hereafter belong to the said University, and said mortgage or mortgages, signed by the President of the Board of Regents, and duly acknowledged by the said President before any person authorized to take acknowledgments of deeds, in this State, and recorded in the office of the Register of Deeds of the county in which said lands are so mortgaged and situated, or in the county to which it is attached for judicial purposes, shall be a lien upon the said lands until all sums owing upon said bonds are fully discharged.

Sec. 3. And the said Regents are further empowered to authorize by a majority vote, any one or more of their number to negotiate the said bonds on such time and terms, and in such places, as they may deem best to subserve the purposes contemplated by this Act, and receive the money therefor.

Sec. 4. This Act shall take effect and be in force from and after its passage.

STATE UNIVERSITY CHARTER.

An act Providing for the Government and Regulation of the University of
Minnesota.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. That the object of the State University, established by the Constitution of the State, at or near the Falls of Saint Anthony, shall be to provide the best and most efficient means of imparting to the youth of the State, an education more advanced than that given in the public

schools, and a thorough knowledge of the branches of literature, the arts and sciences, with their various applications.

Sec. 2. There shall be attached to the University a Collegiate Department, in which as soon as may be deemed expedient by the Board of Regents, hereinafter provided, regular College Classes shall be formed and a Chancellor and the necessary Professors, Tutors and other officers elected.

Sec. 3. There shall also be a department for the training of Teachers for the Common Schools of the State, in which shall be taught the theory and practice of teaching, and every thing that will tend to perfect the elementary and other public Schools of the State.

Sec. 4. The University shall be governed and managed by a Board of Regents, consisting of the Governor, Lieutenant Governor, Chancellor, and five electors of the State to be appointed by the Governor, by and with the advise and consent of the Senate, immediately after the passage of this act, and such other persons as may be appointed in accordance with a subsequent provision. Two of the five persons thus appointed shall hold their office for two years, and three for four years. At the expiration of their terms, successors shall be appointed in the same way for a period of four years. Whenever a vacancy occurs by death, resignation, or removal from the State or otherwise, it shall be the duty of the Governor to fill the vacancy, subject to the confirmation of the Senate.

Sec. 5. Any person or persons contributing a sum not less than fifteen thousand (15,000) dollars, shall have the privilege of endowing a Professorship in the University, the name and object of which shall be designated by the Board of Regents. Said person or persons shall have the right to nominate Trustees for the care of the endowment, also an individual to fill the Professorship, and a Regent who shall have the same rights and privileges as those appointed in behalf of the State.

Sec. 6. The University shall never be under the control of any religious denomination.

Sec. 7. The Chancellor's term of office shall be the same in duration as that of District Judge, and his compensation for the performance of his duties as Chancellor shall be such as the Legislature may designate from time to time.

Sec. 8. The Board of Regents shall appoint a Secretary and Treasurer who shall hold their respective offices during the pleasure of the Board of Regents. It shall be the duty of the Secretary to record all the proceedings of the Board and carefully preserve all its books and papers, and before entering on the duties of the same he shall take and subscribe an oath to perform his duties honestly and faithfully.

It shall be the duty of the Treasurer to keep an exact and faithful account of all moneys received and paid out by him, and before entering

upon the duties of his office, he shall take and subscribe an oath that he will faithfully perform the duties of Treasurer, and he shall also give a bond in the penalty of twenty five thousand (\$25,000) dollars conditioned for the faithful discharge of his duties as Treasurer, and that he will at all times keep and render a true account of all monies received by him as such Treasurer, and of the disposition he has made of the same, and that he will at all times be ready to discharge himself of the trust, and to pay over when required, which bond shall have two good sureties and shall be approved as to its form and the sufficiency of its sureties by the Board of Regents and also the Auditor and Secretary of State, and shall be filed in the office of the latter. The compensation of the Treasurer shall be the same as may be from time to time designated by the Legislature.

Sec. 9. In all cases where specimens of natural history, and geological and mineralogical specimens, which may be hereafter collected by any one appointed by the State to investigate its natural history and physical resources, they shall belong to, and be the property of the State University. There shall also be deposited in the Library of the University a copy of all the laws, reports, Journals of the Legislature and other documents published at the expense of the State.

Sec. 10. The University shall consist of such departments as the Board of Regents shall determine subject to the provisions of this act, and the same may be altered or changed as they may prescribe. The immediate government of the several departments shall be intrusted to the Chancellor and Faculty. The method and course of instruction in each department shall be prescribed by the Board of Regents, who shall also confer such degrees, and grant such diplomas as are usually conferred by Universities, or such others as they may deem proper.

Sec. 11. The Board of Regents shall have power, and it shall be their duty to make laws for the government of the University, to elect a Chancellor also the requisite number of Professors and Tutors, and such other officers as they may deem expedient, and to determine the amount of their respective salaries, except the salary of the Chancellor. They shall have the power to remove any officer connected with the institution, when the good of the institution demands.

Sec. 12. The Board of Regents are authorized to expend such portion of the University Fund as they may deem expedient in the purchase of apparatus, library and cabinet of natural history, in providing suitable means to keep and preserve the same, and in the procurement of all other means and facilities for giving instruction.

Sec. 13. The first meeting of the Board of Regents shall be called by the present Chancellor on or before the first Thursday in April, in the year one thousand eight hundred and sixty, at the Capitol; the annual meeting of the Board shall be held on the last Tuesday of June, at the

City of Saint Anthony, unless otherwise ordered by a majority of said Board of five Regents. The Chancellor may call special meetings of the Board when he deems it expedient. A majority of said Board shall constitute a quorum to do business.

Sec. 14. The Treasurer of the University shall have a suitable set of Books in which he shall keep an accurate account of all transactions relative to the sale and disposition of the University lands, and the management of the fund arising therefrom; which books shall exhibit what parts and portions of land have been sold, at what prices, and to whom, and how the proceeds have been invested, and on what securities, and what land remains unsold, where situated and of what value respectively.

Sec. 15. No sales of lands belonging to the University shall take place unless the same shall be decided upon at a regular meeting of the Board of Regents, or at one called for that purpose, and then only in the manner upon the notice and on the terms which the Board shall prescribe, and which is authorized by the Constitution, and no member of the board shall be directly or indirectly interested in any such purchase of such lands upon sale, and it shall be the duty of the Board to invest any such surplus income arising therefrom, which is not immediately required for the purposes of instruction, in United States, or in other well established, interest paying State Stocks, as a perpetual fund for the purpose of securing an income to defray the necessary current expenses as said Board of Regents may deem expedient.

Sec. 16. The Board of Regents shall make an annual report through the Secretary which shall exhibit the state, condition and progress of the University in its several departments, the different courses of study pursued therein, the branches taught, the means and method of instruction adopted, the number of Professors and Students, with their names, ages, studies and residences, the situation and condition of the University fund, the income derived therefrom, a specific statement of the amount of expenditures, and such other matter as said Board of Regents may deem proper to communicate, said report shall be completed and deposited in the office of Secretary of State, one month previous to the annual State election, and shall be transmitted by the Governor to the Legislature when the same shall convene.

Sec. 17. Chapter twenty eight (28) of the Revised Statutes of the Territory of Minnesota on pages one hundred and forty-two, one hundred and forty-three and one hundred and forty-four relating to the University of Minnesota and containing twenty (20) sections, is hereby repealed, except so much of Section thirteen (13) as is referred to in Article nine (9) Section eight (b) of the Constitution, provided also that the Regents of

said University hereafter appointed shal continue as a body corporate in accordance with Section (7) of said Chapter twenty-eight (28.)

Sec. 18. This act shall be in force from and after its passage.

AMOS COGGSWELL,

Speaker of the House of Representatives.

IGNATIUS DONNELLY,

- President of the Senate.

Approved, February fourteenth, one thousand eight hundred and sixty.

ALEX. RAMSEY.

SECRETARY'S OFFICE, MINNESOTA, }

February 14th, 1860. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

J. H. BAKER,
Secretary of State.