IN the days of the Grangers and Populists it was popular to condemn the federal government for its program of land subsidies to Western railroads and to other beneficiaries such as the agricultural colleges of the Eastern states. Little was said about the management by the Plains states of the immense grants of land made to them by congress.

Scholars, too, have failed to examine the record of the Western states in the administration of the school lands and other grants over which they had complete control. About seven per cent of the whole area of Kansas was donated by congress to the state. Nebraska, Iowa, and the Dakotas were given about the same relative amounts. How well did democracy work in the husbanding of these vast resources in the public interest?

The management by the state of Kansas of the internal improvements grant is an instructive chapter. From an early day congress granted to new states formed from the public domain grants of land in aid of transportation. Under the act of September 4, 1841, this practice was standardized by providing a donation of 500,000 acres of public lands to each state subsequently created from the federal domain. The title of Kansas to this grant was activated by the federal statute admitting Kansas to the Union in 1861.

Under the terms of this act Kansas was entitled to select from the public lands within its borders, not reserved or already taken up by individual entrymen, parcels of not less than 320 acres in the aggregate amount of 500,000 acres. To select attractive lands, the legislature in 1861 appointed a committee of three senators, S. E. Hoffman of Neosho Falls, H. B. Denman of Leavenworth, and E. P. Bancroft of Emporia. For their services these agents were paid

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at the rate of three dollars a day; they devoted altogether some 300 days to the work. Their announced criteria for selecting tracts shed some light on contemporary principles of value. Soil fertility was put first, supply of wood and water next, and proximity to settlements last.

The quest for good land that had not already been taken up by settlers or investors soon proved that little remained in eastern and northeastern Kansas. By the summer of 1861, when the committee made its search, the public lands of eastern Kansas had been open to pre-emptors for seven years and they had alienated most of the tillable land outside the Indian reservations. Good land could be had only at a distance of 100 miles from Kansas City. About 300,000 acres were found in scattered parcels in the Junction City land district and the other 200,000 acres in the Humboldt land district.

Kansas seems to have appropriated these lands to the purposes intended by congress unwillingly, and only on advice of the attorney general of the state. The Wyandotte constitution, under which Kansas was admitted to the Union, had conveyed the internal improvements grant to the school fund. To this proposed diversion from the purpose asserted in the act of 1841, congress never assented. It appears, however, that until 1866 it was assumed that the state could effect such a diversion. That expectation was challenged by J. D. Brumbaugh, attorney general, who ruled on February 16, 1866, that the state could not repudiate the conditions imposed by congress in making the grant. It is difficult to escape the logic of Brumbaugh's ruling, which was confirmed by another attorney general a decade later. But it is perhaps worth noting that Brumbaugh, within a few months, was appearing as counsel for the Northern Kansas railroad, one of the beneficiaries of the grant.

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2. The report of the committee, dated January 14, 1862, will be found in the published state documents for that year. The committee may have selected other minor grants as well. Hoffman with 167 days to his credit, appears to have performed a majority of the work.
3. Ibid.
4. In the office of the state auditor, Topeka, will be found 14 selection lists, together with two "clear lists." Clear list No. 1, conveying 495,552.50 acres, was approved by the Secretary of the Interior on March 19, 1864, and Clear list No. 2, conveying 4,488.68 acres, was approved on April 19, 1870.
5. Art. 6, par. 3, constitution of Kansas.
6. Congress did approve such diversions in the cases of Wisconsin, Iowa, and some other states.—Benjamin H. Hibbard, A History of the Public Land Policies (New York, 1844), pp. 344, 345.
8. Opinion of the Attorney-General Concerning 500,000 Acres of Internal Improvement Lands, pamphlet dated Topeka, February 2, 1876.
9. See the resolution of the board of directors of the Northern Kansas Railroad Co., June 18, 1866—"Correspondence of Agent to Sell Railroad Lands," 1866-1869, Archives division, Kansas State Historical Society.
In conformity with the opinion of the state’s chief law officer, the legislature of 1866 finally appropriated the lands to the aid of transportation and established procedures for the administration of the grant.

The legislative background of this law, as reported by a contemporary state senator, is not without interest. In January, 1866, Sen. J. F. Legate of Leavenworth introduced a bill appropriating the proceeds of the sale of the lands to the construction of highway bridges across the Missouri river at Leavenworth and across the Kaw at Wyandotte, DeSoto, Lawrence, and Topeka. A few days later Sen. E. C. Manning introduced a bill providing for the donation of the proceeds in equitable shares to three railroad companies, the Kansas & Neosho Valley, the Northern Kansas, and the Union Pacific, Southern branch. At that date none of these companies had secured land grants from congress.

It is said that the Manning bill was passed by the efforts of a combination of senators from the Neosho valley and the northern tier of counties. When the bill reached the house it was defeated by opposition generated from Lawrence. The Leavenworth, Lawrence, and Galveston Railroad, unbuilt, but chartered to run due south from Lawrence, had secured a federal land grant in 1863, but by 1866 it was apparent that most of the grant would fail because of prior private entry and prior railroad grants. Actually, the L. L. & G. was ultimately to realize only 11.6% of its grant from Lawrence to the northern border of the Osage lands, and none in the Osage lands.

Sen. Oliver Barber introduced a substitute bill which added the L. L. & G. to the three beneficiaries named in the Manning bill, and the Barber bill became law on February 23, 1866. Twenty-three members of the house registered a protest against the act, alleging that four state senators, four representatives, and two state officials had a pecuniary interest in the outcome of the law.

10. The Kansas & Neosho Valley was later known as the Missouri River, Fort Scott & Gulf and is now part of the Frisco system. The Northern Kansas was later known as the St. Joseph & Grand Island and extended from Elwood to Marysville; it is now part of the Union Pacific. The Union Pacific, Southern branch, is the line from Junction City down the Neosho valley to Chetopa; it is now part of the Katy system and was never affiliated with the Union Pacific.

11. The L. L. & G. never extended north of Lawrence. It is now part of the Santa Fe.

12. The L. L. & G. received a patent on grant lands within the Osage Ceded Lands, but the patent was voided after long and bitter litigation instigated by squatters and financed in part by a contribution from the state of Kansas—L. L. & G. vs. U. S., U. S. Reports, v. 92, p. 733. See, also, the informative note in L. L. & G. vs. Coffin, Kansas Reports, v. 16, p. 516.


Under the act of 1866 the state undertook to apportion the 500,000 acres equitably among the four named corporations, to sell the land, and to pay over the proceeds to the beneficiaries. To qualify for the proceeds of the allotted land, each company was required to complete ten miles of construction within five years.

The act thus permitted the prompt sale of the lands and retention of the proceeds in the state treasury until they were earned. This arrangement made the lands immediately available to settlers and investors.

Sale of the lands was put in the hands of an agent to be appointed by the governor, but removable at the request of the beneficiary companies. That the state agent was intended to be wholly a servant of the railroads was made clear in one section of the statute that asserted:

The sale and management of said lands and proceeds, the duties and conduct of the different officers connected therewith, and all matters and things pertaining thereto, not specifically set forth in this act, shall be conducted by and be subject to the instructions and rules made by the directors of said corporations.

In agreement with federal mandate, a minimum price of $1.25 an acre was fixed, but in 1869 the legislature provided that any of the beneficiaries might appraise the lands and set higher minima on individual tracts. It appears that only the Union Pacific, Southern branch, made such an appraisal.

In evaluating the act of 1866 one is struck with its generosity. The four beneficiaries were each granted land at the rate of 12,500 acres per mile of line. Nebraska, in disposing of her internal improvements grant, donated only 2,000 acres per mile. On grants made by congress to the railroads directly the prevailing rate in Kansas was only 6,400 acres per mile, and few railroads ever realized their full entitlement. Furthermore, the internal improvements lands were probably more valuable, acre for acre, than the federal grants. The location of the federal grants was determined by the line of route and the railroads had to take the land as it came in the usual checkerboard pattern of alternate sections. In eastern Kansas and Nebraska, as in most of Iowa, the available land usually represented the residue after pre-emptors had filed on the best lands. The state lands, on the other hand, had been conscientiously selected in choice parcels without restriction as to location.

Appointed by the governor to serve as state agent to sell the internal improvements lands was George W. Veale of Topeka.

Veale's qualifications for managing the sale of property worth upwards of two million dollars are not entirely clear. At the then not inconsiderable salary of $1,500 a year, he held the position until he was succeeded by Richard D. Mobley of Ottawa on February 6, 1869. It appears that Veale, and perhaps Mobley, were unbusinesslike in their methods. The records they left are confused and far from systematic. In 1874 Frank H. Drenning was appointed to the agency and instructed to straighten out the accounts. A year later he reported:

I found that no person had held the office or performed any services since 1871, and that the books and papers belonging to it were scattered around promiscuously. . . . I found the records of the office in a worse shape than anything of the kind that I have ever met with in the course of business. There has been no system of accounts kept, and I have been compelled to get such information as I could from the various State officers and the parties who have purchased land.

Veale began to sell the lands in 1866. He appears to have made no effort to secure the best possible prices. To large-scale investors he sold some 45,000 acres at or near the minimum price of $1.25. His readiness to sell the land at low prices was obviously adverse to the long-term interests of the railroads. Two of the companies protested and asked that sales be deferred. In June, 1866, and again in July, 1867, the Northern Kansas railroad expressed its disappointment. In September, 1866, and several times in the first half of 1867 the Union Pacific, Southern branch (M. K. T. railroad), took similar action. It appears that Veale had sold none of the lands earmarked for the account of the Leavenworth, Lawrence & Galveston, and no protest from that road seems to have been filed. The fourth beneficiary, the Kansas & Neosho Valley, on the other hand, was anxious to have its lands put on sale "as soon as possible." This was not a strong company, and it was soon to be

16. Veale was born in 1833 and came to Kansas from Indiana in 1857. He represented Topeka in the state senate in 1859 and 1861, and was later several times elected to the state house of representatives. He was president of the Kansas State Historical Society in 1908. See his reminiscences in Kansas State Historical Society Collections, v. 11, pp. 3-12.

17. Mobley was a member of the state house of representatives in 1867, 1868, and 1875.

18. Drenning's summary report, February 13, 1875, will be found in the Kansas Senate Journal, 1875, pp. 505, 506. Drenning's home was in Wathena; he represented Dorgan county in the state legislature several times and was chairman of the state Republican committee in 1867. He was proprietor of the Wathena Reporter at one time and had some interest in the Northern Kansas railroad.

19. By authority and direction of the board of directors of the Northern Kansas, June 18, 1866, J. D. Drumbaugh attempted to arrange with Veale for deferment. See, also, the letter of Samuel Lappin to Veale, July 18, 1867. "Correspondence of Agent to Sell Railroad Lands," 1866-1869, loc. cit.

20. Letter of P. B. Maxson, secretary, Union Pacific, S. B., to Veale, Emporia, September 30, 1866; Maxson to Veale, Emporia, March 13 and May 18, 1867.—Ibid.

captured by James F. Joy who planned to make it a link in his Gulf-to-Lakes route. The desire of the K. & N. V. to secure an advance payment on account suggests that its finances were desperate, and that its owners were trying to liquidate either to fend off the threatened absorption by Joy or for their own profit.

Although Governor Crawford "directed" Veale to suspend sales of the land allotted to the protesting railroads, he admitted that he was doubtful of his right to do so. In the end, to protect their interests, all four companies, or affiliated interests, purchased from the state the unsold lands. Only in that way could they derive a fair value from the lands.

Completion of the required construction on the L. L. & G. was certified on January 10, 1868. Three weeks later substantially all of the lands credited to that road were sold at the minimum price of $1.25 an acre to P. F. W. Peck. Peck had advanced money for construction and held a lien on the assets of the company. When the lien was discharged he conveyed the lands to the L. L. & G. without consideration.

About 80% of the lands allotted to the Northern Kansas railroad passed in the same way by sale to interests that controlled the road. On December 4, 1868, construction was approved and on the same date title to 104,632.64 acres was conveyed by the state to Dudley M. Steele, president of the company, for a consideration of $1.25 an acre.

After Joy got control of the Kansas & Neosho Valley, he purchased from the state the unsold lands apportioned to his company. On December 13, 1868, construction was certified and on December 26 he bought 89,690.83 acres at $1.25 an acre.

Lands allotted to the Union Pacific, Southern branch, the fourth beneficiary, likewise passed largely to interests close to the management of the line and were eventually conveyed to the railroad itself. This was the last of the four roads to complete construction of the required ten miles of line. Certification was entered on October 1, 1869, and on December 16 the state sold 89,095.85 acres to the Land Grant Railway & Trust Co. These lands were later conveyed, without substantial consideration, to the Missouri, Kansas

26. Ibid.
27. Ibid.
& Texas railroad, successor to the Union Pacific, Southern branch. 28
The Land Grant Co. held the contract for the construction of the
M. K. T. Both the Land Grant Co. and the railroad were controlled
by Levi Parsons. 29

Alone among the sales to the beneficiary railroads of the land
apportioned to them, the M. K. T. transaction was made at prices
above the minimum. It will be recalled that only this road had
made an appraisal of its allotment, and it was at the appraised value
that the land was sold. Prices ranged from $2.25 to $6.50 an acre,
with a mean of $4.50. This transaction represents about 17.5% of
all the internal improvements lands. It thus affords some clue
to the extent of the state's bounty and some index of fair prices
for land in comparison with the federal government's politically-
determined price of $1.25 for its public lands. If all of the internal
improvements land was equally valuable, the total value of the
500,000 acres was $2,250,000. It is possible, however, that the lands
of the Union Pacific, Southern branch, that had already been sold
were less valuable than those bought in by the Land Grant Railway
& Trust Co. Assuming that this was the case and that the average
value of all the 500,000 acres was only $4.00 per acre, it follows that
each of the four railroads was given by the state a bounty of half a
million dollars, or fifty thousand dollars for each mile of construction.
The approximate cost of good construction at this time was about
$25,000 per mile. The original 241 miles of the Burlington system
in Nebraska cost $27,291 per mile, including interest payments during
construction. 30 The original estimate for construction of the
Santa Fe from Atchison to Topeka was $13,690 a mile. 31

The purchases by which the four beneficiary railroads acquired
the unsold lands allotted to them exhausted the supply of internal
improvements land. A small balance of the whole grant of 500,000
acres had not then been received. On April 19, 1870, the federal
government conveyed to the state the 4,600 acres still due, 32 Mobley,
the state agent who had succeeded Veale, did not at once commence
sale of these lands. When, on February 13, 1872, he assembled
state officials and representatives of the beneficiary railroads to apportion the supplementary grant, the state attorney general, A. L.
Williams, petitioned the district court of Shawnee county for an
injunction restraining sale or payment of the proceeds to the rail-

31. L. L. Waters, Steel Trails to Santa Fe (Lawrence, 1930), p. 33.
32. These lands all lay in Ranges 8 and 10, West, and had been selected by Mobley.—Supplementary list 14, approved and certified by the U. S. General Land Office, 1876, in
office of the state auditor, Topeka.
roads. Mobley did not appear in court to oppose the application
and the four railroads filed disclaimers to any interest in the land
or in the proceeds of its sale. The injunction was therefore issued
and on August 9, 1873, was made perpetual.33

The injunction outlawed any disposal of the lands by prohibiting
sale for the only purpose provided by state law. Until the legislature
made some new provision the remaining lands would be available
only to trespassers. In 1876 Governor Osborn stated that he had
been contemplating a recommendation that the legislature authorize
sale of the lands and diversion of the proceeds to the state university,
but that he had been dissuaded by uncertainties arising from con-
fusion in the sales records.34 It was at this stage that Atty. Gen.
A. M. F. Randolph issued a ruling confirming that issued in 1866 by
his predecessor, Brumbaugh. Randolph reiterated that congress
had never accepted the provision of the Wyandotte constitution
diverting the lands to the benefit of education from the purpose
prescribed by the federal law of 1841.35

It appears that no effort was made until 1885 to provide by law
for the disposal of the lands conveyed to the state in 1870. The
state meanwhile collected small balances due on sales made earlier
on the original conveyance of 495,000 acres. By 1885 there was a
little over $8,000 cash and the 4,600 acres still in the state's railroad
account. In that year the legislature, uninhibited by the rulings
of two attorneys general, passed a law authorizing sale of the land
for the benefit of the permanent school fund and transfer of the
cash balance to the same account.36

In retrospect it would seem that the state legislative policy was
unwise and that the state administration was irresponsible and in-
efficient in the disposal of the internal improvements grant. The
legislature offered unusually generous bounties for the construction
of as little as ten miles of trunk line. If trunk lines were wanted,
greater mileage should have been required. If the legislative policy
of having the state sell the lands was intended to prevent
withholding of the lands from settlement, it failed. The railroads
bought in 80% of the land and then were free to withhold it for
optimum market conditions. As to the act of 1885 diverting the
small final balances of land and cash to the school fund, it was clearly
a violation of the mandate of congress.

33. Letter from the attorney general to the legislature, January 26, 1874.—Kansas
Senate Journal, 1874, pp. 127-129.
34. Message of the governor, Kansas House Journal, 1876, p. 40.
35. Opinion of the Attorney-General Concerning the 300,000 Acres of Internal Im-
provement Lands, dated Topeka, February 2, 1876.
36. Laws of Kansas, 1882, ch. 183. This statute listed the unsold parcels. The
statutory listing was repealed by ch. 220 of the Laws of 1887, which gave a slightly different
list.