

REPORT
OF THE
SURVEYOR GENERAL
OF THE
STATE OF CALIFORNIA

[GEORGE KERR, STATE PRINTER.

REPORT.

SURVEYOR GENERAL'S OFFICE,
Benicia, December 15th, 1853.

SIR:

In compliance with the statute, prescribing the duties of the Surveyor General, I submit the following report:

STATE MAP.

The Map ordered by the legislature, at the session of 1851, was commenced immediately after the close of the session, and diligently prosecuted as per my last annual report.

The Map was completed in March last, on the first of April it was sent to New York to be engraved, which has been done and a few copies received per last steamer.

The delivery of the copies required for the State, (as per bill) for distribution amongst the State offices and members of the last Legislature, has been delayed on account of detentions on the Isthmus; recent advices, however, assure us that they will be delivered within a few days.

COUNTY BOUNDARIES.

This subject, which has, heretofore, caused so much difficulty, is gradually settling down to its proper place, and so far as I can learn, there will not be a single seat contested on the question as to boundary.

In the fall of 1852, the county authorities of Sacramento called upon me to run a portion of the boundary, between that county and El Dorado and San Joaquin counties. This was done by the County Surveyor of Sacramento, acting under directions from this office, and duly reported by me to the authorities ordering the survey.

In the month of October last, I was called upon by the Board of Supervisors of the counties of San Francisco and Santa Clara, to run the boundary line between those counties, which I proceeded at once to do, the work has been completed, and the maps will be forwarded to the respective counties, and one retained in this office so soon as complete.

COUNTY SURVEYORS AND ASSESSORS.

In compliance with the 10th section of the "Act concerning the Office of the Surveyor General," Statutes 1850, page 157, I addressed the following circular to the County Surveyors and Assessors in each county in the State.

The circular to County Surveyors is marked in the appendix "A," and the circular to County Assessors is marked in the appendix "B."

I would again recommend, that the law making it the duty of County Surveyors to transmit such reports, be amended, or else provisions made for their payment while engaged in such duties.

It is entirely foreign to the business of a surveyor to collect any data respecting the items mentioned in section nine of the act referred to above, except so far as the quantity of land is concerned, and the requirements made of County Assessors is equally oppressive, unless provision be made to pay for the necessary labor.

The number of reports sent in is conclusive, that parties will not work without pay, and therefore the law is entirely inoperative, and had better be repealed or properly amended.

The number of reports received for the present year, up to this date, is three from County Surveyors, and two from County Assessors.

As the census is taken once in five years, and as its returns are very full upon all points of interest in an agricultural point of view, and as all results under the present system must be very imperfect, I would suggest the doing away of the present system, and the relying entirely upon the census returns for statistics of agriculture.

SCHOOL LANDS.

Under the Act of the Legislature "to provide for the disposal of the 500,000 acres of land granted to the State by an Act of Congress," there has been issued, (as I am informed by the Comptroller) 806 warrants for 160 acres each; and 321 warrants for 320 acres each; making a total of 231,680 acres, of which, in obedience to the law requiring quarterly returns to be made to this office of all locations of said warrants, there has been returned to this office, and duly registered the certificates of survey for 131,380 acres. A tabular statement of which, by counties is more fully set forth in appendix marked "C."

I again call your attention to an omission in the law, as it now stands, which is productive of great confusion at the least, and affords an opportunity, for the Commission of great frauds. It is this – the law does not provide that when a warrant is located, that the proper officer shall endorse upon the back of said warrant *the date* and *place* of such location, and there is nothing to prevent the same warrants being located in several counties. In many instances the returns have come to this office without the numbers of the warrants so located, and others, where there was more than one warrant, the quantity to each number not given, only the gross amount.

Again, instances have occurred where the same warrants were located in two different countries, and the fact not ascertained until the returns came into this office. – The party making the locations was applied to for an explanation of the matter; his reply was, "that he intended to 'float,' but as yet had not made his election, which piece he would keep."

He is, at the same time, in a position to reap a double benefit from his warrant; for, it is not to be supposed, that a party who might wish to take up this land, would look further than the county records of the county in which the land lay. In my circulars, I requested the County Surveyors, in all cases, to endorse the location upon the back of

the warrant, and also to return the numbers of the same; still as there is no law *requiring it to be done*, it is optional with the holder of the warrant, whether he will permit it or not.

I would, also, suggest the propriety of another amendment, in regard to floating warrants, to wit: - that when any warrant is *floate*d, in addition to the registration of the "*float and the reasons therefore*" being made "a matter of record at the time, in the office where the original location was recorded;" a certified copy of such registry shall be forwarded to the office of the Surveyor General, who will thus be enabled to determine, at once, any fraudulent locations.

FORM FROM GENERAL LAND OFFICE.

The Commissioner of the General Land Office at Washington, has issued an important circular, relative to the location of School Lands, which I have deemed proper to insert in the appendix, and marked "D."

All of which is respectfully submitted,

WM. E. EDDY,
Surveyor General.

To His Excellency, JOHN BIGLER,
Governor of California.

APPENDIX A.

SURVEYOR GENERAL'S OFFICE,
Benicia, July 1st, 1853.

SIR:

I respectfully call your attention to the following extracts, from the Laws, bearing upon the duties of your office, in its connection with the office of Surveyor General.

First. From the "Act concerning the office of the Surveyor General," passed April 17th, 1850.

SEC. 9. – "He shall deliver to the Governor annually, on or before the 15th of December, his report," which shall contain,

Second. "An accurate statement of the progress he may have made in the execution of the surveys enjoined on him by law, and in the preparation of the Map of the State."

Third. "An estimate of the aggregate quantity of land belonging to the State, and the best information he may be able to obtain as to the characters of the same."

Fourth. "An estimate of the aggregate quantity of all lands used for or adapted to tillage and grazing within this State, and each county of the State, together with a description of the locations in which the same may be situated.

Fifth. "An estimate of the aggregate number of horses, cattle, sheep and swine, within the State, and each County of the State."

Sixth. "An estimate of the aggregate quantity of wheat, rye, maize, potatoes, grapes, and other agricultural productions of the preceding year."

Seventh. "An estimate of the aggregate quantity of all mineral lands within the State, and each County of the State, and the quantity and value of each mineral produced during the preceding year, together with a description of the localities in which such minerals may be found."

SEC. 10. – "He shall address a circular letter to the *County Surveyors* and County Assessors and County Assessors, instructing them, and it is hereby made a part of their official duties, to use their utmost diligence in collecting information relative to each and every matter mentioned in the ninth section of this Act, and to transmit to him quarterly, at the seat of Government, a report in writing setting forth result of their inquiries."

SEC. 11. – "He shall, with his Annual Report, transmit to the governor all reports which he may have received from his Deputies, and other persons, as mentioned in the tenth section of this Act."

All reports containing the above required information must be mailed to this office, at Benicia, not later than the first of December, in order that they may be embodied in my Annual Report, which I am required to make on or before the fifteenth of December.

Second. From the School Land or 500,000 acre land bill.

“An Act to provide for the disposal of Five Hundred Thousand Acres of Land granted to this State by Act of Congress.”

SEC. 3. – “The parties purchasing such warrants, and their assigns, are hereby authorized, in behalf of this State, to locate the same upon any vacant and unappropriated lands belonging to the United States, within the State of California, subject to such location, but no such location shall be made unless it be made in conformity with the law of Congress, which law provides that not less than three hundred and twenty acres shall be located in a body.”

SEC. 4. – “Lands thus located shall be run off a line, North and South and East and West, and shall be sufficiently designated by lines and distances, corners, or posts, as the case may be, and an entry be made thereof in the office of the Clerk of the County Court of the County in which such lands shall be located.”

SEC. 5. – “The location made of the lands belonging to the United States, as aforesaid, shall secure to the purchaser the right of possession to the land embraced within said survey until such time as the Government survey shall have been made, after which said lines shall be made to conform to the lines of sections, quarter sections, and fractional sections of said government; and in the event that two or more persons shall have made a location on the same section, then, and in that event, the person whose location embraces the largest portion of said section, quarter section or fractional section, shall be first entitled to said location of the same.

SEC. 6. – “If in the survey to be hereafter made by the General Government, it shall so happen that the improvement made by any person purchasing and locating land under this Act, shall not compromise the larger part of the first survey, then, and in that case, the party may, if they prefer it, retain that portion which has upon it the buildings and improvements, although it may be the smaller portion of said section, quarter section, or fractional section. *Provided*, nothing herein contained shall authorize such location upon any lands heretofore granted by this State, or by the General Government, or on lands at the time of such survey and location, actually occupied and improved by actual settlers, unless such location be made by the owner of such improvements, not to exceed six hundred and forty acres by any one person. *Provided, also*, that nothing herein contained shall prejudice the ownership or possession of any lands at the time of survey and location held or claimed under grants from the Mexican or Spanish Governments; *And provided, moreover*, that at the time of making said location, the first settler, or owner of any improvements situated on the tract proposed to be located, shall in all cases have the preference.

SEC. 7. – “In the event that any location of land be made under and by the provisions of this Act, upon lands supposed to belong to the United States, which should prove to be land not the property of the United States, then, and in that case, the party owning such land warrant or warrants may float the same upon any other public lands in the State of California, provided the float, and the reasons therefore, be made a matter of record at the time, in the office where the original location was recorded.

SEC. 10. – “Lands located under the provisions of this Act, shall be surveyed by the *County Surveyor* in each county where the location is made, who shall give a certificate setting forth the bounds and the number of acres contained in such survey, and shall receive for his services such fees as are now or may hereafter be provided by law.

SEC. 11. – “The Clerk of the County Court shall make a record of all certificates of land located under the provisions of this Act, which may have been run off by the proper officer, and shall be entitled to receive from the owner of such location three dollars for such services.

SEC. 12. – “The County Surveyor of the respective counties of this State, at the end of every three months from the taking effect of this Act, shall make out an forward to the office of the Surveyor-General of the State, without fee for the same, a duplicate copy of each plat or survey and certificate of location of any land warrant made under the provisions of this Act, in their respective counties, and for failure so to do shall be liable to a fine of not less than five thousand dollars, recoverable before any court of competent jurisdiction, on the complaint of any person or persons in interest.

N. B. All lines run as required above in section 4, north, south, east and west, must be run by the *true meridian* and not *magnetic*, so as to conform to the lines of the U. S. Land Surveys, and the Act takes effect from the first of June, 1852.

Having had many inquiries made to me in reference to the various constructions of law relative to “School Land Warrants,” I deem it proper to add the following suggestion:

1st. The boundaries of all lands located under “School Land Warrants” must run north, south, east and west, by the *true meridian* in all cases, except whereon or more of the sides are such *natural boundaries* as will be taken under the U. S. Land Surveys to make fractional sections.

2nd. Fractional sections are made in the United States Surveys whenever the lines strike any bay, lake or navigable stream.

I suppose that in this State our mountain streams will in most cases be regarded as natural boundaries when they become too large to measure across without triangulation.

3rd. Swamp or overflowed lands being at present the property of the State and not of the United States, cannot be taken as school lands.

4th. The number of warrants must in all cases be returned to this office, with your report of the survey.

5th. In the event that no school land warrants are located in your county you will notify this office of the fact.

It is necessary that a transcript of all locations of school lands be filed in the office of the U. S. Land Register, so that the necessary patent may issue to the State, and in order to do so you are requested to report to this office the number of the section or subdivisions which are covered by any location, at the earliest moment after the United States Surveys are made in your vicinity.

Particular attention is called to these instructions, as the object is to prevent the United States officers from offering for sale any lands that may be covered by school land warrants.

Please acknowledge the receipt of this circular at once, and direct to San Francisco.

Respectfully Yours,

(Signed)

WM. M. EDDY,
Surveyor-General.

APPENDIX B.

SURVEYOR GENERAL'S OFFICE,
Benicia, July 15th, 1853.

SIR:

I respectfully call your attention to sections *nine* and *ten* of the "Act concerning the Office of the Surveyor General, passed April 17th, 1850, and in accordance therewith request from you a report upon the matters referred to, in the *third*, *fourth*, *fifth*, *sixth* and *seventh* paragraphs of the ninth section.

You will find the law referred to, on pages 256 and 257 of the Statutes for 1850.

Your report must reach me before the 1st of December, in order that it may be included in my Annual Report, which I am compelled to make on the 15th of December.

Please acknowledge the receipt of this Circular (by mail.)

Your Obed't Serv't,

WM. M. EDDY,
Surveyor General.

APPENDIX C.

Counties.	No. of Acres.
Alameda.....	320
Butte.....	960
Calaveras.....	3,200
Colusi.....	2,080
Contra Costa.....	7,040
El Dorado.....	960
Humboldt.....	-
Klamath.....	640
Los Angeles.....	-
Mariposa.....	-
Marin.....	7,520
Mendocino.....	6,400
Monterey.....	2,240
Napa.....	2,720
Nevada.....	960
Placer.....	1,120
San Diego.....	-
San Bernardino.....	-
San Luis Obispo.....	-
Santa Barbara.....	-
San Francisco.....	19,360
San Joaquin.....	7,680
Santa Clara.....	14,080
Santa Cruz.....	6,400
Sacramento.....	6,720
Shasta.....	320
Sierra.....	-
Siskiyou.....	-
Sonoma.....	1,920
Solano.....	22,580
Sutter.....	-
Tulare.....	1,920
Trinity.....	3,040
Tuolumne.....	4,480
Yola.....	3,840
Yuba.....	2,600
Total.....	130,380

APPENDIX D.

LOCATION OF STATE LAND WARRANTS.

The Circular and instructions from the Commissioner of the General Land Office, contain very important information, determining a question about which much uncertainty has heretofore existed – the location of School Land Warrants issued under the State law for the disposition of the 500,000 acres ceded to California for Internal Improvements.

REGISTER'S OFFICE,
Benicia, Cal., Dec. 19, 1853.

EDITORS TIMES AND TRANSCRIPT:

GENTLEMEN: -

Enclosed I send you the letter of the Commissioner of the General Land Office, and accompanying Circular, in direct relation to the location of State School Land Warrants on the public domain, in part satisfaction of the grant made by Congress, under the Act of 4th Sept., 1841; and as this is a question of great importance to many citizens of our State, you will do me a great favor by publishing them in full.

Respectfully,
Your Obedient Servant,

WM. W. GIFT,
Register, etc.

GENERAL LAND OFFICE,
November 16, 1853.

W. W. GIFT, ESQ.,

SIR: -

I am in the receipt of your letter of the 7th ult., in which you state that the State of California, by an Act of its Legislature, passed in 1852, has authorized the issuing of

warrants to be located upon Government lands in quantities of not less than 160, nor more than 640 acres, in part satisfaction of the grant of 500,000 acres for Internal Improvements, made by an Act of Congress, approved the 4th of Sept., 1841. That some of these warrants "have been located as far back as eighteen months since, and are now being re-located in order to comply with the requisitions of the Acts of Congress;" that these locations are working serious injury to the actual settlers, and you request instructions as to whether these evidences of title shall be received in preference to those of the settler.

The 8th section of the Act of the 4th of Sept. 1841, making the grant of the 500,000 acres to the States for Internal Improvement, requires that the selections shall be made in such manner as their respective Legislatures shall direct; to be located, however, "in parcels conformably to sectional divisions and sub divisions of not less than *three hundred and twenty acres* in any one location," – "at any time after the lands of the United States in said States respectively shall have been surveyed according to existing laws." Enclosed, I send you a copy of the Circular of Instructions from this office, issued under this Act, and dated the 6th of August, 1847; by a careful adherence to the requirements of which, much future embarrassment may be obviated. The 5th section of this Circular requires "that the selecting agent should file in your office an authenticated copy of his letter of appointment, or other satisfactory evidence of his authority." You will, therefore, carefully observe that each of these State Warrants bears upon its face evidence of the authority of the party by whom the application for location may be presented, to select lands for the State under the 8th section of the Act of 4th Sept. 1841.

The date when these warrants are filed in your office, and the simultaneous application to enter, becomes the date of the selection by the State; it follows, therefore, that no one 160 warrant can be located, as the law requires the selections to be made in parcels of not less than 320 acres. Two or more 160 warrants, however, though in different hands, may be located *at the same time* upon contiguous lands. By this, I mean, at the same *instant* of time. Thus, two or more warrants may make conjoint application to enter a body of land equal to the value of their warrants; but a holder of one 160 acre warrant cannot at a later period even of the same day, locate a tract, though it may be contiguous to land previously selected.

Accompanying this, I send you a form of a list to be used by you in reporting these selections to this office for approval. You will send up these lists, accompanied by the warrants of the State upon each of which, supercede the necessity for their signing the printed form at the bottom of the list. When these lists shall have been examined at this office, such of the selections embraced thereby as are valid, will be *certified to the State*. This office does not recognize the warrants or their assigns in any other light than as the agents of the State, and no patents will be issued to them.

You will be please to caution the locators against selecting any swamp or overflowed lands, as all such will be certified to the State, under the Act of 28th September, 1850. I am, Sir,

Very respectfully, your obedient servant,

JOHN WILSON, Commissioner.

Wm. W. GIFT.

Register of the Land Office, Benicia, California.

STATE SELECTIONS.

[Circular to the United States Registers.]

GENERAL LAND OFFICE,
November, 16, 1853.

W. W. GIFT, ESQ.,
Register Land Office, Benicia.

SIR: - Herewith you will receive a copy of the 8th section of the Act of the 4th September, 1841, entitled "An act to appropriate the proceeds of the sales of public lands and to grant pre-emption rights."

In order to facilitate the business of State selections under this Act, I have to draw your attention to the following:

1st. The whole area to which the State of ---- is entitled under law is ---- acres.

2nd. The Act requires the selections to be "in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, etc.

Under this requirement a selection may include a whole section or a fractional section; or an island containing three hundred and twenty acres, more or less; provided the State, where the quantity is less than the prescribed number of acres, will agree to accept the same for an in lieu of a tract containing the full quantity of three hundred and twenty acres, but not otherwise.

Or it may embrace –

The east, west, north or south half of a section, or two adjoining quarters of different sections, or any number, even of the smallest legal subdivisions of different sections; provided the tracts selected adjoin each other, and form compact parcels, containing together not less than three hundred and twenty acres.

3rd. The selections must be based upon the official township plats of the public surveys, which are required to be approved by the Surveyor-General, and on file in the local Land Office, at the time of filing the selection.

4th. The law allows selections to be made upon public lands, whether offered or unoffered. But no State selection is admissible upon any land to which a pre-emption, or other valid claim shall be legally established, nor on any land which "is or may be reserved from sale by any law of Congress or proclamation of the President of the United States," nor upon any tract which is reserved or withdrawn from market for any purpose whatever.

5th. The selecting agent of the State should file in your office an authenticated copy of his letter of appointment, or other satisfactory evidence of his authority: and it is important and necessary that he should make such careful and thorough preliminary examination as will enable him to select lands to which there may exist no valid claim by pre-emption or otherwise, and not to avoid the embarrassments and delays consequent upon such conflicts, you will also examine the plats, records and papers in your office, before the lists of lands so selected are filed, and see that such selections are in all respects free from such objections.

6th. If, notwithstanding such precaution, the State shall hereafter select lands which shall be found to be interfered with by any prior and better claim or claims, the selection to the whole extent of such claim or claims will of course be null and void; and if such valid claim or claims shall only extend to a part of the selection by the rejection of which the remaining portion or portions shall be reduced, to one or more detached bodies below the quantity of three hundred and twenty acres, the part or parts not interfered with may nevertheless be confirmed, provided the State will accept each detached parcel, with may thus be reduced to less than three hundred and twenty, as equivalent to and in lieu of the full quantity of three hundred and twenty acres; otherwise, such parts or parcels will be rejected on the ground of the land not forming the compact parcel required by law.

7th. That the action of this office may be uniform, it is hereby determined, from the date of this circular, that when selections are reported to this office which are found to conflict with the declaratory statements of pre-emptors, the approval of the part of the selection thus covered by such statement, together with such portion as may not be interfered with, but which would be less than three hundred and twenty acres, if the part covered by the declaration should be confirmed to the claimant, will be suspended to await the final result of the pre-emption claims, which if not established at the expiration of the period allowed by law, the selection of the State will then be approved.

8th. Should a tract of land selected by the State and rejected on the ground of not forming the compact parcel required by law, it is no bar to its being re-selected, provided other land, not interfered with, is selected in connection with it so far as to form the compact parcel of three hundred and twenty acres, or more, as the case may be. Should such re-selection be made they are required to be embraced in an entire new list, bearing the number of the series at the time of such re-selection.

Herewith you will receive the form of a list to be used for selections: - This form requires the date to be given when the list is filed in your office, such date being regarded as the date of the selection, so that in the event of a pre-emption or other conflict, the question as to priority of right may be properly settled. The lists should bear a regular series of numbers from No. 1, and should be signed by the agent. If the list is regular and complete you will enter up your selections on your books and mark them on the plats – sign the official certificate as to the correctness of the list of selections, and transmit the same to this office, in order that it may be submitted to the Secretary of the Treasury for his approval.

The law of Congress allows no commission on this business.

You are requested to acknowledge the receipt of this circular, which is designed to embrace all the material principals in previous circulars in reference to this subject, and to be your rule of action in relation to this business in future.

Very respectfully,
Your ob't servant,

JOHN WILSON,
Commissioner.

NOTE. – The States designated in the first section of the Act of Congress, approved September 4th, 1841, entitled “An Act to appropriate the proceeds of the sales of public lands; and to grant pre-emption rights,” are – Ohio, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan.

ACT, 4TH SEPT., 1841. – SEC .8. *And be it Further Enacted*, That there shall be granted to each State specified in the first section of this Act, five hundred thousand acres of land, for purposes of Internal Improvement: *Provided*, That to each of the said States which has already received grants for said purposes, there is hereby granted no more than a quantity of land which shall, together with the amount such State has already received as aforesaid, make five hundred thousand acres; the selections in all of the said States to be made within their limits, respectively, in such manner as the Legislatures thereof shall direct, and located in parcels, conformably to sectional divisions and sub divisions, of not less than three hundred and twenty acres in any one location, on any public land except such as is or may be reserved from sale by any law of Congress, or Proclamation of the President of the United States: which said locations may be made at any time after the lands of the United States in said States, respectively, shall have [been] surveyed according to existing laws. And there shall be, and hereby is granted to each new State that shall be hereafter admitted into the Union, upon such admission, so much land as, including such quantity as may have been granted to such State before its admission and while under a Territorial Government, for purposes of Internal Improvement as aforesaid, as shall make five hundred thousand acres of land, to be selected and located as aforesaid.

AN ACT to authorize the Governors of the States of Illinois, Arkansas, and Missouri, to cause to be selected the land therein mentioned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the eighth section of the Act, entitled, “An Act to appropriate the proceeds of the sales of public lands, and to grant pre-emptions; approved September four, one thousand eight hundred and forty-one, as provides that the selections of the grants of lands made in the States therein mentioned, for the purposes of Internal Improvement, shall be made, respectively in such manner as the Legislature thereof shall direct, is so far modified as to authorize the Governors of the States of Illinois, Arkansas, and Missouri, to cause the selections to be made for those States without the necessity of convening the Legislature thereof for that purpose.

Approved, March 19, 1842.