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CERTAIN ACCOUNTS BETWEEN THE UNITED STATES
AND MISSISSIPPI.

[To accompany bill H. R. No. 21.]

APRIL 4, 1856.

Mr. LAKE, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the "Bill to settle certain accounts between the United States and the State of Mississippi," report :

That the fifth section of the act of Congress authorizing the people of the western part of the Mississippi Territory to form a constitution and State government, passed March 1, 1817, provides that "five per cent. of the net proceeds of the lands lying within said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all the expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress." Two-fifths of the said five per cent., it will be observed, although reserved for the benefit of the State of Mississippi, was to be appropriated to the making of a road or roads leading to the said State, under the direction of Congress. But the sixteenth section of an act of Congress entitled "An act to appropriate the proceeds of the public lands, and to grant pre-emption rights," passed 4th of September, 1841, provides as follows: "That the two per cent. of the net proceeds of the land sold, or that may hereafter be sold by the United States, in the State of Mississippi, since the first day of December, 1817, and by the act entitled 'An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States,' and all acts supplemental thereto, reserved for the making of a road or roads leading to said State, be, and the same is hereby, relinquished to the State of Mississippi, payable in two equal instalments—the first to be paid on the first of May, 1842, and the other on the first of May, 1843, so far as the same may then have accrued, and quarterly as the same may accrue after that period: *Provided*, That the legislature of said State

shall first pass an act declaring their acceptance of said relinquishment in full of said fund accrued and accruing, and also embracing a provision, to be unalterable without the consent of Congress, that the whole of said two per cent. fund shall be faithfully applied to the construction of a railroad leading from Brandon, in the State of Mississippi, to the eastern boundary of said State, in the direction, as near as may be, of the towns of Selma, Cahaba, and Montgomery, in the State of Alabama." By this section, the control of the two per cent. fund, reserved by the act of 1817 to the use of Mississippi, but to be expended under the direction of Congress, is relinquished to the State of Mississippi, provided the legislature thereof shall accept the same, with a provision that the two per cent. fund shall be faithfully applied to the construction of a railroad from the town of Brandon, in said State, to the eastern boundary thereof, and in the direction of the towns of Selma, Cahaba, and Montgomery, in the State of Alabama. The relinquishment was accepted by the State of Mississippi, as will appear by reference to her statute passed 26th February, 1842, and contained in Hutchison's Code, at page 147. It is as follows: "An act accepting certain provisions of an act of Congress, entitled 'An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights,' approved September 4, 1841." "Sec. 1. The provisions of the 16th section of the above-entitled act of Congress, whereby the two per cent. fund is relinquished to this State, are hereby accepted by the State of Mississippi, on the conditions and for the purposes prescribed and set forth in the said 16th section of the said act of Congress, as well that portion of said fund which has accrued, as that which is accruing, or hereafter shall accrue." By these acts it is apparent that five per cent. of the net proceeds of the sales of the public lands within the State of Mississippi have been reserved for the making of certain improvements within the said State, and that the direction and management of said fund belongs to the legislature thereof, unless it shall appear that the State has failed to comply with the provisions of the act of 1817, which constitute the consideration of the said grant of five per cent. These provisions are contained in the 4th section. They are as follows: "That the convention (to form a constitution) shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales; and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States; and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common

highways, and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll, therefor, imposed by the said State." These stipulations have all been faithfully complied with and observed by the said State. Her convention that framed the constitution, pursuant to the act of 1817, passed the ordinance in the following words: "Whereas it is required by the act of Congress, under which this convention is assembled, that certain provisions should be made by an ordinance of this convention; therefore this convention, for and on behalf of the people inhabiting this State, do ordain, decree, and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the State of Mississippi; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order or under the authority of this State, whether for State, county, township, parish, or other purposes whatever, for the term of five years from and after the respective days of sale thereof; and that the lands belonging to the citizens of the United States residing without the State shall never be taxed higher than lands belonging to persons residing within the same; that no taxes shall be imposed on lands the property of the United States; and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common highways, and forever free, as well to the inhabitants of this State as to other citizens of the United States, without any duty, tax, impost, or toll, therefor, imposed by this State; and this ordinance is hereby declared irrevocable without the consent of the United States."

All the lands sold by Congress have been exempt from all taxation for five years from the day of their respective sales; and the lands yet held by the United States are free, and have always been free, of taxation by the said State; nor have the lands of non-residents ever been taxed higher than the lands of the citizens of Mississippi; and the Mississippi and all other navigable rivers in the State have been, and still are, common highways, and free for the use of all the people of all the States of the Union.

The bill referred to the committee provides that the Commissioner of the General Land Office shall, in stating the account between the United States and the State of Mississippi, for the purpose of ascertaining the amount due said State under the 5th section of the act of 1817, include the several reservations under the various treaties with the Choctaw and Chickasaw Indians within the limits of the said State, and allow and pay the said State five per cent. thereon, at the rate or price of one dollar and twenty-five cents per acre, as in case of other sales. The committee have ascertained, by an examination of some of the treaties between the United States and the Choctaw and Chickasaw Indians within the limits of Mississippi, that provisions were made in said treaties for reservations of land for such of the Indians as might choose to remain and cultivate them.

They will refer to the 9th section of the treaty made near Doak's Stand with the Choctaws on the 18th of October, 1820, and which can

be found in the seventh volume of United States Statutes at Large, at page 212; also, to the 14th section of the treaty at Dancing Rabbit Creek, made with the same tribe, which will be found at page 335 of same volume. They also refer to the 4th article of the treaty of Pontotoc, made 20th October, 1832, between the United States and the Chickasaw tribe, at page 382 of same volume; and to a treaty made with the same tribe at the city of Washington on 24th May, 1834, in which articles 5, 6, 7, 8, and 10 provide for reservations. (See same volume, p. 451.) On all these reservations, secured to the Indians by the treaties aforesaid, or by any others embracing lands within the limits of the State of Mississippi, the committee think the State is entitled to receive the five per cent., estimating them at the minimum price of one dollar and twenty-five cents per acre.

By her compliance with the stipulations of the act of 1817, Mississippi became entitled to five per cent. of the net proceeds of the sales of all the public lands within her limits, and a sale of all of them was manifestly within the contemplation of both governments.

When afterwards the United States, in carrying out their policy with the Indian tribes, made grants of land to them instead of money, we think that it was equivalent to a sale of the land, and the State ought to get five per cent. thereon. We are confirmed in this conclusion by the fact that the last Congress passed a similar law, under a state of facts almost identical, for the benefit of the State of Alabama. We report this bill to the House without amendment, and recommend its passage.