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Lands for education.

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LANDS FOR EDUCATION.

MARCH 18, 1830.

Mr. HUNT, from the select committee to which the subject had been referred, made the following

REPORT:

The Committee appointed on the 19th January last, to inquire into the expediency of appropriating the nett proceeds of the sales of the public lands among the several States and Territories for the purposes of education, in proportion to the representation of each in the House of Representatives, report:

The title of the United States to the public lands is derived from four sources. First, Treaties with foreign powers. Second, Cessions from individual States to the United States on the recommendation of Congress under the old Confederation. Third, Compact with Georgia. Fourth, Treaties with Indian tribes,

By the treaty of peace, concluded with Great Britain in 1783, all the claim of the English Crown to the Government propriety, and territorial rights within the boundaries of this new empire, were relinquished to the United States.

The French Republic, in 1802, by the treaty of Paris, ceded to this Government that immense region of country which was then called the colony or province of Louisiana. And in 1819 the King of Spain conveyed to the United States East and West Florida, with the adjacent islands dependent upon the same.

In 1802 the State of Georgia, by articles of agreement and cession, ceded to the United States all her right and title to the lands which now compose almost the entire States of Mississippi and Alabama.

For a particular statement of the contents of each State and Territory, of the donations and sales of the public lands, and other statistical information, reference may be had to the report of a select committee, made upon this subject at the last session of Congress.

Within the limits of the new States and the three Territories that have been formed upon the public domain, 300,000,000 acres, including the land to which the Indian title has not been extinguished, now belong, as common property, to the United States. Beyond these limits, and comprehending all the region of country from the Gulf of Mexico through the whole width of the continent to the Pacific Ocean, there is the immense amount of 800,000,000 acres more.

The treaty with Great Britain, which acknowledged our independence, was the result of war, undertaken in self-defence, and carried to a success-

ful termination, by a countless expenditure of treasure, of which the funded Revolutionary debt, of \$ 80,000,000, composed but a part, and by toils, sacrifices, and blood, too great to admit of computation. The expenditures on account of the public lands, since the organization of our present Government, are as follows:

Purchase of Louisiana,	-	-	-	\$ 15,000,000
Purchase of Florida,	-	-	-	5,000,000
Contract with Georgia, and paid for the Yazoo claims,	-	-	-	6,200,000
Purchases of the Indian tribes,	-	-	-	5,811,191
Incidental expenses of the sales,	-	-	-	1,578,339

\$ 36,999,191

Soon after the Declaration of Independence, an important question was agitated in reference to that portion of the United States, then wild and unappropriated, called the Western country. Some few of the States claimed it as their own separate property. Others denied the existence of such exclusive rights, and contended that the vacant lands of the West, that might fall from the crown by the united efforts of the people, ought to be regarded as the common property of all the States. They were then considered as a great fund, out of which the debts of the Revolution would be principally paid; and it was declared to be unjust, that certain particular States should engross the whole, to "*replace in a short time their expenditures,*" while the others, contributing equally to the acquisition of this property, and the prosecution of the war, *would be left to sink under the pressure of enormous debts.*" Influenced by a sense of common justice, and in pursuance of the resolution of the old Congress, passed in 1780, the States of Virginia, Massachusetts, Connecticut, and New York, whose claims comprehended the whole territory Northwest of the Ohio river, after making some few reservations, ceded the same to the United States.

In 1787, South Carolina conveyed to the United States all her interest in the lands beyond her present boundary.

Since the adoption of the present Constitution, North Carolina, in 1790, ceded to the Union all that territory beyond the Allegany mountains which now forms the State of Tennessee, subject however to so many extensive claims, previously derived from that State, that the Government has realized no benefit from sales.

All the cessions conveyed to the United States the right of soil as well as jurisdiction to the territory granted, and declared, in terms similar to the language made use of in the cession of Virginia, whose title assumed to cover the whole Northwestern territory, that "*the lands so ceded, shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become members of the Confederation, or federal alliance of said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose and no other.*"

The domain thus vested in the United States, was upon no contingency or event to revert back to the States making the cessions, or to become the separate property of individual States. It was expressly made a *common fund*, and a trust and authority were reposed in Congress for two general purposes.

First: The formation of new States upon the territory ceded, and their admission into the Union.

Second: The sale and disposal of the lands by Congress, for the general use and benefit of all the States.

The territories purchased of France and Spain, by the money drawn from the public treasury, are equally the common property of the nation, although they are not held upon such express trust or condition as is contained in the cessions. Whether acquired in one way or the other, the Constitution of the United States is applicable to the whole, and the general legislation over them has ever been the same.

It has been asserted by some individuals, especially of late years, that the admission of new States into the Union, extinguishes the right of the General Government to the public domain within their limits; and exposes the land to immediate seizure by the individual States, as their own exclusive property. This extraordinary doctrine, which goes at once to destroy the long established title of the United States to their most valuable territory, is, in the opinion of the committee, so manifestly unjust and groundless, as to require no general discussion or elaborate argument to refute it; and they will, therefore, merely take occasion to refer to a single section of the Constitution, and to one of the compacts entered into by the States.

As fast as the population would admit, new States have been created upon the public domain, both within and out of the Northwestern Territory, with all the political rights of the original States; and, upon their admission into the Union, they have agreed, by express compacts, that *their Legislatures should never interfere with the primary disposal of the soil, nor with any regulation Congress might find necessary for securing the title in such soil to the bona fide purchasers.*

The Constitution, in article 4, section 3, authorizes Congress "to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." The authority here given is over territory as well as all other kinds of property. No difference is made between them. If the property, whether land or personal chattels, belongs to the United States, they must necessarily have the power as proprietor to hold and possess it. And having this power without any limitation, their territorial rights, equally with their rights to the public moneys or other property, may as well exist within as beyond the boundaries of the States. The subsequent part of the above article asserts, that "nothing in this constitution shall be so construed as to prejudice any claim of the United States, or any particular State." The claim or right of the United States to hold and dispose of land in particular States, had been previously declared, especially in the ordinance of 1787, and is here in the most explicit manner, not only confirmed; but all construction or argument drawn from the Constitution, prejudicial to such right, is expressly excluded.

In the exercise of the trust and authority to dispose of the public domain, Congress has directed extensive surveys, to be made into townships, sections, and subdivisions, of the most convenient form, exceeding at this time 150,000,000 acres. The whole quantity that has been sold to the 1st of January, 1830, amounts in round numbers to 22,500,000 acres; for which the sum of 37,145,876 dollars has been received, and paid towards the redemption of the national debt.

Besides this appropriation, which is for the common benefit of every State, Congress has granted one entire section of land, equal to 640 acres,

in each township of six miles square, in all the States upon the national territory, amounting in the whole to upwards of 5,000,000 acres, to be enjoyed forever by the inhabitants of such township, for the use of schools. It has also granted to the same States the salt springs, and one twentieth part of the money arising from the sales of land, for the construction of roads and canals. In addition to these general grants, extensive donations have been made by particular acts of Congress, for colleges, academies, numerous individuals, canals, the improvement of navigable rivers, and for other objects, of local as well as national concern. Gratuities of the public land were formerly made with much caution, and with a sparing hand. Of late, however, a greater liberality has been manifested, and, in the years 1827 and 1828, the donations for internal improvements alone exceeded the amount of sales. Although most of those grants may be for the advancement of useful or national objects, yet, from the nature of the appropriations, they will often be partial in their operation, and confer privileges upon some sections of the country, not equally imparted to others. If the whole of the public domain should be disposed of by special acts of Congress, a great increase of difficult legislation would be incurred, and, with the most patient industry, and purest intention, it would be impossible for Congress to make the apportionments to the different parts of the Union, so as to render equal justice, and give general satisfaction. The committee, however, would not be understood to imply any opinion against the policy or right of making donations, when objects of great interest or of national importance are presented. On the contrary, they admit the power, and approve the policy, of making such grants. In recommending an equal distribution of the money that may hereafter arise from the sales of land, it is not the wish or expectation of the committee to prevent future donations, or diminish the right and privileges of the new States, abridge the power of Congress, or restrain the exercise of any legislation, in reference to the public domain. The distribution, as contemplated, will amount to no more than a mere transfer of the proceeds of sales now appropriated to redeem the public debt, when no longer required for that purpose, directly to the individual States, for their common use and benefit, still leaving to Congress the same power and discretion of making grants and donations, which it has ever before exercised.

In regulating the sales of the public land, the price has ever been regarded as a subject of great delicacy and importance. Whether it is now too high or too low, or should be graduated in future, the committee would not undertake to express any opinion. Some sentiments have been advanced, that a liberal policy should induce Congress to reduce the price to a very low rate, for the benefit of the new States, and even to grant the lands without any consideration, to all who might be induced to take possession, for the purpose of cultivation. The committee are fully of the opinion that the public domain ought not to be regarded as a source of great revenue; yet, it cannot be given away to individuals, nor even in any partial manner, without violating the vested rights of the States, and the trust that is reposed in the General Government. The price ought never to be so high as to obstruct emigration, and cramp the vigorous growth of the West, or reduced so low as to encourage speculation, or depress materially the value of land heretofore purchased, or the general agricultural interests of the country; but fixed at that moderate standard which shall render the acquisition of farms easy to all persons of small means and common industry, and secure the settlement of the new lands as fast as the increase of population will admit.

The following statement will show, that, for the last seven years, the uniform and rapid increase of sales, has equalled, and probably surpassed, the progress of population, although large donations have been made within the same period. It will also appear that the average amount paid for the lands, including the auction as well as private sales, has exceeded but a mere trifle the lowest Government price of \$1 25 per acre.

Years.	Acres of land sold.	Purchase money.	Incidental expenses of the sales.
1823	653,319	\$ 850,136	\$ 71,812
1824	749,323	953,799	74,621
1825	893,461	1,205,068	72,892
1826	847,996	1,127,500	111,212
1827	926,727	1,318,006	121,281
1828	965,606	1,221,357	95,765
1829	1,240,820	1,556,122	95,127

Estimating the sales of the land for the year 1831 at the moderate quantity of 1,100,000 acres, at the minimum price, and the representative numbers of the United States at 12,000,000, the result will give upwards of \$10,000 to each 100,000 inhabitants; and judging from the operation of the past, we have confidence in the belief, that, for many years, and perhaps centuries to come, the public territory will yield an income, increasing with the growth of population, and allow of the customary grants to new States, and liberal donations to objects of general interest and importance.

A great inequality exists between the resources of the individual States and of the General Government. As the latter possesses the exclusive right of indirect taxation by duties upon imports, its Treasury may always be abundant, while the means of the former, depending almost entirely upon direct taxation, will be small and limited. If the separate States should realize the proceeds of the future sales, for the purposes indicated in the resolution, a sensible relief would be afforded to their burdens, and a new interest created, flowing from the diffusion of intelligence to strengthen the bonds for the preservation of the Union.

The numerous donations of public land for the purpose of education, and the appropriations of the road and canal fund to the new States, being a part of the proceeds of sales, have long been considered by different administrations as the exercise of power authorized by the Constitution. If Congress can make direct grants of land to literary institutions or to individual States, the power of granting the money arising from the sales, would seem to be necessarily implied. The present resolution calls for no power of Congress which has not always been exercised, neither does it involve the right and policy of raising money by taxation, and transmitting the same to the States; but merely requires the equitable distribution of the proceeds of a common fund, already belonging to the people. The Constitution, which *authorizes Congress to dispose of the territory belonging to the United States*, gives an express power over the public domain, and implies the power to sell and to receive the purchase money, and the consequent power to grant and appropriate the same for all purposes authorized by the Constitution.

Opinions have been expressed by some, that the lands are pledged for the payment of the national debt, and that, therefore, the proceeds cannot be applied to other objects till the whole of that debt is extinguished. By a reference to the laws upon this subject, it will be found, that it is the *faith* of the Government, and not the land or other specific property, which is pledged for the redemption of this debt. If the land itself had been pledged, how could the millions of acres have been granted for military bounties and for other purposes, without violating the rights of public creditors, which it is presumed has never been done? The provision that is made for the discharge of the public debt, called the "Sinking Fund," consists of nothing but the mere appropriations of money derived from different sources of revenue, and is founded entirely upon acts of Congress, which may at any time be modified or repealed, and a new fund, arising from other sources of revenue, be substituted; and so long as any provision is made sufficient to fulfil the engagements of Government, the plighted faith of the nation will remain inviolate. By the act of the 4th of August, 1790, the public land itself is not pledged, but the *proceeds of the sales are appropriated towards sinking and discharging the debts of the United States.* In like manner the duties on stills and distilled spirits, among other things, were appropriated towards effecting the same object; yet, in 1802, and while a large portion of the debt was in existence, those duties were repealed. By the act of the 3d of March, 1817, all former laws of Congress, making appropriations for the reimbursement of the principal or payment of the interest of the public debt, were expressly abolished, and a new sinking fund, amounting to not less than \$10,000,000 per annum, was created. The appropriations for this new fund were from "the proceeds of the duties on merchandise imported, on the tonnage of vessels, from the proceeds of the internal duties, and of the sales of the Western lands," and also from surpluses of revenue. At the next session of Congress succeeding this act, one of the sources of revenue was entirely extinguished by the act abolishing the internal duties; and cannot the same power abolish either of the other sources of revenue, or, if policy require, direct the income arising from the same to purposes other than that to which it is now appropriated?

The national debt, however, has become so reduced, that the whole of the sinking fund will not be necessary, beyond the present year, for its redemption. The real amount of the funded debt on the 1st of January,

1830, was	\$ 41,522,869 00
From this may be deducted the debt, consisting of stock bearing an interest of only three per cent. redeemable at the pleasure of Government, the market value of which is now so high that it cannot be purchased at the rate limited by the existing law, consisting of	13,296,249 00

Balance	\$ 28,226,620 00
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Of this balance,	
there will be due, and redeemable in 1830, only	\$ 8,017,695 00
1831	6,018,900 00
1832	2,227,364 00
1833	2,227,364 00
1834	4,735,297 00
	<u>\$ 28,226,620 00</u>

The amount of the sinking fund which was applied to the payment of the public debt in 1829, was \$12,405,005.

Under the continuance of the present system of duties, it may be safely estimated that it will not hereafter be less than \$12,000,000 per annum. From a mere inspection of these facts, it is manifest that the fund will soon accumulate, and a large proportion remain idle in the Treasury, unless the revenue is reduced, or, in part, appropriated to new objects.

As the proceeds of the sales can be required but a short time longer for the redemption of the public debt, and may even now be dispensed with, some provision becomes necessary for their disposal hereafter. Before any appropriation was made for the national debt, the lands in the western country belonged to the individual States. Their interest still continues, and Congress, now holding their property in trust, is bound in good faith to dispose of it for their common use and benefit.

The cessions from all the States, except Virginia and North Carolina, declare generally, that the territory granted shall be for the use and benefit of the United States, and such States as may become members of the federal alliance, and for no other purpose whatever. The cessions of Virginia and North Carolina further direct, that the land conveyed shall be for the use and benefit of the States, according to their several respective proportions in the general charge and expenditure. At the time of these cessions, which were made under the old Confederation, except that of North Carolina, Congress possessed no power of raising a revenue by taxation, but merely made requisitions upon the different States for their respective proportions of the general charge and expense. By the 8th article of the Confederation, these proportions were to be determined by the value of land, thereafter to be estimated. No valuation, however, was ever taken, and Congress was obliged to make arbitrary apportionments, founded, as must be presumed, upon the best estimate of property and the persons capable of rendering assistance to the country. In 1783, a resolution was passed recommending that the proportion of charge and expense should be determined by the *number of inhabitants, including those bound to servitude for a term of years, and three-fifths of all other persons, except Indians not paying taxes.* This is the precise rule which was after incorporated into the Constitution for the apportionment of direct taxes and representatives among the States. In the year succeeding this resolution, Virginia made her cession; and after the adoption of the Constitution, in 1790, North Carolina did the same. It may be presumed that these States had reference to the above principle for ascertaining the respective proportions of charge and expense; and, of course, the interest in the land ceded, to which each State was entitled. The committee believe that such was the expectation of the parties, and that, when the distribution of the proceeds is made, it should be upon that principle. The rule may be applied with equal justice and propriety to the whole of the public domain. It is founded upon the basis of taxation and population; is in accordance with the Constitution; and, if the money is applied to the promotion of education, it will distribute the same to the different States and Territories, according to the number of persons to be educated, and the general expense of instruction.

The adoption of the population upon which representation is founded, instead of the number of Representatives in this House, as the guide of distribution, is perfectly consistent with the principle of the resolution, and will prevent any loss or inequality in the different States, particularly the small ones, that may result from fractions in the representative numbers.

The committee propose that the general distribution be founded upon the next census to be taken; that it go into operation on the 1st of July, 1831, and be regulated thereafter by every decennial enumeration. As the relative increase of population in the new States, upon the public domain, will be more rapid than in the old ones, they recommend that, for their benefit, an enumeration be taken at the end of five years succeeding each general census.

In relation to the application of the money arising from the public lands, the committee are well satisfied that, if it be limited to any single object, the permanent and general diffusion of intelligence being so important, not only to the prosperity and honor of the country, but essential to the very existence and preservation of our republican institutions, that it presents the first and strongest claim to the attention and patronage of Government. The promotion of other objects, however, are of so great and general importance, that it is worthy of consideration whether some latitude of discretion should not be entrusted to the Legislatures of the different States, to select objects interesting to themselves, to which their portion of the revenue might, in whole or in part, be applied. As the resolution is limited to education only, the committee recommend the accompanying bill for that purpose.