by the company under sanction of the act of Congress on that subject, and that the mortgage conveys the legal title out of the United States, so that her rights can no longer be interposed to protect them from taxation.

It is not necessary to go into the merely technical question whether the legal title passed from the United States by virtue of that mortgage and the act of Congress which authorized it, nor whether, if it ever becomes necessary to foreclose that mortgage, the rights of the United States in the land would be divested by the proceeding, because we are satisfied that the United States, until she conveys them by patent or otherwise, has an interest, whether it be legal or equitable, which the State of Nebraska is not at liberty to divest by the exercise of the right of taxation.

Under these views we are of opinion that the State had no right to tax the lands for which the cost of surveying had not been paid, and for which no patent had been issued; and as the decree of the Circuit Court was made in conformity with these principles, it is

AFFIRMED.

HUNNEWELL *v.* CASS COUNTY.

1. Under the act of July 2d, 1864 (13 Stat. at Large, 364), which gave to the Burlington and Missouri River Railroad Company every alternate section of the public lands, to the amount of ten alternate sections per mile on each side of the road on the line thereof, but enacted in its twenty-first section that "before any land granted by this act shall be conveyed to the said company there shall first be paid into the *Treasury of the United States* the *cost of surveying, selecting, and conveying* the same by the said company," it is not clear what the "cost of conveying" is, no statute known to the court authorizing a charge or fee for issuing a patent. Nor is it clear whether, under the terms the "cost of selecting and conveying," the fees of $1 for each final *location* of one hundred and sixty acres, given to *registers and receivers* by the act of Congress of July 1st, 1864 (13 Stat. at Large, 365), is meant or not.
2. Nor under the General Statute 907, of the State of Nebraska, is it plain what is the latest day at which by the laws of that State the right to assess lands for taxation can be exercised for any given year.

Statement of the case.

3. In this state of uncertainty as to the exact meaning of the statutes, Federal and State, and in the absence of any decision by the State court as to the meaning of the State statute, and of any long and well-settled practice under it, this court refused to enjoin county officers in Nebraska from levying a tax laid under State authority, on lands granted by Congress to a railroad company, in a case where the ground on which the prayer for injunction was based was that the registers' and receivers' fees, which the complainant assumed to be the "costs of selecting and conveying," mentioned in the act of Congress, had not been paid until a few days after the time when the complainant, on his construction of the act of the State above mentioned, assumed was the last day on which taxes could be laid, and when all those claims of the Federal government were satisfied before half the current year for which the taxes were levied had expired, and patents for the lands had issued, before the bill praying the injunction was filed.

APPEAL from the Circuit Court for the District of Nebraska.

Hunnewell, for himself and others, citizens, all, of States other than Nebraska, filed a bill in the court below against Cass and other counties of the State of Nebraska, their treasurers, and the Burlington and Missouri River Railroad Company, to obtain an injunction on the said treasurers, to prevent their collecting State and county taxes which had been levied on certain lands granted to the said company by an act of Congress. He alleged himself and the others to be stockholders in the company; that the lands on which the taxes had been assessed were not liable to taxation under State authority; that the company was about to pay these taxes notwithstanding that he had made a protest and remonstrance against their so doing. The bill prayed relief as above said by injunction.

The case, divested of parts of it disposed of in principle by the case of *Railroad Company* v. *McShane*, just reported, and therefore not necessary to be presented, was thus:*

* In this case, as in *Railroad Co.* v. *McShane*, referred to in the text, the objection was taken that the lands were or might become, within three years from the completion of the road (A. D. 1872), subject to the pre-emption clause of the 3d section of the original act of 1862, *supra*, p. 445; the railroad company assuming that the grant to it, because it was found in the act of 1864 (which act was confessedly "amendatory" of the act of 1862), was

Statement of the case.

An act of Congress, approved July 2d, 1864,* by which the Burlington and Missouri River Railroad Company, a corporation created by the laws of Iowa, was authorized to extend its road through Nebraska, from a point on the Missouri River to another point on the Pacific railroad, so as to connect with it, thus enacted:

"SECTION 19. That for the purpose of aiding in the construction of said road, there be and hereby is granted to the Burlington and Missouri River Railroad Company, every alternate section of public land, . . . designated by odd numbers, to the amount of ten alternate sections per mile on each side of the said road, on the line thereof, and not sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed."

By a subsequent section, whenever the company had completed twenty consecutive miles of its road, in a manner prescribed, the President of the United States was to appoint commissioners to examine and report to him relative thereto; and if it should appear to him that twenty miles of the road had been properly completed, then, upon certificate of said commissioners to that effect, patents were to issue conveying the right and title to the lands to the company on each side of said road as far as the same was completed. And such examination, report, and conveyance by patents, was to continue from time to time, in like manner, until the road should be completed.

The act went on in its twenty-first section thus:

"SECTION 21. Before any land granted by this act shall be conveyed to the said company . . . there shall first be paid *into the Treasury of the United States* the cost of *surveying, selecting, and conveying* the same by the said company, . . . which

governed by that clause. The court below, however, held that proposition to be one not sound. After the decision in *Railroad Co.* v. *McShane*, the question whether it was or not became, of course, of no importance, since if it were so governed, the fact would, under the decision there made, be no ground of exemption.

* 13 Stat. at Large, 364.

amount shall, without further appropriation, stand to the credit of the *proper account*, to be used by the Commissioner of the General Land Office, *for the prosecution of the survey of public lands along the line of said road.*"

The road of the Burlington and Missouri company was completed for the purpose of this case, we may consider, in the spring of 1872. In that year, the *first* day of April fell on Monday.

The costs of *surveying* the lands which the county treasurers had sought to tax, were paid on the *seventh* day of March; and the fees of the register and receiver of the land office—which *fees the complainants alleged to be the "cost" of "selecting and conveying,"* which, with the cost of surveying, *the above-quoted twenty-first section enacted should be paid into the treasury, "before any land granted by the act should be conveyed to the company,"*—were not paid until the 19th and 20th of April, which days, as happened in 1872, were respectively the *third* Friday and Saturday of the month; the third Monday (as the month came in on Monday) having been the 15th.

The complainants now, citing a statute of Nebraska, which they stated governed the subject, alleged that the time to which all assessment, for taxation of lands in the State related, was fixed by the statute on the first day of March, in each year; and that if the lands were not taxable on that day, they were not taxable at all for that year; that if this were not true, yet that no land could be taxed for any year which was not liable to taxation when the power of certain "precinct assessors," mentioned in the statute, expired after their meeting on the *first Monday of April* (prescribed by the statute), for the purpose of equalizing the assessment, or, at the latest, after the session of the county commissioners which the statute fixed for the *third Monday of April*, and which third Monday in April, 1872, was, as already stated, Monday the *fifteenth* of the month.

The facts of the case and the positions just stated involved, therefore, two questions:

1. Whether under the statutes of Nebraska the assessment, &c., had been in time?

2. Whether the fees of the register and receiver, which had been paid on the third Friday and Saturday (the 19th and 20th) of April, were the "costs" of "selecting and conveying the lands" which the twenty-first section of the act of Congress enacted should, with the cost of surveying, be paid before the lands should be conveyed to the company?

As to the first point, the only statute of Nebraska referred to by counsel on either side, or which was suggested from any quarter as bearing on the question, was one, as follows:

"GENERAL STATUTE 709.

"SECTION 26. The precinct assessors of each county shall meet at the office of the county clerk, on the first Monday of April of each year, for the purpose of equalizing the assessments, and shall return their lists to the county clerk on or before the second Monday of the same month.

"SECTION 27. The county commissioners of each county shall constitute a board of equalization for the county, and said board, or any two of them, shall hold a session of at least three days, at the county seat, commencing on the third Monday of April in each year, for the purpose of equalizing and correcting the assessment roll in their county."

By section twenty-eight the county clerk is directed to make out and transmit to the State auditor an abstract of these matters, as settled by the board of county commissioners, on or before the first Monday of May. On the fourth Monday in May the governor, State auditor, and treasurer are to meet as a State board of equalization, and to decide upon the rate of the State tax, State school tax, and sinking fund tax for the current year.

The auditor is then to transmit this result to the county clerks on or before the second Monday in June, and on the first Monday in July the county commissioners are required to meet and levy the necessary taxes for the current year.

By section fifty-two it is declared that taxes upon real property shall be a perpetual lien thereupon, commencing from the 1st day of March of the current year, against all persons and bodies corporate, except the United States and the State of Nebraska.

Statement of the case.

By section fifteen all personal property is to be listed, assessed, and taxed in the county where the owner resides on the 1st day of March, but if the owner resides out of the State it is to be listed and taxed where it may be *at the time of listing*.

As to the second matter, whether the fees of the registers and receivers were or were not "costs of selecting and conveying the lands," within the meaning of the twenty-first section, the act of Congress, the only statute cited on either side, was one of July 1st, 1864, as follows:*

"*An Act to regulate the compensation of registers and receivers of the land offices in the several States and Territories, in the location of lands by States and corporations under grants from Congress.*

"In the location of lands by States and corporations, under grants from Congress for railroads and other purposes, . . . the *registers and receivers* of the land offices of the several States and Territories in the districts where such lands may be located, for their services therein shall be entitled to receive a fee of $1 for each final *location* of one hundred and sixty acres, to be paid by the State or corporation making such *location*, the same to be accounted for in the same manner as fees and commissions on warrants and pre-emption *locations, with limitations as to maximum of salary prescribed by existing laws*, in accordance with such instructions as shall be given by the Commissioner of the General Land Office."

The court below dismissed the bill. It said in its opinion:

"The fees to the registers and receivers of the local land offices, under the act of July 1st, 1864, are not embraced within those required to be paid by the twenty-first section of the act of 1864. These are fees for 'location,' not for 'selecting' and 'conveying' the land.

"But again, it may be remarked that the cost of surveying was paid in time to make the lands taxable; the work of selecting the lands was done by the company without, so far as shown, any expense to the government, and for the cost of con-

* 13 Stat. at Large, 335.

veying it does not appear that the government makes or has any claim."

From the decree of dismissal the complainants took this appeal.

Mr. J. M. Woolworth, for the appellants:

I. In *Railway Company* v. *Prescott*,* this court held, that until the payment by the company of costs of "surveying, selecting, and conveying" the lands, they were not liable to taxation. Though another point in that case has been questioned as not perhaps perfectly well considered,† this point has been received by all as well founded.

Now, we say that, in this case, those costs have not been paid.

1. Our position is that the fees of the register and receiver were the "costs of selecting and conveying" the lands mentioned in the twenty-first section of the act of Congress, because:

a. The statutes nowhere provide for the payment of any other expenses connected with the selection and conveyance of lands granted to railroads.

b. The surplus, after paying those officers the maximum allowed them, is turned into the General Land Office, to defray the expenses of further surveys.

c. While the term used in one act is "location," and in another "selection," each when applied to railroad grants means the same thing. The act making a grant to a railroad company, as in that to this company, always locates the grant and selects or designates the lands; but by reason of conflict with pre-emption and homestead rights, and other grants, a process, more or less complicated, is gone through with, which is properly described by either term.

2. The costs of patenting the lands were certainly "costs of conveying" them, none of which, of course, were paid until after the other costs.

* 16 Wallace, 603.

† On that point it had now been just overruled. See preceding case.—REP.

Argument in favor of the exemption from taxation.

3. The revenue law of Nebraska fixes no day at which the fiscal year begins, nor does it, in terms, fix a day at which the owner of real estate becomes taxable in respect thereof. But section fifty-two of the General Statute 709, designating the 1st of March at which taxes become a lien, does impliedly fix that as the day at which the owner is liable for taxes thereon. If on that day lands are not taxable, they are not so at all for that year. Now, on the 1st of March, 1872, this company was not taxable in respect of these lands.

4. But if this be not so, certainly the process of assessment having been concluded on the first Monday in April (which in 1872 was the first of the month), after which day the lands were selected, and all the costs of selection and conveyance paid, these lands were not taxable to this company for that year.

a. The assessment of property is the essential prerequisite to a valid levy of taxes thereon.*

b. The rule is general and imperative, that assessments can be made only when and as the statute prescribes.†

c. And the assessment must be made within the time limited therefor.‡

d. Property not taxable at the day the assessment closes, is not taxable at all.§

II. In *Railway Company* v. *Prescott*, this court says:

"While we recognize the doctrine heretofore laid down, that lands sold by the United States may be taxed before they have parted with the legal title, by issuing a patent, it is to be understood as applicable to cases where the *right* to the patent is com-

* Parker *v.* Overman, 18 Howard, 137; Ferris *v.* Coover, 10 California, 589, 137.

† Whitney *v.* Thomas, 23 New York, 281, 285; Cruger *v.* Dougherty, 43 Id. 107, 118; The People *v.* Goff, 52 Id. 434, 436; Torrey *v.* Millbury, 21 Pickering, 64, 67.

‡ Thames, &c., Co. *v.* Lathrop, 7 Connecticut, 555; Williamsport *v.* Kent, 14 Indiana, 306; The People *v.* Goff, 52 New York, 434; Marsh *v.* Chesnut, 14 Illinois, 223; Ludlow *v.* Willich, 1 Cincinnati, 315.

§ Mygatt *v.* Washburn, 15 New York, 316; Clark *v.* Norton, 3 Lansing, 484; Same Case on appeal, 49 New York, 248.

plete, and the equitable title is fully vested in the party without anything more to be paid, or any act to be done, going to the foundation of his right."

Even if we are wrong in insisting that the register's and receiver's fees were to cover the costs of selecting the lands, yet until the 19th day of April, 1872, this company had not a complete right to a patent, nor was the equitable title fully vested in it, because:

1. The twenty-first section of the act of Congress required the payment of these fees before the lands could be located, and the first step in that behalf was the certificate from the local to the General Land Office; so that more did remain to be paid until that day.

2. At that day, too, "an act remained to be done, going to the foundation of the right" to the patent, namely, the location of the lands, which act was begun when the local land officers certified the lists made by the company's agent, and was concluded either when the lists were made by the commissioner or approved by the secretary.

The process of locating railroad grants is traceable in the recitals in the lists and patents, and is as follows:

(1.) The company makes its selections, which appear on its original lists filed in the local office.

(2.) These lists being corrected, are certified by the local to the General Land Office.

(3.) These lists are approved successively by the commissioner and secretary, after proper examinations and corrections made by them.

And it is not until all this process is concluded that the right becomes fixed, for not until then is any one quarter section definitively ascertained to be the company's. Here, while no list was certified by the local officers before April 19th, several, we may state as a matter of fact, were not certified until long afterwards; some, indeed, not until after the levy of the taxes in July.

Mr. Clinton Briggs, contra:

It is argued on the other side, that because the costs of

Argument in favor of the right of taxation.

surveying (paid March 7th, 1872), and the register's and receiver's fees (paid April 19th and 20th following) were not paid a few *days* earlier, the lands were not taxable.

The State law does not in terms fix the time in which property shall be assessed. The assessment roll is to be returned to the county clerk "on or before the second Monday of April."

The board of equalization "shall hold a session of at least three days, commencing on the third Monday of April." After the assessment is equalized and corrected, and before the first Monday of May, the clerk shall make an abstract thereof.

Taxes are to be levied on the first Monday of July.

The position of the other side is that the power of the assessor was exhausted on the 8th of April, and of the board on the 17th of April. According to that theory, the register's and receiver's fees were paid two days or twelve days too late for taxation purposes. If the county officers had control of this matter of assessment as late as April 21st, then these lands were taxable even upon the theory set up.

It is not necessary, however, to base the right to tax these lands upon any calculations in or out of the three, or the eleven days. The case may well rest upon grounds less technical.

1. We assert that the lands were taxable, say on the 1st April, notwithstanding these fees were not yet paid.

The twenty-first section of the act of Congress provides that before the lands shall be conveyed, "the costs of surveying, selecting, and conveying" them shall be paid, "which amount shall . . . stand to the credit of the *proper account*, to be used by the Commissioner of the General Land Office *for the prosecution of the surveys of the public lands along the line of the road.*"

Thus *all* the money paid stands appropriated at the moment of payment to the single purpose of prosecuting surveys along the line of the road.

If there were no unsurveyed lands along the line of the road, what becomes of the money? All these lands were

surveyed prior to 1871. The money, therefore, could not be used for the purpose of prosecuting surveys along the line of the road. The intention of Congress was to make the companies pay for surveying the lands they were to receive; not to reimburse the government for money already expended on surveys.

It would seem that the section could have no application to this grant. In *Railway Company* v. *Prescott* it did not appear that the lands along the line of the road had been surveyed, but the fact was otherwise as respects the Kansas Pacific, as well as the Union Pacific; at least as to the more westerly portions of the lines.

So, we may assert, that the section took effect as to the lands of these two companies, but not as to this grant.

But do the words "selecting and conveying" mean acts of the register and receiver for which they are to receive fees? As to the selecting, it appears that this was done by the company; and, as said by the circuit judge, "without, so far as shown, any expense to the government."

In *Railway Company* v. *Prescott* the stress was laid upon the non-payment of the costs of surveying. Nothing is said about the fees of the register and receiver.

In the case of grants, to which the section applies, the reasons for requiring the payment of the costs of *surveying* are cogent. It may be said that the lands are not fully earned until this is done, though the road be completed and accepted. The lands must, indeed, be surveyed before the grant can attach to them. No one knows which the odd-numbered sections are until they are surveyed. This may be said to be one of the things mentioned in *Railway Company* v. *Prescott* as to be done, because going to the "foundation" of the right to the lands.

But after this payment it would seem that the equitable title was complete, and that what follows relates only to the evidences of the legal title; such as payment of register's and receiver's fees, issuing and recording the patent, &c.

If these views are correct, it follows that the case does not fall within the principles laid down in the case just cited,

and that the twenty-first section of the act of Congress does not contain anything to defeat the right of the State to tax these lands. Indeed, the provisions of these sections were intended to be a burden upon the grants; but if the construction contended for on the other side be correct, they give the companies the most valuable franchise they can possess, immunity from taxation.

This immunity, it is to be observed, does not exist by reason of any statutory law, but if it exists at all it is by virtue of judicial construction. But the rule is firmly established that a statute granting exemptions from taxation shall receive the narrowest construction, when the statute is in the least degree ambiguous. Here, in the absence of any statute, the court is asked to declare the exemption as a matter of inference. In *Christ Church Hospital* v. *The County of Philadelphia*,* in speaking of a tax-exemption statute this court says:

"It belongs to a class of statutes in which the narrowest meaning is to be taken which will fairly carry out the intent of the legislature."

There is no implication in government grants.†

Mr. Justice MILLER delivered the opinion of the court.

The ground of exemption claimed by the bill in this case, so far as not disposed of by the case of *Railroad Company* v. *McShane*, just decided, rests upon the allegation that the costs of selecting, surveying, and conveying the lands had not been paid at the time of their assessment for taxes of the year 1872, these being the taxes in dispute. In regard to this ground, we find ourselves embarrassed by two very troublesome questions, if their solution is essential to a decision of the case, as was assumed in the argument.

1. What is the latest period at which, by the laws of Nebraska, the right to assess lands for taxation can be exercised for any given year?

2. What are the costs of selecting and conveying the

* 24 Howard, 302. † Charles River Bridge *v.* Warren, 11 Peters, 545.

lands of these railroad companies, mentioned in the third section of the act of 1864?

As the latter question is one to be solved by the acts of Congress or by the rules and regulations of the land department, it would seem an appropriate one for a Federal court to answer.

But the lands granted to railroads generally by acts of Congress are the alternate sections on each side of the road within a certain limit, and, therefore, when the surveys are made and the line of the road laid down by protraction through these surveys, the sections and parts of sections are at once determined; and there is no choice or selection to be made.

It is true that by some statutes, and especially by the one granting the lands in question, where it is found that any odd section which would otherwise go to the company has been disposed of or pre-empted, the company may take other lands in place of it, and this it may select within certain distances from the road. But the selection, in such case is made by the company, and it is difficult to imagine what costs the government incurs in the selection which is to be paid by the company "into the Treasury of the United States." These lands thus selected in lieu of others also are such small part of the whole grant that the costs of selection could not amount to much, and the record in the case does not enable us to determine what particular parcels are of this character.

The act of July 1st, 1864, enacts that the register and receiver of the land office in which the lands granted to States and corporations for railroad and other purposes are located, are entitled to receive from such corporations a fee of one dollar for each final location of one hundred and sixty acres, to be accounted for as other fees are, with limitations of maximum salary prescribed by law.

Counsel for the appellant insists that these are the costs of selection referred to in the twenty-first section of the act of Congress of 1864. But those costs were to be paid into the treasury, and these are to be paid to the registers and

receivers. Unless these officers receive fees beyond the maximum salary allowed to them, these fees would not go into the treasury, and certainly are not paid into it by the company, as that act requires the costs to be paid to which it refers.

Again, these fees are to be paid on all the lands located, which may fairly be construed to be all the lands ascertained to belong to the company under a grant, while the costs spoken of in the twenty-first section are the costs of *selection*, which can properly apply only to lands where a choice or option employing exercise of judgment has been used. Still, as these are the only costs or expenses which counsel on either side has been able to suggest as the costs of selecting the lands within the meaning of the statute, it is unsafe to say they are not the costs referred to.

There is equal uncertainty about what is meant by the costs of conveying the lands by the government. The conveyance is by patent, and we have been shown no statute which authorizes a charge or fee for issuing the patent, nor was counsel on either side able to refer us to any such, though both were familiar with the operations of the land department in the West.

Turning from this difficulty to the question of the time to which the taxability of property, real or personal, relates under the laws of Nebraska, we find an equal embarrassment. No decision of any court of that State has been made on the subject. No language of the revenue laws of the State fixes such a time expressly.

The provisions contained in General Act 907* are all the provisions we have been able to find bearing on the question, and they are far from conclusive. In regard to personal property, the first of March seems to be adopted as a criterion to determine who shall pay the tax, and what county shall receive it when it has changed locality or ownership during the year and before the tax is levied. This may also-

* Set out *supra*, pp. 468, 469.—REP.

be the reason of fixing the lien of the tax on land on the same day, that vendor and vendee may have a rule to determine upon whom the burden shall fall. But from this time until the State board of equalization on the fourth Monday in May acts finally upon it, the assessment of property both real and personal is in progress and is incomplete, and the final levy of the tax does not take place until July. In the absence of any day or time fixed decisively by the statute or clearly deducible from it, and of any decision of any court of the State on the subject, or of any long and well-settled practice by the State authorities, we hesitate to say that when land is only exempt from taxation by reason of the claims upon it of the Federal government, and those claims are satisfied before the final proceedings are concluded, it would not be included in that assessment. In such case not half the current year for which the taxes are levied has expired. The general matter of assessment or valuation for taxation is still within the control of the proper officers, and if it is brought to their knowledge that the full ownership of the lands has passed from the United States to individuals or corporations it would seem equitable that they should bear their share of the burden of taxation.

We are the more inclined not to interfere in this case by the extraordinary remedy of injunction, because it is shown that as to all these lands, not only had all dues to the United States been paid before the final action of the State board of equalization, but patents had issued for all of them before this suit was brought. At the time, therefore, of filing this bill to prevent the collection of taxes on account of the interest of the United States in the lands on which they were levied, the United States had no interest in the land which would forbid their being taxed; nor is it clear that they had any when the lands were assessed. The costs of surveying were paid before even the precinct assessors assessed these lands, as they then thought they had a right to do, and it is extremely uncertain whether any costs of selecting or conveying the lands within the meaning of the act of Congress existed or were unpaid.

Statement of the case.

Under all the circumstances, without deciding that there is any particular day to which by the laws of Nebraska the liability for taxation of real estate must always be referred, or if there be, what that day is, we affirm the decree of the Circuit Court dismissing the bill in this case.

DECREE AFFIRMED.

TAYLOR *v.* THOMAS.

After the late rebellion in the Southern States had broken out into war, and the government had blockaded all the Southern ports so as to prevent the shipment of the staples of the South, including especially cotton, from them, the rebel legislature of Mississippi passed (December 19th, 1861) an act authorizing the issue of $5,000,000 in what were called cotton notes; negotiable notes in a form suitable for currency, to be issued by the State in sums of $1, $2, $3, $5, $10, $20, and $100. Owners of cotton were to, in effect, hold it pledged to the government, which thereupon gave them an advance on it in these notes; it being agreed on both sides that after the removal of the blockade, and on a proclamation made to that effect, the cotton should be delivered by the owners, at some seaport or city to be named, and sold; the proceeds of sale to be paid into the treasury of the State, and if sufficient, to be applied to redeeming the notes; and if insufficient the owner of the cotton was to make the *deficit* good to the State.

The notes were made, by the act, receivable in payment of all taxes due or to become due to the State, or to any county, or school fund, or municipal corporation, except a military tax then laid and confessedly in aid of the rebellion; and when received for taxes might be again paid out by the State treasurer upon any warrant of the auditor drawn upon the general treasury.

Held, that notwithstanding the exception as to the "military tax," the notes were to be regarded as issued in aid of the rebellion and were therefore void. And that on the rebellion being suppressed the notes—notwithstanding the provision in the original act about their receivability for taxes—were not receivable in payment of taxes which the reorganized State government directed to be paid in currency of the United States.

IN error to the Supreme Court of Mississippi.

This case involved the question of the validity of certain notes, commonly known as "cotton money," issued and put