

## SETTLEMENT OF THE DEBT DUE THE UNITED STATES BY THE STATE OF ARKANSAS.

FEBRUARY 12, 1889.—Referred to the House Calendar and ordered to be printed.

Mr. McRAE, from the Committee on the Public Lands, submitted the  
following

### REPORT:

[To accompany bill H. R. 3288.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 3288) authorizing the settlement of the debt due the United States by the State of Arkansas, have had the same under consideration and report the same back favorably with amendments.

1. Amend by striking out all after the enacting clause and inserting the following :

That the Secretary of the Treasury be, and he is hereby, authorized and empowered to compromise, adjust, and settle all or any part of the bonded debt of the State of Arkansas due to the United States, or held in trust, upon such terms and conditions as to him may seem best for the United States, after having examined and taken into consideration all the claims of the said State against the United States.

2. Amend the preamble by striking out the word "has" in the fourth line and inserting the words "claims to have."

The debt due from the State, as well as her claims against the United States, are of long standing and to some extent complicated and confused. In the year 1838 the State of Arkansas borrowed the sum of \$538,000 of the Smithsonian trust fund and issued five hundred \$1,000 bonds, redeemable October 26, 1861, and thirty-eight redeemable January 1, 1868. These and eighty-seven \$1,000 other bonds, held for the Indian trust fund, making in all the sum of \$625,000, are owned by the United States, having been paid by appropriations for that purpose.

The Treasurer of the United States holds for the Secretary of the Interior, trustee of the Indian trust fund, one hundred and sixty-eight \$1,000 bonds, issued December 13, 1872, redeemable January 1, 1900, bearing 6 per cent. interest per annum. The State has paid no interest on these bonds since 1874. Since 1844 the Treasury officials, under section 3481, Revised Statutes, have retained all sums that have accrued to the State from all sources whatever to be applied on the said bonds so held, and in that way some interest has been paid.

The State insists that the sums thus retained, with what is fairly and equitably due on her unadjusted swamp-land claim, will more than pay what she owes on the bonds. Estimating the amount for the fiscal year 1888, there has accrued to the State from time to time, as shown by the statement of the General Land Office from the record of adjusted accounts furnished the committee and printed with this report, the sum of \$262,953.18, on account of 5 per cent. of the net proceeds of the sale

of public lands. All of these sums that have accrued since the year 1844 have been held.

The State is entitled to the sum of \$10,307.80 for keeping United States prisoners in the State prison under the order of President Johnson dated February 5, 1867. A copy of the order and the correspondence explaining how this sum accrued has been furnished the committee, and will print it and the letters as a part of this report. There were two installments found due but never paid to the State under the distribution act of September 5, 1841; one June 30, 1842, for the sum of \$4,482.79, and the other July 1, 1842, for \$529.37, making a total of \$5,012.16 also held and should be applied on the bonds of the State.

The State claims large amounts of both cash and land indemnity under the acts approved March 2, 1855, and March 3, 1857. Nothing has ever been allowed on this account. The Department admits that the State has a claim, but the amount has never been officially determined.

The Commissioner of the General Land Office has furnished the committee the statement herewith submitted, showing the area of selected swamp lands sold in the State by the United States, the amount of cash received therefor, and the number of acres located with warrants and scrip for each year since the grant was made. This shows the claim for indemnity.

From this statement it appears that the United States sold 200,750 acres of such land for the sum of \$196,990, and disposed of, for land warrants, scrip, and homestead, 162,080 acres, worth, at \$1.25 per acre, the sum of \$202,600. The State insists that she should be credited with the sums so received as of the years in which the sales were made and allowed \$1.25 per acre for such lands not sold for cash.

The committee does not claim that the items used to make up this sum have been allowed, but it does insist that when the claim is compared with the sums allowed to other States on the same account, that it appears reasonable, and that the State should not, at this late day, be required, under the circumstances, to furnish further proof of the character of these lands, selected more than thirty years ago by the State agents and certified by the surveyor-general. The act making the grant made it the duty of the Secretary of the Interior, as soon as practicable after the passage of the act, to make out an accurate list of the lands granted. No such list was ever made.

The State made its selections properly and promptly, and yet there are still pending before the land department claims for over a million acres of land, besides the claims for indemnity. A copy of the heading and certificate on such lists is filed herewith. By this delay the adjustment of the claims of the State, that it insists should have been applied to the debt due from her, has been so postponed that if allowed it would be absorbed, with interest on her bonds, if the strict rules of law should control in the settlement. The State also insists that she has a right to be credited with five per cent. on lands entered under the homestead laws and located with military bounty land warrants and scrip, estimated at the minimum price for Government lands, \$1.25 per acre. At the time the State was admitted into the Union there was no way of disposing of public lands except by sale or for warrants and scrip. The homestead law had not been passed, and the State, with such a contract as it made, does not think it just that the General Government should be allowed to adopt a policy that will have the effect to diminish the fund upon which she had a right to rely for the payment of the bonds in question.

The greater part of all lands disposed of in Arkansas within the last twenty-five years have been entered under the homestead law. Up to June 30, 1887, as shown by the letter of the Commissioner, the aggregate of such lands taken as homesteads and with bounty warrants and scrip was 7,795,451.02 acres, for which the Government received as fees the sum of \$502,085. Estimating these lands at the minimum price then and now, the State, if her claim should be allowed, would be entitled to the sum of \$487,215.65 more than has been allowed on this account—nearly twice as much as she has been allowed on sales under the present rulings.

The committee are aware that the Supreme Court, in the five per cent. cases in 110 U. S. Reports, 471, has decided that the States are not entitled to the percentage on the value of lands disposed of by the United States in satisfaction of military land warrants; but in view of the very able dissenting opinion of Justice Miller, concurred in by Justice Field, and of the fact that the question of jurisdiction was not passed upon by the court at that time, the State does not regard that case as finally settling the matter. The claim for such a percentage on homesteads has never been before the court, and besides, the personnel of the court has very much changed since that decision was rendered.

But whether the decision is adhered to or not it is hardly just that in a matter of contract like this the United States as one party should insist upon so radical a change in the disposition of the lands, and against the right and objection of the State the other party, insist upon such a strict construction made by their own courts. It ought to be fair and not technical in matters of contract and account like this.

Here is the contract which the Supreme Court in the said decision calls a compact:

The act of June 23, 1836, for the admission of Arkansas (5 Stats., p. 58), says that in lieu of the propositions submitted to Congress by the Territorial convention, which are rejected, the following propositions are hereby offered to the general assembly of the State of Arkansas for their free acceptance or rejection, which, if accepted, shall be obligatory upon the United States. They were formally accepted by the general assembly. So the propositions were the result of a negotiation. It was a fair contract, entered into between parties authorized to contract. The third item of the contract is as follows:

*“Third.* That 5 per cent. of the net proceeds of the sale of lands lying within the said State, and which shall be sold by Congress, from and after the 1st day of July next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals within the said State, under the direction of the general assembly thereof, \* \* \* *Provided,* That the five foregoing propositions herein offered are on the condition that the general assembly or legislature of the said State, by virtue of the power conferred upon it by the convention which framed the constitution of the said State, shall provide by an ordinance irrevocable without the consent of the United States, that the said general assembly of said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty land granted, or hereafter to be granted, for military services during the late war shall, whilst they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents, respectively.”

It would appear from this that the State has the right to tax all the lands of the Government as soon as disposed of and has other rights as to the disposal, but in consideration that she would agree by an ordinance, irrevocable without the consent of the United States, not to interfere with the primary disposal, nor tax non-residents higher than residents, nor to tax the property of the United States, nor lands granted for military services for three years after the date of the patents, either for State, county, or township purposes, there shall be paid to the State 5 per cent. of the net

proceeds of the sale of lands lying within the said State, and which shall be sold by Congress from and after the 1st day of July, 1836.

Land warrants were receivable for public lands at \$1.25 per acre. The homestead was granted to all settlers who are qualified, upon the payment of certain fees and five years' continuous residence and cultivation upon the lands. This was a wise and proper policy for Congress, but the same necessity for public roads exists in a country settled under the homestead law as one settled under the pre-emption or graduation laws. It is now admitted that it is the best disposition to make of public lands, but the State should not be cheated out of the 5 per cent. of the value which she had contracted for and had a right to expect. Many of the Western States settled prior to the passage of the homestead law, or principally under the pre-emption law, have received large sums on such sales.

For many years the State officials and the Senators and Representatives in Congress have been trying earnestly to get passed through Congress some measure authorizing a settlement, but no act has been passed through both houses.

One of the first bills upon this subject was introduced in the Senate by Senator Garland, October 25, A. D. 1877. The text of the bill is as follows:

A BILL authorizing the Secretary of the Treasury to adjust and settle the debt due the United States by the State of Arkansas.

Whereas the State of Arkansas, by her proper authorities, is now taking steps to compromise, adjust, and settle with her various creditors her bonded indebtedness; and

Whereas a large portion of that indebtedness is due the United States, and the same is now of long standing: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and empowered to enter into negotiations with such proper authorities of the State of Arkansas, with a view of compromising, adjusting, and settling such debt; and he is further authorized and empowered to compromise, adjust, and settle the same upon such terms and conditions as he may deem just and right after having examined into all the facts in relation thereto.

This bill was, on the 10th June, 1878, favorably reported to the Senate, and afterwards passed that body with an amendment. In the House it was referred to the Committee on Ways and Means and was never acted upon. This is the only bill that ever passed either House.

The Hon. W. F. Slemons, on the 18th day of December, 1879, introduced in the House the following bill (H. R. 3054), which was understood to reflect the wishes of the State authorities at that time, and has almost ever since been pending in either the House or Senate. It was just, and ought to have been passed, but it has never had the approval of the Interior Department, and was not strong enough to pass without it.

The Hon. L. C. Gause introduced the following bill in the House of Representatives October 29, 1877. It was read twice, referred to the Committee on the Public Lands, and ordered to be printed, as follows:

A BILL granting indemnity to States for swamp-land sold by the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all selections of swamp and overflowed lands granted to the several States by the act of Congress approved September twenty-eighth, eighteen hundred and fifty, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp-lands within their limits," and the act of the second of March, eighteen hundred and forty-nine, entitled "An act to aid the State of Louisiana in draining the swamp-lands therein," heretofore made and reported to the Commissioner of the General Land-Office, be, and the same are hereby, confirmed, and shall be approved and patented to the said several States, in conformity with the provisions of the act aforesaid, as soon as may be practicable after the passage of this act: *Provided, however,* That nothing in this act shall interfere with the provisions of the act of Congress entitled "An act for the relief of purchasers and locaters of swamp and over-



flowed lands," approved March second; eighteen hundred and fifty-five, extended by an act approved March third, eighteen hundred and fifty-seven, entitled "An act to confirm to the several States the swamp and overflowed lands selected under the act of September twenty-eighth, eighteen hundred and fifty, and the act of the second March, eighteen hundred and forty-nine," and the same is hereby continued in force, and extended to all entries and locations of swamp and overflowed lands made since its passage.

SEC. 2. That where the field-notes of any survey made under direction of the United States Government describe the character of the land, they shall be taken as conclusive evidence of its character at the date of said grant, and, in the absence of such description, proof may be made in the same manner as is now prescribed by the Secretary of the Interior for taking indemnity proof. The amounts due the several States the Secretary of the Interior shall cause to be paid over to the States respectively, or to the officers thereof properly authorized to receive the same.

SEC. 3. That this act shall take effect and be in force from and after its passage.

There was no action on this bill either in the committee or House.

Mr. Slemons, by unanimous consent, introduced the following bill in the House of Representatives December 18, 1879:

A BILL for the adjustment of the claim of the State of Arkansas against the United States.

Whereas the United States holds in trust for the benefit of the fund of the Smithsonian Institution five hundred thirty-year bonds of the State of Arkansas, of one thousand dollars each, issued in eighteen hundred and thirty-eight, and bearing six per centum interest; and

Whereas no interest has ever been paid on the principal except such sums as have been retained by the United States due the State on account of the five per centum fund arising from the sale of the public lands; the principal is overdue, which, added to the unpaid interest, amounts in the aggregate to about one million eight hundred thousand dollars; and

Whereas it is claimed that the United States is indebted to the State of Arkansas in the sum of about seventy thousand dollars in money and land scrip as indemnity on account of swamp and overflowed lands sold; and

Whereas, in addition to said indebtedness, it is claimed that there are due from the United States to the State of Arkansas several hundred thousand acres of land under the act of Congress approved the twenty-eighth of September, eighteen hundred and fifty, granting to said State the swamp and overflowed lands therein, some of which have been disposed of by the United States to private individuals, and others erroneously patented to certain railroad companies under subsequent grants: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to appoint one person who, in connection with another who may be appointed by the governor of the State of Arkansas, may appoint a third, who shall constitute a board of commissioners to examine each conflict, and wherever a tract of land is ascertained to have been swamp or overflowed at the date of the grant, according to the meaning of the act, they will so note the same. If it be ascertained that said tract has been sold by the United States to a private individual, then the purchase-money shall go to the State. If said land should prove not to have been swamp or overflowed at the date of the grant they shall note that fact.

SEC. 2. They will also examine into the character of each tract of land, claimed by the State under said grant, which has been certified or patented to any railroad company under subsequent grants, and wherever the same is ascertained to have been swamp or overflowed land at the date of the grant they will note that fact, and if patents have not been issued to the company for the same the Secretary of the Interior, on the report of said commissioners, is authorized and directed to issue patents to the State. Where patents have already been issued, the State shall be allowed an equal amount of other public lands within said State in lieu of the lands so erroneously patented.

SEC. 3. When the commission completes its work a full report shall be made to the Secretary of the Interior, who shall certify to the Secretary of the Treasury the amount of money ascertained to be due the State of Arkansas from the United States on account of lands sold to private individuals, and said Secretary of the Treasury is hereby authorized and directed to surrender to the agent of said State an amount of the bonds and coupons of said State held by the United States sufficient to cover the amount so certified to him. The Secretary of the Interior is hereby directed, also, to give patents to said State for all lands reported to be swamp and overflowed, which have not been heretofore patented, and which were selected as such. The report of said commission shall be a final determination of the questions at issue.

SEC. 4. In determining the character of the land the commissioners are authorized

to use the field notes of the public surveys, and to summon and examine such witnesses and other evidences as may be deemed necessary to determine the fact. They are authorized to employ a clerk and a messenger, the latter being authorized to serve all subpoenas of said commission.

SEC. 5. The three commissioners, when selected, shall organize by the election of one of their members president, who is authorized to administer oaths and sign all papers in behalf of the commission, as such president, attested by the clerk. The final report of said commission shall be signed by a majority of the board. Should there be any disagreement among the members of the board as to the character of any particular tract of land, then the majority shall determine the question. The clerk shall keep a bound record of the proceedings of the board, which, together with the final report, shall be deposited with the Secretary of the Interior.

SEC. 6. The commissioners and the officers under them shall take the usual oath of office, which shall be filed with the Secretary of the Interior. For compensation they shall be allowed ten dollars each per day, the clerk six dollars per day, and the messenger four dollars per day. Witnesses who are summoned to appear before the commission shall be allowed two dollars per day and five cents per mile for each mile traveled in going to and returning from the place of meeting. The cost of said commission shall be equally divided between the United States and the State of Arkansas, the part of the latter to be deducted from the amount ascertained to be due to the State from the United States.

SEC. 7. A sufficient sum of money, out of any moneys unappropriated in the public Treasury, is hereby appropriated to carry into effect the provisions of this act.

The merits of this bill were ably presented to the House by the Hon. P. Dunn, in a well-considered report, made by him from the Committee on the Public Lands April 6, 1880. The report is as follows:

[Report to accompany bill H. R. 3054.]

The Committee on the Public Lands, to whom was referred bill H. R. 3054, having had the same under consideration, submit the following report:

Section 1 of the act approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," provides as follows:

"SEC. 1. That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which shall remain unsold at the passage of this act shall be, and the same are hereby, granted to said State."

The first section of this act, after declaring the inducements to its passage, says that the whole of these swamp and overflowed lands, made thereby unfit for cultivation, and unsold, are hereby granted to the States.

The third section of said act further provided "that all legal subdivisions, the greater part of which is wet and unfit for cultivation, shall be included as swamp lands."

This was a present grant by act of Congress of certain lands to the States within which they lie, and Congress, by the third section, gave a criterion by which to determine what was granted, to wit, such legal subdivisions of the public lands, the greater part of which were so far swamp or overflowed as to be too wet for cultivation. These lands were not only granted absolutely, but they have remained so granted ever since; and no act of Congress has ever attempted to take back this grant of the swamp lands, or to forfeit it, or to give it to any other grantee, or in any manner modified the description by which they were given to the States.

All that was necessary to the completion of the grant to the States was the identification and selection of the specific parcels coming within the description, and it was made the duty of the Interior Department to do this.

It is a well-settled doctrine recognized by all courts that "where land is granted by legislative enactment, and the grantee is authorized to demand a patent for the land, his title is as much vested as if he had the patent, which is but evidence of his title." The grant is the law and the deed—a patent both.

It has been repeatedly held by the courts that all the lands in the States to which the act of September 28, 1850, above quoted, applied, which were really and in fact swamp or overflowed, and thereby rendered unfit for cultivation, passed to and vested in the States immediately on the 28th of September, 1850.

The case, it is said by the courts, is the same as if the grant had been of all the prairie land, or all the wood land, or all the alluvial land in the State, the difficulty of ascertainment of its character not affecting the question. The words of the grant are direct and positive. It is a grant in *present*. See *Pool v. Fletcher*, 20 Ark.; *Hempstead v. Underhill*, *ib.*; *Branch v. Mitchell*, 24 Ark., p. 437; letter of Hon. Jere. Black,

Attorney General, to Hon. Jacob Thompson, Secretary of the Interior, November 10, 1858; letter of Hon. A. A. H. Stuart, Secretary of the Interior, to the Commissioner of the General Land Office, on the 23d of December, 1851 (Lester's Land Laws, p. 549); Railroad Co. v. Smith, 9 Wall., p. 39; American Emigrant Co. v. The County of Wight, 97 U. S. (7 Otto); Gaston v. Hoel, Oregon Acts and Decisions, 1874, p. 535; 50 Miss. Reports, p. 261; 3 Wisconsin Reports, pp. 416-446; 3 Otto (S. C. U. S.), p. 169; Martin v. Marks, 97 U. S. (7 Otto), p. 345.

Section 2 of the act above referred to is as follows:

"SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior, as soon as it may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the governor of the State of Arkansas, and at the request of said governor cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the legislature thereof: *Provided, however*, That the proceeds of said lands, whether from sale or by direct appropriations in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by the means of the levees and drains aforesaid. (Stat. at Large, vol. 9, p. 519.)"

It is claimed by Mr. Smithee, the agent of the State of Arkansas, and the committee have no reason to doubt it, that—

"Under the rules laid down by the Department, selecting agents were appointed, and they, through the surveyor-general, reported to the General Land Office 8,652,432.93 acres of land selected as swamp and overflowed. Of this amount 7,627,812.14 acres have been approved to the State, and 7,121,953 acres patented to the same. There still remains unapproved to the State 1,024,620.79 acres. Of the amount approved there still remains unpatented 505,858.66 acres."

The land which remains unapproved to the State is in the following condition:

Number of acres sold by the United States since the swamp-land grant and prior to March 3, 1857 .....	184,200
Number of acres confirmed to the State by act of March 3, 1857, afterwards sold by United States.....	105,000
Number of acres selected as swamp, but afterwards certified to railroads under subsequent grants .....	258,118
Number of acres selected as swamp, but sold prior to swamp grant, and to which the State can claim no title.....	308,460
Double conflicts—that is, sold by the United States to individuals, afterwards certified to railroads, and claimed by the State under the swamp grant.....	2,518
	<hr/> 858,296
Deduct lands selected as swamp and sold prior to the grant.....	308,460
Leaves .....	<hr/> 549,836

acres still due the State of Arkansas under the selections made. The remainder due the State there is no conflict about, and the Department is occasionally working that up. But there are 549,836 acres of land which the Department refuses to certify under the swamp-land grant, because it has been sold to individuals or certified to railroads under subsequent grants made by the Government.

To remedy and settle these conflicts the act of March 2, 1855, was passed, and is as follows:

"*Be it enacted, etc.*, That the President of the United States cause patents to be issued as soon as practicable to the purchaser or purchasers, locator or locators, who have made entries of the public lands, claimed as swamp lands, either with cash, or with land-warrants, or with scrip, prior to the issue of patents to the State or States, as provided for by the second section of the act approved September twenty-eight, eighteen hundred and fifty, entitled 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' any decision of the Secretary of the Interior, or other officer of the Government of the United States, to the contrary notwithstanding: *Provided*, That in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of said lands to any individual or individuals prior to the entry, sale, or location of the same under the pre-emption or other laws of the United States, no patents shall be issued by the President for such tract or tracts of lands until such State, through its constituted authorities, shall release its claim thereto in such form as shall be prescribed by the Secretary of the Interior: *And provided further*, That if such State shall not, within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the lands sold as aforesaid, together with the dates of such sale and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

"SEC. 2. *And be it further enacted*, That upon due proof by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands were swamp lands within the true intent and meaning of the act aforesaid, the purchase-money shall be paid over to the State or States; and where the lands have been located by warrant or scrip the said State or States shall be authorized to locate a quantity of like amount upon any of the public lands subject to entry at one dollar and a quarter per acre or less, and patent shall issue therefor upon the terms and conditions enumerated in the act aforesaid: *Provided, however*, That the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior."

This act was construed by the Secretary of the Interior to apply only to such lands as had been confirmed to the State and afterwards sold by the United States, and excluded all lands really swampy in character, and granted to the State by the act of September 23, 1850, but not selected, and confirmed before sale by the United States. It should here be borne in mind that the swamp-land act was a grant *in presenti*, and whenever, "upon due proof," the character of the land was shown to be "wet and unfit for cultivation," the patent should issue to the State; and that it was made the duty of the Secretary of the Interior to make accurate lists and plats of the lands described in the act and transmit the same to the governor of the State, and to cause a patent to issue therefor.

Manifestly the intent and purpose of this act was to quiet and confirm to the settlers who had purchased and located any of these swamp and overflowed lands from the Government subsequently to the aforesaid grant to the State, and to indemnify the State therefor by payment to the State of all money received for such lands, and by allowing the State to locate an amount of the public lands of the United States, subject to sale at \$1.25 per acre, equal to the amount of such lands located by warrants or scrip subsequently to said grant. It seems that this indemnity and the further selection and approval of swamp lands to the State under these acts became a source of much controversy between the State and the Department of the Interior, and that the failure of the Secretary to act and adjust these controversies became a grievance for which Congress deemed it necessary to provide a remedy by the act of March 3, 1857, which provides—

"That the selection of swamp and overflowed lands granted to the several States by the act of Congress approved September twenty-eight, eighteen hundred and fifty, entitled 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' and the act of the second of March, eighteen hundred and forty-nine, entitled 'An act to aid the State of Louisiana in draining the swamp lands therein,' heretofore made and reported to the Commissioner of the General Land Office, so far as the same shall remain vacant and unappropriated, and not interfered with by an actual settlement under any existing law of the United States, be, and the same are hereby, confirmed, and shall be approved and patented to the said several States in conformity with the provisions of the act aforesaid, as soon as may be practicable after the passage of this law: *Provided, however*, That nothing in this act contained shall interfere with the provisions of the act of Congress entitled 'An act for the relief of purchasers and locators of swamp and overflowed lands,' approved March the second, eighteen hundred and fifty-five, which shall be, and is hereby, continued in force and extended to all entries and locations of lands claimed as swamp lands made since its passage. (Statutes at Large, vol. 2, p. 251.)"

The agent of the State of Arkansas declares, and it appears to be true, that—

"Notwithstanding this, afterwards the Commissioner of the General Land Office proceeded to sell to private individuals 105,000 acres of this land, for which the United States received \$64,575.35 $\frac{1}{2}$  in money and the remainder in land warrants. There could be no question that these lands belonged to the State of Arkansas, and the money received for them should go to the State. When, as commissioner of State lands and agent of the State, I applied for this money on behalf of the State of Arkansas, it was refused, the Commissioner of the General Land Office holding that he could only refund to the individual purchasers, and then patent the land to the State. This, notwithstanding in a majority of instances patents had already been issued to the individual purchasers, and the Supreme Court of the United States has held that the Department has no power to cancel a patent when once issued. It can not correct its own error. (Moore v. Robbins, 6 Otto, 96 U. S.)

"The impracticability, to say nothing of the injustice, of the suggestions of the Commissioner of the General Land Office is apparent. Many of these lands are now in a high state of cultivation, the owners having valuable and lasting improvements on them. To cancel their title and convey to the State, the latter selling to the highest bidder, would work a mischief to the innocent purchaser which the Government can not afford."

In the case above cited the court say:

"While conceding for the present to the fullest extent that when there is a question of contested right between private parties to receive from the United States a patent



for any part of the public land, it belongs to the head of the Land Department to decide that question, it is equally clear that when the patent has been awarded to one of the contestants, and has been issued, delivered, and accepted, all right to control the title or to decide on the right to the title has passed from the Land Office. Not only has it passed from the Land Office, but it has passed from the executive department of the Government. A moment's consideration will show that this must, in the nature of things, be so."

Taking this for granted, it follows that there has grown up under these several acts a condition of things which it is not in the power of the Interior Department of the Government to properly adjust and settle according to the true intent and meaning of the law, and that legislation is necessary to carry into effect the intent and purpose of these various acts, and to finally settle all these matters up.

The bill under consideration provides for the confirmation to the State of Arkansas of all selections of swamp and overflowed lands heretofore made and reported to the Commissioner of the General Land Office.

2d. It provides a speedy, just, and satisfactory way of settling all conflicts between the United States, the State, and certain individuals, and railroad companies, growing out of the action of the Land Department in selling to individuals and approving to certain railroad companies lands which had been previously granted to the State by the act of September 28, 1850.

3d. It removes all difficulties in the way of a settlement.

4th. The expense of the settlement will be reasonable and will be equally borne by the Government and the State. The committee concur in the opinion that the bill, as amended, should pass.

Senator Walker introduced in the Senate (see S. 206) and Representative Dunn introduced substantially the same bill as that of Mr. Slemmons's in the Forty-seventh Congress, but no report was made upon either (see H. R. 37).

In the same Congress the Hon. J. E. Cravens introduced the following bill:

A BILL to indemnify the State of Arkansas for swamp and overflowed lands within said State sold by the United States since March third, eighteen hundred and fifty-seven, and for other purposes.

Whereas a large amount of the swamp and overflowed lands within the State of Arkansas which were confirmed to said State by an act entitled "An act to confirm to the several States the swamp and overflowed lands selected under the act of September twenty-eighth, eighteen hundred and fifty, and the act of the second of March, eighteen hundred and forty-nine," approved March third, eighteen hundred and fifty-seven, have been sold by the United States since the third day of March, eighteen hundred and fifty-seven, and patented to individuals; and

Whereas, in order to prevent confusion and quiet the titles to the lands thus sold and patented to individuals by the United States, and relying upon the justice of the United States to save the State from loss in perfecting the titles of innocent purchasers from the United States by paying to the State the amount of the purchase-money paid by such purchasers to the United States for said lands, the general assembly of the State of Arkansas, by an act approved December fourteenth, eighteen hundred and seventy-five, released and relinquished all the right of said State to the lands so sold and patented by the United States to individuals, and ratified and confirmed the titles of such purchasers from the United States: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he hereby is, authorized and directed, upon the application of the authorized agent of the State of Arkansas for that purpose, to cause to be ascertained the amount of lands sold by the United States to individuals which were confirmed to said State by the act entitled "An act to confirm to the several States the swamp and overflowed lands selected under the act of September twenty-eight, eighteen hundred and fifty, and the act of the second of March, eighteen hundred and forty-nine," approved March third, eighteen hundred and fifty-seven, and to ascertain the amount of money received by the United States for and on account of the sale of such lands. Upon such ascertainment being made, the Secretary of the Interior shall pay to such authorized agent of said State the sum of money so ascertained to be due said State, out of the proceeds of the sales of public lands.

On the 25th of February, 1882, Mr. Cravens reported this favorably to the House with the following report (No. 547).

[Report to accompany bill H. R. 3816.]

The Committee on Public Lands, to whom was referred the bill (H. R. 3816) "to indemnify the State of Arkansas for swamp and overflowed lands within said State,

sold by the United States since March third, eighteen hundred and fifty-seven, and for other purposes," have had the same under consideration, and find that there were lands in Arkansas, granted to said State by the acts of September 28, 1850, and the 2d of March, 1849, which were confirmed to said State by the act of March 3, 1857, and afterward sold by the United States to individuals for cash, and patents issued therefor to such purchasers by the United States. It appears that the State of Arkansas, relying upon being indemnified by the United States for such lands, so sold and patented by the United States to individuals, and by that means quiet the titles to such lands in such purchasers, or those holding under them, by an act of its general assembly approved December 14, 1875, ratified and confirmed the titles to said lands in the purchasers thereof from the United States, thereby relinquishing to such purchasers and those holding under them all claim of said State to the lands so sold and patented by the United States.

It also appears by the decision of the Acting Commissioner of the General Land Office, hereto appended and made a part of this report, that, under the circumstances of the case, the State of Arkansas is equitably and justly entitled to the proceeds and sales of all the lands within the same so sold and patented by the United States. But it also appears that since the operation of the act of March 2, 1855, ceased, there has not been, nor is there now, any authority of law for the Department of the Interior to indemnify said State for the lands so sold and patented by the United States. The committee are of opinion that the State of Arkansas is, under the circumstances, entitled to the indemnity provided for by the bill. We therefore report the bill back to the House, with the following amendments: In line 3, after the word "the," strike out the words "Secretary of the Interior," and insert "Commissioner of the General Land Office;" and, in line 15, strike out all after the word "shall," and insert the following: "draw his warrant on the Treasury for the amount ascertained to be due said State, payable to such agent, which shall be paid out of any money in the Treasury not otherwise appropriated;" and, when so amended, recommend that it do pass.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., April 21, 1881.

SIR: Referring to the application of the State of Arkansas, presented by you as attorney for the commissioner of lands for said State, for the repayment to the State of the amount of purchase-money paid by Thomas E. Lamb for the southeast quarter of southwest quarter of section 32, township 12 south, range 6 west of the fifth principal meridian, I have to state as follows:

The tract in question was one of the tracts selected by the state, October 3, 1856, as swamp land, under the act of Congress of September 28, 1850. The list of selections of that date embraced the southeast quarter of the southwest quarter and the southwest quarter of the southeast quarter of the section, township, and range above mentioned.

The act of March 3, 1857 (11 Stat., 251), confirmed to the several States entitled to swamp lands under the grant of 1850 all selections that had been made prior to that date, so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under existing laws.

Both tracts embraced in the selection of October 3, 1856, were, on March 3, 1857, as appears from the records of this office, vacant and unappropriated and not interfered with by an actual settlement under the laws of the United States. They were, therefore, confirmed to the State by the act of March 3, 1857.

The act of September 28, 1850 (9 Stat., 519), granting swamp and overflowed lands, vested an immediate title in the State to all lands within the State of the kind described in the act (*Fletcher v. Pool*, 20 Ark., 100; *Hempstead v. Underhill*, *ib.*, 337; *Brand v. Mitchell*, 24 Ark., 431; *French v. Fyan et al.*, 3 Otto, 169). It was the duty of the Secretary of the Interior to identify such lands, make lists thereof, and cause patents to be issued therefor (*Railroad Company v. Smith*, 9 Wall., 95; *French v. Fyan et al.*, 3 Otto, 169).

It having been found that many conflicting entries existed on lands claimed by the States to be swamp lands, Congress passed an act on March 2, 1855 (10 Stat., 635), providing that where land claimed as swamp had been sold by the United States for cash, or had been located with warrants or scrip, prior to the issue of patents to the State, as provided by the act of September 28, 1850, patents should be issued to the purchaser or locator, unless the State had also sold any of the lands so entered or located, in which case patent to the purchaser from the United States should not issue until the State should release its claim. It was further provided that, on due proof being made as prescribed in the act that any of the lands purchased from the United States were swamp lands within the true intent and meaning of the grant, the purchase money received by the United States should be paid over to the State; and where the land had been located by warrant or scrip, the State or States should be

authorized to locate a quantity of like amount upon any of the public lands subject to entry at \$1.25 per acre.

The foregoing provisions of the act of 1855 were extended to March 3, 1857, by the act of the latter date (11 Stat., 251). The law as to erroneous disposals of swamp lands by the United States after September 28, 1850, and prior to March 3, 1857, was then that the land so disposed of should be proven to have been swamp on said September 28, 1850; the State or States should receive indemnity for such land, the indemnity to be the amount of the purchase money which had been paid to the United States where the lands had been sold for cash, and an equivalent quantity of land where the disposal had been made by warrant or scrip location.

The States were thus fully indemnified for all lands lost to their respective grants of swamp and overflowed lands between September 28, 1850, and March 3, 1857, while the individual entries made on such lands under the public land laws of the United States during that period were confirmed by statute.

After March 3, 1857, a different condition existed. By the act of that date all prior selections of swamp and overflowed lands under the act of 1850, so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under any existing law of the United States, were confirmed absolutely to the respective States. No question as to the swampy character of the land embraced in this confirmation could be raised, and no indemnity to the States was provided for in case any of such lands should be sold by the United States after March 3, 1857. This act perfected the title of the States to the selections of swamp lands which had then been certified to and filed with the Commissioner of the General Land Office, so far as they were then vacant, unappropriated, and not interfered with by actual settlement under existing laws. The United States could convey no title after this to any of these lands unless they come within the exceptions of the act. (*Martin v. Marks*, 7 Otto, 345.)

Further reference to judicial decisions relating to the nature of the swamp-land grant, and the effect of the confirmatory acts, are omitted as unnecessary.

The indemnity acts protected in their respective grants against the effect of all erroneous sales made by the United States after March 3, 1857, by the confirmation to the States of the lists of selections filed in the General Land Office prior to that date.

But the same liability to erroneous sales by the United States of the confirmed lands still remained, and from the same causes that had operated relative to erroneous sales prior to March 3, 1857. The principal cause lay in the imperfect condition of the land records of the local offices, owing to which entries on the confirmed lands were allowed in ignorance of the fact that they were State lands. In the present case one of the tracts of land embraced in the State selection of October 3, 1856, namely, the southeast quarter of southwest quarter section 32, township 12 south, range 6 west, was erroneously sold by the United States to Thomas E. Lamb on April 20, 1857, and patent was inadvertently issued to him.

When the State selection was reached for examination, in the order of business in this office, it was found that said tract had been sold and patented as aforesaid. Under the rule that a second patent must not issue where a former patent is outstanding, the State selection of this tract was not acted upon.

But Lamb's patent conveyed no title to him, since the land belonged to the State at the date of his entry. The sale to Lamb was therefore illegal and his patent void.

It now appears that by an act of the legislative assembly of December 14, 1875, the State ratified and confirmed to the purchasers from the United States the titles to the lands that had been granted to the State by the act of Congress of September 28, 1850, and which had afterward been sold by the United States. If it was intended by that act that its provisions should apply to lands erroneously sold by the United States after March 3, 1857, and if such be its legal effect, then it would appear from the preamble to the act that the legislature acted upon the presumption that the State was entitled, under the laws of Congress, to receive indemnity in all cases of swamp lands sold by the United States after September 28, 1850, which should prove to have been, at that date, of the character described in the granting act.

But, as heretofore shown, the right of indemnity under existing laws goes only to sales made prior to March 3, 1857; for sales subsequent to this latter date no indemnity is now provided. The State had a perfect legal right to the land in place, which right might have been insisted upon and maintained, notwithstanding the erroneous sale and illegal patent to Lamb. But the State magnanimously chose to release its claim to lands so erroneously sold in favor of the purchasers from the United States, rather than to insist upon its strict legal rights to the disadvantage, and often serious injury, of its citizens.

The State having voluntarily protected innocent purchasers of the United States in the possession of lands that Congress had previously granted and confirmed to the State, by yielding its own title to such lands, relying upon the justice of the United States to save the State from loss in so doing, it is now claimed that the amount of purchase-money paid by these purchasers to the United States should be refunded to the

State. Manifestly, this is an equitable claim, and it would be in consonance with the policy of the indemnity act of March 2, 1855, to allow it. But the operation of that act is limited to March 3, 1857. Accordingly, in cases of erroneous sales made by the United States after March 3, 1857, the law granting swamp indemnity to the States does not apply. Yet the reason of the law exists in this class of cases equally as in those occurring prior to the date mentioned.

This Department must, however, be governed by the statute, and the limitations of the law can only be removed or enlarged through the remedial legislation of Congress.

There is no present authority of law under which the purchase-money paid by Thomas E. Lamb can be refunded to the State of Arkansas.

Very respectfully, your obedient servant,

C. W. HOLCOMB,  
*Acting Commissioner.*

Hon. W. W. WILSHIRE,  
*Washington, D. C.*

A bill identical with this was favorably reported to the Senate by Senator Walker during the same Congress. (See Report 723.)

Senator Walker, in the Forty-eighth Congress, December 5, 1883, introduced two bills—S. 257, to indemnify the State of Arkansas for swamp and overflowed lands within said State sold by the United States since March 3, 1857, and for other purposes, and S. 259, for the adjustment of the claim of the State of Arkansas against the United States. No report was made upon either of them.

On the 8th of December, 1885, in the Forty-ninth Congress, Senator Berry introduced in the Senate S. 89, for the adjustment of the claim of the State of Arkansas against the United States. This was understood to be the bill desired by the State, and was introduced by the writer of this report in the House of Representatives on the 21st day of December, 1885. (See H. R. 131.) These bills were opposed by the Commissioner of the General Land Office, as will appear by the following letter addressed to the Hon. S. Z. Landes, who was chairman of the House subcommittee in charge of the one introduced in the House, upon which his opinion was asked by the committee:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., March 27, 1886.*

SIR: Referring to your oral request for an opinion on the bill (H. R. 131) for the adjustment of the claim of the "State of Arkansas against the United States," which provides for a commission to adjust the claims of said State under the several acts of Congress relating to swamp and overflowed lands, I have to say that by the decisions of the honorable Secretary of the Interior, dated August 15 and 28, 1885, said State was allowed to adopt the field-notes of the public surveys as the basis for adjustment of her claims under said acts. This plan was accepted by the State authorities, and on February 18, 1886, the governor informed the Department that an agent of the State had been appointed to examine the field-notes and present her claims for adjustment, and said agent is now making such examination.

In view of these facts I am of the opinion that no further legislation is necessary.

Very respectfully,

WM. A. J. SPARKS,  
*Commissioner.*

Hon. S. Z. LANDES,  
*House of Representatives.*

Feeling that it was impossible to get passed the bill that was most desired by the State of Arkansas, the Senators and Representatives joined in an effort to secure the passage of a general cash indemnity bill. The Public Lands Committee of the House in the Forty-ninth Congress reported favorably the following bill, which would have given the State of Arkansas and all other States interested an opportunity to get a final adjustment of the swamp-land grant. The bill was never reached for consideration in the House, and failed for that reason.



The following is a copy of the bill agreed upon by the committee and reported to the House:

[H. R. 4792, Forty-ninth Congress, first session.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be the duty of the proper officers of the Treasury and Interior Departments to adjust and settle the claims of any State against the United States for all lands which have been or may hereafter be sold or otherwise disposed of by the United States that were included in any grant of swamp or overflowed lands to such State.

SEC. 2. That for all of said lands in any State which were sold for cash the said State shall have credit for the full amount of the purchase-money received by the United States, as of the last day of the year in which it was received, and the same shall be applied to the payment of the indebtedness, if any, of such State to the United States; and the balance, less such sum or sums as may have heretofore been paid or credited as aforesaid, shall be paid over to the governor or other duly authorized agent of said State; and for all of said lands in any State located with warrants or scrip, or which were otherwise disposed of by the United States, and for which indemnity has not heretofore been granted, such State shall have indemnity in cash, the amount thereof to be limited to the price at which the lands were held at the date of their disposal by the United States, the said indemnity to be credited and paid as herein provided in the cases where lands were sold for cash: *Provided*, That the acceptance by any State of indemnity, for any of the lands sold or otherwise disposed of by the United States, shall be a relinquishment and waiver of all its right, title, and interest in and to such lands, and an acknowledgment and confirmation of the title thereto in the grantees of the United States.

Early in the Fiftieth Congress on the 4th day of January, 1888, the writer introduced a bill (H. R. 1998) to relieve purchasers of, and to indemnify certain States for, swamp lands, and for other purposes. For this and other bills the committee authorized a substitute reported favorably, and on the 8th day of February, 1888, the same was presented by Mr. McRae, with the following report to the House of Representatives:

[Report to accompany bill H. R. 6897.]

The Committee on the Public Lands, to whom was referred the bills (H. R. 1594, 1933, 1998, and 4936) for the relief of purchasers and other grantees of the United States of certain swamp and overflowed lands, and to indemnify certain States, have had the same under consideration and report the same back with the recommendation that they be laid upon the table, and that the accompanying substitute be passed.

The substitute is as follows:

**A BILL** to relieve purchasers of and to indemnify certain States for swamp and overflowed lands disposed of, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be the duty of the Secretary of the Interior to adjust the claims of any State against the United States for any lands which have been, or may be hereafter, sold or otherwise disposed of by the United States that were included in any grant of swamp and overflowed lands to such State, and, in making the adjustment, the State shall have indemnity in cash to the full amount of the purchase-money received by the United States for all lands sold for cash; and for all such lands as have been or may be hereafter otherwise disposed of by the United States, for which indemnity has not been granted and allowed, such State shall have indemnity in cash at one dollar and twenty-five cents per acre.

SEC. 2. That the Secretary of the Interior shall, when adjustments and allowances are made by him under this act, report the same to the Secretary of the Treasury, showing the amount ascertained to be due from the United States to such State on account of lands sold or otherwise disposed of, and a description of the lands for which such indemnity is allowed, with the names of the persons to whom sold, patented, or granted, and the date the same was sold or otherwise disposed of; and the Secretary of the Treasury shall cause such State to be credited with the amount or amounts so reported by the Secretary of the Interior, as of the last day of the year in which it was received, or the lands otherwise disposed of, as the case may be, and apply the same on the payment of any debt of the State to the United States, if any, but not on any tax, the payment of which was not assumed by such State, and pay the balance, if any, over to the treasurer or other authorized representative of the State.

## 14 SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS.

SEC. 3. That the acceptance of any State, its authorized representative or grantee, of indemnity for any of the land sold or otherwise disposed of by the United States shall be a relinquishment and waiver of all its right, title, and interest in and to such lands, and an acknowledgment and confirmation of the title thereto in the grantee or grantees of the United States.

SEC. 4. That all selections of lands heretofore made, and all indemnity proofs heretofore taken in accordance with the rules of the Department, and not rejected, shall be used in making adjustments under this act.

SEC. 5. That on the surrender of any indemnity land scrip heretofore issued, which could not be satisfied by reason of there being no lands in the State to which the same was issued subject to location thereunder, the value of the same, at the rate of one dollar and twenty-five cents per acre, shall be paid to the party or parties so surrendering the same, when accompanied by proof of ownership.

SEC. 6. That the provisions of this act shall include the swamp and overflowed lands on the odd sections within the six-mile limits of the line of railroad between Chicago and Mobile, constructed under the act approved September twentieth, eighteen hundred and fifty.

That the full scope and effect of this bill may be understood it will be necessary to thoroughly understand the several swamp-land grants and the action of the Interior Department with reference thereto, and to that end copies of the acts of Congress and the regulations of the Department are hereto appended. The act approved March 2, 1849 (9 Stat., 352), granted to the State of Louisiana the whole of the swamp and overflowed lands in said State found unfit for cultivation, with the exception of those tracts fronting on rivers, creeks, bayous, etc., surveyed into lots or tracts under the acts of March 31, 1811, and May 24, 1824.

The act of September 28, 1850 (9 Stat., 519), granted to each of the public land States then in the Union the whole of the swamp and overflowed lands remaining unsold within their limits, made unfit thereby for cultivation, and the Secretary of the Interior was required to make out accurate lists and plats of the lands described as aforesaid and transmit the same to the governors of the States. For some reason the Secretary failed to make any such selections and segregation of such lands as the act clearly contemplated, except as he saw fit to make partial and imperfect lists when called upon by the agents of the States from time to time. This failure or neglect has been the source of a great deal of controversy between the States and the Interior Department, and also of a great deal of vexatious and expensive litigation between those claiming under the grant and those adverse to it.

On the 21st day of November, 1850, the Commissioner of the General Land Office transmitted to the governors of all the States covered by the grant a circular of instructions as to the manner of proceeding under said act, with the request that the State elect which of the two proposed methods for designating swamp lands would be adopted.

The proposed methods were:

(1) The field-notes of Government survey to be taken as the basis for selections, and all lands shown by them to be swamp or overflowed within the meaning of the act to be placed in the lists to be reported to the General Land Office.

(2) The States to make the selections by their own agents and at their own cost, and report the same to the surveyor-general, with proof of the character of the land.

The act approved March 12, 1860, extended the grant of September 28, 1850, to the States of Minnesota and Oregon. California, by the act approved July 23, 1866, was granted the same character of lands within her limits, but the method of selecting was much simplified and the adjustment has been much easier than in the other fourteen swamp-land States.

Michigan, Minnesota, and Wisconsin elected to make the field-notes the basis for determining the character of the land.

Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Mississippi, Missouri, Ohio, and Oregon elected to make their selections by agents in the field, and they have all made their selections, but very few, if any, have been able to get their claims finally adjusted by the Department.

California did not adopt either method, because, under the grant to that State, such action was not necessary.

In Louisiana nearly all of the selections are made under the act of March 2, 1849, by deputy surveyors, under the direction of the United States surveyor-general, at the expense of the State. Such lands as are claimed under the act of September 28, 1850, are selected by State agents, with proof of the character of the land. Within the last few years the States of Alabama, Indiana, Louisiana, Mississippi, and Ohio, with the consent of the Department of the Interior, have adopted the field-notes of survey as the basis of adjustment of their claims.

Some of the selections made by the State of Arkansas more than thirty years ago and intended to be confirmed by the act of March 3, 1857, are yet unadjusted, and a great many tracts selected and claimed under the grant of that State have been sold

and disposed of by the United States. At this lapse of time it is next to impossible to furnish the Secretary of the Interior with the proof that he should have taken as soon as "practicable after the passage" of the act making the grant.

The grant as first introduced was only intended for Arkansas. That State was mentioned by name both in the title and the body of the act making the grant. It promptly and in good faith entered upon a system of levees and drains to reclaim the lands. In alphabetical order it was the second on the list of States. Notwithstanding all this, less has been done toward adjustment in that State than any other. No indemnity, either in lands or money, has ever been allowed, although its right to both is not denied.

At the suggestion of the Department, and in the hope that it would lead to an early adjustment of the claim of the State, the legislature, by two acts, one approved March 17, 1885, and the other March 19, 1887, adopted the field-notes of survey. The Secretary was not satisfied that the said acts gave the governor "full power" to consent to the adjustment of said grant and the claim of the State for indemnity, and on the 16th day of May, 1887, advised the Commissioner, in a written opinion, "that no further action should be taken" by the Department relative to the claim under the swamp land act until the governor has been given "full power" by appropriate legislation to consent to the adjustment of said grant and the claim for indemnity in accordance with the principles enunciated in the Louisiana case.

For thirty years, upon one pretext and another, the adjustment of this State's claim has been delayed, and for all this time the United States has been disposing of more or less of the lands previously granted to the State and using the money received, while all the time the State is being charged with interest on the debt due the United States. This course on the part of the Department charged with the duty of prompt adjustment, in addition to trifling with law and vested rights, is unjust to the State in that it diminishes a fund upon which it had a right to rely and also in the initiation of a series of defective titles and the lawsuits and losses that always follow such.

This injustice has extended to the other States as well as Arkansas, but in less degree. In proof of the immense litigation that has come of such action, reference is made to the citations made by the Department in its circular of April 18, 1882, of nearly two hundred decisions of the court of last resort and of the Department.

The first section of the act of September 28, 1850, after giving the reason for its passage, states that the whole of the swamp and overflowed lands, made thereby unfit for cultivation and unsold, are hereby granted to the States. It was an unconditional present grant by Congress of such lands to the States within which they lie, without reference to their sections, townships, and ranges; but at the same time fixed a criterion by which it could be easily ascertained what was granted, to wit, such legal subdivisions of the public lands the greater part of which were so far swamp and overflowed as to be wet and unfit for cultivation.

All such lands were granted and the title vested September 28, 1850, and have continued to be so granted and vested ever since. This has frequently been settled by the decisions of the Supreme Court of the United States. Congress has never attempted to forfeit the grant or in the least modify the description by which they were given to the States, and such as were wet and unfit for cultivation at the time of the grant passed without any reference to the swampy or non-swampy character since or now.

The failure of the Secretary of the Interior to make the list and plats, and his action in continuing to dispose of the lands granted, became such a grievance that Congress passed two remedial acts. The first of these was approved March 2, 1855, and granted relief to the purchasers and locators of swamp and overflowed lands by giving the States the purchase-money for all such lands sold, and allowing dry lands of like quantity for such as were otherwise disposed of. Presuming upon an early adjustment, and assuming that more erroneous sales would be made or approved by the Commissioner of the General Land Office, this act was not made prospective and continuing, as it ought to have been.

Other difficulties arose about the selections made by the States, and so Congress again, on March 3, 1857 (11 Stat., 251), passed an act declaring that the selections of swamp and overflowed lands granted to the States by the act of September 28, 1850, theretofore made and reported to the General Land Office, so far as the same remained vacant and unappropriated and not interfered with by actual settlement under existing laws of the United States, were confirmed and approved for patent, and extended and continued in force to that time the act of March 2, 1855. So under existing laws the case may be stated as follows:

(1) That the respective States to which the grant applied are entitled to all the swamp and overflowed lands made unfit thereby for cultivation which remained unsold therein on the 25th day of September, A. D. 1850.

(2) That for all such lands sold between September 28, A. D. 1850, and March 3, A. D. 1857, the States are entitled to the purchase-money received.

(3) That for all such lands otherwise disposed of than by sale between said dates the States are entitled to have indemnity in lands not swamp and overflowed.

(4) That for such lands as have been sold or otherwise disposed of since September 28, A. D. 1857, no indemnity, either in money or lands, has been granted and no adjustment is possible. The land itself must be taken from the purchaser or settler by the State or its grantee or lost. When such purchasers or settlers are evicted they come to Congress for relief, or accept a return of the purchase-money.

(5) That in the States where all of the public lands have been disposed of no indemnity scrip is issued, or if issued is of no value to the State, because it is held that it can only be located in the State to which it may be issued. There are certain moneys in the Treasury of the United States received for lands that passed by the said grant, which in both law and equity belong to these States. Besides this, many of them are entitled to other lands not yet sold or disposed of.

The proposed measure is for the adjustment of the claims of the States interested upon a money basis, so as to save for actual settlers all of such lands as did pass to the States by the grant, but have neither been certified for patent nor sold by the United States. It makes no new grant and does not enlarge any previously made. It does not seek to make any change in the mode of selecting or making proof of the methods of selections. Nor does it modify or reverse any decision of the courts or the Department. But it simply provides for an adjustment in accordance with the established methods of the Department and the decisions of the courts, and when such adjustments are made it gives cash at \$1.25 per acre, when under the present law either the land in place or dry indemnity land would be received. This will be the effect of the first section if it should become law.

The second section provides for the certification and payment of the money or the entering of proper credits when, as in the case of the State of Arkansas, there is a debt due the United States.

The third section makes the acceptance of cash indemnity a relinquishment and waiver of all right to the land and a confirmation of the title in the United States or their grantees.

The fourth section requires the Department to consider all lists made and proofs taken in accordance with the rules of the Department to be considered in making the adjustment.

The fifth section will have the effect to redeem all outstanding indemnity scrip at \$1.25 per acre. The following letter will show the amount issued to States where the public lands have all been sold and which can not under the rules now in force be located in the States named. These States insist that they can be located on any vacant lands; the attempt has several times been made.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., February 4, 1888.

SIR: In reply to your oral inquiry, I have the honor to inform you that the certificates issued to the States of Illinois, Indiana, and Iowa, authorizing the location of land in lieu of swamp and overflowed lands located with warrants or scrip prior to March 3, 1857, now outstanding and unsatisfied, amount to 121,059.39 acres, as follows:

	Acres.
Illinois .....	99,675.83
Indiana .....	3,715.44
Iowa .....	17,668.12

Very respectfully,

S. M. STOCKSLAGER,  
Acting Commissioner.

The sixth section seeks to make certain what is thought to be the law already as to the odd sections within the 6-mile limits of the line of railroad between Chicago and Mobile, constructed under the act approved September 20, 1850, by which the even sections were granted in aid to Alabama, Illinois, and Mississippi. After the grant to the railroad of the even sections, and before the swamp-land grant, eight days later, the odd sections were withdrawn by the President until the line of the road was located. This was done and the road constructed. The even sections were certified to the States in aid of the road and the odd sections restored to market and disposed of by the United States.

Alabama received both land in place and indemnity for swamp land in this limit. Mississippi and Illinois were allowed only to take lands in place, and have been refused indemnity for any swamp lands within this limit. The committee think the lands of that character passed by the grant, and do not think the withdrawal for the location of the line of the railroad would take it out of the operation of the in-



demnity acts. It "remained unsold," and was afterwards sold by the United States. The same conditions attach to these as other swamp lands, and there is the same necessity for perfecting the title to these purchasers as others who have paid out their money for them. The courts of Illinois have held that the State took a good title by the grant.

In conclusion the committee would call attention to the grants and some decisions under it, and to the fact that a similar bill was reported to the last House from the Committee on Public Lands. The bill ought to pass.

After this bill had been reported to the House its provisions were substantially adopted by the Senate Committee on Public Lands and embodied in Senate bill No. 758 and favorably reported to the Senate and passed by that body. It was referred to the House Committee on the Public Lands, and with such amendments as were necessary to make it conform to the House bill, favorably reported from the Committee on the 14th day of April, 1888 [see Report 1674]. It has not been considered in the House except once, during the morning hour, when it was impossible under the rules to pass it.

There is still some chance for a consideration of this bill. Its passage would facilitate a settlement of the claim of the State of Arkansas very much, in that it would eliminate from it all questions of land and land indemnity and reduce the matters in dispute to a cash basis, and make the statement of the account easier, at the same time securing to the Government the value of all such land to be applied on the bonds held by it.

No action has been had on H. R. 11806, introduced by Mr. McRae:

A BILL to settle certain accounts between the United States and the State of Arkansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, required to state an account between the United States and the State of Arkansas, for the purpose of ascertaining what sum or sums of money should be credited to said State, not heretofore credited, on account of swamp-land indemnity and for the sale of public lands in said State; and that, in stating said account and adjusting the claim of said State for lands sold or otherwise disposed of by the United States that were included in the grant to it of swamp and overflowed lands, he shall allow indemnity for the full amount of the purchase money received by the United States for all cash entries; and for all such lands as have been otherwise disposed of by the United States he shall allow indemnity at one dollar and twenty-five cents per acre. And that in stating said account and adjusting the claim of said State under the act approved June twenty-third, eighteen hundred and thirty-six, he be, and hereby is, required to include all lands entered under the homestead law or located with scrip or military bounty land warrants within the limits of the said State, and allow and credit to the said State 5 per cent. thereon as in case of cash sales, estimating the lands at one dollar and twenty-five cents per acre.

SEC. 2. That the Secretary of the Interior shall, as soon as said accounts are stated under this act, report the same to the Secretary of the Treasury, showing the amount due the State of Arkansas for each year separately, and the Secretary of the Treasury shall cause said State to be credited on its bonds held by the United States, in their own right or in trust, with the amount or amounts so reported, as well as the amounts heretofore allowed, as of the last day of the year in which the lands were sold or disposed of, and to surrender such bonds thus paid.

Just before the assembling of the Fiftieth Congress, the Hon. W. H. Halliburton, representing the State of Arkansas, came to the capital to press the passage of a bill looking to the compromise and settlement of all differences between the State and the United States. He prepared with great care the pending bill and procured its introduction in the Senate by Senator Berry on the 5th day of January, 1888 (see S 1166), and in the House of Representatives by the Hon. C. R. Breckin

ridge on the 9th of January, 1888 (see H. R. 3288). The full text of the bill, as introduced in the two houses of Congress, is as follows :

A BILL authorizing the settlement of the debt due the United States by the State of Arkansas and the debt due the State of Arkansas by the United States.

Whereas the United States holds the bonds of the State of Arkansas, amounting in the aggregate of principal to the sum of seven hundred and ninety-three thousand dollars; and

Whereas the State of Arkansas has legal and equitable demands against the United States for "five per centum of the net proceeds of the sale of the land lying within the said State, which shall be sold by Congress" under an act of said Congress approved twenty-third day of June, eighteen hundred and thirty-six; also for her portion of the fund granted the several States under the distribution act of Congress, approved fourth of September, eighteen hundred and forty-one; also for moneys due the State of Arkansas for keeping convicts in the State prison under Executive order dated fifth of February, eighteen hundred and sixty-seven; also for lands granted to the State of Arkansas by acts of Congress for seminaries, internal improvement, and public buildings, and also for swamp and overflowed lands and swamp-land indemnity under acts of Congress of twenty-eighth of September, eighteen hundred and fifty, and the second of March, eighteen hundred and fifty-five, and third of March, eighteen hundred and fifty-seven, which said several demands will amount to a sum equal, if not greater, than the principal sum now held by the United States against the State of Arkansas: Now, therefore, in order that the demands may be amicably adjusted and settled,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Treasurer of the United States, on the order of the Secretary of the Treasury of the United States, shall deliver to the treasurer of the State of Arkansas, as the fiscal agent of said State, all bonds now in possession or under the control of the United States, as owner thereof, or as trustee for other owners or claimants: *Provided,* That the foregoing proposition to deliver said bonds to the State of Arkansas is on the condition that the general assembly or legislature of the said State shall, as soon as practicable after the passage of this act, by an act of said general assembly or legislature, relinquish and quitclaim to the said United States any and all claims or demands, the said State of Arkansas has or heretofore had to the said five per centum fund heretofore adjusted and credited to the said State, as well as all other or further sum or sums that are or may be due said State under and by virtue of the said act of Congress of the twenty-third day of June, eighteen hundred and thirty-six; also relinquish by said act all her claims against the United States for all sums of money as may be due or heretofore credited to the said State for keeping United States prisoners in the public prison in said State under the said executive order of the fifth of February, eighteen hundred and sixty-seven; also her claim to the portion of her fund under the distribution act of the fourth of September, eighteen hundred and forty-one; also grant, relinquish, and quitclaim to the United States any and all claims or demands the said State of Arkansas has to any lands that may be due or coming to her under acts of Congress granted for seminaries, internal improvements, and public buildings, and to all swamp and overflowed lands not heretofore adjusted and approved to said State, as well as all claim against the United States for indemnity in cash or lands in place that are or may be due or coming to the said State under the acts of Congress approved twenty-eighth of September, eighteen hundred and fifty, second of March, eighteen hundred and fifty-five, and the third of March, eighteen hundred and fifty-seven.

SEC. 2. That upon presentation to the Secretary of the Treasury of the United States of a duly authenticated copy of such act of the general assembly or legislature of the State of Arkansas, in accordance with the provisions and stipulation herein provided, together with an order or requisition from the treasurer and fiscal agent of the State of Arkansas, it shall and is hereby made the duty of the Secretary of the Treasury of the United States to order and direct the Treasurer of the United States, or custodian of the bonds of the said State of Arkansas, to deliver said bonds to the treasurer and fiscal agent of the said State of Arkansas, whose duty it shall be on receipt of such order to deliver said bonds to such treasurer and fiscal agent, taking his receipt or acquittal therefor.

He appeared before the Public Land Committees of both Houses in behalf of the said bill, and in a very able, clear, and forcible manner, presented the claim of the State. He kindly furnished the House Committee with a synopsis of his oral statement of facts and argument, and the same is here inserted as a part of this report :

*A statement of the claims of the State of Arkansas against the United States.*

By virtue of the compact entered into between the United States and the State of Arkansas under act of Congress approved 23d of June, 1836, the State of Arkansas to

receive "5 per cent. of the net proceeds of the sale of lands lying within the said State," on condition that said State should "never interfere with the primary disposal of the soil within the same by the United States, nor with any regulation Congress may find necessary for securing title in such soil to the bona fide purchasers thereof, etc.

The total land surface of the State of Arkansas, according to the report of the Land Department of the United States, as shown on page 1190 of History of the Public Domain, is 53,045 square miles, equal to 33,948,000 acres.

Of these lands the United States has, by sales, grants, donations, etc., disposed of 16,258,813.63 acres, leaving a balance of 17,689,986.37 acres, from which balance deduct 1,013,528.52 acres for swamp lands claimed by the State as hereinafter shown, and we have 16,676,465.85 acres, on which the State claims 5 per cent. of the net proceeds of sales thereof.

At the date of the compact the minimum price of all the lands in the State was \$1.25 per acre, and by an act of Congress approved March 3, 1857, as quoted and referred to on page 724 of History of the Public Domain, it was made the duty of the Commissioner of the General Land Office in stating accounts between the United States and the States entitled to this fund "to allow and pay to each State such amount as should thus be found due, estimating all lands and permanent reservations at \$1.25 per acre.

Estimating the 16,676,465.85 acres at \$1.25 per acre, we have the sum of \$20,845,582.31, less expenses of surveying and selling the same on which to claim the 5 per cent. under the compact.

By reference to page 192, History of the Public Domain, it will be seen that the average cost of "surveys and disposition from 1785 to 1880" of the public lands is 6.2 cents per acre; this gives the sum of \$1,033,940.80 as total cost of surveying and selling the 16,676,465.85 acres, which sum deducted from the sum of \$20,845,582.31, the estimated value of the lands, leaves the sum of \$19,811,641.43, on which the State claims 5 per cent.

This gives the State the sum of \$990,582.07. Of this sum the State has received \$68,177.16, leaving balance due the State on the 5 per cent. fund the sum of \$922,404.91; to the foregoing must be added the sum of \$5,012.16, under the distribution act of Congress, approved the 4th of September, 1841, and the sum of \$10,377.80 due the State for keeping United States prisoners in the State prison, under Executive order dated 5th of February, 1867.

#### SWAMP LANDS.

By virtue of the provisions of section 1, of the act of Congress, 28th of September, 1850, commonly known as the swamp land act, Congress granted to the State of Arkansas "the whole of the swamp and overflowed lands made unfit for cultivation" then remaining unsold in the State, to be selected and reported to the Land Department of the United States under the direction and supervision of the Department of the Interior.

Under this act and instructions from the General Land Office, the constituted authorities of the State of Arkansas, prior to the 5th of October, 1854, selected and reported to the General Land Office 10,324,915.75 acres. (See report of Swamp Land Commissioners of October 5, 1854, page 9.) Of these lands the Commissioner of the General Land Office acknowledges the receipt and filing of lists containing 8,652,472.93 acres, and has approved for confirmation and patents, 7,638,944.41 acres, leaving a balance of 1,013,528.52 acres acknowledged as having been received by the Department, as shown on page 697 of History of Public Domain.

The difference between the number of acres reported by the State authorities and that acknowledged by the United States is 1,672,442.62 acres. And that between the number of acres reported and approved is 2,685,971.34 acres.

The cause of this difference the State has no means of knowing, but her authorities are advised that several lists of swamp lands, embracing a large number of acres, are now among the archives of the General Land Office and have been for years, but failing to have any official evidence of receipt and filing indorsed on them, are rejected.

A large number of acres embraced in the list selected and reported to the General Land Office, and suspended, has been sold by the United States for cash, land scrip and military-land warrants, for which the State of Arkansas claims indemnity under acts of Congress 2d March, 1855, and 3d March, 1857.

Accepting the acreage suspended (1,013,528.52), or the value thereof, as all that is coming to the State under the swamp-land grant, she will be entitled to a credit of \$1,266,910.65, valuing the lands at \$1.25 per acre, that being the minimum price of the lands.

To this must be added the sum of \$3,947.72 for 7,158.18 acres of seminary, internal improvement, and public building lands, at the value of \$1.25 per acre, yet due the State under the various grants.

## 20 SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS.

### RECAPITULATION OF CREDITS.

Amount claimed by the State on account of the 5 per cent. fund.....	\$922, 404. 91
Amount due under distribution act .....	5, 012. 16
For keeping convicts in the State's prison.....	10, 377. 80
Amount claimed for swamp lands.....	1, 266, 910. 65
For seminary and other lands due the State.....	8, 947. 72

2, 213, 653. 24

Table showing the number of acres in the State of Arkansas and disposition of same:

Total land surface, square miles .....	53, 045
Total number of acres.....	33, 948, 800

See Public Domain, page 1190.

Number of acres on which the State is not allowed 5 per cent., as shown by the following, viz:

Cash sales prior to July, 1836.....	1, 871, 283. 87
Military service.....	2, 258, 146. 92

Commissioner's Report 1867, page 186.

Swamp lands approved to June 30, 1882:

Public Domain (page 1249).....	7, 639, 794. 39
Internal improvements.....	500, 000. 00

Public Domain (page 255):

Sixteenth section, Public Domain, page 228.....	886, 460. 00
Seminary (72 sections), Public Domain, page 228.....	46, 080. 00
Indian scrip .....	275, 972. 64

Commissioner's Report for 1867, page 198.

Public buildings (Commissioner's Report for 1867, page 189)..... 10, 600. 00

Grants to individuals and companies (Commissioner's Report for 1867, page 189)..... 139, 366. 25

Private land claims (see Commissioner's Report for 1867, page 189).... 118, 451. 12

Deaf and Dumb Asylum of Kentucky (see Commissioner's Report for 1867, page 189)..... 2, 097. 43

Railroad grants to June 30, 1882 (see Commissioner's Report for 1886, page 292)..... 2, 517, 718. 69

16, 265, 971. 81

Less the number of acres due the State for seminary, internal improvement, and public building lands..... 7, 158. 18

16, 258, 813. 63

Swamp lands selected and reported to the Commissioner of the General

Land Office yet due the State..... 1, 013, 528. 52

See Public Domain, page —.

Number of acres on which 5 per cent. is claimed..... 16, 676, 465. 85

Swamp lands:

Number of acres reported by the State authorities to 5th of October, 1854 (see report of swamp land commissioners, October 5, 1854, page 9)..... 10, 324, 915. 75

Number of acres approved..... 7, 638, 944. 41

Balance..... 2, 685, 971. 34

Number of acres selected and reported as acknowledged by General Land Office..... 8, 652, 472. 93

Number of acres approved (see History of Public Domain, page 697).... 7, 638, 944. 41

1, 013, 528. 52

Soon after the inauguration of President Cleveland, the Treasurer, Mr. Jordan, took up the matter of indebtedness from the several States to the United States, and to the Indian trust fund.

The following correspondence was had:

TREASURY OF THE UNITED STATES,  
Washington, May 7, 1885.

SIR: My attention having been called to certain bonds and stocks of the Indian trust fund, held in custody in this office, on which principal and interest are due and



unpaid, I have the honor to submit at once the accompanying statement of such bonds.

Under the act of June 10, 1876, Revised Statutes, volume 19, page 58, transferring the Indian trust fund from the Department of the Interior to the custody of this office, it is made the duty of the Treasurer of the United States to make all purchases and sales of bonds and stocks authorized by treaty stipulations or by acts of Congress, when requested so to do by the Secretary of the Interior, and to collect all interest falling due upon the bonds and stocks so held.

The principal and interest of a large number of these bonds have become due and remain unpaid, some of them for many years.

While it is made the duty of the Treasurer, under the act, to make all purchases and sales of bonds and stocks when requested so to do by the Secretary of the Interior, and to collect all interest falling due without such request, there may be a question as to the responsibility or duty of the Treasurer in reference to such past-due bonds and the interest thereon. I desire, therefore, for my guidance and information (if any action is to be taken by this office), to know—

(1) What steps are necessary to collect the principal of overdue State bonds, or to prevent statutes of limitation in the respective States from barring any action that may hereafter become necessary.

(2) What steps are necessary to collect past-due interest on such bonds, or on bonds not yet matured.

(3) What proceedings should be taken where the bonds are liens upon railroads and other corporations, as in the case of some of the bonds of the State of North Carolina.

Formal demand has been made for the payment of certain North Carolina bonds and refused, and correspondence has been had with the authorities of States in reference to the payment of past-due bonds with similar results.

Under section 3481, Revised Statutes United States, moneys due certain States have been stopped by this Department and the amount applied to the payment of interest due. The items are set forth in the accompanying list.

The statutes of the different States authorizing these bonds are not accessible to this office, and therefore the conditions under which the bonds were issued and the full nature of the liens are not known here.

Several of the State authorities have made propositions, authorized by their respective legislatures, for the exchange of bonds at certain rates for those of a new issue, which propositions could not be entertained without the authority of Congressional action.

If it shall be held that further demands be made for the payment of overdue principal, or that demands be made or suits instituted for the payment of overdue interest, I respectfully ask for instructions.

Very truly,

C. N. JORDAN,  
*Treasurer United States.*

Hon. DANIEL MANNING,  
*Secretary of the Treasury.*

(Statement of bonds and stocks inclosed with letter.)

This letter and statement were referred by the Secretary of the Treasury to the Solicitor, Hon. A. McCue, who made reply, as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., May 26, 1885.

SIR: I have received your letter, "J. C. B.," of the 7th instant, asking for information respecting your duties as custodian of certain bonds and stocks of the Indian trust fund, under the act of June 10, 1876.

In reply I inclose herewith copy of communication, dated 22d instant, from the Solicitor of the Treasury, to whom your letter had been referred, stating his views on the subject of your inquiry.

Very respectfully,

C. S. FAIRCHILD,  
*Acting Secretary.*

The TREASURER OF THE UNITED STATES.

DEPARTMENT OF JUSTICE,  
OFFICE OF SOLICITOR OF THE TREASURY,  
Washington, D. C., May 22, 1885.

SIR: By the act of June 10, 1876, the securities held by the Secretary of the Interior in trust for the benefit of Indian tribes were transferred to the custody of the United States Treasurer.

It was made the duty of this officer to collect the interest falling due thereon and deposit the same, and issue certificates of deposit therefor in favor of the Secretary of the Interior as such trustee, and to make purchases and sales of the securities authorized by treaty or acts of Congress when requested by the Secretary of the Interior.

From a statement made by the Treasurer it appears that the principal and interest of a large number of these securities have become due and have remained unpaid, some of them for years.

He asks, in view of this fact, what steps are necessary for him to take to collect the principal and interest of overdue State bonds, and what proceedings should be taken where the securities are liens on railroads or other corporations.

The statute to which I have referred places a certain responsibility on the Treasurer. He is to be the custodian of the bonds. He is to collect the interest as it falls due, and he is to make purchases and sales of bonds when requested so to do by the Secretary of the Interior. His duties, it seems to me, as defined by the act, are ministerial simply.

If the principal of the stock or bonds or the interest on the same falls due and is not paid on demand made by the Treasurer of the United States, that fact should be communicated by him to the trustee, the Secretary of the Interior.

Whether or not such suit should be brought or other proceedings taken to compel payment from the defaulting maker of the bonds or other securities rests with the Secretary of the Interior, the trustee.

Very respectfully,

Hon. DANIEL MANNING,  
*Secretary of the Treasury.*

A. McCUE,  
*Solicitor of the Treasury.*

This correspondence was then referred to the Secretary of the Interior, with the accompanying letter, the reply to which is herewith given:

TREASURY OF THE UNITED STATES,  
*Washington, May 23, 1885.*

SIR: I have the honor to transmit herewith a copy of an opinion of the Hon. A. McCue, Solicitor of the Treasury, delivered to the honorable Secretary of the Treasury, in reference to certain unpaid stocks and bonds of the Indian trust fund, in response to a request made by myself on the 7th instant, a copy of which is also inclosed.

If, in pursuance of this opinion, it is necessary to take any action in reference to the unpaid principal and interest of said bonds, I respectfully ask for instructions in relation thereto.

Very respectfully,

C. N. JORDAN,  
*Treasurer United States.*

Hon. L. Q. C. LAMAR,  
*Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,  
*Washington, August 7, 1885.*

SIR: I have the honor to acknowledge the receipt of your letter of the 28th of May last, inclosing, for the information of the Secretary of the Interior, as trustee for certain Indian trust funds, a copy of an opinion of the Solicitor of the Treasury regarding the duties of the Treasurer of the United States in the matter of certain unpaid State stocks and bonds belonging to the Indian trust fund.

The State bonds now belonging to the Indian trust fund which have matured and remain unpaid are as follows: \* \* \*

The interest on these bonds is also due and unpaid by the States for different and various periods.

The Indian trust funds were invested in these bonds by the Secretary of the Interior prior to 1861. The laws governing the matter at the time of purchase will be found in the act of January 9, 1837 (sec. 2096, R. S.), and act of September 11, 1841 (sec. 3659, R. S.).

By the act of June 10, 1876 (19 Statutes, 58), the stocks, bonds, securities, etc., of the Indian trust fund were transferred to the Treasurer of the United States as custodian, and it was thereafter made his duty to collect the interest thereon as it became due, etc.

The Solicitor holds in the opinion referred to that the Treasurer's duties as defined by this last-named act are "ministerial simply."

"If the principal of the stock or bonds or the interest on the same falls due and is not paid on demand made by the Treasurer of the United States, that fact should be communicated by him to the trustee, the Secretary of the Interior. The duty of the Treasurer in this regard ends here. Whether or not suit should be brought or other proceedings taken to compel payment from the defaulting maker of the bonds or other securities rests with the Secretary of the Interior, the trustee."

In view of this opinion, you request instructions in relation to the unpaid principal and interest of said bonds, if it is necessary to take any action in relation thereto.

This matter has heretofore been considered by Congress. By the act of March 3, 1865 (13 Statutes, 539), appropriations were made for the Indians for whom the non-paying bonds were held, in sums equal to the interest then due and unpaid. Since that date annual appropriations have been made to meet the unpaid interest, not only on the bonds not yet matured, but also on those which have matured.

The act of March 2, 1867 (14 Statutes, 497), required:

"That the Attorney-General of the United States shall be and is hereby instructed to inquire into the condition of all funds held in trust by the United States for said tribe (Chickasaw) and for all other tribes of Indians, and what proceedings should be taken for the security of the United States in respect to the same, and report thereon to Congress on the first Monday in December next."

The report of the honorable Attorney-General made in compliance with this law is found in House Ex. Doc. No. 59, Fortieth Congress, second session. The concluding portion of the report is as follows:

"So far as the States are liable upon these, either as principal obligors under the bonds issued by them respectively, or as guarantors of bonds issued by private or municipal corporations, I see no ground upon which that liability can be enforced either at law or in equity. A State can be sued only by its own consent. I am not advised that either of these States has, by its own consent, submitted itself to suit in any court. Nor is there a case made here for original suits against either of these States in the Supreme Court of the United States under the Constitution of the United States; for whether we regard these bonds as belonging to the United States or to the respective Indian tribes, the right to bring an original suit upon them against a State in the Supreme Court of the United States does not exist either in favor of the United States or any of these Indian tribes; for neither the United States nor an Indian tribe is a foreign state within the meaning of the constitutional provision, and as such entitled to bring an original suit against a State in the Supreme Court of the United States. But if any of these States hold claims against the United States, it may be deemed expedient to exercise the right of retention and application in the nature of a set-off, following the precedent set by the joint resolution of March 3, 1845 (5 Statutes at Large, page 801).

"This resolution is as follows:

"That whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds, held by the United States in trust, it shall be the duty of the Secretary of the Treasury to retain the whole, or so much thereof as may be necessary, of the percentage to which such State may be entitled of the proceeds of the sales of the public lands within its limits, and apply the same to the payment of said interest or principal, or to the re-imbursement of any sums of money expended by the United States for that purpose."

"As to the remedy upon the bonds issued by private or municipal corporations by action at law to recover the amount due for principal or interest, or by proceedings in foreclosure, where the bonds are secured by mortgage, or in mandamus to compel the levying of a tax by municipal corporations, in order to provide payment, the remedy would be the same in favor of the United States as in favor of any individual creditor upon the bonds."

"I am at a loss to suggest any specific measure for further security in respect to these bonds. But it may happen that the indebted States and corporations may offer propositions for compromise favorable to the bondholders, and Congress may deem it expedient to give the Secretary of the Interior authority to entertain, and, in the exercise of a proper discretion, to agree to such propositions."

Sums of money found by the Treasury due the States in default of payment of interest on bonds have been from time to time covered into the Treasury to re-imburse the United States for moneys appropriated by reason of such default.

The authorities of the State of North Carolina submitted in 1883 a proposition for the substitution of the old bonds of that State for those of a new issue, authorized by act of the State legislature. It was considered by my predecessor on December 11, 1883, who, under the circumstances of the case, declined to accede to the proposition, stating among other reasons that he doubted whether it would be proper for the Secretary of the Interior to make the exchange without the grant of special legislation therefor by Congress. Bills were pending in the Forty-eighth Congress which contemplated the granting of the necessary authority, but no law was enacted on the subject.

The facts regarding these State bonds which have matured, as well as those upon which installments of interest are past due, are essentially the same or similar to those which obtained at the time of the report made by the honorable Attorney-General, whose opinion and conclusion on the subject are quoted above.

In view of the opinion of the Attorney-General, and of the further facts herein set out, the Secretary of the Interior does not consider it necessary or proper that any further means should be attempted with reference to the collection of the unpaid principal and interest of the bonds under consideration until appropriate legislation therefor shall have been enacted by Congress.

Very respectfully,

L. Q. C. LAMAR,  
*Secretary and Trustee.*

Hon. C. N. JORDAN,  
*Treasurer United States.*

It is perfectly clear from this correspondence that if there is any adjustment of these matters it must come after legislative action on the part of the State and the United States. The Treasurer made the following statement in reference to the matter in his report for 1885-'86:

The bonds held by this office should receive the serious attention of the legislative power, the greater part of these bonds having been lying in the vaults of the Treasury, paying no interest save such as may have been sequestered from sums due the respective defaulting States, notwithstanding the fact that these States have in great part compromised with their creditors, and are now paying interest on a portion or the whole of their debt. These securities have cost the United States par, and there would seem to be no good reason why proper efforts should not be made to obtain payment in full or effect some compromise with the insolvent States. By a former ruling of this Department it has been held that money due the respective defaulting States could not be seized except for the current interest, and that no attention should be paid to the fact that by reason of default the principal had become due. The Treasurer has advised, under date of October 8, 1886, each of the Secretaries and accounting officers who may be called upon to settle the accounts of these States, that all sums due the respective States should be held by them in order that such sums shall be applied to the payment of the principal or interest, or both, when any indebtedness from the Government to these States may arise. The correspondence in regard to this matter is herewith submitted.

TREASURY OF THE UNITED STATES,  
*Washington, October 8, 1886.*

SIR: Referring to section 3481, Revised Statutes of the United States, providing for the retention of moneys due from the United States to any State that may be in default in the payment of principal or interest on stocks or bonds issued by said State and held in trust by the United States, I have the honor to call your attention to the following States whose bonds are held in this office in trust, on which principal and interest are due and unpaid; and to request that payment of moneys due any of said States be withheld and this office advised of such action: Arkansas, Florida, Louisiana, North Carolina, South Carolina, Tennessee, Virginia.

Very respectfully,

C. N. JORDAN,  
*Treasurer United States.*

To the FIRST COMPTROLLER.

In connection with the bonds of the various States mentioned in the foregoing as held by the Treasury in trust, attention is called to the present status of the debts of the State named. The following memorandum, made up from the best attainable sources of information, will afford some idea of the sums that may be recovered by proper action of Congress on the subject of defaulted State bonds:

ARKANSAS.—About two-thirds of the State debt issued for railroads, levees, etc., has been repudiated by popular votes, etc. The old debt issued under acts of 1838 at 40 in aid of banks is "acknowledged," but no interest is paid thereon. A portion of these bonds (\$500,000) was, with the accrued interest, funded in 1870 into 30-year 6s. The greater portion is still unfunded, amounting with interest to about \$2,500,000.

It is stated that the debt question will be taken up by the legislature which will meet the coming winter. The State is in default for interest to a larger amount than the principal of the recognized debt.

It is due the State to say that the Holford, railroad aid, and levee bonds referred to by the Treasurer as repudiated by popular votes, were issued without authority of law. The supreme court of the State so held.



The following decision of the Secretary of the Interior shows some of the difficulties in the way of adjusting the swamp-land account as well as the necessity of legislation on the part of the State if the settlement is to be made under existing Federal law.

STATE LANDS.—STATE OF ARKANSAS.

*Swamp land—Adjustment of grant.*—Until such time as the governor of the State has been duly authorized to consent to the adjustment of the grant, in accordance with the principles heretofore adopted and followed by the Department, no further action will be taken on the claim of the State.

*Secretary Lamar to Commissioner Sparks, May 16, 1887.*

On April 15, 1887, the communication of Hon. Simon P. Hughes, governor of the State of Arkansas, dated April 8, same year, inclosing a copy of the act of the legislature of said State, approved March 19, 1887, relative to the claim of said State to swamp lands, and also for indemnity for swamp lands disposed of by the United States, was referred to you for report. On April 23 last said communication and inclosures were returned with your report, and the same have been carefully considered.

It appears that the legislature of said State passed an act, approved March 17, 1885, relative to its claim under the swamp-land act of Congress, approved September 28, 1850 (9 Stat., 519), agreeing to "accept as final and conclusive in determining the character of such lands the original field-notes of the official survey or resurvey of such lands by the United States in all cases mentioned in this act where such field-notes show conclusively the naturally wet, swampy, or overflowed, or the naturally non-swampy, non-overflowed character of such lands: *Provided*, That in no case shall such field-notes be considered as final in determining the character of such lands where such field-notes fail to indicate the natural character of such land: *And provided further*, That in no case shall such field notes be considered in such adjustment or selection in cases where the official survey was made subsequent to the year 1856."

This act was submitted to your office for report, and on May 21, 1885, said act was returned with the recommendation that the change proposed therein be not adopted, because of its impracticability. Your report called special attention to the last lines of the first section of said act, and also to said provisos (*supra*), and noted the fact that the States of Michigan, Minnesota, Wisconsin, Ohio, Alabama, and Mississippi have agreed to make the field-notes the basis of adjustment, without any reservations. On August 15, 1885, this Department transmitted a copy of said report to the governor of said State, and declined to accept the mode of adjustment provided for in said act.

Attention was called to the mode of adjustment of said States, and the inquiry was suggested "whether that basis would be acceptable to the State of Arkansas" (4 L. D., 295).

On August 28, 1885, this Department informed the agent of said State, in reply to his communication of the 21st of same month, that, "believing that the field-notes of survey as found in the General Land Office constitutes the just basis for determining the character of the land claimed by the State," the plan of adjustment as indicated in said communication to the governor of said State would be adhered to.

Said act of March 19, 1887, *supra*, amends the first section of the act of March 17, 1885, by striking out the two provisos above quoted. You regard the amended act as equally objectionable as the original act, for the reason that it introduces a different class of lands from those granted by Congress, to wit, "wet lands;" that the field-notes should be conclusive in all cases, or the existing method of adjustment should not be changed; that there should not be two methods of adjustment in the same State; and that when a claim for indemnity for land in any township is once made, said claim should be regarded as a finality so far as that township is concerned.

By the act of Congress approved September 28, 1850 (9 Stat., 519), there was granted to the State of Arkansas, and each of the other States of the Union, all of the "swamp and overflowed lands unfit thereby for cultivation," which remained therein unsold at the date of the passage of the act. This act has been frequently construed by the courts and this Department. In the case of the State of Louisiana (5 L. D., 514) it was held that if the State elects to accept the field-notes of survey as the basis of adjustment of its claim under the swamp-land grant, lands will be listed to the State that appear by the field-notes to be clearly of the character granted, unless there is reason to believe that the field-notes and surveys are false and fraudulent; that where the field-notes of survey have been made since the passage of the swamp-land grant and with reference thereto, they will be held to entitle the State *prima facie* to the lands returned as "swamp and overflowed," without the additional words "made unfit thereby for cultivation," that where the surveys are made prior to the act, all

the descriptive words in the grant, or words of like import, must appear; that where they do not so appear, the State must show by other satisfactory evidence that the lands are of the kind contemplated by the grant; that if the State does not elect to make the field-notes of survey the basis of adjustment then she should be allowed to furnish satisfactory proof that the lands claimed were swamp and overflowed and rendered "unfit thereby for cultivation" at the date of the grant.

Under the acts of Congress approved March 2, 1885 (10 Stat., 634), and March 3, 1857 (11 Stat., 251), incorporated into the Revised Statutes, section 2492, it was provided that when the authorized agent of the State shall make proof before your office that any of the lands purchased by any person from the United States prior to March 3, 1857, and after the date of the grant to the State, were swamp lands within the true intent and meaning of the swamp-land grant, the purchase money shall be paid over to the State wherein said land is situate.

Indemnity was also allowed where swamp lands have been located by warrant or scrip, and it was further provided that your office upon the question of indemnity shall be first approved by the Secretary of the Interior. In determining the character of the lands, for which indemnity is claimed, I see no good reason why the same kind of proof should not be satisfactory to your office that is required to show that lands are clearly of the character granted and which passed to the State under its grant.

The original and the amendatory act of the legislature of said State limits the power of the governor to make an agreement with the Secretary of the Interior "to accept as final and conclusive in determining the character of such lands the original field-notes of the official survey or resurvey of such lands by the United States in all cases mentioned in this act where such field-notes show conclusively the naturally wet, swampy, or overflowed, or the naturally non-wet, non-swampy, or non-overflowed character of such lands."

The objection relative to the descriptive words used to designate the character of the land, as suggested in your report of May 21, 1885, has not been obviated, nor does said act, as amended, authorize the governor to bind the State to an agreement to accept the field-notes as a basis of adjustment where they do not show "conclusively" the character of the land.

In said communication of this Department to the State's agent it was stated that this condition, among others, was a qualification of the governor's power to act in this case, and it could not be waived.

Since the State, by said legislation, has undertaken to define the power and limit the authority of the governor to make an agreement under said acts, I am of the opinion that no further action should be taken by the Department relative to the claim of the State under the swamp-land act until the governor has been given full power by appropriate legislation to consent to the adjustment of said grant and the claim of the State for indemnity, in accordance with the principles enunciated in the Louisiana case (*supra*). When such legislation has been enacted, the claim of the State should be adjusted as soon as practicable.

Herewith are returned said communication of the governor and said act of the legislature of the State of Arkansas, and you will please advise him of this communication to you.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., January 24, 1888.

SIR: In reply to your letter of this date relative to the 5 per cent. fund due the State of Arkansas, in accordance with the acts of June 15, 1836, and March 3, 1857, you are informed that the State of Arkansas has been allowed by accounts adjusted in this office 5 per cent. of all net receipts from the sales of public lands within her borders, from the date of her admission to the Union to June 30, 1886, amounting to \$244,009.58.

The total receipts from such sales from the admission of the State to the 30th of June, 1886, have been \$5,506,980.39; while the net receipts therefrom, after the deduction from the gross receipts of expenses incident to the sales of these lands, and of repayments made for lands erroneously sold, have been \$4,880,165.44. With the exception of the comparatively small amounts of land sold under the graduation act of August 4, 1854, all these sales have been at the rate of \$1.25 per acre or more.

Lands entered under the homestead and timber-culture laws or located with scrip or military bounty land warrants are not included in the area embraced by the term "sales of public lands," and the fees received from such entries or locations are not included in the above aggregate of receipts.

Very respectfully,

HON. THOMAS C. McRAE,  
House of Representatives, Washington, D. C.

S. M. STOCKSLAGER,  
Acting Commissioner.

# SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS. 27

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., May 9, 1888.

SIR: I am in receipt of your letter of the 28th ultimo, asking to be informed of the area of lands in Arkansas entered under the homestead laws, and located with military bounty land warrants and scrip since the admission of the State into the Union, and in reply you are informed that the areas of public lands thus disposed of to June 30, 1887, are as follows:

	Acres.
Area of original homestead entries .....	5,531,344.10
Area of military bounty land-warrant locations.....	2,263,226.92
Area of scrip locations .....	880.00
Total.....	7,795,451.02

Very respectfully,

Hon. T. C. McRAE,  
House of Representatives.

T. J. ANDERSON,  
Assistant Commissioner.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., January 28, 1889.

SIR: I am in receipt of your letter of the 10th ultimo, requesting to be informed of the amount received as fees upon public lands entered in the State of Arkansas, and in reply thereto you are informed that the amount of money so received to June 30, 1888, is \$502,085.

The figures above given are approximately correct.

Very respectfully,

Hon. T. C. McRAE, Esq.,  
House of Representatives.

T. J. ANDERSON,  
Assistant Commissioner.

*Statement of the amount accruing to the State of Arkansas on account of 5 per cent. of the net proceeds of the sales of public lands in said State from July 1, 1836, to June 30, 1887, as appears from the record of adjusted accounts in the General Land Office; also the estimated amount accruing for the fiscal year 1888 not adjusted:*

No. of report.	Dates covering time of adjustment.	Amount.
4464	July 1, 1836, to December 31, 1839.....	\$53,459.16
4902	January 1, 1840, to December 31, 1840.....	6,311.68
5293	January 1, 1841, to June 30, 1842.....	3,634.21
5711	July 1, 1842, to June 30, 1843.....	1,830.72
5828	July 1, 1843, to December 31, 1843.....	1,019.78
6080	January 1, 1844, to June 30, 1844.....	1,132.85
6208	July 1, 1844, to December 31, 1844.....	1,788.76
6474	January 1, 1845, to December 31, 1845.....	870.62
7152	January 1, 1846, to December 31, 1846.....	2,009.28
7774	January 1, 1847, to December 31, 1848.....	10,196.73
8475	January 1, 1849, to December 31, 1849.....	3,009.71
9227	January 1, 1850, to December 31, 1850.....	3,617.06
10099	January 1, 1851, to December 31, 1851.....	8,941.80
11115	January 1, 1852, to December 31, 1852.....	3,271.00
11528	January 1, 1853, to December 31, 1853.....	10,188.09
11982	January 1, 1854, to December 31, 1854.....	8,313.15
13498	January 1, 1855, to December 31, 1856.....	18,700.79
16045	January 1, 1857, to December 31, 1859.....	65,941.81
17727	January 1, 1860, to December 31, 1860.....	19,634.75
29746	January 1, 1861, to December 31, 1861.....	1,789.43
32485	January 1, 1862, to June 30, 1860.....	485.41
33063	July 1, 1860, to June 30, 1861.....	1,592.13
34025	July 1, 1861, to June 30, 1862.....	3,365.85
36010	July 1, 1862, to June 30, 1863.....	6,293.56
41837	July 1, 1863, to June 30, 1864.....	2,852.89
41837	July 1, 1864, to June 30, 1865.....	1,575.53
41837	July 1, 1865, to June 30, 1866.....	1,581.63
42543	July 1, 1866, to June 30, 1866.....	13,943.60
		257,953.18

Estimate of amount due for fiscal year 1888, \$5,000.

DIVISION OF ACCOUNTS, GENERAL LAND OFFICE, January 19, 1889.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,  
Washington, D. C., December 19, 1887.

SIR: In compliance with the verbal request made by you some days since, I herewith transmit copy of a letter from the Treasurer of the United States, giving the indebtedness of the State of Arkansas. I also forward a statement showing the several amounts that accrued to the State from time to time of the 5 per cent. fund and the disposition thereof. Said statement shows also the balances that accrued to the State under the distribution act of Congress approved September 4, 1841, and the disposition of the same.

Very respectfully,

M. J. DURHAM,  
Comptroller,  
By J. R. GARRISON,  
Deputy Comptroller.

HON. THOMAS C. MCRAE,  
House of Representatives.

TREASURY OF THE UNITED STATES,  
Washington, December 13, 1887.

SIR: I have your letter of the 12th instant, asking for a statement of the principal and interest, from all sources, due by the State of Arkansas on bonds held by the United States in trust.

In reply I have the honor to state that of the bonds of said State in the custody of this office \$168,000 are held for the Indian trust fund.

Amount of principal .....	\$168,000
Amount of interest .....	141, 120
Total .....	309, 120

The above stated interest, computed to January 1, 1888, is that shown by the coupons attached to the bonds. Some amounts have been credited on the interest due, under section 3481 of the Revised Statutes of the United States, which provides for the retention of moneys due by the United States to any State in default in payment of the principal or interest of its bonds held by the Government. Separate or distinct accounts of moneys so retained have not been made to this office, and I have therefore to refer you to the Secretary of the Interior, trustee of said fund, or to the accounting officers of this Department, for statements of moneys retained.

This office holds also of said bonds, the property of the United States, as follows:

Amount of principal .....	\$623,000
Amount of interest .....	1, 409, 250
Total .....	2, 034, 250

Of these bonds \$538,000 were formerly held for account of the Smithsonian Institution, and \$87,000 for the Indian trust fund, now held as the property of the United States on account of payments by regular appropriations for the said trusts equal to the amounts stated. Moneys have also been retained under section 3481, on account of the principal, and the interest due thereon, but there is no stated account of such retained moneys in this office. As in the case of the Indian trust fund, I shall have to refer you to the accounting officers of the Department or to the Register of the Treasury for the statements.

Total of principal of said bonds .....	\$793,000
Total of interest .....	1, 550, 370
	2, 343, 370

Respectfully, yours,

JAMES W. HYATT,  
Treasurer United States.

HON. M. J. DURHAM,  
First Comptroller of the Treasury.



# SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS. 29

*Statement showing the disposition of the 5 per cent. fund that accrued from time to time to the State of Arkansas from July 1, 1836, to June 30, 1883, inclusive.*

Report.	Period.	To whom paid.	Amount.
4464	July 1, 1836, to December 31, 1839.....	Direct to State.....	\$120. 16
4902	Calendar year 1840.....	.....do.....	6, 311. 88
8293	January 1, 1841, to June 30, 1842.....	.....do.....	3, 634. 21
5717	July 1, 1842, to June 30, 1843.....	.....do.....	1, 530. 72
5828	July 1, 1843, to December 31, 1843.....	.....do.....	1, 019. 73
6086	January 1, 1844, to June 30, 1844*.....	.....do.....	1, 182. 85
6208	July 1, 1844, to December 31, 1844.....	.....do.....	1, 788. 76
	Calendar year:		
6474	1845.....	United States Treasurer (interest) ...	870. 62
7152	1846.....	.....do.....	2, 609. 28
7774	1847 and 1848.....	.....do.....	10, 196. 73
8475	1849.....	.....do.....	8, 009. 71
9227	1850.....	.....do.....	8, 617. 06
10099	1851.....	.....do.....	8, 941. 80
11115	1852.....	.....do.....	8, 271. 60
11528	1853.....	.....do.....	10, 188. 69
11982	1854.....	.....do.....	18, 313. 15
13468	1855 and 1859.....	.....do.....	18, 700. 79
16045	1837, 1858, and 1859.....	.....do.....	65, 941. 81
17727	1860.....	.....do.....	19, 634. 75
29746	1861.....	.....do.....	1, 789. 43
32485	January 1, 1862, to June 30, 1880.....	.....do.....	489. 41
33063	July 1, 1880, to June 30, 1881.....	.....do.....	1, 592. 13
34025	July 1, 1881, to June 30, 1882.....	.....do.....	3, 565. 85
36010	July 1, 1882, to June 30, 1883.....	.....do.....	6, 207. 86

\* These amounts, aggregating \$7,617.56, were paid per Report No. 6086.

*Amount found due the State under the distribution act of September 4, 1841.*

First installment January 1 to June 30, 1842, U. S. Treasurer (interest) ... \$4,482. 79  
 Second installment July 1 to August 29, 1842, U. S. Treasurer (interest)... 529. 37  
**COMPTROLLER'S OFFICE, December 19, 1887.**

HOUSE OF REPRESENTATIVES,  
 Washington, D. C., March 7, 1888.

SIR: The accompanying bill (H. R. 3288) has been, by the Committee on the Public Lands, referred to me, with instructions to submit the same, with a copy of the claim of the State of Arkansas, to you for your consideration. Please give me, for the use of the committee, your opinion as to the advisability and practicability of this measure, with such suggestions as you may wish to make in reference to the proposed compromise.

I know that the State authorities are very anxious to come to some agreement by which all these matters may be finally settled, and I hope that if this bill does not meet your approval you will submit some other proposition looking to a settlement. In your answer please give me the numbers, dates, and amounts of the bonds of the State of Arkansas held by the United States, and on what accounts held, with a statement of the aggregate amount due from the State thereon. I also desire, for the same use, a full and complete transcript of the account of the State of Arkansas, showing all debts and credits from all sources whatever.

Respectfully,

THOS. C. McRAE.

HON. CHARLES S. FAIRCHILD,  
 Secretary of the Treasury.

TREASURY DEPARTMENT, April 28, 1888.

SIR: In reply to your communication of 7th ultimo, inclosing H. R. 3288, "authorizing the settlement of the debt due the United States by the State of Arkansas," and asking for a statement of the accounts of the United States against said State, I have the honor to transmit herewith the reports and statements furnished by the Treasurer of the United States and the Register of the Treasury, for your information.

Respectfully, yours,

HUGH S. THOMPSON,  
 Acting Secretary,

HON. THOMAS C. McRAE,  
 House of Representatives.

H. Mis. 2—50

# 30 SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS.

TREASURY OF THE UNITED STATES,  
Washington, March 12, 1888.

SIR: In reply to your indorsement upon the letter of Thomas C. McRae, dated March 10, I have the honor to send herewith a statement of Arkansas State bonds in the custody of this office, showing the amount held, numbers and dates, on what account held, and the amount due thereon, as shown by the bonds and coupons attached.

Respectfully, yours,

JAMES W. HYATT,  
Treasurer United States.

The SECRETARY OF THE TREASURY.

## Bonds of the State of Arkansas in custody of the Treasurer of the United States.

Date of bond.	Kind.	Rate of interest.	Title of loan.	Under act of—
		<i>Per cent.</i>		
December 13, 1872.....	Coupon.....	6	Funded debt.....	Apr. 6, 1869
December 13, 1872.....	do.....	6	do.....	Apr. 6, 1869
January 1, 1837.....	Registered.....	5	Arkansas State bond..	Nov. 2, 1836
January 1, 1838.....	Coupon.....	6	do.....	Oct. 26 and Dec. 19, 1837
January 1, 1838.....	do.....	6	do.....	
January 1, 1838.....	do.....	6	do.....	Dec. 18, 1837
January 1, 1838.....	do.....	6	do.....	Dec. 18, 1837
January 1, 1838.....	do.....	6	do.....	Dec. 18, 1837

Redeemable.	Numbers.	Par value.	Amount.
January 1, 1900.....	2099 to 2266	\$1,000	*\$168,000
January 1, 1900.....	2267 to 2350	1,000	†84,000
January 1, 1837.....	99, 100, 115	1,000	†3,000
October 26, 1861.....	1 to 200	1,000	†200,000
October 26, 1861.....	201 to 500	1,000	†300,000
January 1, 1868.....	282 to 294	1,000	†13,000
January 1, 1868.....	359 to 373	1,000	†15,000
January 1, 1868.....	401 to 410	1,000	†10,000

Principal.....	\$793,000
Interest.....	1,548,300
Total.....	2,341,300

\* Held for Indian trust fund.

† Held for United States. Formerly belonged to Indian trust fund.

† Held for United States. Formerly belonged to Smithsonian Institution.

Interest due on \$168,000 from January 1, 1874, to January 1, 1888.....	\$141,120
Interest due on \$84,000 from January 1, 1874, to January 1, 1888.....	70,560
Interest not computed on \$3,000.....	

This office has no account of payment, if any has been made. Indian Bureau, Department of Interior, can furnish statement.

Interest on bonds, Nos. 1 to 100, due from July 1, 1860, to January 1, 1888.....	165,000
Interest on bonds Nos. 101 to 133, due from July 1, 1860, to January 1, 1888.....	54,450
Interest on bond No. 134, due from July 1, 1852, to January 1, 1888.....	2,150
Interest on bonds Nos. 135 to 500, due from January 1, 1842, to January 1, 1888.....	1,010,160
Interest due on \$13,000, \$15,000, and \$10,000, due from January 1, 1842, to January 1, 1888..	104,880
	1,548,300

UNITED STATES TREASURER'S OFFICE,  
March 12, 1888.

# SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS. 31

DEPARTMENT OF JUSTICE,  
Washington, August 17, 1888.

SIR: Referring to your letter of the 1st of May last, herewith is inclosed a copy of a letter from the Second Auditor of the Treasury, dated the 10th instant, respecting the support of military prisoners since July 1, 1867.

Very respectfully,

G. A. JENKS,  
Acting Attorney-General.

Hon. THOMAS C. McRAE,  
House of Representatives.

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TREASURY DEPARTMENT,  
SECOND AUDITOR'S OFFICE,  
Washington, D. C., August 10, 1888.

SIR: In reply to your communication of the 9th instant (inclosed) I have the honor to state that the records of this office do not indicate that any sum is due from the United States to the State of Arkansas for the support of military prisoners, all accounts of the Arkansas State penitentiary for such service presented to this office since January 1, 1867, having been adjusted and paid.

Respectfully yours,

J. B. CALDWELL,  
Acting Auditor.

Hon. G. A. JENKS,  
Acting Attorney-General.

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TREASURY DEPARTMENT,  
SECOND AUDITOR'S OFFICE,  
Washington, D. C., August 20, 1888.

SIR: Referring to your verbal inquiry as to payments made by the United States for keeping military prisoners in the Arkansas State penitentiary, I have the honor to inform you that on further examination I find that the sum of \$10,800, being the aggregate of seven accounts for keeping prisoners from July 1, 1871, to March 31, 1873, was not paid to the State of Arkansas, or to the authorities of the penitentiary, but was disposed of as follows:

Paid to the Treasurer of the United States and deposited in the Treasury as a payment by the State of Arkansas on account of interest due on certain bonds guarantied by it and held in trust by the United States for the benefit of the Chickasaw Indian Nation .....	\$10,377.80
Paid to C. Delano, Secretary of the Interior, being amount due on the funding of ninety bonds of the State of Arkansas .....	422.20
Total .....	10,800.00

In explanation of this matter I inclose copies of the following letters:

Nov. 18, 1871. Chief Clerk Treasury Department to Second Auditor.  
Nov. 24, 1871. Secretary of the Interior to Secretary of the Treasury.  
Nov. 27, 1871. Chief Clerk Treasury Department to Second Auditor.  
Jan. 22, 1872. Secretary of the Treasury to Second Comptroller.  
Jan. 22, 1872. Secretary of the Treasury to Second Auditor.  
Jan. 30, 1872. Second Comptroller to Secretary of the Treasury.  
June 21, 1873. Secretary of the Interior to Second Comptroller.  
June 24, 1873. Second Comptroller to Second Auditor.

(NOTE.—The letter of Governor O. A. Hadley, referred to in the above correspondence, is not on file in this office.)

I also inclose for your information a copy of the Executive order designating the State penitentiary of Arkansas as a place of confinement for military prisoners.

Respectfully, yours,

J. B. CALDWELL,  
Acting Auditor.

Hon. THOMAS C. McRAE,  
House of Representatives.

EXECUTIVE MANSION,  
Washington, D. C., February 5, 1867.

The State penitentiary of Arkansas, at Little Rock, Ark., is designated as a prison for military prisoners sentenced to the penitentiary or to be kept in confinement.

ANDREW JOHNSON.

TREASURY DEPARTMENT, November 18, 1871.

SIR: I have the honor to return herewith requisition of the War Department, No: 408, in favor of Charles W. Tankersley, superintendent of the Arkansas State penitentiary, for \$2,756.

I presume this money is due and payable to the State of Arkansas; and if this be the fact, I would invite your attention to the request of the Secretary of the Interior transmitted some time since, to the effect that all moneys which might be found due the State of Arkansas be withheld as an offset against interest due various Indian tribes from said State.

A correspondence with the superintendent would settle the question as to whether this amount is really due the State or not.

Very respectfully,

J. H. SAVILLE,  
Chief Clerk.

Hon. E. B. FRENCH,  
Second Auditor, Treasury Department.

WASHINGTON, D. C., November 24, 1871.

SIR: This Department holds in trust for the Chickasaw Nation a large amount of bonds guarantied by the State of Arkansas, which have matured and upon which the interest has accumulated, making the sum of the principal and unpaid interest amount to \$252,000, viz:

Principal .....	\$90,000
Interest from January 1, 1842, to January 1, 1872, at 6 per cent.....	162,000
	<hr/>
	252,000

As I understand that there is now certain funds about to be paid to the authorities of the State of Arkansas, I have the honor to request that you will retain this and all other sums that may become due hereafter to said State, under the provisions of the act approved March 25, 1870 (Stats. at Large, vol. 16, pp. 77, chap.—), and furnish this Department with a check for the amount now due, in order that the same may be covered into the Treasury as re-imbursable on account of advances made by the Government to cover in part the non-payment of interest on said bonds.

I am sir, very respectfully, your obedient servant,

C. DELANO,  
Secretary.

Hon. GEO. S. BOUTWELL,  
Secretary of the Treasury.

TREASURY DEPARTMENT,  
Washington, D. C., November 27, 1871.

SIR: Referring to my letter of the 18th instant, I have the honor to transmit herewith copy of a communication received from the honorable Secretary of the Interior, relative to funds due from the State of Arkansas on account of bonds held in trust for the Chickasaw Nation.

Very respectfully,

J. H. SAVILLE,  
Chief Clerk.

Hon. E. B. FRENCH,  
Second Auditor.

TREASURY DEPARTMENT,  
Washington, D. C., January 22, 1872.

SIR: I have the honor to inclose herewith a copy of a letter from the Second Auditor, together with a copy of a communication from his excellency Hon. O. A. Had-



ley, governor of the State of Arkansas, in relation to withholding moneys due the State for the support of military convicts in the State penitentiary, and in view of the act of March 25, 1870, which makes it the duty of the Secretary of the Treasury to retain any moneys due on any account from the United States to any State that may be in default in the payment of interest or principal on investment in stocks or bonds issued or guaranteed by such State and held by the United States in trust; to request that the amount due the State of Arkansas be paid to the Treasurer of the United States, to be by him deposited in the Treasury, as a payment by said State on account of interest due on certain bonds guaranteed by it and held in trust by the United States for the benefit of the Chickasaw Indian Nation.

I am, very respectfully,

GEO. S. BOUTWELL,  
*Secretary.*

Hon. J. M. BRODHEAD,  
*Second Comptroller.*

TREASURY DEPARTMENT, *January 22, 1872.*

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant, transmitting a communication from the Hon. O. A. Hadley, governor of the State of Arkansas, dated December 25, 1871, in relation to withholding moneys due the State for the support of military convicts, and in reply have to inform you that directions have been given to the Second Comptroller to make the amount found due payable to the Treasurer of the United States, to be by him deposited in the Treasury as a payment by said State on account of interest due on certain bonds guaranteed by it and held in trust by the United States for the benefit of the Chickasaw Indian Nation.

I am, very respectfully,

GEO. S. BOUTWELL,  
*Secretary.*

Hon. E. B. FRENCH,  
*Second Auditor.*

TREASURY DEPARTMENT,  
SECOND COMPTROLLER'S OFFICE,  
*January 30, 1872.*

SIR: I herewith inclose a copy of a letter from the Secretary of the Treasury in relation to withholding moneys due the State of Arkansas, etc.

I would respectfully request that in accordance with the decision of the Secretary the amount due the State of Arkansas be paid to the Treasurer of the United States to be by him covered into the Treasury by miscellaneous warrant on account of amount heretofore advanced by the United States to pay interest on non-paying Arkansas stocks held in trust by the Secretary of the Interior for the Chickasaw tribe of Indians.

Very respectfully, your obedient servant,

J M. BRODHEAD,  
*Second Comptroller.*

Hon. E. B. FRENCH,  
*Second Auditor.*

DEPARTMENT OF THE INTERIOR,  
*Washington, D. C., June 21, 1873.*

SIR: In accordance with an act of Congress, approved December 13, 1872 (U. S. Stats. at Large, pamphlet laws, third session, Forty-second Congress, pages 397 and 398), the Secretary of the Interior, as trustee for the Chickasaw Nation, received from the Union Trust Company of New York, the legally authorized agent of the State of Arkansas, ninety Arkansas 6 per cent. coupon bonds, issue of January 1, 1870, for \$1,000 each, in exchange for the same amount of Arkansas matured bonds; also bonds of the same description in lieu of the interest accruing on the old bonds from July 1, 1842, to January 1, 1874, except a balance of \$422.20, for which a certificate of indebtedness was issued by said company.

In order that the amount represented by the said certificate may be used to reimburse the Government for moneys appropriated by Congress at various times to meet

arrears of interest on said bonds, I inclose herewith the said certificate of indebtedness, and will thank you to cause such disposition to be made of the same as will enable this Department to accomplish such purpose.

Very respectfully, your obedient servant,

W. H. SMITH,  
*Acting Secretary.*

Hon. E. B. CURTIS,  
*Acting Second Comptroller.*

—  
TREASURY DEPARTMENT,  
SECOND COMPTROLLER'S OFFICE,  
June 24, 1873.

SIR: I herewith transmit a copy of a letter from the Secretary of the Interior to this office, dated 21st instant, with the certificate of indebtedness therein referred to for \$422.20 from the legally authorized agent of the State of Arkansas.

This certificate has been sent to this office to be disposed of in such manner as will enable the Secretary of the Interior to re-imburse the United States the balance due for advancements made from time to time to pay the Indians the interest due them on Arkansas bonds held in trust by the Secretary of the Interior.

In order to enable the Secretary to make such re-imbursement, I have respectfully to request that the amount of this certificate, \$422.20, be retained from the first claim presented by the State of Arkansas for payment, and the amount thus retained paid to the Hon. C. Delano, secretary and trustee of Indian trust funds.

Very respectfully,

E. B. CURTIS,  
*Acting Comptroller.*

Hon. E. B. FRENCH,  
*Second Auditor.*

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DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,  
Washington, D. C., January 25, 1888.

SIR: In reply to your letter of the 24th instant, I have the honor to advise you that the lands selected by the State of Arkansas under the swamp grant of September 28, 1850, amount to 8,655,210.10 acres. Notice of these selections was given the local officers for the district in which the lands were situated as soon as practicable after the surveyor-general approved the selection, and the instructions given required that said lands be withheld from sale or entry; but in many cases lands were sold or entered before notice of the State's claim reached the local office, and in a number of other cases the lands selected have been found not to be swamp or overflowed within the meaning of the grant, and the claim of the State rejected and the lands opened to settlement and entry, so that the amount of land now withheld from disposition is not known and could not be ascertained without a detailed examination of the records of both this and the several local offices in the State, which would require several months.

Of the lands selected and reported to this office 7,659,619.13 acres have been approved by the Secretary of the Interior, and 7,503,196.13 acres have been patented to the State under the grant. The difference between the amount selected and the amount patented to the State (1,152,013.97 acres) is not the actual amount of land now in dispute. It embraces many duplicate selections; all the lands for which the claim of the State has been rejected; many tracts disposed of both before and after the date of the swamp grant by sales, or locations of warrants and scrip, or under other grants to the State, and numerous tracts covered by claims adverse to the State, yet to be determined, as well as those for which the question of title between the State and the United States only remains to be decided. Separate records of these different classes have never been made up, so that the amount of land already selected to which the State is entitled can not even be estimated.

Under date of November 2, 1850, a circular (see Lester's Land Laws, vol. 1, p. 543) setting forth the provisions of the grant of September 28, 1850, with instructions thereunder, and allowing the States to elect which of two methods they would adopt for the purpose of designating the swamp lands, was sent to the governors of the States to which the grant applied. These methods are:

First. The field-notes of Government survey to be taken as the basis for selections, and the lands shown by them to be swamp or overflowed within the meaning of the act, which were vacant and unappropriated September 28, 1850, would pass to the State.

Second. The selections to be made by State agents and reported to the United States surveyor-general for the district, with proof of the character of the lands.

By an act approved January 6, 1851, the legislature of the State of Arkansas provided for making selections according to the second method, which has since formed the basis of selections in said State.

Recently the State authorities sought to have the method of adjusting the claims of the State under the swamp-land acts changed, but so far they have not met the requirements of the Department in the matter. (See 4 L. D., 295-7 and 5 *Id.*, 636.)

The regulations governing the adjustment of cases where persons seek to file claims for or enter lands claimed as swamp which have not been approved and certified to the States are contained in the inclosed circular of December 13, 1886. After such approval and certification the State's claim can only be contested upon a showing that the approval was the result of fraud or mistake, unless the applicant alleges some right under the public land laws acquired prior to the approval.

Under the acts of Congress approved March 2, 1855 (10 Stat., 634), and March 3, 1857 (11 Stat., 251), indemnity is allowed for lands entered with cash or located with warrants or scrip between September 28, 1850, and March 3, 1857, upon proof by the State that such lands were swamp or overflowed within the meaning of the grant of 1850. If the land was entered with cash, the purchase money is paid over to the State, except in cases where more than \$1.25 per acre was received. In such cases the rule is to allow only \$1.25 per acre. Where the land was located with warrants or scrip, certificates issue authorizing the location of a like amount of public land, subject to entry at \$1.25 per acre, within the limits of the State. In case of those States in which there are no public lands subject to entry at the price aforesaid, this office has for a number of years refused to issue such certificates.

There is no authority of law for allowing indemnity for swamp lands sold or located after March 3, 1857, or for lands entered under the homestead or other later laws.

The State of Arkansas has received no indemnity, either in money or land, and has submitted no proof with a view to obtaining indemnity to swamp lands.

Very respectfully,

S. M. STOCKSLAGER,  
*Acting Commissioner.*

Hon. THOMAS C. MCRAE,  
*House of Representatives.*

HOUSE OF REPRESENTATIVES, UNITED STATES,  
*Washington, D. C., October 12, 1888.*

SIR: Please give me a memoranda showing the quantity of land disposed of by the United States in the State of Arkansas, for each year since the act of September 28, 1850, that is claimed by the said State as shown by the several selection lists made under said act, giving the amount of cash sales as well as the area of the lands otherwise disposed of.

Respectfully,

THO. C. MCRAE.

Hon. S. M. STOCKSLAGER,  
*Commissioner, etc., Washington, D. C.*

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., January 24, 1889.*

SIR: Pursuant to your request of October 12, 1888, I transmit herewith a memorandum showing, approximately, the quantity of land disposed of by the United States since September 28, 1850, which is claimed by the State of Arkansas under the act of Congress of that date granting swamp and overflowed lands to said State. This memorandum was made after a somewhat careful examination of the records, and, while it approximates the amount disposed of, it is not intended as an accurate statement of the amount of land involved.

Very respectfully,

S. M. STOCKSLAGER,  
*Commissioner.*

Hon. THOMAS C. MCRAE,  
*House of Representatives.*

# 36 SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS.

GENERAL LAND OFFICE,  
Washington, D. C., January 24, 1889.

Statement showing the number of acres of selected swamp lands in the State of Arkansas sold by the United States, the amount of cash received therefor, the number of acres located with warrants and scrip, each year since September 28, 1850, and the number of acres embraced in homesteads.

Year.	Acres of land.	Cash received.	Acres located with warrants and scrip.	Acres embraced in homesteads.
1850.....	5, 240	\$8, 650	5, 420	.....
1851.....	41, 900	50, 745	36, 720	.....
1852.....	9, 640	12, 260	20, 060	.....
1853.....	6, 120	7, 600	7, 920	.....
1854.....	12, 120	9, 810	2, 720	.....
1855.....	18, 220	12, 605	1, 520	.....
1856.....	28, 480	21, 270	9, 560	.....
1857.....	36, 210	34, 915	8, 640	.....
1858.....	9, 080	8, 395	1, 560	.....
1859.....	13, 100	13, 160	2, 240	.....
1860.....	16, 880	15, 570	3, 400	.....
1861.....	2, 400	2, 310	800	.....
From 1868 to 1887.....	199, 390 1, 360	195, 290 1, 700	106, 560	55, 529
Total.....	200, 750	196, 990	106, 560	55, 529

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., February 6, 1889.

SIR: I am in receipt of your letter of the 4th instant, in which you asked to be informed as to the amount of indemnity in money or other land allowed the several States for swamp and overflowed lands, and have the honor to submit herewith a statement showing the amount of indemnity allowed in money, the number of acres covered by indemnity certificates issued, and the number of acres patented to the several States in satisfaction of such indemnity certificates to date.

Very respectfully,

S. M. STOCKSLAGER,  
Commissioner.

Hon. THOS. C. McRAE,  
House of Representatives.

States.	Indemnity allowed in money.	Acres covered by indemnity certificates issued.	Patented in satisfaction of indemnity certificates.
		<i>Acres.</i>	<i>Acres.</i>
Alabama.....		20, 009.36	999.22
Florida.....	\$87, 045.68	93, 346.07	56, 619.81
Illinois.....	450, 308.91	101, 984.90	2, 309.07
Indiana.....	30, 675.20	8, 595.64	4, 880.20
Iowa.....	529, 056.55	341, 632.97	321, 565.23
Louisiana.....	57, 355.33	29, 214.25	.....
Michigan.....	15, 922.05	24, 599.43	18, 983.93
Mississippi.....		47, 888.73	.....
Missouri.....	201, 535.40	80, 844.99	70, 615.67
Ohio.....	29, 027.76	.....	.....
Wisconsin.....	185, 278.91	106, 042.08	105, 047.99
Total.....	1, 566, 205.79	854, 158.42	581, 021.12

Here is a copy of the certificates attached to the lists on file in the Land Office.

E No. 4.

List of lands selected by the State locating agents as "swamp and overflowed," indicated as such by the field-notes on file in this office and the testimony of the locat-



ing agents; constructed according to form and instructions of General Land Office of the 21st December, 1853, and 8th April, 1854.

## IN CHAMPAGNOLLE LAND DISTRICT, ARKANSAS.

Parts of section.	Section.	Town-ship.	Range.	Area.
" " " " "	"	"	"	"

SURVEYOR'S OFFICE,  
Little Rock, Ark., August 22, 1857.

I, Henry M. Rector, surveyor-general of the State of Arkansas, do hereby certify that the foregoing list is a correct transcript from the original list of swamp-land selections made by the State locating agents and filed in this office by the governor of the State of Arkansas, 26th March, 1857, and 27th December, 1856, of which every tract has been carefully examined by the plats and field-notes on file in this office, and where the field-notes do not positively indicate the character of the land the report of the locating agents is admitted. From these evidences I consider the lands on the above list marked "E No. 4" to be of the character contemplated by the act of Congress of 28th September, 1850.

H. M. RECTOR,  
Surveyor-General.

(Signed triplicate.)

In addition to the foregoing there are *other* lists, to which are attached the same caption and the same certificate by the Surgeon-General as in List "E No. 4," designated as follows:

		Date of List.	Acres.	100ths.
E No. 5	Champagnolle district .....	Mar. 26, 1858	15, 568	19
E No. 7	do .....	Mar. 2, 1859	89, 000	Est.
E No. 6	do .....	Mar. 6, 1858	53, 031	47
E No. 4	Clarksville district .....	Aug. 22, 1857	3, 133	50
E No. 5	do .....	Mar. 26, 1858	480	-----
E No. 4	Fayetteville district .....	Aug. 22, 1857	1, 607	30
E No. 5	do .....	Mar. 26, 1858	6, 229	64
E No. 6	do .....	Nov. 6, 1858	5, 101	32
E No. 4	Little Rock district .....	Aug. 22, 1857	19, 040	57
E No. 5	do .....	Mar. 26, 1858	6, 461	52
E No. 6	do .....	Nov. 6, 1858	1, 420	87
E No. 4	Washington district .....	Aug. 22, 1857	10, 451	Est.
E No. 5	do .....	Mar. 26, 1858	2, 725	67
E No. 6	Red River district .....	Nov. 6, 1858	18, 100	48
E No. 4	Helena district .....	Aug. 22, 1857	24, 213	38
	Champagnolle E No. 4, 1st page .....		77, 448	43

These certificates, made upon proof taken at the time, are very persuasive if not convincing proof of the swampy character of the land.

The statement made by Hon. W. H. Halliburton is upon the basis of a settlement of all claims that have already and that may hereafter accrue to the State for swamp land and on the 5 per cent. fund, and must to some extent be estimated. The larger part of the claim of the United States is for interest. If the claims of the State are allowed at all, they also ought to bear the same rate of interest from the time they should have been credited.

The following table will show the claims of the State, exclusive of interest either way, for such lands as have been disposed of, leaving out the claim for swamp land in place and the claim for 5 per cent. on the value of bounty lands and homesteads, estimating the swamp indemnity lands at the minimum price, compared with the amount of bonds claimed by the United States.

# 38 SETTLEMENT OF DEBT DUE UNITED STATES BY ARKANSAS.

*Total of bonds claimed by United States, \$625,000.*

Five per cent. fund retained .....	\$188,775.02
Cash indemnity for lands sold .....	196,990.00
Land indemnity, at \$1.25 per acre .....	202,600.00
Keeping United States prisoners .....	10,377.80
Due under distribution act .....	5,012.16
Seminary lands, at \$1.25 .....	8,947.72
<b>Total .....</b>	<b>612,702.70</b>
Difference in principal .....	12,297.30

The following table will show the claim of the State, allowing the same rate of interest as the bonds bear, calculated from the year the sales were made:

Amount cash indemnity .....	\$195,290.00
Interest on same .....	389,121.30
Five per cent. fund .....	188,775.02
Interest on same .....	846,683.64
Amount land indemnity .....	202,600.00
Interest on same .....	290,464.84
United States prisoners .....	10,377.80
Sixteen years' interest on same .....	9,962.68
Under distribution act .....	5,012.16
Forty-six years' interest on same .....	13,833.55
Seminary lands .....	8,947.72
<b>Total .....</b>	<b>2,161,067.71</b>

This calculation and statement does not include any interest on homesteads for which indemnity is claimed, nor the claim of 5 per cent. on the valuation of homesteads, and yet the aggregate is greater than the amount claimed by the United States, exclusive of the Indian trust funds.

In the statement of the amount due from the State to the United States it appears that the Treasury accounting officers have computed the interest on the coupons after maturity and payment by the Government at the same rate they bore before. This is without authority and contrary to the principles of law governing such cases. When the bonds matured they were not presented for payment, but the United States paid them and such of the coupons attached as had not been paid by the State. These sums so paid out ought to be repaid by the State, but no more.

With the system of book-keeping practiced by the Government it is almost impossible to understand either the balances or how they are reached. The following letter and accompanying statements will show the entries on the books of the Treasury Department as far as these payments are concerned. The real amount due is shown by this rather than by the table of March 12, 1888, in which interest was computed to the 1st of January, 1888, on the whole of the bonds.

TREASURY DEPARTMENT, REGISTER'S OFFICE,  
*Washington, D. C., February 12, 1889.*

SIR: Your letter of this day addressed to the honorable Secretary of the Treasury, in regard to how much money the United States has paid out on the bonds of the State of Arkansas and when the appropriations were made, has been referred to this office for answer.

I have the honor to hand you herewith a transcript of the following accounts as they appear on the ledgers of the Register's Office, viz:

"The State of Arkansas, growing out of the purchase of the bonds of said State as an investment of moneys belonging to the Smithsonian Institute under section 6, act of July 7, 1838."

"The State of Arkansas, on account of bonds of said State purchased by the United States in trust for the Chickasaw Indians."

These two accounts are all the entries appearing in this office relative to the matter.

The act of August 10, 1846, page 102, United States Statutes at Large, volume 9, ascertains the amount on account of the Smithsonian bonds at \$515,169, "lent to the United States Treasury at 6 per cent. per annum, interest from the 1st day of September, in the year 1838, when the same was received into the Treasury." The Government has been paying the interest on that amount together with other donations regularly since that time, but the Treasury Department has not been stating accounts with the State of Arkansas, and charging the interest up to that State since December 28, 1875, as shown by Report No. 199302 in the transcript. This office can not charge up interest or anything else until directed by the Comptroller in stated accounts.

I would suggest that perhaps the Interior Department can give you information about the condition of the bonds purchased on account of the Chickasaw Indian fund and the payment of interest thereon.

Respectfully,

L. W. REID,  
*Acting Register.*

Hon. THOMAS MCRAE.

*The State of Arkansas growing out of the purchase of the bonds of said State, as an investment of moneys belonging to the Smithsonian Institution, under section 6, act of July 7, 1838.*

DR.				CR.			
Sept. 13, 1850	To principal of stock purchased on account trust funds .....	427	\$538,000.00	Sept. 13, 1850	By interest on stock purchased on account trust funds .....	259	\$106,477.95
Sept. 13, 1850	To interest on stock purchased on account trust funds .....	259	362,959.57	Sept. 13, 1850	By new account .....	103	794,461.62
			900,959.57				900,959.57
Sept. 13, 1850	To old account, report No. 103877 .....		794,461.62	Jan. 31, 1854	By interest on stock purchased on account trust funds .....	259	23,965.30
Jan. 31, 1854	To interest on stock purchased on account trust funds .....	259	120,120.00	Jan. 31, 1854	By new account .....	103	899,636.32
			923,601.62				923,601.62
Jan. 31, 1854	To old account, report No. 113529 .....		899,636.32	Jan. 11, 1855	By interest on stock purchased on account trust funds .....	259	13,460.29
Jan. 11, 1855	To interest on stock purchased on account trust funds .....	259	32,280.00	Jan. 11, 1855	By new account .....	103	918,456.03
			931,916.32				931,916.32
Jan. 11, 1855	To old account, report No. 116528 .....		918,456.03	Apr. 30, 1857	By interest on stock purchased on account trust funds .....	259	8,313.15
Apr. 30, 1857	To interest on stock purchased on account trust funds .....	259	64,560.00	Apr. 30, 1857	By new account .....	103	974,702.88
			983,016.03				983,016.03
Apr. 30, 1857	To old account, report No. 127145 .....		974,702.88	July 31, 1860	By interest on stock purchased on account trust funds .....	259	18,700.79
July 31, 1860	To interest on stock purchased on account trust funds .....	259	96,840.00	July 31, 1860	By new account .....	103	1,052,842.09
			1,071,542.88				1,071,542.88
July 31, 1860	To old account, report No. 138174 .....		1,052,842.09	Mar. 20, 1863	By new account .....	103	1,149,682.09
Mar. 20, 1863	To interest on stock purchased on account trust funds .....	259	96,840.00				
			1,149,682.09				
Mar. 20, 1863	To old account, report No. 146387 .....		1,149,682.09	Oct. 14, 1863	By interest on stock purchased on account trust funds .....	259	19,634.75
Oct. 14, 1863	To interest on stock purchased on account trust funds .....	259	16,140.00	Oct. 14, 1863	By new account .....	103	1,146,187.34
			1,165,822.09				1,165,822.09



Oct. 14, 1883	To old account, report No. 149045.....	.....	1, 146, 187. 34	Jan. 5, 1870	By interest on stock purchased on account trust funds.....	259	85, 941. 61
Jan. 5, 1870	To interest on stock purchased on account trust funds.....	259	209, 820. 00	Jan. 5, 1870	By new account.....	103	1, 290, 065. 53
			1, 356, 007. 34				1, 356, 007. 34
Jan. 5, 1870	To old account, report 172750.....	.....	1, 290, 065. 53	Dec. 28, 1875	By new account.....	106	1, 483, 745. 53
Dec. 28, 1875	To interest on stock purchased on account trust funds.....	259	193, 680. 00				1, 483, 745. 53
			1, 483, 745. 53				
Dec. 28, 1875	To old account, report No. 199302.....	.....	1, 483, 745. 53				

A true transcript from the books of this office.

L. W. REID,  
Acting Register.

TREASURY DEPARTMENT, REGISTER'S OFFICE, February 12, 1889.

DR.	The State of Arkansas on account of bonds of said State purchased by the United States in trust for the Chickasaw Indians.						CR.
Dec. 29, 1854	To principal of stock purchased on account trust funds.....	427	\$90, 000	Dec. 29, 1854	By interest on stock purchased on account trust funds. ....	259	\$16, 200
Dec. 29, 1854	To interest on stock purchased on account trust funds.....	259	86, 400	Dec. 29, 1854	By new account .....	106	160, 200
			176, 400				176, 400
Dec. 29, 1854	To old account report No. 116455, viz: Principal of bonds..... \$90, 000 } Interest on bonds..... 70, 200 }	-----	160, 200				

A true transcript from the books of this office.

L. W. REID,  
Acting Register.

TREASURY DEPARTMENT, REGISTER'S OFFICE, February 12, 1889.