

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

12-20-1893

Compromise and settlement with the State of Arkansas.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

H.R. Rep. No. 239, 53rd Cong., 2nd Sess. (1893)

This House Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

COMPROMISE AND SETTLEMENT WITH THE STATE OF ARKANSAS.

DECEMBER 20, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT:

[To accompany H. R. 4903.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 117) "to authorize a compromise and settlement with the State of Arkansas," have had the same under consideration and report it back with the recommendation that it be laid on the table, and that the accompanying substitute therefor be passed.

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, and can never be settled without additional legislation. 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 the \$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 centum interest per annum. The State has paid no interest on these bonds since 1874, except such as the Treasury officials have sequestered under section 3481, Revised Statutes.

The State authorities claim that the sums thus retained, with what is fairly and equitably due on her unadjusted swamp-land claims, will more than pay what she owes on the bonds. There has accrued to the State, from time to time, as shown by the statement of the General Land Office, the sum of \$264,281.57 on account of 5 per cent of the net proceeds of the sale of public lands, of which \$204,410.75 have been withheld by the United States.

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, and the Interior Department admits, large amounts of both cash and land indemnity due the State under the acts approved March 2, 1855, and March 3, 1857. Nothing has ever been paid

or credited on this account and it is impossible to state accurately how much is due from that source.

From the statement of the Commissioner of the General Land Office it appears that the United States have 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 claims 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 as were otherwise disposed of, making a total claim on this account of \$399,590.

There are pending before the Land Department claims for 967,325.18 acres of land in place, but it is estimated by the Commissioner that a large per cent of this may be included in that portion of the original claim already rejected or in duplicate selections.

The bill for which this is a substitute was by the committee referred to the Secretary of the Interior and the Secretary of the Treasury, and their reports are made a part hereof.

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.

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	\$6,650	5,420	.....
1851.....	41,900	50,745	36,720	.....
1852.....	9,640	12,260	26,060	.....
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	55,520
Total.....	200,750	196,990	106,560	55,520

DEPARTMENT OF THE INTERIOR,
Washington, October 27, 1893.

SIR: I am in receipt of your letter of September 10, instant, referring to me House bill No 117, "to authorize a compromise and settlement with the State of Arkansas," with the request for my opinion as to the propriety of passing said bill.

I transmit herewith a report from the Commissioner of the General Land Office, which contains all the facts shown by the records of his office relative to the claims of the State against the United States.

I have no information as to what amount of bonds and coupons of the State of Arkansas are held by the United States in trust, or otherwise, nor of other indebtedness arising under claims by the Government against said State.

I would suggest that the bill be referred to the proper Department to ascertain such indebtedness. In the absence of such information I am unable to express an opinion upon the merits of the bill.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. THOMAS C. McRAE,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 21, 1893.

SIR: I am in receipt by departmental reference of September 12, 1893, from Hon. Thomas C. McRae, chairman of the Committee on the Public Lands of the House of Representatives, H. R. bill 117, entitled "An act to authorize a compromise and settlement with the State of Arkansas," with his request for an opinion as to the propriety of passing the same.

By this bill it is provided that the United States "cancel and deliver to the proper officer of the State of Arkansas all the bonds and coupons issued by said State now owned or held in trust by the United States" upon the relinquishment by the State of all her "claims and demands against the United States for the 5 per centum fund allowances under the act approved June 23, 1836, * * * for a portion of the distribution fund under the act approved September, 1841, for indemnity under the acts approved March 2, 1855, March 3, 1857, and under this act, and for all swamp and overflowed lands under the act approved September 28, 1850, not heretofore approved to the State," and for keeping prisoners under Executive order of February 5, 1867.

The records of this office disclose that the sum of \$264,281.57 accrued to the State under the act of June 23, 1836, prior to June 30, 1892, and that the sum of about \$310 has accrued to the State under that act during the year 1893. If the rule announced by the Supreme Court, in *Iowa v. McFarland* (110 U. S., 471), relative to lands appropriated by military land warrant locations continues to be applied to lands taken under the homestead laws, but little will accrue to the State under this act in the future. 5,531,344.10 acres have been entered under the homestead law, 2,263,226.92 acres have been located with bounty land warrants, and 880 acres with scrip.

Prior to repeal of the act of September 4, 1841, the sum of \$5,012.16 was found to be due the said State under that act, but no part of that amount has ever been paid. No money has ever been paid and no certificates have ever been issued to said State under said acts of March 2, 1855, and March 3, 1857, and it is at this time impossible to state accurately how much is due the State from that source as indemnity in land and money.

On January 24, 1889, Commissioner Stockslager, after evidently careful examination of the records of this office, furnished a statement showing that 200,750 acres of selected swamp lands in said State had been sold for \$196,990, 106,560 acres had been located with warrants, and 55,529 had been taken under the homestead law.

Selections aggregating 8,656,312.63 acres have been made by said State under act of September 28, 1850, and of these selections approvals have been made amounting to 7,688,987.45 acres, leaving an apparent claim remaining of 967,325.18 to be adjusted, but it is estimated that a large per cent of this may be included in that portion of the original claim already rejected by this department or in duplicate selections.

It is not possible for me to give at this time anything like an exact estimate of the amount of land in place now claimed under this act, as to do so would involve the expenditure of much time and labor, and I presume this report is desired as early as possible.

The foregoing comprises all the facts shown by the record of this office relative to the claims of the State against the United States. I have no information at my command which would enable me to estimate the value of the additional claim for keeping prisoners under said executive order, or of the "bonds and coupons" now owned and held in trust by the United States. In view of the fact that many of these claims are growing old, and their adjustment and settlement is likely to be a source of much annoyance and will involve a large amount of labor and cost, both on the part of the State and of this department, it is deemed advisable to adopt some equitable and fair method which would lead to a speedy and complete adjustment of the whole matter.

The general assembly of the State of Arkansas on the 8th day of April, 1889, passed the following act, fully empowering the governor to compromise and settle the claims of the State, to wit:

"Be it enacted by the general assembly of the State of Arkansas, That the governor be and he is hereby, authorized and empowered to enter into negotiations with the proper authorities of the United States, with a view of compromising, adjusting, and settling all or any of the claims of the State of Arkansas that have accrued or that may hereafter accrue under existing and future laws and grants; 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, the sum or sums agreed upon for such claim or claims as he may compromise and adjust to be applied upon the bonds of the State owned by the United States. The governor is fully empowered to relinquish and quitclaim to the United States any or all claims or demands, adjusted or unadjusted upon the surrender to the State of such of her bonds as he may stipulate for in the compromise."

I am of the opinion that Congress by appropriate legislation should vest in some Department of the Government ample authority to compromise and settle with the State of Arkansas the several claims hereinbefore referred to. By analogy it would seem that such authority should be committed to the Department of the Interior. But whether the compromise is proposed to be effected by a commission created directly by Congress, or through the medium of agents appointed by Department, this office will be pleased to expedite by all means in its power a successful compromise of the existing differences.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., December 8, 1893.

SIR: Referring to your written request for an expression of my opinion as to the advisability of the passage of House bill 117, and to several more recent interviews on the same subject, and requesting information concerning the condition of the indebtedness of the State of Arkansas to the United States as shown by the records and files of the Treasury Department, I have the honor to state that some legislation by Congress seems desirable if not indispensable to facilitate a satisfactory settlement and adjustment of the complex and long-standing differences between the Government and the State of Arkansas growing out of their mutual claims and demands, and I therefore heartily approve the plan that looks to such appropriate legislation.

It appears to me, however, the bill submitted does not give sufficient power and discretion to the proposed contracting powers or their agents to cover so fair and full an adjustment of such differences as is desirable, since it seems to contemplate only a mutual cancellation and surrender or discharge of all claims or obligations that each may have against the other without regard to balances.

I would therefore suggest and recommend that the bill be so amended as in substance to authorize the Secretary of the Interior and the Secretary of the Treasury, or three such competent persons as they may select or cause to be selected on behalf of the United States, to fully settle, compromise, and adjust the differences contemplated herein with the governor of the State of Arkansas, or with such person or persons as may be authorized by the laws of that State to act in its behalf in the premises.

The accompanying statement, compiled from the files and records of this Department, shows approximately and as accurately as can be ascertained, in all probability, until a final adjustment is had, the state of the differences in question so far as they pertain to the Treasury Department.

The more difficult matters of adjustment perhaps being those growing out of the claim of Arkansas against the General Government, in connection with the public

lands, you are respectfully referred to the Secretary of the Interior for any information connected with that branch of the subject of differences.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

Hon. THOMAS C. McRAE,
Chairman Committee on Public Lands, House of Representatives,
Washington, D. C.

STATEMENT.

The State of Arkansas in the year 1838 borrowed from the Smithsonian Institution fund, which was then in the United States Treasury, the sum of \$538,000, and issued State bonds therefor, dated January 1, 1838, bearing 6 per cent interest, \$500,000 of which were redeemable October 26, 1861, and \$38,000 January 1, 1868.

The State of Arkansas having defaulted in the payment of interest on \$404,000 of the above loan January 1, 1842, the Smithsonian Institution fund was reimbursed by appropriation of Congress August 10, 1846 (9 Stat., 102).

An adjustment made by the Secretary of the Interior with the State of Arkansas by virtue of the act of December 13, 1872 (17 Stat., 397), whereby certain Indian trust bonds were funded, resulted in the issue of State bonds to cover the indebtedness due from the State arising from appropriations to pay interest accrued, but for the payment of which the State was in default.

The amount of interest thus appropriated for was \$91,800; but the United States had withheld \$7,677.80 due the State for the care of military convicts, and in the adjustment this sum was deducted, leaving a balance in favor of the United States on account of interest appropriated for of \$84,122.20. The State paid \$122.20 in cash and delivered to the United States \$84,000 in 6 percents, dated January 1, 1870, redeemable January 1, 1900.

This adjustment also resulted in the issue by the State of \$168,000 funded stock, 6 per cents, dated January 1, 1870, redeemable January 1, 1900, and the payment of \$300 in cash. These bonds belong to the Indian trust fund.

Three thousand dollars in registered 5 per cents, dated January 1, 1837, redeemable January 1, 1887, bonds of the State of Arkansas, were also acquired under authority of an appropriation made by Congress to pay Hiram R. Pitchlyn the proceeds of the sales of two quarter sections of land which were sold and the proceeds invested in the stock of the State of Arkansas, pursuant to the provisions of the eighth article of the treaty with the Chickasaw Indians. (10 Stat., 43.)

It will thus be seen that the United States holds in its own right, in all, bonds of the State of Arkansas, the principal of which amounts to \$625,000, all of which are in the Treasury.

The Treasurer of the United States, as custodian for the Secretary of the Interior, trustee, holds the \$168,000 in Arkansas bonds belonging to the Indian trust fund before mentioned.

No interest has been paid either on those bonds (\$168,000) belonging to the Indian trust fund or those held for the United States (\$84,000) since 1874.

The State ceased to pay interest on \$366,000 of the Smithsonian Institution loan January 1, 1842, on \$1,000 July 1, 1852, and on \$133,000 July 1, 1860, and on that part of the loan redeemable in 1868 (\$38,000) it ceased to pay interest January 1, 1842. On the \$3,000 registered 5 per cents no interest has been paid since July 1, 1876.

On the other hand, the Department has retained, under Joint Resolution, March 3, 1845 (5 Stat., 801), and section 3481, R. S., the sum of \$204,410.75, accruing to the State under the act of June 23, 1836, on account of 5 per cent of the net proceeds of the sale of lands in the State of Arkansas. The amounts retained from time to time which make this sum have been applied, under the direction of the First Comptroller, sometimes in part payment of interest due the Indian trust fund and sometimes to the credit of the State for interest due the Smithsonian Institution fund.

The claims of the State for keeping of United States prisoners, as well as for \$422.20 paid in cash to the United States, were merged in the adjustment above set forth, and are, therefore, no longer to be considered.