50TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 3998, Part 2.

DEBT OF ARKANSAS.

MARCH 1, 1889.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

VIEWS OF THE MINORITY:

[To accompany bill H. R. 3288.]

The undersigned members of 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, submit the following as the views of the minority and reasons why this bill should not become a law:

This bill is of a most extraordinary character in several respects. The debts owing by the State of Arkansas are just and unquestioned, have been for a long time overdue, and not even the interest paid on them. This is simply a bill in effect to discharge and forgive the debt. This the United States may have the power to do, so far as the debt is owing to it in its own right, if it wants to do so, no matter how wrong it may be. But a large part of this debt is held by the United States Government in trust and known as the "Indian trust fund." Five hundred and thirty-eight thousand dollars of this debt was of the Smithsonian trust fund. This latter money the United States felt so far responsible for that it has made it good to the Smithsonian Institution.

The United States can not release the State of Arkansas from paying these trust debts without assuming and paying them in full. A trustee who would assume to release a trust debt on all principles of law and equity would become liable and responsible for the debt.

Second. It is an extraordinary power to give the Secretary of the Treasury—authority to settle and compromise such debts. Some of the debts that are alleged can be set off against the trust-fund debts that this bill seeks to have released are alleged claims for swamp-land and other grants that in no sense come before the Treasury Department. They are not the subject of accounts in the Treasury Department, and any other official, or in fact any other individual, might as well be authorized to forgive and cancel these debts as the Secretary of the Treasury.

There are items of accounts referred to in this bill that the Treasury Department very properly has charge of. But it is not believed that these items are at all in dispute. The State of Arkansas could have them settled at any time if it wanted to pay its just debts. The purpose of referring to them in this bill at all is not apparent, unless it be to give character to the alleged and, as we think, imaginary claims for indemnity for swamp-land and seminary-land grants.

One other reason perhaps might be given, which is that the purpose of this bill is to remit and release just and valid debts; and in order to show some reason or excuse for this release these matters are offered as set-off. But they are very small compared with the large debts which it is proposed to release and cancel.

The bill as amended gives a general power to the Secretary of the Treasury to settle and compromise all claims referred to in the preamble as he deems best. The preamble has been amended so as to lessen the force of the admissions in it, but as it yet remains it is calculated to mislead. Its tendency is to admit or assume that certain debts are owing to the State of Arkansas that we think have no existence in fact. Among these we would enumerate the indemnity for lands granted for seminaries. There is no law that ever purported to give indemnity for these lands.

Also the alleged claim of 5 per cent. of the proceeds of all lands. So far as States have any valid claim for a per cent. of the proceeds of sales of public lands, the Treasury has power to settle and adjust it. No additional legislation is needed, and we understand that the Treasury Department has always been ready and willing to give the State of Arkansas full credit for all it could possibly claim.

We are of opinion if this bill should become a law that its only effect will be to furnish an argument or basis for allowing the State of Arkansas indemnity for what are called swamp-land grants.

Indeed, if this is not the entire purpose of those who urge its passage, we are unable to see any purpose in the bill.

This is not the time to enter on a history of the alleged claims for swamp lands and this further new idea of indemnity for swamp lands. We believe it is generally conceded that the swamp-land grants were an unfortunate and improvident class of legislation; that no substantial advantages to the public have arisen from these grants; that under color of them the States obtained title to large bodies of good dry lands they never were entitled to; that the pretended claims still made for further large amounts of land have to a large extent no foundation in either law, justice, or equity.

Further, that the alleged claim for indemnity in money at $1.25 per acre for lands that the United States has conveyed to other persons, and which the State says ought to be called swamp lands, has not the slightest foundation in justice or equity. That there is no law giving such indemnity is plainly shown by the long years of efforts that have been made to obtain laws allowing such a claim.

That men settled as homesteaders and otherwise on lands is conclusive evidence that they were not swamp lands. Then why should the State be given a chance to prove by notes of survey or *ex parte* witnesses that this land so settled on ought to be called swamp lands?

The swamp-land grant was at best a gift to the State. It is a matter of history that the States have obtained far more land under these grants than they should have done, and a claim of pay for land they didn't get is as groundless as anything well could be.

We believe no further allowance of lands even should be made without careful examination. Of the unfair character of these swamp-land claims, the report of the Commissioner of the General Land Office for 1888 fully shows. That in face of such reports from the department to which the matter properly belongs Congress should authorize the head of another department to settle, adjust, and determine the whole matter in a summary matter as this bill does is most surprising. We quote

from the report of the Commissioner of the General Land Office for 1888 the following:

THE SWAMP-LAND GRANT.

The claims presented to this office under the acts of Congress relating to swamp and overflowed lands during the year cover 781,857.59 acres, making the total amount claimed under said acts to date 78,189,130.65 acres.

Patents have issued during the past year for 96,515.19 acres, and the amount patented to the several States to date has reached the enormous aggregate of 56,840,251.09 acres.

The following statement shows the amount of land patented to each of the States to which the grant has been extended (the approval of the State of Louisiana under the act of March 3, 1849, having the force and effect of a patent):

	Acres.
Alabama	410,189.84
Arkansas	7,503,356.13
California	1,465,397.35
Florida	16,060,418.39
Illinois	1,455,601.45
Indiana	1,257,743.61
Iowa	1,181,878.23
Louisiana, act of 1849	8,708,378.03
Louisiana, act of 1850	225,172.32
Michigan	5,667,304.64
Minnesota	2,846,324.88
Mississippi	3,258,746.66
Missouri	3,411,548.99
Ohio	25,640.71
Oregon	32,627.22
Wisconsin	3,329,922.64
Total	56,840,251.09

Under these acts, within a period of less than forty years, the title to an area greater than the States of New York, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, and New Jersey has passed from the General Government to the fifteen States to which these acts apply. The grant has not been extended to the States of Kansas, Nebraska, Nevada, and Colorado, nor to the several Territories. It is a notorious fact that from the beginning of the work of adjusting these grants the claims presented embraced large quantities of dry arable land, and the efforts of this office to ascertain the tracts properly subject to the grants and reject the fraudulent claims have frequently failed, and thousands of acres of land valuable for agricultural or other purposes, and by no means so swampy or subject to overflow as to be thereby rendered unfit for cultivation, have been patented to these States.

Most of the States elected to make selections by their own agents and furnish evidence that the lands so selected were swamp or overflowed within the meaning of the grant.

These agents were generally compensated at a certain rate per acre for the lands selected, but actuated by self-interest they returned large quantities of dry land as inuring to the States under the granting acts. By the acts of March 2, 1855, and March 3, 1857, Congress sought to bring the matter to a close by confirming the selections made up to that date; but notwithstanding the fact that by these acts all inquiry as to the character of the lands claimed was thus cut off, and a large quantity of land known to be dry was given to the States, claims for large amounts of land not within the terms of the original grants have been presented to this office since the passage of these acts. There is no limit of time for presenting such claims, and there is no prospect of a final adjustment of the grants for many years to come.

The acts of March 2, 1855, and March 3, 1857, also provided indemnity to the States for swamp and overflowed lands disposed of by the United States for cash, warrants, or scrip between the date of the original grant and March 3, 1857, and under these provisions more than $1,500,000 has been drawn from the Treasury and nearly 600,000 acres of good agricultural land patented as indemnity, mainly because of the diligence of State and county agents who were paid a percentage of the amount secured.

The original grants were made for the expressed purpose of enabling the States to construct the levees and drains necessary to reclaim the swamp and overflowed lands within their limits, and it was required that the proceeds of the lands should be applied to the reclamation of the same, which was as worthy and meritorious an object

as that for which any grants of the public lands, save, perhaps, educational grants, were ever made. Many of the States transferred their claims to the counties, and the money realized from the sale of the lands, or from the claims to indemnity, has been used for the construction of roads, bridges, public buildings, and purposes other than that contemplated by the granting acts. In some States these lands have been disposed of in large quantities for a merely nominal consideration, or granted to railroad and other corporations. Only a small part of the proceeds has been devoted to the reclamation of the lands, and the intention of the grant has either been defeated in this manner or utterly ignored.

From the beginning the States, or their grantees, have through their agents spared no efforts to increase their claims, and it is to be regretted that in many cases these efforts have succeeded because of the lax administration of the laws or the too liberal construction placed thereon.

The rigid scrutiny to which such claims have been subjected under the orders of my immediate predecessor, which have been continued in force since my assumption of the duties of this office, has resulted in a great saving to the Government, and the amount of claims presented, especially for indemnity, has decreased very materially. Heretofore agents, armed with authority to represent the State and prosecuting claims upon commissions amounting sometimes to 50 per cent. of the proceeds, have presented claims for lands or indemnity and have managed to enlist representatives of the States in support of their claims, thus securing patents of money for large areas of valuable land not swamp or overflowed.

In all cases these claims are now carefully investigated by agents employed for that purpose, and until these investigations are concluded and the agents' reports received no action is taken on the claims. During the past year indemnity has been awarded to the amount of $30,528.32 and 8,486.44 acres in other land, while indemnity claims covering 233,656.93 acres have been disallowed. Claims to 71,368.12 acres of lands "in place" have also been rejected.

The special agents for whom appropriation has been made heretofore were diligently employed until the 1st of June, when the appropriation was exhausted and the agents were necessarily furloughed without pay.

The result of their work is shown by the figures above given. In addition to the foregoing, I would state that out of over 233,000 acres claimed as swamp and overflowed land by the State of Oregon recent reports of agents of this office, made after examination of said lands in the field, show that over 111,000 acres are dry lands.

Many complaints have reached this office that in the State of Minnesota, where the field-notes of the public surveys have been agreed upon as the basis for adjustment of the State's claims, surveys have been falsely and corruptly made and large bodies of land, especially in the northeastern part of the State, valuable for agriculture or for the minerals and timber found thereon, have been fraudulently returned as swamp or overflowed. These surveys, it was alleged, were made in the interest of railroad and mining companies to which grants or sales of swamp land have been made by the State. In September last Dr. L. J. Woolen, chief of the swamp land division of this office, was detailed to examine certain lands in the Duluth district, to ascertain whether returns of the deputy surveyors showing a large area of swamp land were correct. His report shows that most of the surveys made in that district since 1880 are fraudulent and unreliable, and that as the result thereof many tracts of valuable land, not swampy or overflowed, have been patented to said State.

This report was submitted to the Department on the 28th of April last, with a recommendation that lands in said district claimed by the State, surveyed since 1880, be examined in the field by agents of this office, instead of relying on the returns of the deputy surveyors, and that all approvals of swamp lands in the district not patented be revoked and the right of the State to the lands determined by examination in the field.

The area of the State of Florida is 37,931,520 acres, and the selections of swamp and overflowed land made by the agents of said State reported to this office cover 20,259,389 acres. The selections in many cases embrace whole townships.

In one of these townships, containing about 20,000 acres, all selected and returned as swamp, and reported as such by former agents of this office August 18, 1879, and patented to the State February 14, 1880, the field-notes of survey, under the most liberal construction that can be placed on them, show but 1,560 acres to be swamp land, and in no case does it appear from the field-notes that anything near the quantity claimed by the State is of the character of land contemplated by the grant.

It is my intention to have a thorough examination made of all the lands claimed under the swamp grants by competent agents as soon as practicable, and it is believed that much valuable land now claimed by the States will soon be restored to settlement and entry without putting settlers to unnecessary expense and annoyance in securing homes on these lands.

There are other objectional features to this bill that can not now be enumerated. It is a responsibility, or rather power, given the Secretary of the Treasury that no executive officer should have.

There can be no good reason for a special bill to settle claim of this State as to funds granted by Congress under act of 4th September, 1841, at least so long as the direct tax of later years remains unsettled by this State. We think, therefore, that this bill should not become a law.

OSCAR L. JACKSON.

O