

CHAPTER XIV

HOME RULE

1. Default of the Bonds

Opposition to the Everglades drainage program, alive and active since the turn of the twentieth century, was strong enough in the last years of the third decade to achieve some notoriety. An observer, writing in 1927, found the Everglades situation to be the most controversial subject in the state.

Some Floridians outside the 'Glades will privately admit [sic] regarding it as a millstone hung around the neck of Florida by Nature and misplaced zeal. . . . A feeling exists in the 'Glades that the people living there do not have adequate voice or representation in the direction of their destinies. 1

Another writer found that the problem of the Everglades was relegated entirely to the southern end of the state as the northern section took little interest in the Everglades. 2 During the flood control hearings before the house committee in January, 1929, Florida's attorney-general Fred H. Davis, when answering a question as to why the state

1 E. H. Taylor, "Florida's Question Marks," Country Gentleman, XCII (October, 1927), 20-21. To illustrate his point the writer cited the John W. Martin-Herman E. Dann argument over the liabilities of the state in the 1927 bond bill.

2 Edward Howe, "Looking About in the Everglades," loc. cit., 11.

of Florida could not amend its constitution so as to openly and actually aid in the solving of Everglades problems, testified that

. . . a vast number of the people that come down into this particular territory are people who come from other states and settle in this territory, and it is mighty hard to get people in other parts of the State interested in whether they perish or not. . . . They feel this way: I heard it advocated in certain districts of Florida that what the people ought to do is to build a wall down there and keep the military there to keep the people from coming in there. 3

In the fall of 1927 the political pot in Florida began to simmer with hopeful candidates touring the state aspiring to win the governor's chair in the spring primaries of 1928. Among the candidates was Doyle E. Carlton, a Tampa lawyer, who made "home rule" for the Everglades one of his major platform planks. Capitalizing on the unpopularity of the Martin bond deal and the Tallahassee direction of the 'Glades works, Carlton promised, if elected, to remove the drainage administration from politics and make it an engineering and business problem, to give the district true home rule, and to complete the reclamation of the Everglades without a bond issue.⁴

Howard Sharp wrote an editorial on the powers of the governor to appoint and suspend state officials. From this aspect, he believed Carlton's promises sounded the best of any offered by the various candidates. The editor compared

3 Statement of F. H. Davis, Hearings before the Committee on Rivers and Harbors, House of Representatives, May 11, 1928, 145-146.

4 Everglades News, October 21, 1927.

the affairs of the drainage unit with those of the District of Columbia insofar as home rule was concerned.⁵

Carlton was successful in the two Democratic primaries of 1928 and the general election in the fall. He called a series of meetings between the Commissioners of the Everglades Drainage District and delegations of landowners from the area. On March 11, 1929, the Board and its guests met in Tallahassee to discuss the situation south of Lake Okeechobee and the legislation to be taken up in the 1929 session of the legislature.⁶ The joint meeting adopted a set of recommendations calling for a law that would provide more equitable bases, more planning and accord between bonding and subsequent construction, local fire control, thirty foot levee and 2,500 cubic feet per second additional discharge, repeal of the 1927 law and all ad valorem taxes, and concerted effort to secure federal aid. Unanimous assent to the retention of the constituted State Board was expressed, but it was urged that an advisory board be set up from residents of the district.⁷

⁵ Everglades News, October 21, 1927.

⁶ E.D.D. "Minutes" VII, March 11, 1929. A committee of the landowners, including Jules M. Burguieres of the Southern Sugar Company, John C. Sherman of the Brown Company, J. D. White of the Seaboard Land Company, George F. Bensel of the Southern States Land and Timber Company, G. B. Gorman of the Model Land Company, and R. A. Henderson of the Baron Collier interests, submitted a thirteen point program for consideration.

⁷ Ibid. Other meetings were held on April 10 and 18, at which the proposed new law was read and discussed. At the first meeting Carlton made a brief speech outlining the two problems of federal aid and legislation. Ibid., VII, April 10, 1929.

In his message to the legislature on the condition of the state, made on April 3, Carlton pointed out that the Everglades problem had developed into a national as well as a state matter with a promise from the United States of co-operation which would insure the completion of the project in the proper manner. The governor suggested that it would be well to authorize the Board of Drainage Commissioners to deal with Congress should the expected federal help be forthcoming.⁸ The chief executive further suggested that the people of the Everglades be brought in closer contact with the drainage operations either by representation on the Drainage Board or through the creation of an intermediary board.⁹

Several bills passed through the hoppers of both houses of the legislature with a compromise bill bridging the gap between maintaining the status quo and House Resolution 499. The resolution would have set up an eleven man appointive board to which all the lands of the Internal Improvement Fund would have been entrusted.¹⁰

⁸ Journal of the House of Representatives of Florida, 1929, 7.

⁹ Ibid., 8.

¹⁰ Everglades News, April 26, 1929; Miami Herald, May 12, 1929; E. D. D. "Minutes," VII, April 25, 1929. T. E. Will wrote Carlton on May 17, 1929, asking support for House Resolution 499, saying: "Without self-government the Everglades are Doomed. Twenty years close-up experience ought to have taught me something." Will saw a combination of natural reclamation along the lake short, War Department navigation regulations, the cross-state highway, big capital, and east coast rule as factors against interior Everglades settlements such as Okeelanta. T. E. Will to Doyle Carlton, May 17, 1929, Will Collection.

On May 29 bills creating a new Everglades Drainage District administration and the Okeechobee Flood Control District passed the legislature and were dispatched to the governor for his approval.¹¹ Chapter 13,633, Laws of Florida, provided for a board of commissioners of ten members, the five state officials as before, and five new members to be appointed from bona fide residents of the various counties of the district.¹² The act provided for cooperation between the district and the United States in regard to flood control. The bill introduced "the development" unit idea by which thirty per cent of the landowners in any locality might petition to develop their section, and proceed to do so under district supervision unless fifty per cent of the remaining landowners voted the proposal down. Other features of the new act provided for annual audits to be made public and new zonal assessment rates to be set up.

The second act, Chapter 13,711, Laws of Florida, inaugurated a flood control district, overlapping the drainage district.¹³ This quasi-public corporation was set up with a

¹¹ Everglades News; May 31, 1929.
¹² Laws of Florida, 1929, 146-163.
¹³ Ibid., 174-178. Chapter 14,509, Laws of Florida, enacted at the 1929 session authorized the Commissioners of the Everglades Drainage District to issue \$3,000,000 in bonds, in addition to those issued before 1927, to pay obligations of the South Florida unit not covered by previous issues. Ibid., 1006-1007.

governing board of the same state officials and five land-owners from the area appointed by the governor. The newer district was authorized to construct control works, to cooperate with the federal government, to tax for benefits secured, and to bond up to \$5,000,000 should the need arise.

The first meeting of the ten Commissioners of the Drainage District occurred on September 4, 1929. Marcus A. Milam of Miami was elected vice-chairman of the Board and West Palm Beach was selected as a meeting place with monthly meetings to alternate between that city and Tallahassee.¹⁴ The Board agreed to maintain an office at the state capital, with engineering and construction offices at West Palm Beach, and a resident engineer at Moore Haven.

With the adoption of the partial home rule law for the Everglades Drainage District and the inauguration of the ten man Board of Commissioners the program of pseudo-sponsorship by the state through the governor and his four cabinet members came to a gradual halt. It has been seen that during the period from 1912 to 1925 the Drainage District

. . . was able, from the proceeds of bonds, direct application of taxes and advances from the Trustees to excavate 440 miles of canal, 47 miles of protective levee around Lake Okeechobee, and to complete 16 locks at a total cost of eighteen million dollars.

14 E. D. D. "Minutes," VII, September 4, 1929.

The financial stability of the District during this period was in large measure due to the policy of the Trustees of purchasing all tax certificates sold for the non-payment of taxes by private owners, resulting in a 100 per cent collection of all taxes levied. 15

The 1925 legislature had imposed the heaviest annual acreage taxes up to that date on the six special assessment zones of the district, graduated from six cents to \$1.50 an acre. The collapse of the Florida boom "with its attendant stagnation of commercial activities" and "shrinkage of values aggravated by the 1929 nation wide depression" caused the revenues from the special assessments to decline to near nothing; even the Trustees of the Internal Improvement Fund found themselves unable or unwilling to pay drainage taxes on their lands south of Lake Okeechobee. 16

By virtue of the authority of Chapter 7,305, Laws of Florida, 1917, the tax collectors of the several counties in the Everglades Drainage District were required to sell the tax certificates to the Trustees of all lands not redeemed for drainage taxes. The 1929 law, Chapter 13,633,

15 W. Turner Wallis, "The History of Everglades Drainage and Its Present Status," The Soil Science Society of Florida, Proceedings, IV-A (1942), 33.

16 Senate Bill Number 835, Chapter 20,658, Laws of Florida, 1941, 26-27. Hereinafter cited as 1941 Senate Bill No. 835. "After 1925 it became increasingly difficult for the district to collect taxes on lands whose value had been deflated by the end of the boom and the depression. In 1924 it was able to collect 94 per cent of the total tax levied on lands within its boundaries; by 1930 this had dropped to 27.2 per cent; by 1937, to 8.3 per cent." F. P. Manuel, "Land Development in the Everglades," loc. cit., 12879.

left some doubt as to this requirement and Attorney-General Davis advised the Internal Improvement Fund officials against buying the certificates in April of 1931.¹⁷ The Trustees agreed to pay the face amount of tax certificates bid off to them for Everglades Drainage District taxes through May, 1930, but notified the Drainage Commissioners and all tax collectors concerned that after that they would make no further payments.¹⁸

According to a statement made by the Trustees of the Internal Improvement Fund at the close of 1930 the Fund had contributed to the affairs of the Everglades Drainage District from 1907 to 1929 as follows:

Drainage District taxes paid on state lands	\$3,465,635.
Advanced on drainage tax certificates, taxes on certificated lands, and expense	1,054,138.
Sub-drainage district taxes on state lands	438,750.
Outright donations to Drainage District	1,009,059.
Total	\$5,967,582.
Amount received from land sales of Fund	4,307,389.
Paid in excess by Internal Improvement Fund	\$1,660,193. 19

17 I.I.B. Minutes, XVIII, 557. Counsel had earlier advised that there was no legal basis to require payment of the drainage taxes on land bid into the Improvement Fund by the tax certificate method. E. D. D. "Minutes," VII, August 6, 1929. On August 20, 1929, the I.I.B. Trustees held \$3,000,000 in tax certificates and decided to sell them to the highest bidder, but at prices not less than the face of the certificates, penalties, interest, costs, and all taxes. I.I.B. Minutes, XVIII, 163.

18 Ibid.; XVIII; 557.

19 Ibid., XVIII, 552. On September 21, 1931, the Board of Commissioners of the Drainage District accepted a settlement of \$1,202,514.77, as the amount owed by the Everglades officials, and cancelled the Drainage District claim on certificates held by the Trustees of the Internal Improvement Fund. E.D.D. "Minutes," VIII, September 21, 1931.

In the early summer of 1930 the Everglades Drainage Commissioners found that a payment of \$400,000 would be due on July 1 to meet bond maturities and interest coupons. The auditors anticipated a deficit of \$500,000 a year for the district unless tax collections increased or another source of income were found.²⁰ On July 31, 1930, the Trustees of the Improvement Fund lent the Drainage Commissioners \$300,000 to help meet the bond payments.²¹ Trying to answer the definite need for some sort of a plan or maneuver, D. Graham Copeland, member of the Drainage Board from Everglades City, Collier County, compiled a report on policy as chairman of a committee appointed at a meeting held in Okeechobee City in the previous March.²² The Copeland Report recited the entire history of the Everglades reclamation work from its beginning, laying particular emphasis on politics.

. . . we are to-day experiencing the same troubles which have characterized almost every governmental activity, the direction of which has been left to any large extent as a matter of politics. The Panama Canal, New York State Barge Canal, New Orleans Dock Board, Mobile Improvement Board, and the Louisiana Industrial Canal were each a dismal failure when controlled by politics, each a success when placed under the direction of competent officials not politically involved. This

²⁰ Robert Pentland, Jr., James I. Keller, and W. F. Miller, Audit Report, December 31, 1929, Everglades Drainage District, Tallahassee, Florida, 26. The auditors stated that the deficit figure quoted would not include any improvement work or retirement of fixed indebtedness. A search for a new income source could not lie in drainage assessments since the tax then in force was burdensome: Ibid., 25-26.

²¹ E. D. D. "Minutes," VIII, July 31, 1930.

²² D. Graham Copeland, Policy: A Report to the Board of Commissioners of the Everglades Drainage District, iii. Cited hereinafter as Copeland Report.

Board must not continue to ignore this factor--
to do so spells failure. 23

Copeland pointed out further weaknesses in finance, engineering, management, and policy, all of which should be corrected before further mistakes were made. The Drainage District Commissioner from Everglades City made a careful study of some fifty volumes of the published history of the Internal Improvement Fund, Everglades Drainage Board, and similar state boards connected with the reclamation work in South Florida and discovered that they revealed "such a glaring lack of coordination, cooperation and constructive thought as will be found in the history of few other great projects."²⁴ Copeland urged the adoption of eleven recommendations including: a state-wide tax to complete the drainage of the organic soils south of Lake Okeechobee; the establishment of a non-political drainage board to replace the Internal Improvement Trustees, Drainage Commissioners, and Okeechobee Flood Control District Commissioners; and the acceptance of a well-defined policy based on eminent engineering advice.²⁵ The Copeland Report was received by the Drainage

23 D. G. Copeland, Copeland Report, 1. "It is believed that nothing is of greater importance than proving to the State that the Drainage and Reclamation of the Everglades is not one for one county or for several counties, not one for a district; but one that rests by solemn promise of the State itself as a whole. This should be the keynote of the policy of this board." Ibid., 3.

24 Ibid.; 35.

25 Ibid., 56-60.

Board on October 22, 1930, and \$200 was appropriated to have
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 a number of copies printed.

By December, 1930, it was evident that economic conditions in Florida, to say nothing of the national and international picture, would make it impossible for the Everglades district to meet its January 1, 1931, bond payments. Because of poor tax collections and high interest on the bonds the Board of Commissioners realized their position but affirmed their intention to pay the bonds in full, and asked for the
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 cooperation of their debtors.

"For lack of tax revenue the district defaulted on its outstanding bonds maturing on January 1, 1931," and remained
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 in that position for over a decade. A number of conditions contributed to this failure, among which were a combination of effects of deflation in values after the 1926 land boom,

26 E. D. D. "Minutes," VIII, October 22, 1930. On November 28 Copeland brought the matter of his work up for discussion. Commissioner Milam and Chief Drainage Engineer Elliot stated that they were in agreement with much of it, but not all. It was never heard from again. Ibid., November 28, 1930.

27 Everglades News, December 12, 1930. The Board also affirmed its legal and moral obligations; pledged its best efforts in the conduct of the business; welcomed the advice and cooperation of landowners, taxpayers, bondholders, and creditors toward a solution of the district's financial problems; and suggested that bondholders organize and select a committee with full powers of representation of all the bondholders.

28 1941 Senate Bill No. 835, 27. W. J. Evans, attorney for the Board, and F. C. Elliot, engineer, were instructed to negotiate with the bondholders' committee, organized by H. C. Rorick, of Spitzer, Rorick, and Company, toward some settlement. E.D.D. "Minutes," VIII, February 21, 1931.

the piling up of drainage, state, and county taxes beyond the capability of landowners to pay on land lying idle because of wretched drainage facilities, and the failure, on the part of the Internal Improvement Trustees, to maintain²⁹ tax payments on the tax certificated or state lands.

When Governor Carlton met the 1931 legislature he stated that "substantial progress" had been made in the reclamation³⁰ of the Everglades. No doubt the chief executive was referring to the progress of the federal government in the flood control program around the big lake in South Florida, for he noted that Florida was matching the \$7,000,000 appropriation with \$2,000,000 in the Okeechobee Flood Control³¹ District.

With the passage of Chapter 14,717, Laws of Florida, 1931, the drainage district was removed from Tallahassee politics. By the enactment of this law Doyle E. Carlton made good his promise on "home rule," for by it the Board of Commissioners was to consist of five men appointed by the governor in staggered terms of four years from bona fide³² residents of the counties composing the drainage district.

²⁹ F: P. Manuel, "Land Development in the Everglades," *loc. cit.*, 12879.

³⁰ Journal of the State Senate of Florida of the Session of 1931, 8.

³¹ Ibid.

³² Laws of Florida, 1929, 195-202, 203-278. As early as the fall of 1929 Howard Sharp had written that the governor should be the only state official on the Everglades Board and that the whole control of the drainage unit should be in the district. Everglades News, October 25, 1929.

The 1931 law lowered the annual drainage tax assessments to a maximum of forty-nine cents an acre from the 1925 high of \$1.50 an acre.³³

The act was of little real aid to the district for at that time tax collections were at a virtual standstill. The following November H. C. Rorick and others of the bondholders committee secured a three fold injunction from the United States District Court which forbade the Treasurer of Florida, as custodian of the funds of the Everglades Drainage District, to pay out any of the said district's moneys for any cause except actual operating expense; restrained any trading of indebtedness from the Trustees of the Internal Improvement Fund for tax purposes to the Board of Drainage Commissioners; and restrained the Drainage Board or the clerks of Circuit Courts in the state from receiving bonds or interest coupons for the redemption of tax certificates of lands sold for lack of payment of drainage taxes.³⁴

In July, 1932, finances of the district reached such a low stage that the Drainage Board resolved to release all employees, affirm all liabilities, and express a willingness to

³³ Laws of Florida, 1931, 235-236.

³⁴ E. D. D. "Minutes," VIII, November 25, 1931. H. C. Rorick had claimed in 1927 that the State of Florida backed the Everglades Drainage District bonds since the largest and most conspicuous lines of print on the bonds read "State of Florida." In addition, the state backed the bonds by paying drainage taxes on its own lands. Howard Sharp wrote that Rorick was misleading the public and making the bonds harder to sell and that he was supported by State Treasurer J. C. Luning, State Comptroller Ernest Amos, and F. C. Elliot in an effort to enlarge the drainage district and take in the populous east coast areas. Everglades News, February 11, 1927.

cooperate with its creditors even though the bondholders committee refused to enter further negotiations.³⁵ Strange as it may seem, Governor Carlton had expressed himself as "happy at the outcome" of Everglades affairs when he reviewed the legislation of 1932.³⁶ The Governor was quoted as saying that he foresaw prosperity for the Everglades with home rule, flood control, and free highways.

In an attempt to ease the burden of the taxpayers of the Everglades Drainage District, the 1929 and 1931 legislatures reduced the acreage assessments.³⁷ The reduction of the taxes, however, tended to impair the obligations to the bondholders and reduced the value of the bonds. "The Act enacted in 1931, relating to lower acreage tax for the Everglades Drainage District, was held void and ineffective insofar as affecting contract rights of holders of refunding bonds issued in 1925."³⁸ The decisions of the courts forced the continued assessment of the Everglades lands at the 1925 rate and, as a consequence, tax receipts dwindled to the vanishing point; even the Trustees of the Internal Improvement Fund neglected to pay their drainage taxes during the

35 E.D.D. "Minutes," VI, 440. The November, 1931, injunction had allowed the E. D. D. Board to spend only a one mill maintenance or administrative tax; this was not enough to meet even office expenses.

36 Everglades News, February 12, 1932.

37 Chapter 13,633, Laws of Florida, 1929, and Chapter 14,717, Laws of Florida, 1931;

38 Southern Digest, 1940, Cumulative Annual Pocket Part, 158. Hereinafter cited as Southern Digest. See also State ex rel. Sherrill vs Milam, 153 Southern 100.

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 1930's. Conditions reached such a point in the early part of the decade that recourse was made to the courts to force the Drainage Commissioners to perform their "ministerial duty" of preparing assessment lists to be forwarded to the several county tax collectors.⁴⁰

In order to determine how deeply in debt the Everglades Drainage District was falling, the Commissioners employed Wilbur F. Divine in November, 1934, to make a complete audit of the assets and liabilities of the governmental division.⁴¹ Prefacing his audit, submitted to the Board of Commissioners on June 27, 1935, Divine outlined a brief history of the litigation which had brought the operations of the district to a standstill from July 1, 1932, to November 7, 1934.⁴² No

³⁹ 1941 Senate Bill No. 835, 27. Chapter 16,177, Laws of Florida, 1933, authorized the I.I.F. Trustees to pay taxes on their lands in the South Florida Conservancy District, an Everglades sub-drainage unit, out of any moneys they had in their possession. Laws of Florida, 1933, 721. In a suit brought by the Everglades Drainage District Commissioners against the Trustees asking payment of drainage taxes on tax certificates bid off to the I. I. F. Trustees, the courts held that taxes on such lands need not be paid until sold or redeemed as the Trustees held those lands in trust for the Drainage Commissioners. Southern Digest, 1940, 187. See also State ex rel. Board of Commissioners E. D. D. vs Sholtz et. al.; 112 Florida 756.

⁴⁰ Ibid., 183; 153 Southern 100; 113 Florida 491.

⁴¹ E. D. D. "Minutes," VII, 10-13. At the same time Charles F. Werner was employed as secretary to the Board, "with the understanding that he be paid when funds are available."

⁴² Wilbur F. Divine, "Auditor's Report, December 31, 1934, Everglades Drainage District," (unpublished document in the office of the secretary of the Everglades Drainage District, Miami, Florida) 1. Hereinafter cited as "1934 Audit." Divine found the last entries in the books as of June 30, 1932. Ibid.

acreage taxes had been levied for the years 1932, 1933, or 1934 and only a part of the area had been assessed for the one mill levy in 1932 and 1933.⁴³ The assets of the district totalled \$22,854,641.84 of which three fourths represented drainage works, while the liabilities totalled a similar amount of which \$11,633,737.50 represented bondholders' claims and \$2,322,790.66 represented moneys due the Arundel Corporation for construction and interest on notes payable.⁴⁴

Annual Tax collections in the district never exceeded \$75,000 during the 1930's and less than five per cent of the lands were on a current tax basis. A number of efforts were made during the middle part of the decade to find some solution to the problem of reactivating the district and removing it from the same vicious circle which had engulfed the Internal Improvement Fund in the years after the reconstruction period.⁴⁵ The default was as productive of suits and protracted litigation in State and Federal Courts in the 1930's as had been the lot of the Improvement Fund before 1900.⁴⁶ In 1935 the Bondholders' Protective Committee was

43 Wilbur F. Divine, "1934 Audit," 1.

44 Ibid., 2-3. By virtue of a resolution adopted on August 29, 1934, the Board of Commissioners had reiterated their willingness to pay the debts of the district. E. D. D. "Minutes," VII, 8.

45 1941 Senate Bill No. 835, 28-29; James E. Beardsley, "Present Status of Plans for Financing the Everglades Drainage District," The Soil Science Society of Florida, Proceedings, VI-A (1942), 104-105.

46 1941 Senate Bill No. 835, 28-29.

organized. Composed of H. C. Rorick, W. H. Lippincott, and James R. Easton and representing some \$8,000,000, eighty-nine percent of the bondholders, the Committee began a series of suits to secure either a return on their investments or foreclosure of their "mortgage" on the Everglades Drainage District.⁴⁷

The 1935 legislature sought to strengthen its large south Florida drainage unit by amending the 1931 Everglades Drainage District law to allow drainage taxes to be paid without requiring other taxes to be paid at the same time.⁴⁸ Various civic leaders of southern Florida were at work during the 1930 depression years seeking to unravel the tangled skein of the Everglades question. On March 15, 1935, W. G. Ward, chairman of the barge and highway committee of the Miami Chamber of Commerce, answered a letter from T. E. Will of the preceding February saying that he had

⁴⁷ E. D. D. "Minutes," VII, 18-19, 25, 62. On March 20, 1935, the district was defending itself in four cases: two in the United States District Court for the Northern District of Florida; one in the United States District Court for Southern Florida at Miami; and one in the Florida Supreme Court at Tallahassee. *Ibid.*, 18-19.

⁴⁸ Chapter 16,993, Laws of Florida, 1935. This act further ordered tax sales of lands with sufficient delinquent drainage taxes to be bid off as a final resort to the Board of Commissioners of the District. At the same session the legislature enacted Chapter 17,272, Laws of Florida, ordering the Trustees of the Internal Improvement Fund to pay all special levies imposed by the legislature on their lands. *Ibid.*, 492-498, 1168-1169.

. . . reached the conclusion that the ultimate solution of the Everglades problems rests in the hands of the various departments of the United States Government which, in my opinion, are the only ones that can coordinate water control, navigation, fire control, drainage, and reclamation. 49

Ward further declared that, although the sub-drainage districts had spent considerable sums of money, their chief trouble continued to be the basic Everglades Drainage District tax. The general property owners faced the problems of water control and a terrific tax burden. The interests of land developers were clearly blocked as even the better Internal Improvement lands were burdened with drainage taxes up to \$35 an acre plus the assessments of the early 1930's.⁵⁰ Ward closed his letter to Will by saying that the major problem of the Everglades was how to eliminate the tax burden and at the same time satisfy the \$12,000,000 claims of the bondholders.

In his reply to Ward on March 18, Will wrote that even though the tax and bond problem was pressing there were other matters more important, some of which legislation might⁵¹ solve. Will pointed to the vital issue of fire control and remarked that if the Glades fires were not put out the other problems would vanish like the very burning muck itself.

49 W. G. Ward to T. E. Will, March 15, 1935, Will Collection. Ward was a member of the Miami legal firm of Stapp, Gourley, Vining, and Ward.

50 Ibid.

51 T. E. Will to W. G. Ward, March 18, 1935, Will Collection.

Will estimated that "robber taxes and maladministration" had wiped out ninety percent of the original 'Glades owners who had paid taxes for years but had gained no political or physical benefits for their holdings.

Reclamation is no good for us if we must BUY our land over again or go without. . . . Florida should clear herself of this scandal; and in connection with the Federal effort, now should be the time to correct it, if ever. 52

In an editorial entitled "Florida Should Ask U. S. Help on Everglades," the Fort Lauderdale Daily News looked at the situation of the four million acres of organic soils and decided that aid should not be sought for reclamation, but that flood control (saving human life) and subsistence (emergency or permanent relief) were somewhat different. 53 In the first place, the editor wrote, it was futile to ask for \$35,000,000 from the federal government, and secondly, the state had voluntarily assumed the burden by the 1850 swamp and overflowed land grant act; furthermore, the state had shouldered it by creating the Internal Improvement Fund of 1855. 54

Since that time the state has disposed of 24 out of each 25 acres of this 20 million acre tract (no one wants the other acre) and has misappropriated (stolen) over 36 million dollars from this trust fund, by sale or in kind for almost every conceivable purpose except reclamation, viz: subsidizing railroads (no one of which

52 T. E. Will to W. G. Ward, March 18, 1935, Will Collection.

53 Fort Lauderdale Daily News, April 16, 1935.

54 Ibid.

comes near the Everglades), building State office buildings, industrial plants at state institutions, prison farm buildings, etc., etc., and not one cent has been returned to the Everglades by the State!

The government has shown its interest in the 'Glades by protecting the rich farming section around the rim of the lake with dikes and dams which cost millions.

The News prays that the government will take hold of the problem. We're about convinced that only a national government could straighten out the mess the 'Glades are in now. 55

One step toward the collection of data for possible federal use was the publication of two significant studies of land utility and conditions in 1935. The Florida State Planning Board reported on all of the lands in the state, while the Federal Emergency Relief Administration fixed its attention on a scrutiny of state drainage districts. 56

While neither of these two studies inspected the Everglades Drainage District, seventy-two other drainage or sub-drainage districts were investigated. The Goulds district near the lower Florida town of the same name was the only district with bonded debt not in default in 1935; the Southern district which included parts of Miami and environs had never issued bonds while constructing 125 miles of canals and ditches with tax funds. 57

55 Fort Lauderdale Daily News, April 16, 1935.

56 Florida State Planning Board, Report on Land Problems and Conditions in Florida; Federal Emergency Relief Administration, Survey of the Several Drainage Districts of Florida. Hereinafter cited as F. E. R. A., Drainage Districts of Florida.

57 F.E.R.A., Drainage Districts of Florida, A-7, A-8. In some cases as many as ten separate levies were found on one piece of property: school, road and bridge, port, inlet, flood control, navigation, hospital, state, county, municipal, Everglades Drainage District, and sub-drainage district tax levies. Ibid., A-19.

The bonds authorized by seventy drainage districts, excluding the Everglades Drainage District, amounted to \$28,617,839.64, and of these \$6,581,196.00 were issued after the collapse of the Florida boom in 1926. The federal survey concluded that, in general, land drainage in Florida was

. . . seemingly the work of a trinity of opportunists: brokers, engineers, and contractors who seized on land drainage as the best remaining excuse for more bonded debts. 58

The state survey found that

These drainage districts were created for two purposes: 1) aid in subdividing and selling land; 2) creating bonds to be sold during a period of prosperity in the United States and thus provide work for engineers and contractors. 59

The State Planning Board suggested two remedies for future drainage proposals: (1) the approval of a majority of the property owners as well as the holders of the majority of the acreage; and (2) more effective examination of the need of and feasibility of the drainage scheme. 60

58 F.E.R.A., Drainage Districts of Florida, A-14. "Certain projects were undertaken, undoubtedly, with the sole idea of subdividing large tracts of land into small units for marketing;" as for instance, Gladesview in Palm Beach County, a 12,160 acre tract owned by seventeen people, had no population and no farming. Ibid., A-8.

59 Florida State Planning Board, Report on Land Problems and Conditions in Florida, 47. The seventy two districts surveyed included 2,238,149 acres of which 198,520 were in cultivation in 1935.

60 Ibid., 48.

2. Refunding of the Bonded Debt

At a Florida drainage conference held January 22-23, 1917, Mr. D. Arthur Bowman of the investment house of Bowman, Cost, and Company, St. Louis, cautioned against organizing drainage districts and issuing bonds where settlement was sparse and where there was not at least 25 percent of the land under cultivation. 61

Beginning in 1936 definite attempts were made by the Board of Commissioners of the Everglades Drainage District to secure a loan from the Reconstruction Finance Corporation to float a refunding loan. 62 The 1937 legislature sought to solve the Everglades riddle through a compromise with the bondholders by the enactment of Chapter 17,902, Laws of Florida. This act lowered drainage tax assessments and rezoned the district with lower levies. The act further authorized the Drainage Commissioners to adjust or cancel taxes levied for 1936 and prior years, and to act with the Trustees of the Improvement Fund to their mutual benefit in a plan of refunding the drainage debt. 63

Unfortunately the courts defeated the purpose of the legislature in trying to "afford relief to the landowners,

61 F. P. Manuel, "Land Development in the Everglades," loc. cit., quoting from "Florida Drainage Bonds and the Investor," Economic World, new series XIII (February 24, 1917), 271.

62 E. D. D. "Minutes," VII, 54. The Board resolved on June 12, 1936, to seek a \$10,000,000 loan from the government corporation. See also Everglades News, July 24, 1936.

63 Laws of Florida, 1937, 370-395.

encourage tax payment, and cure the default." 64 The legislature's efforts to break the vicious circle of the increasing debt failed when the state courts held the 1937 law was "an unconstitutional invasion" of the bondholders' rights. 65

By 1935 and 1936, when the country generally was emerging from the worst of the depression, the total amount of the default of State and county taxes in the State of Florida, to say nothing of the drainage taxes within various districts, was almost unbelievable. They amounted in many cases to several times what the land was worth. 66

The easiest way to liquidate the overburdened lands of Florida and get them back on the paying side of the various tax rolls was to "forgive" the back taxes. The 1937 session of the legislature passed the Murphy Act, which allowed the legal owner or a stranger to apply to any of the several clerks of the circuit courts of Florida for tax certificates more than two years old to be advertized and sold to the highest bidder. 67 The original owner was allowed to redeem his land within two years after the sale of the certificate on the payment of all costs, the amount bid at the courthouse

64 1941 Senate Bill No. 835, 27.

65 Ibid. Testimony of Mark R. Tennant, 1942 Migration Hearings, 12552. In 1937 the State Supreme Court ruled that drainage bonds could not be paid off on presentation, if funds were available, but that all bonds should be paid on a pro rata basis. Southern Digest, 1940, 186. See also 196 Southern 699 and 143 Florida 43.

66 Statement of M. R. Tennant, 1942 Migration Hearings, 12555.

67 Chapter 18, 296, Laws of Florida, 1937. The prospective purchaser of the tax certificate made a bid at least as high as the cost of the advertising and the fees of the county officers taking part in the transaction. The legislature estimated real estate valued at \$97,000,000 frozen and dead asset on the tax rolls. Laws of Florida, 1937, 1092-1097.

steps, and three percent interest.⁶⁸ If the tax delinquent land was not bid in, it returned to the State of Florida and the Trustees of the Internal Improvement Fund.

Although the Murphy Act benefitted the taxpayers with delinquent state and county taxes, it did not redound to the aid or succor of the Everglades Drainage District, since no provision was made for special assessments of the drainage type. Thousands of property owners and even speculators throughout the state bought tax certificates and two years later sought tax deeds, but Florida herself continued to default on the south Florida drainage taxes.⁶⁹ The drainage district continued in default until 1940. By that date

The district indebtedness was seventeen million dollars, most of it long past due. Ninety-five per cent of the land was delinquent in its taxes for about ten years. The bondholders, by a writ of mandamus, had secured a tax spread on the 1940 roll for more than fifteen million dollars. Furthermore, by law practically every land owner's title had been forfeited to the district for non payment of taxes. 70

⁶⁸ Laws of Florida, 1937, 1095-1097. The act expired in two years. Ibid.

⁶⁹ Statement of M. R. Tennant, 1942 Migration Hearings, 12556.

⁷⁰ R. K. Lewis, "The Economic Phase of Reclamation and Soil Conservation Problems of the Florida Everglades," The Soil Science Society of Florida, Proceedings, IV-A (1942), 101. ". . . at the instance of the bondholders under a writ of mandamus to enforce levies under Chapter 10026, supra, there has been spread upon the tax rolls for the year 1940 against the lands within the District special assessments or taxes in the approximate sum of \$15,250,000.00 in addition to millions of dollars in outstanding delinquent taxes. . ." 1941 Senate Bill No. 835.

The Board of Commissioners of the Everglades Drainage District and the Reconstruction Finance Corporation began negotiations when a formal application was filed by the Board on June 18, 1936, for a loan to refinance the outstanding indebtedness.⁷¹ On April 21, 1937, the Reconstruction Finance Corporation, after an exhaustive survey and appraisal, offered a loan of \$3,729,000 which would have been sufficient to retire the debt at thirty cents on each dollar principal amount.⁷² The offer expired within a year; it was not taken advantage of because the debtors were reluctant to settle for that price. On January 27, 1939, the Reconstruction Finance Corporation again offered to liquidate the Everglades District debt at thirty-cents on the dollar. The District Commissioners submitted the proposition to the bondholders on January 31, 1939, and offered an additional eight cents on the dollar principal.⁷³ The bondholders refused to settle for thirty-eight cents on the dollar.⁷⁴ Unable to take advantage of the Federal agency's offer, the Drainage Board turned to private interests for aid. This plan also

⁷¹ Board of Commissioners of the Everglades Drainage District, Offer of Everglades Drainage District to Holders of Bonds Issued by Everglades Drainage District, January 31, 1939. 1. Cited hereinafter as E. D. D. 1939 Offer to Bondholders.

⁷² Ibid., 1.

⁷³ Ibid., 3.

⁷⁴ E.D.D. "Minutes," VII, 153-156, 241-242.

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failed.

As has been seen, H. C. Rorick and the bondholders' protective committee had kept the Everglades drainage officials almost continually in state and federal courts since the first default in 1931. "Finally, in 1940, the committee prosecuted test foreclosure suits to foreclose its bonds against the forfeited lands of large individual landowners."⁷⁶

With this state of affairs the landowners became thoroughly alarmed in 1940. Landowners' committees were organized throughout the district. These committees worked closely with the Everglades Board.

. . . a broad plan of refinancing was conceived. It contemplated compromising the total district debt upon a greatly reduced basis by the Finance Corporation. . . to be secured by refunding bonds which were to be supported by a revised tax structure drastically reducing the annual taxes and extending landowners the privilege of compromising the accumulated delinquent taxes at a ridiculously low figure. 77

75 E.D.D. "Minutes," VII, 217; J. E. Beardsley, "Present Status of Plans for Refinancing the Everglades Drainage District," loc. cit., 104. Throughout 1939, 1940, and 1941 a number of open meetings were held by the Drainage Board to seek information and assistance from owners of the muck lands. Ibid., 191, 198, 216, 217, 294-296.

76 R. K. Lewis, "The Economic Phase of the Reclamation and Soil Conservation Problems of the Florida Everglades," loc. cit., 101. Hereinafter cited as "The Economic Phase of Reclamation." Rorick and his committee sought a foreclosure of liens of district taxes and a receivership of the lands but the petition was denied. F. P. Manuel, "Land Development in the Everglades," loc. cit., 12880.

77 R. K. Lewis, "The Economic Phase of Reclamation," loc. cit.

It was quite obvious that the division of the Everglades Drainage District into arbitrary geographical zones, as had been done since 1913, was "inequitable and incommensurate and disproportionate" to the relative benefits of reclamation.⁷⁸ Beginning in June, 1940, representatives of landowners and the Drainage Commissioners reopened negotiations with Rorick and the bondholders' committee as well as the Reconstruction Finance Corporation. "At the outset this appeared to be an almost hopeless task because of the failure of the previous attempts to accomplish the same end."⁷⁹

Again an offer was received from the government loan agency but it was not until Governor Spessard L. Holland entered the chief executive's chair in 1941 that a bargain was made.⁸⁰

In early March, 1941, a meeting was held in Thomasville, Georgia, just across the Florida state line from Tallahassee, of the bondholders' protective committee, representative Everglades landowners, and Governor Holland and his cabinet.

⁷⁸ 1941 Senate Bill No. 835, 28.

⁷⁹ R. K. Lewis, "The Economic Phase of Reclamation," loc. cit., 101.

⁸⁰ Ibid., 101-102; J. E. Beardsley, "Present Status of Plans for Refinancing the Everglades Drainage District," loc. cit., 110. "Shortly after Governor Holland was inaugurated in 1941, a number of the landowners went to see him and requested his active assistance. Fortunately Governor Holland, as is his custom, went right into the matter. He showed a keen grasp of the problem and expressed a desire to help. . . . Within sixty days from the time Governor Holland took over he had a deal with the bondholders, necessary legislation was passed and the whole refinancing program was assured of success." R. K. Lewis, "The Economic Phase of Reclamation," loc. cit., 101.

The meeting was held in another state because of the fear of the members of the bondholders' committee that they would be served with process in litigation in Florida.⁸¹

Governor Holland did not stand back on his dignity--he went to Thomasville with the desire of accomplishing something. Significantly he told Mr. Rorick this:

"Now Mr. Rorick, it would seem that for some ten years you have been negotiating with one hand and litigating with the other, and I want that dual type of negotiation to end here and now--I'm a fellow who wants to negotiate or litigate, but I'm not going to do both at the same time. Let's get together. If you don't want to negotiate, we'll litigate 'till hell freezes over."

This approach did not take long to bring the bondholders around. Next day they came into Florida--where they were served with process. . . 82

When the 1941 session of the legislature convened, the governor and the Everglades drainage officials submitted a revolutionary bill for the south Florida reclamation project. The proposed legislation was drafted for the relief of all the taxpayers of the district and was comprehensive, completely rezoning and revising the tax structure of the drainage project. Both the senate and the house of representatives passed the enabling bill within an hour and without a single dissenting vote in either house. The bill

⁸¹ R. K. Lewis, "The Economic Phase of Reclamation," loc. cit., 102.

⁸² Ibid., 102. ". . . we had already failed three times to negotiate a loan with the R. F. C.; today we are in the process of closing one. Primarily Governor Holland is responsible." J. E. Beardsley, "Present Status of Plans for Refinancing Everglades Drainage District," loc. cit., 110. See also Orlando Morning Sentinel, March 3; April 8, 15, 30; May 8, 1941.

went to the governor whose approval made it Chapter
20,658, Laws of Florida, 1941.⁸³

The rezoning under the act was as nearly in accordance with actual benefits received as any act in the history of the project, running from a high of \$1.50 an acre for 91,981 acres to a low of 3¢ an acre for 1,769,735 acres.⁸⁴ Chapter 20,658 further provided for the compromise of back drainage taxes on the basis of two years taxes under the 1941 rate, regardless of the number of years of default, for 1936 or prior years; delinquent taxes for 1937-1940 were authorized to be settled on the basis of one year's assessment at the 1941 rate.⁸⁵ As was the case in the 1937 Murphy Act, either the owner or a stranger might purchase the tax certificates on the above basis and after two years secure a tax title to the land in question.

In connection with the drainage tax settlements the Trustees of the Internal Improvement Fund settled a claim of \$1,100,000 against the Everglades Drainage Commissioners for the cancellation of the back drainage taxes on 800,000

⁸³ R: K. Lewis, "The Economic Phase of Reclamation," loc. cit., 103; Orlando Morning Sentinel, June 3, 1941.
⁸⁴ 1941 Senate Bill No. 835, 17-18. The act levied an administrative tax of one-half mill ad valorem tax throughout the district. Ibid., 21-22. See also J. E. Beardsley, "Present Status of Plans for Refinancing the Everglades Drainage District," loc. cit., 105, 110-111.
⁸⁵ Chapter 20,658, Laws of Florida, 1941.

acres of the lands of the Fund held within the boundaries
of the district,⁸⁶

The tax compromise plan was the first phase of the re-funding process. Chapter 20,658 was something of an "enabling act" to put the district in a position whereby the Reconstruction Finance Corporation could see fit to accept the revised tax schedules as a basis for a \$5,660,000 loan and thus become the sole creditor of the south Florida unit. Governor Holland announced on June 6, 1941, that the refunding of the \$17,000,000 debt had begun.⁸⁷

On June 11, 1941, the Drainage Commissioners adopted a plan of composition of the district's indebtedness under the authority of the 1941 law, and accepted the Reconstruction Finance Corporation's loan of \$5,660,000.⁸⁸ Under the plan of composition bondholders were paid 56.918 cents on the dollar of unpaid principal amount, less face amount for missing unpaid coupons maturing after July 1, 1941, and 36.77 cents on the dollar for missing unpaid coupons maturing before July 2, 1941. To the Arundel Corporation and other persons holding unpaid notes the district settled

⁸⁶ 1942 Migration Hearings, 12555-12557; R. K. Lewis, "The Economic Phase of Reclamation," loc. cit., 102.

⁸⁷ Palm Beach Post, June 7, 1941. As of June, 1941, the debt was \$17,040,212.32 of which \$13,890,763 represented the claim of the Arundel Corporation and other miscellaneous claims. Everglades Drainage District, Plan of Composition of the Indebtedness of the Everglades Drainage District, 12. Hereinafter cited as 1941 Composition Plan.

⁸⁸ E. D. D. "Minutes," VII, 299-316.

for 26.14 cents on each dollar principal amount.

With the acceptance of the Drainage Commissioners' June 11, 1941, resolution, the Reconstruction Finance Corporation agreed to make the \$5,660,000 loan and take thirty-three year four per cent bonds to settle the old \$17,000,000 debt, a deal which cancelled \$20,000,000 in delinquent drainage taxes involving 4,800,000 acres. In order to consummate the refunding operation it was found necessary to employ interim bankers; the Drainage Commissioners did not have the necessary funds to swing the transaction and the bondholders' committee had a somewhat peculiar attitude toward the Reconstruction Finance Corporation.

89 1941 Composition Plan, 12, 17.

90 Palm Beach Post, June 11, 1941. Judge John W. Holland, of the United States Court for the Southern District of Florida, Miami Division, set September 3, 1941, for a hearing on the plan as a preliminary to bankruptcy proceedings for the Everglades Drainage District. Ibid., June 14, 1941.

91 J. E. Beardsley, "Present Status of Plans for Financing the Everglades Drainage District," loc. cit., 111. ". . . because of Rorick's personal hatred and antagonism toward Jesse Jones, head of the Federal loan agencies, because of some refusal by the Reconstruction Finance Corporation to make a loan to Rorick's bank sometime in the past; and . . . any time the Reconstruction Finance Corporation made a commitment to the district of an amount sufficient to pay a definite amount to the bondholders, Rorick used that as a minimum, assuming that he could always get that much because of a commitment by a governmental agency to loan the district that amount, and he started trading from there." F. P. Manuel, "Land Development in the Everglades;" quoting In the Matter of the Everglades Drainage District, In the United States District Court for the Southern District of Florida Bankrupt, No. 1949-M, 590-591.

The Ranson-Davidson Company of Kansas City, Missouri, bought the outstanding bonds at approximately fifty-seven cents, and the Arundel dredging company notes at twenty cents on the dollar selling both to the Reconstruction Finance Corporation, the former at fifty-seven and the latter at 26.14 cents making a profit of \$112,000 which was the amount that the liquidating agents received for handling the entire deal.⁹²

Through the fall of 1941 bankruptcy proceedings were heard in the Miami Division of the United States Federal Court and the tax compromise plan was carried out. In April, 1942, an interlocutory decree was issued completing the refunding and forcing in the bonds not represented by the Rorick interests.⁹³ Speaking in March, 1943, James E. Beardsley of Clewiston, a member of the Board of Commissioners and General Manager of the Everglades Drainage District, said:

We owe RFC \$5,300,000. The Board is seeking some opinions from taxpayers as to how it shall handle. . . an accumulation of taxes set aside for the debt service funds . . . which today amount

⁹² J. E. Beardsley, "Present Status of Plans for Re-financing the Everglades Drainage District," loc. cit., 111. "The District could also have bought that claim for twenty cents on the dollar, if they had had the four hundred thousand dollars to buy it with. These people bought it and are legitimately entitled to the fee. I might say that is the only 'gravy' that appeared in the Everglades Refinancing operation."

⁹³ Statement of District Commissioner M. R. Tennant, 1942 Migration Hearings, 12553; R. K. Lewis, "The Economic Phase of Reclamation," loc. cit., 103.

to approximately \$480,000 with all interest and commitments paid. . . . shall the Commissioners hang onto that surplus as a hedge against bad times, or should it pay off part of its mortgage reducing the loan to \$5,000,000. . . .

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I am not unduly concerned with the future of the Everglades. In the course of a year or two, probably we will stand in much the same position as the Trustees of the Internal Improvement Fund have stood in the past--we will be the large landowners in the District, and then we will be able to exercise the type of control over these areas we deem necessary. 94

94 J. E. Beardsley, "Everglades Drainage District," The Soil Science Society of Florida, Proceedings, V-A (1943), 168-169.