

## CHAPTER III

### FEDERAL AND STATE ATTEMPTS AT RECLAMATION OF THE EVERGLADES

#### 1. Action to Secure Title to the Everglades

The people of the territory of Florida recognized the need for government financed internal improvements some years before attaining statehood. In the St. Joseph Constitution, adopted by the convention which assembled in 1838, Article XI, Section 2, declared:

A liberal system of internal improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State, and it shall be the duty of the General Assembly, as soon as practicable, to ascertain by law proper objects of improvement in relation to roads, canals and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements. <sup>1</sup>

In 1841, Congress aided the cause of internal improvements of states entering the Union by passing an act granting 500,000 acres of land to each new state. <sup>2</sup> This grant, which Florida received on its admission in 1845, formed the nucleus of the internal improvement fund of public lands in the state. Further public lands granted the state on admission included eight sections for a seat of government, four townships each for two seminaries of learning, and section sixteen of every

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<sup>1</sup> Acts and Resolutions of the General Assembly of the State of Florida, 5 Session, 1851, XVI.

<sup>2</sup> 5 United States Statutes at Large, 455.

township for the support of public education. In addition, the federal government allotted five per cent of the net proceeds from the sale of its lands within the states for the purposes of public education of the particular states concerned.<sup>3</sup>

The attention of the citizens of Florida had turned toward other federal lands, even before the peninsular territory became a state. On December 30, 1842, Florida's territorial delegate to the Congress, David Levy, offered the following resolution on the floor of the House of Representatives:

Resolved, that the Secretary of War be directed to place before this House such information as can be obtained in relation to the practicability and probable expense of draining the everglades of Florida.<sup>4</sup>

The resolution was transmitted to the Secretary of War after being adopted by the House. On January 7, 1843, the Secretary's reply to the resolution was referred by the Speaker of the House to the Committee on Territories. The reply contained a report by the colonel of the corps of topographical engineers that there was no information in the department on the matter of Everglades drainage, ". . . and all that has come to my knowledge is speculation, supposition, reasoning from supposed facts, verbally communicated by officers and others who have been in that region of country."<sup>5</sup> The army

<sup>3</sup> 5 United States Statutes at Large, 455.

<sup>4</sup> Congressional Globe, 27 Congress, 3 Session, XII, 102.

<sup>5</sup> House Documents, Number 43, 27 Congress, 2-3.

engineer reported that such meagre data would not justify the practicability of the project nor furnish an estimate of the cost of the proposed works. Furthermore, the colonel continued, an additional appropriation of \$10,000 would be required to make the survey, since all moneys appropriated for surveys had been assigned to the investigation of the military defenses of the nation and to a study of the topography west of the Mississippi River.

Florida became a state on March 3, 1845, and assumed equal footing with the original members of the union. Ten months later the legislature, now representing a commonwealth, passed a resolution instructing the Florida Congressional delegation to bring the important subject of Everglades drainage ". . . to the attention of Congress at the earliest day, and earnestly press upon its consideration the propriety and policy of forthwith appointing competent engineers to examine and survey the aforesaid region."<sup>6</sup> The resolution reached the floor of the United States Senate, where it was referred to the Committee on Public Lands and ordered printed.<sup>7</sup> It should be noted that this 1845 resolution called attention to the fact that these lands had hitherto been considered valueless in consequence of being covered by water at stated periods of the year, but

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<sup>6</sup> Acts and Resolutions of the First General Assembly of the State of Florida, Adjourned Session, 1845, 151.

<sup>7</sup> Senate Documents, Number 35, 29 Congress, 1 Session, 1-2.

that recent information had induced the belief that the region could be entirely reclaimed. Such reclamation, the state legislature pointed out, would be to the interest of the national government with "its vast donation of unlocated land, to adopt some early and efficient measures to test the accuracy of these representations."<sup>8</sup>

Senator James D. Westcott, Jr., of Florida became the champion of the Everglades drainage proposition in the national capital. On May 11, 1847, Westcott wrote to Robert J. Walker, Secretary of the Treasury, referring to the conversations and letters he had written Walker on the subject of the Everglades.<sup>9</sup> Westcott pointed out that repeated demands had been made on the Florida legislature, and that the legislature had passed numerous resolutions seeking to invoke the action of the United States government in making surveys of the Everglades. He cited the opinions of army officers who had been on duty in southern Florida, as well as those of men who had lived in the vicinity, to show that the Everglades were from six to ten feet above sea level; that standing water on the glades was from one to five feet in depth; that the distance to tide-water from the glades was in many places not more than a mile; and finally, that the rock ridge separating the

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2. <sup>8</sup> Senate Documents, Number 35, 29 Congress, 1 Session,

<sup>9</sup> Senate Documents, Number 242, 30 Congress, 1 Session, 66-69.

glades from sea level consisted of soft coral rock composition, easily excavated, and but ten to twelve feet thick. Westcott said that he was in no position to set a value on the lands when once drained, but that parties familiar with the area assured him that many of them would be the best rice and sugar lands in the nation. Lastly, he asserted that it would not be a chimerical idea to anticipate a channel from the Gulf of Mexico to the Everglades for the use of small coasting vessels in the navigable waters of that part of the peninsula. He closed his letter by asking that an agent be sent to make a reconnaissance of the lands so that a report might be laid before Congress at its next session.

## 2. The Buckingham Smith Report

Secretary Walker did not delay in taking action on Westcott's request to secure information on the Everglades. On June 18, 1847, Walker sent a letter of instruction, detailing certain services to be performed, to Buckingham<sup>10</sup> Smith of St. Augustine, Florida. The letter directed

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<sup>10</sup> Thomas Buckingham Smith, (1810-1871), lawyer, politician, and antiquarian, was born on Cumberland Island, Georgia. He moved with his family to St. Augustine, Florida, during the second period of Spanish rule. He attended Washington College, Hartford, Connecticut, and was graduated from Harvard law school in 1836. In 1839 he was secretary to Robert R. Reid, governor of Florida, and in 1841-43, a member of the territorial legislative council, being elected Speaker in 1843. He later entered the diplomatic service of the United States, and was stationed at different

Smith to examine the land offices at Tallahassee, Newmansville, and St. Augustine, Florida, in the capacity of auditor, and serve as an agent in ". . . the procurement of authentic information in relation to what are generally called the 'Ever Glades' on the peninsula of Florida."<sup>11</sup>

In the letter to Smith, Walker cited the representations which had been made to the treasury department that there were several million acres of public lands in the area that could be reclaimed at a comparatively small expense and that great advantages would result from such a measure. "It is represented that these lands can be drained by two or three small canals from the lake into the rivers opposite to it, emptying into the Gulf of Mexico and into the straits of Florida."<sup>12</sup> Walker wrote that it was expected that Smith would visit the section and make a reconnaissance, for which the department furnished sundry charts and maps.

Any information that you can obtain in writing, from intelligent citizens acquainted with this subject, you will communicate with your report; and you will seek from them facts

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times in Spain and Mexico. While in Spain he did considerable research in the national archives, from the results of which he published narratives of the various documents concerning the history of Spanish Florida. James Alexander Robinson, "Thomas Buckingham Smith," Dictionary of American Biography, XVII, 243-244; William T. Cash, The Story of Florida, I, 402-403.

<sup>11</sup> Senate Documents, Number 242, 30 Congress, 1 Session, 71.

<sup>12</sup> Ibid., 71.

and specific data showing the grounds of opinions that may be given. . . . the department relies with confidence on your impartial fulfillment of this service, free from any sectional or local predilections. . . . 13

During the first week of January, 1848, the Florida legislature again passed a resolution regarding the subject of the Everglades. The resolution stated that the large tracts of public lands lying in the state south of Lake Okeechobee were covered with water, were incapable of survey, and therefore valueless to the nation, but that it was believed the lands could be drained and made valuable for the cultivation of tropical produce. In addition, it declared that the reclamation would not only remunerate the state for the expense, but would conceivably yield a surplus above such expense. The General Assembly urged Congress to grant to Florida all of such lands lying south of the Caloosahatchee River and the northern shore of Lake Okeechobee between the Gulf of Mexico and the Atlantic Ocean on condition that the state drain the lands and apply the proceeds of the land sold, after defraying the expense of draining, to the purposes of public education.<sup>14</sup> Senator Westcott introduced this resolution on the floor of the United States Senate on February 29, 1848. The resolution

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13 Senate Documents, Number 242, 30 Congress, 1 Session, 72.

14 Laws of the State of Florida, Passed at the Third Session of the General Assembly of the State, 1847, 80-91.

was read, referred to the Committee on Public Lands, and  
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ordered to be printed.

Approximately a year after he had been commissioned as an agent to examine the land offices of Florida, Buckingham Smith submitted a report on his inspection of the Everglades. This report, in the form of a scholarly essay, remains today a monument to the resourcefulness of the man who gathered the material.<sup>16</sup> Smith left St. Augustine, Florida, on August 29, 1847, aboard the revenue cutter Wolcott, which had been furnished by the Treasury Department, and arrived at Ft. Dallas on the Miami River the last day of the month. With a small boat from the cutter he explored the various streams emptying into the Biscayne Bay area and made an eight day trip into the Everglades. On September 21 the cutter departed for Key West, remaining there for two days before making for Cape Sable. Smith investigated the islands around Whitewater Bay beyond the cape, and then put out for Punta Rassa on the west coast of Florida. Pausing at Punta Rassa for four days, Smith made an excursion up the Calcoosahatchee River to Lake Flirt, which he found to be the headwaters of that river. After leaving Punta Rassa, the cutter sailed to St. Marks, where Smith debarked

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15 Senate Documents, Number 69, 30 Congress, 1 Session, 1.

16 Senate Documents, Number 242, 30 Congress, 1 Session, 10-38.



and returned to his home in St. Augustine.

In his report, Smith declared:

To reclaim the Ever Glades . . . and the low lands on the margin of the Kissimee <sup>[sic]</sup> river and its tributaries, and the other rivers emptying into Lake Okechobe, this lake must be tapped by such canals running into the Caloosa-Hatchee on the one side, and into the Loca-Hatchee or San Lucia, or both on the other, and cuts must also be made from the streams on both sides of the peninsula into the Glades. 17

Smith further declared that after the waters of the glades were lowered as much as five feet, there would probably be a necessity for several drains through the glades by which surplus waters accumulating from the rains could be conducted to tidewater. The fact that the Everglades received a large share of its water from the overflow of Lake Okechobee, which in turn received most of its water from the Kissimmee River, was known, but Smith was one of the first to publicize it. He estimated the average elevation of the glades to be twelve feet above sea level, and believed them to be covered with water in the fall of the year to an average depth of six feet. With respect to the cost of the undertaking, Smith estimated that \$500,000 would defray the outlay necessary for the successful accomplishment of cutting the rim of the glades on the east and west coasts at the heads of the various streams. These streams,

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17 Senate Documents, Number 242, 30 Congress, 1 Session, 16.

which received their initial waters at low places in the rim, could be made into canals and thus drain the surface of the Everglades.<sup>18</sup>

In answer to the question of adaptability of the lands of the area to cultivation, Smith stated that the deposit of soil above the rock was generally two to three feet in depth, and that it was exceedingly light when dry and easily broken into pieces.

The Ever Glades are entirely below the region of frost, and the meteorological and barometrical statistics . . . prove that the climate is as favorable to the cultivation of tropical fruits as that of any country between the twenty-eighth and twenty-fourth parallels. 19

It was Smith's belief that the land so reclaimed would be profitable for the growth and production of coffee, sugar, cotton, rice, tobacco, sisal hemp, as well as citrus, bananas, figs, olives, pineapples, cocoanuts and other tropical crops and fruits.<sup>20</sup> Smith concluded his report with the following statement:

The Ever Glades are now suitable only for the haunt of noxious vermin, or the resort of pestilent reptiles. The statesman whose exertions shall cause the millions of acres they contain, now worse than worthless, to teem with the products of agricultural industry; that man who thus adds to the resources of his country . . . will merit a high place in public favor, not only with his own generation, but with posterity. He will have created a State! 21

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17. 18 Senate Documents, Number 242, 30 Congress, 1 Session,

19 Ibid., 31.  
20 Ibid., 30-33.  
21 Ibid., 34.

With his report Smith submitted a number of letters, extracts of letters, quotations from other writers on the area, and memoranda pertaining to the Everglades, as had been requested in his instructions. The first of these was an extract from the report of Colonel Robert Butler, surveyor general of Florida in 1847, to the Commissioner of the General Land Office. From Colonel Butler came the dictum that the Everglades could not be surveyed until they had been drained. This gentleman advised the granting of the area to the state of Florida, since the Everglades were in the interior of the state, without navigable rivers, and thus their reclamation by the federal government would conflict with the sovereignty of the state. He proposed the grant to the state of one moiety, conditioned on the state's drainage of the Everglades within a certain period of time. The United States would, thereby, realize for survey and sale the other moiety, ". . . thus would be opened a large fertile surface for the habitation of man, cultivating sugar and tropical fruits extensively thereon."<sup>22</sup>

Another letter which Smith transmitted with his report was one from General James Gadsden of South Carolina, who had been one of the army commanders in Florida during the Seminole War. Gadsden had written Secretary Walker in 1848 that:

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<sup>22</sup> Executive Documents, Number 2, 30 Congress, 1 Session, 155.

The elevation of the Everglades . . . above tidewater proved the capability of being drained, while the inlets along the coast, and the number of small rivers and creeks, which at seasons relieved the overflowings of the interior basin of Florida, showed that by deepening these natural outlets at their heads, and multiplying the number of parallel and artificial cuts at favorable points, the whole country at times submerged, might be reclaimed and brought into profitable cultivation. 23

Gadsden added that the subject was one of great public interest, for the reclamation of southern Florida would open the only portion of the United States capable of competing with the tropical latitudes in all the productions which enriched them.

A third letter included by Smith was one written by General Thomas S. Jesup, Quartermaster General of the Army in 1848. Jesup had commanded troops in Florida during the Seminole War. Writing to Senator J. D. Westcott on the Everglades, Jesup declared:

The swamps are peat swamps, which if drained, would soon be converted into olive, lime and orange plantations, and would be cultivated by a numerous white population, which would be interposed between the sugar plantations, cultivated by slaves and the free blacks of the West Indies. This in a military point of view, would be highly important, and add greatly to the strength of the south. 24

General William S. Harney had made several long trips through the Everglades during the Seminole War. In his

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23 Senate Documents, Number 242, 30 Congress, 1 Session, 42.

24 Ibid., 43.

letter to Buckingham Smith, Harney declared that canals from Lake Okeechobee to both the Caloosahatchee and the Loxahatchee should be dug, as well as canals into the Ratonas, Little, Arch Creek, Miami, and Shark rivers. Harney declared that the two chief canals should be ten to fifteen miles long, thirty feet wide, and from five to fifteen feet deep. He concluded:

No person can say with positive certainty what the soil of the Everglades when drained would or would not produce; but it is my opinion it would be the best sugar land in the south and also excellent for rice and corn. 25

One of the correspondents from whom Smith sought information regarding the Everglades was Stephen Russell Mallory, Collector of Customs at Key West, Florida. Mallory had lived in Key West since 1820, and had fought in the Seminole War.<sup>26</sup> Mallory, later to become a United States Senator and Confederate Secretary of the Navy, had closely observed that particular part of the state in question. He wrote:

My own impression is that large tracts of the Glades are fully as low as the adjoining sea, and can never be drained; that some lands around the margins may be reclaimed by drainage or dyking, but that it will be found wholly out of the question to drain all the Ever Glades. As the country now is, healthy and mild, with its good lands in small parcels, with water at

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<sup>25</sup> Senate Documents, Number 242, 30 Congress, 1 Session, 44-45.

<sup>26</sup> Kathleen Bruce, "Stephen Russell Mallory," Dictionary of American Biography, XII, 224-226.

hand anywhere for irrigation, I think it offers inducements to small capitalists, men with from one to ten hands, to go there and raise fruits. Fruit will grow well there. 27

Captain John T. Sprague, whose book on the Seminole War appeared in 1848 and remains today the most definitive study, was astounded at any proposal to drain the Everglades. He informed Smith that he had

. . . never supposed the country would excite an inquiry, other than as a hiding place for Indians, and had it occurred to me that so great an undertaking, one so utterly impracticable, as draining the Ever Glades was to be discussed, I should not have destroyed the scratch of a pen /notes used in writing his book/ upon a subject so fruitful, and which cannot be understood but by those who have waded the water belly deep and examined carefully the western coast by land and by water. 28

### 3. The Swamp and Overflowed Lands Act

Among the bills submitted to the first session of the Thirtieth Congress was one introduced by Senator Westcott which would have given the "Peninsula State" all lands, lakes, and watercourses south of Township 36 South, through the islands or keys adjacent to the coast and north of Cape Sable.<sup>29</sup> The Senator gave notice of his intention to introduce this bill on May 3, 1848, but it was not until the night of August 1 that the proposed law was introduced, read twice, and then referred to the Committee on Public Lands as

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55. 27 Senate Documents, Number 242, 30 Congress, 1 Session,

28 Ibid., 58-59.

29 Ibid., 7-8.

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Senate Bill 338. The Westcott bill provided:

1. Commencement of drainage works construction before 1852, to be finished within ten years
2. All land sales proceeds to be appropriated to works of reclamation, if the lands were granted under this bill
3. No land to be sold within the ceded area for less than \$1.25 an acre until drainage work completed
4. No encroachment on Seminole Indian reservations
5. One thirty-sixty of all lands granted to be reserved for the support of the common schools
6. One-half of the lands already surveyed to be reserved in alternate sections for the federal government
7. Proceeds of land sales, within this area, above the costs of drainage works to be devoted to the purposes of education
8. No tolls on United States government commerce in any canals that might be excavated in the area
9. Survey of the lands to agree with the form and plans of existing United States government surveys

On August 9, 1848, on motion of Westcott, the Senate resolved that the Secretary of the Treasury send to that body any information in his department on the reclaiming of the Everglades, or the expediency of deeding them to Florida for that purpose, and the Secretary's opinions as to the best mode and manner for accomplishing those objects. 32

Secretary Walker complied with the resolution on the following day, transmitting the Buckingham Smith report, the appendix to the Smith report consisting of twenty-seven sun-

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<sup>30</sup> Congressional Globe, 30 Congress, 1 Session, 723, 1025.

<sup>31</sup> Senate Documents, Number 242, 30 Congress, 1 Session, 1-2.

<sup>32</sup> Senate Journal, 30 Congress, 1 Session, 551.

dry documents, and a letter from the Commissioner of the General Land Office on the quantity and quality of the lands under consideration. Walker called attention to Smith's estimate that \$500,000 would be necessary for the drainage and to the divided opinions on the probable worth of these lands after their reclamation; he concluded that "The test of experience can alone solve the doubt."<sup>33</sup> The various papers submitted by the cabinet member were read and referred to the Committee on Public Lands.<sup>34</sup>

Senator Sidney Breese of Illinois, chairman of the Committee on Public Lands, made a report on the Everglades bill on August 12. Members of the committee showed considerable interest in the conditions which the bill imposed on Florida. The committee agreed with the Commissioner of the Land Office in that, although more than six-sevenths of the region was unsurveyed, the concession made by the bill of the alternate sections of the surveyed lands below the northern boundary of the proposed grant was a full consideration. The committee looked with favor on the fact that if the proposed improvements were carried out, the United States would derive pecuniary benefit, at no expenditure, in the bottom lands of the Kissimmee River and its tribu-

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<sup>33</sup> Senate Documents, Number 242, 30 Congress, 1 Session, 3-4.

<sup>34</sup> Senate Journal, 30 Congress, 1 Session, 557.



taries which were then valueless by reason of their annual overflowed condition. In addition, the committee reported:

The proposed canals being made the channels of communication by vessels across the peninsula from the Atlantic to the Gulf Waters, thus avoiding the perilous reefs further south, it is a consideration of no trifling moment to the navigating interests of the Union. 35

The committee reported the bill on August 12, without amendment, and recommended its passage. The special reports and accompanying documents were submitted at the same time. On a motion by Senator Westcott, the Senate ordered five thousand copies of the reports and documents printed for the use of the Senate. <sup>36</sup> Westcott had the large number of copies printed, it was reported, "for distribution where . . . it may be of service." <sup>37</sup>

The first session of the Thirtieth Congress adjourned on August 14, so the Florida drainage bill was forced to await action until the beginning of the second session the following December. On December 20, Senator Westcott moved that the Senate proceed to consider his bill, and appeared for favorable passage of his bill. Senator John M. Niles of Connecticut inquired as to the extent of the area conveyed by the grant. Westcott's answer came from the Commissioner of Lands' report, and was broken down into the

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2. 35 Senate Documents, Number 242, 30 Congress, 1 Session,  
 36 Senate Journal, 30 Congress, 1 Session, 580-581.  
 5. 37 Senate Documents, Number 89, 62 Congress, 1 Session,

following categories:

Swamps	4,300,000	Acres
Overflow	1,000,000	"
Pine Barren	1,000,000	"
Sand Barren	1,500,000	"
Total	<u>7,800,000</u>	"

Senator David L. Yulee [Levy], the junior senator from Florida, gained the floor stating that he understood that it was his colleague's intention to defer final action on the bill until the members had stated their objections. Yulee declared that he had not been consulted in relation to the bill and upon perusing it found it so objectionable that he doubted that he would give the bill his vote. A similar measure was proposed, Yulee continued, in relation to the wet lands of the state of Arkansas, and it was his opinion that the latter measure would grant all of the overflowed or wet lands to the States within the limits of which they happened to be located. Yulee concluded:

If my colleague would reduce his bill to a single section-the first-making an unconditional cession to the State of Florida of these unreclaimed lands, I would very readily vote for it. 39

The Everglades bill was debated by the Senate again on December 22 and 29, but the differences of opinion of the Florida colleagues as expressed in the senatorial chamber were enough to prevent its final passage.<sup>40</sup>

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38 Congressional Globe, 30 Congress, 2 Session, 69-70.

39 Ibid., 70.

40 Ibid., 87, 120.

In a speech to the General Assembly on November 24, 1848, Governor William D. Moseley called the attention of that body to the effort the Senators and Representative had made on the subject of the Everglades in Congress.<sup>41</sup> On January 9, 1849, the Senate Committee on Internal Improvements, to whom was referred so much of the governor's message as related to the drainage of the Everglades, made a report. The committee expressed the belief that from all opinion available, there appeared to be little doubt that the Everglades could be drained. This drainage would render the region valuable, but the committee favored the introduction of private enterprise, and could not consent to involve the state in the expense, especially when there was some uncertainty of the success of the undertaking.

On September 28, 1850, President Millard Fillmore signed, "An Act to enable the State of Arkansas and other States to reclaim the swamp and overflowed lands within their limits."<sup>42</sup> This act gave the Everglades area to the state of Florida and its destiny passed from federal into state hands. The swamp lands act required the Secretary of Interior to make accurate lists and plats of swamp and overflowed lands unfit for cultivation remaining unsold at

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<sup>41</sup> Journal of the Proceedings of the Senate of the General Assembly of Florida, 4 Session, 1848, 11.

<sup>42</sup> Journal of the Senate of the United States of America, 31 Congress, 1 Session, 695; also 9 United States Statutes at Large, 519-520.

the time of the passage of the act. At the request of the governors of the several states for lands covered by this act, the Secretary would cause a patent to be issued to the state. On that patent the fee simple to such lands would be vested in the state, with the provision that the proceeds of the sale of those lands be applied exclusively to the purposes of reclaiming the lands.

#### 4. Creation of the Internal Improvement Fund

The Florida legislature, in session the following January, 1851, accepted the grant from the nation. The legislature instructed the governor to secure the necessary plats and deliver them to the Register of Public Lands, said lands ". . . to be subject to sale under the same rules, regulations, and restrictions as are now, or may hereafter be imposed upon the sale of Seminary Lands." <sup>43</sup> By its action the legislature created and constituted a Board of Internal Improvement for the state, the ex-officio members of which included the governor, attorney-general, treasurer, comptroller, and the register of public lands. The elective members included one member from each of the judicial districts of the state, to be elected by the General Assembly for two year terms. The treasurer was instructed to keep separate records of all moneys from sale of these lands, making an annual report to the governor, who in turn would

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43 Acts and Resolutions of the General Assembly of the State of Florida, Passed at its Fifth Session, 1851, 93.

lay the report before the General Assembly at its regular sessions. In 1854, the Board of Internal Improvement

. . . prepared a report setting forth the reasons why the board found itself unable to handle the fund and their efforts and views, accompanied by a bill, which it recommended the legislature pass. . . . 44

Governor James E. Broome, on January 6, 1855, approved an act passed by the legislature creating the Board of Trustees of the Internal Improvement Fund of Florida. This act consolidated the grants made to the state by Congress in 1845 with those secured under the swamp and overflowed lands act of 1850, together with all proceeds that had accrued from their sale, in a separate and distinct classification from other state lands. The lands and funds from their sale were irrevocably vested in five trustees: the governor, comptroller, treasurer, attorney-general, and register of state lands and their successors. With regard to the investment of surplus moneys, the act directed the trustees to invest such funds in stocks of the United States, the several states, or the Internal Improvement bonds issued by the trustees under the provisions of this law. In providing for aid to railroads built under the auspices of this act, the trustees were empowered to guarantee interest of the bonds of the carriers, receiving securities and half the receipts of the corporations for a mortgage.

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44 Senate Documents, Number 89, 62 Congress, 1 Session, 8.

The trustees were given authority, in the sixteenth section of the act, to fix the price of these swamp and overflowed lands, and to make such arrangements for draining them as in their judgment appeared most advantageous to the Internal Improvement Fund and to the settlement and cultivation of the lands. They were further instructed to encourage the settlement and cultivation of such lands by allowing the preemption of a section of land to any one settler. Section twenty-nine of the act allowed the General Assembly to grant "the alternate sections of swamp and overflowed lands, for six miles on each side . . ."<sup>45</sup> of the right-of-way to railroad and canal companies incorporating under the laws of Florida whose work of construction was approved by the trustees. It will be seen that the trusts to which the lands were devoted by the federal swamp land act of 1850 were

. . . in the direction of drainage and reclamation of the lands, but may be divided as to the means by which that end is to be accomplished into three parts . . . 1. Internal Improvement by railroads and canals; 2. drainage devoted immediately to that purpose; 3. encouragement of actual settlement . . . by allowing preemptions. 46

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<sup>45</sup> Laws of Florida, Number 1, Chapter 610, 1855; Minutes of the Proceedings of the Board of Trustees of the Internal Improvement Fund of the State of Florida, I, xv-xxi. Hereinafter cited as I.I.B. Minutes.

<sup>46</sup> Letter of the Trustees of the Internal Improvement Fund to the United States Senate Sub-Committee of the Committee on Public Lands, I.I.B. Minutes, III, 508.

The foundation for internal improvements in Florida was laid on the grant of the swamp and overflowed lands. On this foundation the General Assembly built the 1855 internal improvement act, ". . . the product of the brain of Hon. David Yulee, he [sic] consulting with the Hon. James T. Archer and Governor James E. Broome."<sup>47</sup>

The Trustees of the Internal Improvement Fund held their first meeting on January 18, 1855, and proceeded to organize as a Board. The members of the original board included Governor James E. Broome, State Register of Lands David S. Walker, Attorney-General Mariano D. Papy, Comptroller Theodore W. Brevard, and Treasurer Charles H. Austin. Governor Broome was elected president and Attorney-General Papy was chosen secretary. As its first official act the board ordered the payment of \$16,000 to the selecting agents of the Board. From the inception of the first improvement board in 1851, swamp and overflowed lands had been selected by agents who submitted their proof to the Secretary of Interior in Washington, who, in turn, caused the lands in question to be examined by federal agents. Lands found to qualify as swamp and overflowed were then patented to the state on the request of the governor, who

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<sup>47</sup> Report of the Joint Commission Created by the Legislature of 1907 to Investigate the Acts and Doings of the Trustees of the Internal Improvement Fund, 33. Hereinafter cited as 1907 Commission Report.

vested them in the Improvement Fund upon the receipt of the patent from the Interior Department.