

1863.		CR.	
Nov. 25.—	By cash paid C. H. Austin, Treasurer,	\$ 815 02	
Dec. 2.—	" " " " " "	3,861 90	
1864.			
Jan. 4.—	" " " " " "	1,571 33	
Feb. 6.—	" " " " " "	1,392 36	
April 1.—	" " " " " "	242 54	
Nov. 1.—	" balance on hand,	4 60—	\$7,887 75
1864.		DR.	
Nov. 1.—	To balance on hand,		\$ 4 60

HUGH A. CORLEY,
Register of Public Lands.

HUGH A. CORLEY, *Register, in acc't with the Seminary Fund:*

1863.		DR.	
Nov. 1.—	To balance on hand,	\$ 96 25	
" 21.—	" cash in payment of bonds,	1,005 37	
" "	" " " " " interest,	554 55	
			\$1,656 17

1863.		CR.	
Nov. 25.—	By cash paid C. H. Austin, Treasurer,	\$ 96 25	
Dec. 2.—	" " " " " "	1,559 92—	\$1,656 17

HUGH A. CORLEY,
Register of Public Lands.

ATTORNEY GENERAL'S REPORT.

ATTORNEY GENERAL'S OFFICE, }
TALLAHASSEE, November, 1864. }

His Excellency JOHN MILTON, Governor:

SIR:—Having, in my previous annual report, made repeated reference to the great and growing necessity for a Digest of the Laws of this State, I deem it needless again to revert to the subject further than merely to direct attention to a matter that I consider of great importance, and one of which it is my duty to remind those concerned in-making our laws. The reasons that have been given why this work should be commenced still continue and are increased by the lapse of time. It must be apparent to every one at all conversant with the Statutes of Florida, that a Digest or revision of them would be of much benefit to

every citizen of the State, and especially to those immediately interested in administering and executing the laws. I am persuaded that the Legislature has omitted to make a provision for a Digest of the Statutes under the impression that the present is not an opportune time for such a work. It should be borne in mind, however, that the preparation of the work will occupy much time, and that, if commenced at present, it cannot be completed before such a period as in all probability will see the end of our present troubles. The subject is certainly worthy of attention, and should receive the consideration of the Legislature.

Of the operation and effect of the laws adopted at the last session of the General Assembly there is little more to report, except that they have accomplished, in most instances, the purposes for which they were enacted. "An act to allow the Judges of the Circuit Courts of this State to appoint Sheriffs in certain cases," can, I think, be beneficially amended. The act merely provides that the Judges of the Circuit Courts shall have power to appoint, if necessary, Sheriffs to act during the terms of Court. Instances have arisen in which the office of Sheriff has been made vacant, or the Sheriff, from some cause, has been unable to discharge the duties of his office at a time when his official services were greatly needed, and much inconvenience and delay of the law has been the consequence. I would suggest that the Statute be so amended as to empower the Governor, or the Judges of the Circuit Courts, to appoint Sheriffs in such cases, who shall discharge all the duties of that office at all times until the disability of the regular Sheriffs shall be removed. There can be no reasonable objection made to such a provision, and it will prevent the recurrence of such obstruction of the law as has occurred for want of it.

The General Assembly adopted, at its last session, "An act relating to property confiscated to the use of the State." The operation and effect of this law, so far as it has been practically enforced, have, I believe, accomplished the purposes for which it was designed. I think, however, that it would be well for the Legislature to reconsider the policy of the act so far as it gives the property confiscated, or the residue thereof after paying debts, to the next of kin of the person whose treason it was designed by the ordinance and the law to punish. Experience has shown that citizens designing to act the part of traitors and go over to the enemies of their country are not deterred from such a course, if they can leave their families in full possession and enjoyment of their property here while they secure themselves with the enemy. There are, doubtless, cases in which it would be a very great hardship to deprive the families of traitors of their

support; but these cases can in all instances be made a subject of special legislation. By this means each case could be made to depend upon its own merits. By the present principle, a designing traitor can leave his wife and children, or relatives, to take care of his property here while he is with the enemy, giving them aid and comfort and laboring for the destruction of the country. There is no doubt but that the intention of the act as it now stands was good, but the practical defect therein suggested has very much impaired the efficiency and changed the original policy of confiscation. Other amendments are needed to give more practical effect to the law than it now has. It should be made the duty of the societies of the several circuits to ascertain and give information of such cases as come within the provision of the ordinance and statute, and under the direction of the Governor to make such seizures and institute such proceedings as may be necessary to carry the law into prompt and practical effect. As the statute now stands, it is very difficult for the Executive to carry out the law in the more remote counties of the State without an expense, delay and complication that very much impair the practical operations of the statute. The Attorney General should be authorized to adopt such forms and rules of proceeding in these cases as will ensure uniformity and promote speedy and substantial justice in such cases.

The circumstances of the country have caused attention to be directed to a defect in the law relative to county organizations that requires to be remedied. It has in some instances happened that owing to the incursions of the enemy and other causes the county organizations of several of the counties in the State have been completely broken up and the county officers made vacant by the absence, imprisonment, capture or death of their incumbents. Under the law, as it now stands, there is no remedy for such a state of things. In case of the absence, imprisonment or death of the officers of a county, the law makes no provision, in many instances, by which their places can be supplied; and in case of the death or absence of all the officers of a county, there is no proper method by which the county can be reorganized without special legislative action on the matter. This is a state of things that should not be possible. The county organizations are essential to the operations of the State Government, and their suspension renders the execution of the law impossible in most cases in the county thus disorganized. As a remedy for contingencies of this kind, I think that the General Assembly could properly adopt a law vesting the Governor or the Judges of the Circuit Courts with the authority to make temporary ap-

pointments of county officers to carry out the law until a regular organization can be effected. It is necessary that a county should have some proper officer to order and superintend an election before there can be ever a commencement of organization. The necessity of some general provision of law to remedy such cases as are above referred to must be apparent; and it is further to be observed that the election in many counties are so impeded and imperfect, owing to the state of the country, that temporary appointments would in some cases be more expedient and proper even where partial elections are perhaps possible. It is not by any means intended to suggest the displacement of officers whose misfortunes have rendered it impossible for them to discharge the duties of their offices, but only that a temporary provision be made to ensure the efficient execution of the law so much required under the extraordinary condition of public affairs now existing.

In connection with the above mentioned subject, it is suggested that some further provision of law be made regulating the mode and manner in which the Judges of the Circuit Courts shall exercise the powers and perform the duties of each other in such cases and under such circumstances as may render a proceeding of this kind necessary and proper. Although the Constitution and law, as it now is, fully authorizes the Judges to exchange Circuits in certain cases, yet there is a want of method in the operation of the law and an indefiniteness that could be remedied with very beneficial effects. Under the law, as it now stands, there must be the concurrence of two Circuit Judges before any exercise of authority of this kind can take place. This may be under some circumstances impossible to be had, and this consent cannot always be obtained even when there is no positive impediment. The act of 1848 provided that if any cause was pending in a Circuit Court which the Judge thereof could not properly hear or determine, that he should notify the fact to the Supreme Court, which should assign a Judge not interested in the cause from some other Circuit to try the same. The act of Jan. 11, 1851, provides for the transfer of causes from the Circuits in which they cannot be tried from the disqualification of the Judge, instead of the appointment or transfer of a Judge to try them. This Statute provides, however, "that whenever the Judge of a Circuit Court shall be unable, from absence, sickness or other cause, or shall be disqualified, from interest or any other cause, to discharge any duty whatever appertaining to his office, which may be required to be performed in vacation or between terms, it shall be the duty of any other Circuit Judge, on the application of any party, to perform such matters as may be submitted

to him ; and such Judge may discharge said duties either in his own or any other Circuit, and shall be substituted in all respects in the place and stead, in the matter aforesaid, of the Judge unable or disqualified to act." This act further provides, (Sec. 5,) "that, whenever it shall be made satisfactorily to appear to the Governor of this State that from the number or character of causes pending, or the number of witnesses to be examined, or from other cause, it would be unjust or greatly inconvenient to transfer such suit or suits to another Circuit, in consequence of the Judge of the proper Circuit being disqualified to try the same, the Governor shall have power either to order an extra term of Court to be held by a Judge of another Circuit to try said suit or suits, or to direct an interchange of Circuits, for the time being, between the Judge so disqualified and some other Judge competent to try and determine said causes ; and it is hereby made the duty of such Judge or Judges to comply with said order or direction." It will be perceived from an examination of these Statutes, that the Circuit Judges in each Circuit are vested with the authority and duty of determining the qualifications of any or all of the other Circuit Judges in the State in matters to be determined in Chancery or in vacation ; and, further, that the Governor can only direct a change or transfer of Judges where there are a sufficient number of suits pending of such a character, and such a number of witnesses, &c., as would make it unjust or greatly inconvenient to transfer them ; and that there is no provision of law that authorizes a Judge of the Circuit Court to hold terms for another and try the causes at law or criminal cases pending in his Circuit, or perform any of the other duties appertaining to his office, unless the Judge of that Circuit is disqualified to try certain causes pending in his Circuit, which, from their number, &c., it would be inconvenient to transfer. It has been observed that this is a defect in our law on this subject. Circumstances have occurred that show the propriety of vesting the authority, either in the Supreme Court or with the Governor, to substitute one Circuit Judge for another in all respects and for all duties, in certain contingencies. An instance has occurred wherein a Judge has been taken prisoner by the enemy, and, owing to the present provisions of the law, the affairs of his Circuit, no matter how important they may be, must, in great part, be suspended until the termination of his captivity, unless some remedy shall be applied by legislative authority. I would suggest that an act be passed giving authority to the Governor, or to the Supreme Court, as may be thought most expedient, to transfer Judges of the Circuit Courts to different Circuits for temporary purposes in all cases where for any reason the Judge

of any Circuit cannot discharge the duties of his office. There can, it seems, be no objection to a provision of this kind, and much benefit may result from it.

My attention has been directed to a defect in "An act to facilitate the Construction of Public Defence," approved December 15, 1862. The Governor is authorized by that act to make all rules and regulations necessary to the faithful carrying out of the provisions of the act in the impressment of slave labor, &c. The law should empower the Executive to enforce obedience to these regulations and to the law itself. The Governor, under the act, having designated the officer in each county who should impress the labor necessary for the public defences, has not the power to punish that officer if he shall fail or refuse to do his duty in the premises. There is no remedy pointed out for such cases, and it is not thought that under the general power to make regulations for the impressment of labor the Governor can prescribe a punishment for a county officer who fails or refuses to do his duty. It is suggested that this defect in the law be supplied by specific legislation on the subject.

In my last report I made reference to several subjects deserving attention that may possibly have escaped the observation of the General Assembly. Among these I desire again to direct attention to the defects in the law relative to the assessment of taxes; to the election laws; to the law authorizing the Judges of Probate to grant orders to sell real estate, &c.; to the laws in relation to the expenditures of the Quartermaster's office; to those in regard to Grand and Petit Jurors, and to the publication of the laws. The suggestions made in relation to these subjects in that report are, I think, still applicable, and I would respectfully ask your attention again to the same.

The General Assembly adopted an act to repeal an act to facilitate the construction of the St. Johns and Indian River Canal, December 10, 1862. One of the provisions of this act requires the Attorney General to make application before the Supreme Court for a rehearing in the case of the Trustees of the Internal Improvement Fund vs. William Bailey before a competent tribunal, or by bill or otherwise, to be filed by him to come before a competent tribunal, to have the questions in the above case settled and the questions arising out of that act in regard to the Indian River Canal. In accordance with the requirements of that act, I made an application to the Supreme Court for a rehearing of the above mentioned cause at its last term at Tallahassee. The result of that application appears in the reports of the decisions of the Supreme Court for that term. The Court decided that all the Justices thereof were qualified to sit and hear the ap-

plication in the matter referred to. The Court further decided, "1st. Under the Constitution of Florida, the Legislature are prohibited from exercising any power properly belonging to the Judicial Department; therefore where the Legislature passes an act, the provisions of which are clearly and manifestly an exercise of power properly belonging to the Judiciary, it is unconstitutional. 2d. The directing a rehearing by legislative enactment of a case decided in this Court is the exercise of a power properly belonging to this Court. 3d. After a judgment of this Court is enrolled and the term passed at which it was pronounced, the power of the Court over the record ceases, and the judgment cannot be recalled or vacated." No question has arisen under the act relative to the St. Johns and Indian River Canal in any of the Courts. It appears that the law relative to this work is different from that in regard to the other objects of Internal Improvement in the State. The St. Johns and Indian River Canal organization was not an incorporated company and the questions supposed to occur from the repeal of the laws authorizing and making provision for this work have not arisen.

In all portions of the State not under the control of the enemy, the operation of the laws has been uninterrupted, except in those cases where the violent irruption of the foe has temporarily disorganized the Courts. The superiority of the civil power has been respected by the great and gallant men who are fighting the battles of our country, and the Constitution that binds us together as citizens of one common country, and gives us existence as a State, has been preserved sacred and inviolate in the midst of one of the greatest political convulsions and most tremendous conflicts that the world has ever witnessed.

Very respectfully,

J. B. GALBRAITH,
Attorney General.

TALLAHASSEE, FLORIDA, }
November 19, 1864. }

*To the Senate and House of Representatives
of the State of Florida in General Assembly convened:*

In pursuance of the act of December 1, 1862, requiring Annual Reports from the Board of Trustees of the Internal Improvement Fund, said Board respectfully report that during the past year they have transacted no business of a general nature or public importance.

The sales of lands belonging to the Internal Improvement
4App

Fund were altogether suspended in February last. From November 1, 1863, until the time of such suspension, there were sold, according to the report of the salesman of the Board, 4,361.84 acres of swamp land, for \$9,805 30 and 1,041 73 acres of Internal Improvement Land for \$2,618 05. The account of the Treasurer of the Board for receipts and expenditures during the past year is hereto annexed.

JOHN MILTON,
Governor and ex-officio President Board of
Trustees Internal Improvement Fund.

REPORT OF THE TREASURER OF THE INTERNAL IMPROVEMENT BOARD.

OFFICE TREASURER BOARD TRUSTEES I. I. FUND, }
TALLAHASSEE, Nov. 12, 1864. }

To the Board of Trustees Internal Improvement Fund:

SIRS: In conformity with the law requiring reports from the Trustees of the Internal Improvement Fund to the General Assembly, I herewith submit the financial report from this office, embracing the transactions of the past year ending October 31, 1864.

Respectfully,

C. H. AUSTIN,
Treasurer Board Trustees Internal Improvement Fund.

The Treasurer in account with the Board of Trustees of the Internal Improvement Fund.

1863.	DR.	
Nov. 1—To balance last report,		\$24,864 98
3—To amount received from Attorney General on land notes collected,		7,695 00
5—To amount received from Florida R. R. Co. for period of Feb'y to Aug. 1863.		\$16,240 80
On net earning's acc't.,		8,090 00—
“ sinking fund,		24,330 80