
Appendix to the Journal of April 14th, 1909

REPORT
OF THE
Joint Commission

CREATED BY THE LEGISLATURE OF 1907,
CHAPTER 5632, SESSION
LAWS OF

1907

REPORT OF JOINT COMMISSION

Tallahassee, Fla., April 9, 1909.

To the Honorable Fred M. Hudson, President of the Senate, and Ion L. Farris, Speaker of the House of Representatives, of the State of Florida:

The Joint Commission, elected by the Legislature of 1907, to investigate the acts and doings of the Trustees of the Internal Improvement Fund of Florida, under Chapter 5632, Session Laws of 1907, make report of their investigation as follows:

Pursuant to the provisions of said act, this Commission met in the City of Tallahassee, Florida, on the 24th day of June, 1907, all members being present, and organized for the work indicated in the act, by electing Hon. Syd L. Carter, chairman, R. P. Reese, vice-chairman, and Park M. Trammell, secretary, and employing the Hutchinson Audit Company, of Jacksonville, registered accountants, to audit the books of account of the Trustees of the Internal Improvement Fund. (See contract—exhibit attached to evidence, filed herewith.)

The Commission employed a stenographer, Miss Lois Hale, of Gainesville, at the rate as fixed by statute, for court reporting.

The Commission had inserted in all of the leading daily and weekly papers of the State, the following notice:

To the State Press:

The Legislature of Florida, at its recent session, created a Commission to investigate the acts and doings of the Trustees of the Internal Improvement Fund, from the beginning of the Trust to date. This Commission is now daily engaged in the work required by said legislative act.

There is a mass of records, books, maps, charts, etc., to be carefully gone over and examined, as well as land deeds, patents, etc., which will necessarily require some time to complete thoroughly, as re-

quired by the law. Numbers of witnesses who are supposed to be material have been subpoenaed to appear before the Commission at stated intervals to testify as to individual transactions and land sales, and by their evidence to aid the Commission in ascertaining if the great Trust of the Internal Improvement Fund has been administered at all times faithfully, honestly and to the best interests of the people of Florida.

There may be, and doubtless are, citizens in various portions of the State who are in possession of information that would be useful to the Commission, and we have adopted this method of appealing to the State press to give currency to our desires that any and all such persons as those who have complaints against any past action of the Trustees, would let us know at once, so we may take the matter up and probe it to the bottom. Weekly papers are requested to copy.

SYD L. CARTER, Chairman.
 R. B. REESE, Vice-Chairman.
 PARK M. TRAMMELL, Secretary.
 F. P. CONE.
 C. L. LEGGETT.
 G. G. MATHEWS.
 M. S. KNIGHT. Commissioners.

The Commission immediately entered upon the work for which it was created, and remained in continuous session, with a majority present, from the 24th day of June, 1907, until November 5th, 1907, except on one occasion, when for two or three days, adjournment was taken, leaving two members present in charge of the work and supervising the accountants.

In the course of the investigation held, the Commission summoned and had before it the following named persons, who gave testimony, to wit:

T. J. Appleyard.	W. B. Lamar.
J. T. Bernard.	J. C. Little.
W. D. Bloxham.	Charles Munroe.
N. B. Broward.	I. J. McCall.
Harry L. Brown.	W. M. McIntosh, Jr.,
John M. Caldwell.	B. E. McLin.
John Collins.	E. Ernest McLin.
C. M. Cooper.	T. E. Perkins.

E. S. Crill.
 A. C. Croom.
 A. J. DaCosta.
 Frank Drew.
 W. H. Ellis.
 F. P. Fleming.
 C. B. Gwynn.
 Benj. Harrison.
 D. J. Herrin.
 W. S. Jennings.
 W. V. Knott.

B. E. Brevatt.
 Geo. P. Raney.
 R. E. Rose.
 Samuel A. Swann.
 A. W. Taylor.
 Neill G. Wade.
 S. I. Wailes.
 A. T. Williams.
 S. H. Wienges.
 P. W. White.
 J. B. Whitfield.

Every living witness who was at any time a Trustee of the Fund, was heard by the Commission except E. J. Triay, who was Treasurer under the Fleming administration. Subpoena was issued for him, and return made that he was in New York. In view of the fact that Comptroller Bloxham and Attorney General Lamar, Trustees at the same time, were present and testified, the Commission saw no necessity of taking the depositions of Mr. Triay.

In addition to the witnesses heard, the following witnesses were subpoenaed, but for the reasons stated in the letters received from them and given below, the Commission was unable to obtain their testimony, and from the letters did not deem it necessary to compel attendance.

THE TAMPA TRIBUNE.

W. F. STOVALL, Editor and Manager.

July 10, 1907.

Hon. Syd L. Carter, Chairman,

*Investigating Committee Internal Improvement
 Fund, Tallahassee, Florida.*

My Dear Sir:

I received your summons some days ago to appear before your committee on the 11th, but I find that my physical condition will not permit my absence, and I enclose you herewith certificate from my family physician to that effect.

I know absolutely nothing about the doings of the Trustees of the Internal Improvement Fund, and if it is possible for you to do so, I will appreciate it as a personal favor if you will see that I am not summoned in the future, because it would simply incur a big expense on the part of the State, without having any effect.

Trusting to hear from you, I am, with much respect and best wishes,

Yours very truly,
(Signed) W. F. STOVALL.

With the following attached certificate:

Tampa, Fla., July 10, 1907.

This is to certify that Mr. W. F. Stovall is ill, suffering from malarial fever and acute indigestion, and is unable to leave his home at this time.

J. T. BOYKIN, M. D.,
Attending Physician.

THE FLORIDA TIMES-UNION.

BUSINESS OFFICE.

Jacksonville, Fla., July 5, 1907.

*Hon. Syd L. Carter, Chairman,
Tallahassee, Fla.*

My Dear Sir:

I have been very unwell for the last year or more. It was necessary for me to spend four months North under the care of a specialist, and since my return South three months ago I have been under the constant care of Dr. R. P. Daniel, of this city. It is not wise, I assure you, for me to leave here at this time; therefore I will have to ask you to excuse me as a witness before your committee on the 9th instant.

I will be glad if you will let me know by return mail if it is necessary for me to send you a certificate from my physician; if so, I will enclose it to you immediately. Perhaps it will be better to ask you to wire me at my expense. It will make me feel easier.

With much respect, I am,

Yours very truly,
(Signed) THOMAS T. STOCKTON,
Business Manager.

THE FLORIDA TIMES-UNION.

BUSINESS OFFICE.

Jacksonville, Fla., July 10, 1907.

*Mr. Syd L. Carter, Chairman,
Tallahassee, Fla.*

Dear Sir:

Your kind letter of July 9th to hand. I thank you for excusing me from attendance before your committee.

In obedience to your request, I herewith hand you a list of the names of the different editors employed by the Times-Union for the last two years.

With the hope that I have comprehended your request accurately, I am, with much respect,

Very truly yours,

(Signed) T. T. STOCKTON,
Business Manager.

Enclosure.

The following list attached to letter:

BENJ. HARRISON,
GEO. W. WILSON,
A. S. HOUGH,
S. B. RUSS,

And possibly a few others—occasional writers.

The testimony of the witnesses heard will be found at the end of this report. With this preliminary statement we submit the following report:

Florida as a State owned none of the lands within her borders, in her own right, and whatever lands came into the possession of the State, were by grants from the United States, under the several acts of Congress. A number of these grants of land from the United States to Florida, were for school and other purposes and foreign to the grants made to the State for internal improvement, and which latter grants those made to the State for internal improvement, and were afterwards, by act of the Legislature of Florida, vested in a Board of Trustees, constituted the Internal Improvement Fund. Of the act of the Legislature creating the Trustees of the

Internal Improvement Fund, and vesting these lands in such Trustees, we shall speak later. At present, we shall address ourselves to enumerating these two grants made for internal improvement, and which grants the Trustees received as the only asset of the Fund, when they received and accepted the trust.

There were two separate grants of land from the United States, which went into the Internal Improvement Fund for internal improvement. The first is what is known as the "Internal Improvement Lands Proper":

"The Internal Improvement Lands Proper," are the lands conveyed to the State, under an act of Congress bearing date of September 4, 1841, and grant-in 500,000 acres; Section 8, of Chapter XVI, of said act of September 4, 1841, page 455, U. S. Statutes at large, reads:

"Sec. 8. And be it further enacted, That there shall be granted to each State specified in the first Section of this act, five hundred thousand acres of land for purposes of internal improvement: Provided, That to each of the said States which has already received grants for said purposes, there is hereby granted no more than a quantity of land which shall, together with the amount such State has already received as aforesaid, make five hundred thousand acres, the selections in all of the said States to be made within their limits respectively, in such manner as the Legislature thereof shall direct; and located in parcels conformably to sectional divisions and subdivisions, of not less than three hundred and twenty acres in any one location on any public land, except such as is or may be reserved from sale by any law of Congress, or proclamation of the President of the United States, which said locations may be made at any time after the lands of the United States in said States respectively, shall have been surveyed according to existing laws. And there shall be, and hereby is, granted to each new State that shall hereafter be admitted into the Union, upon such admission, so much land as, including such quantity as may have been granted to such State before its admission, and while under a territorial government, for purpose of internal improvement as

aforesaid, as shall make five hundred thousand acres of land, to be selected and located as aforesaid."

The next grant which was placed in the trust, was the one known as the grant of the Swamp and Overflowed lands:

"How this class of lands were conveyed to the State and the purpose for which they were to be used, is clearly set out in the following act:

Chapter LXXXIV, act of September 28, 1850. Be it enacted, etc.:

"That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State.

"Sec. 2. And be it further enacted, That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands, described as aforesaid, and transmit the same to the Governor of the State of Arkansas, and, at the request of said Governor, cause a patent to be issued to the State therefor, and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the Legislature thereof: (*Provided, however, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.*)

"Sec. 3. And be it further enacted, That in making out a list of plats of the land aforesaid, all legal subdivisions, the greater part of which is 'wet and unfit for cultivation,' shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

"Sec. 4. And be it further enacted, That the provisions of this act be extended to, and their benefits be conferred upon, each of the other States of the Union in which such swamp and overflowed lands

known and designated as aforesaid, may be situated."

It will be noticed that this grant, while made to the State of Arkansas, under the provisions of the act, the grant was extended to, and their benefits conferred upon each of the other States of the Union, in which such swamp and overflowed lands, known and designated in the act, may be situated.

SWAMP LAND INDEMNITY.

The grant by the United States to Florida, of the swamp and overflowed lands, within the State, conveying so large a body of land yet unselected, would necessarily involve homestead entry and sales by the United States of these same lands from time to time, and in order to reimburse the State for such entries and sales, it was provided by act of Congress of March 2, 1855, and March 3, 1857 (act of 1857 continues in force, act of 1855,) as follows:

"Sec. 2 And be it further enacted, That upon due proof by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands, within the true intent and meaning of the act aforesaid, the purchase money shall be paid over to the State or States; and where the lands have been located by warrant or scrip, the said State or States shall be authorized to locate a quantity of like amount upon any of the public lands subject to entry, at one dollar and a quarter per acre, or less, and patents shall issue therefor, upon the terms and conditions enumerated in the act aforesaid; Provided, however, the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior."

Under this act, there has come into the fund 93,172 40-100 acres of land.

The proceeds arising from this source, either in lands or cash, were conveyed to the City of Pensacola by the acts of the Legislature of 1883. Chapter 3475.

"Sec. 1. That two hundred and fifty thousand acres of the indemnity lands received or to be received, or moneys to be received from the settlement of indemnity lands by the State of Florida, or from

the United States, be, and they are hereby set apart for the payment of the funded bonds of the City of Pensacola, which were issued in lieu of the original bonds; provided, that this shall not affect lands already sold, or moneys due for indemntiy lands heretofore sold by the State.

Sec. 2. The First National Bank of Pensacola is hereby constituted the Trustee of the city and the bondholders, the warrants or certificates of the said lands shall be made to the order of said bank; said Trustee is authorized to exchange or sell said lands, and receive therefor the bonds issued as aforesaid or lawful currency, and shall cancel all bonds received and deliver the same when cancelled, to the Treasurer of the City of Pensacola.

Sec. 3. When the bonds of said city shall have been exchanged or paid by said Trustee, all moneys, if any remain, or lands, if any remain, shall be turned over to the Board of Internal Improvement for the uses of said Board."

The proceeds arising from this source all go indirectly to the benefit of the railroads, as the Fund is to reimburse the city for bonds issued to aid in the construction of a railroad.

Florida was one of the beneficiaries under the act of 1850, having received patents for 20,151,806 44-100 acres of such swamp and overflowed lands, with some 100,000 acres yet within the State to be selected and patented to the State. (See testimony of C. B. Gwynn.)

Since the total area of Florida is 37,931,520 acres, that portion of the State's public domain that has passed through and still remaining in the Fund, can radily be seen.

These two grants from the United States was the subject of the Trust placed in the hands of the Trustees under the act of the Legislature, known as Chapter 610, of the acts of 1855, and is as follows:

CHAPTER 610—(NO. 1.)

AN ACT TO PROVIDE FOR AN ENCOURAGE
A LIBERAL SYSTEM OF INTERNAL IM-
PROVEMENTS IN THIS STATE.

“Whereas, The Constitution of this State declares that 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 the 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 appropriate for such improvements,” therefore—

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened,* That so much of the five hundred thousand acres of land granted to this State for internal improvement purposes, by an act of Congress, passed the third day of March, A. D. 1845, as remains unsold, and the proceeds of the sales of such of said lands heretofore sold as now remain on hand and unappropriated, and all proceeds that may hereafter accrue from the sales of said lands; also all the swamp land or lands subject to overflow, granted to this State by an act of Congress, approved September 28, 1850, together with all the proceeds that have accrued, or may hereafter accrue to the State from the sale of said lands, are hereby set apart and declared a distinct and separate fund, to be called the Internal Improvement Fund of the State of Florida, and are to be strictly applied according to the provisions of this act.

Sec. 2. *Be it further enacted,* That for the purpose of assuring a proper application of said fund for the purposes herein declared, said lands and all the funds arising from the sale thereof, after paying the necessary expenses of selections, management and sale, are hereby irrevocably vested in five Trustees, to wit: In the Governor of the State, the Comptroller of Public accounts, the State Treasurer, the Attorney General and the Register of State Lands, and their successors in office, to hold the same in trust for the

uses and purposes hereinafter provided, with the power to sell and transfer said lands to the purchasers, and receive payment for the same and invest the surplus moneys arising therefrom, from time to time, in stocks of the United States, stocks of the several States, or the Internal Improvement bonds issued under the provisions of this act, and drawing not less than 6 per cent. annual interest; also, the surplus interest accruing from such investments, and to pay out of said fund, agreeably to the provisions of this act, the interest from time to time, as it may become due on the bonds to be issued by the different railroad companies, under authority of this act; also to receive and demand, semi-annually, the sum of one-half of one per cent. (after each separate line of railroad is completed) on the entire amount of bonds issued by said railroad company, and invest the same in stocks of the United States, or State securities, or in bonds herein provided to be issued by said company. Said Trustees shall also invest the surplus interest of said sinking fund investment as it may accrue. Said Trustees shall also demand and receive from each railroad company named in this act the amount due to the Internal Improvement Fund from said railroad company, according to the provisions herein contained, on account of interest on the bonds issued by said company, and a refusal or neglect on the part of the president and directors of any railroad company herein named to comply with the provisions of this act, as to the payment of said Trustees of the amount due and payable to the fund, as provided in Sections Eleven, Twelve and Thirteen, on account of interest and sinking fund, the individual property of each and all the directors shall be liable in an action of debt to said Trustees for the amount due and unpaid, with twenty per cent. interest until paid.

Sec. 3. *Be it further enacted,* That all bonds issued by any railroad company, under the provisions of this act, shall be recorded in the Comptroller's office, and so certified by the Comptroller, and shall be countersigned by the State Treasurer, and shall contain a certificate on the part of the Trustees of the Internal Improvement Fund that said bonds are

issued agreeably to the provisions of this act, and that the Internal Improvement Fund, for which they are Trustees, is pledged to pay the interest as it may become due on said bonds. All bonds issued by any railroad company under the provisions of this act shall be a first lien or mortgage on the roadbed, iron, equipment, workshops, depots and franchise; and upon a failure on the part of any railroad company accepting the provisions of this act to provide the interest as herein provided on the bonds issued by said company, and the sum of one per cent. per annum, as a sinking fund, as herein provided, it shall be the duty of the Trustees, after the expiration of thirty days from said default or refusal, to take possession of said railroad and all of its property of every kind, and advertise the same for sale at public auction to the highest bidder, either for cash or additional approved security, as they may think most advantageous for the interest of the Internal Improvement Fund, and the bondholders. The proceeds arising from such sale shall be applied by said Trustees to the purchase and cancelling of the outstanding bonds issued by said defaulting company, or incorporated with the Sinking Fund: Provided, That in making such sale it shall be conditioned that the purchasers shall be bound to continue the payment of one-half of one per cent. semi-annually to the sinking fund until all the outstanding bonds are discharged, under the penalty of an annulment of the contract of purchase, and the forfeiture of the purchase money paid in.

Sec. 4 *Be it further enacted,* That a line of railroad from the St. Johns River, at Jacksonville, and the waters of Pensacola Bay, with an extension from suitable points on said line to St. Marks River, or Crooked River, at White Bluff, on Apalachicola Bay, in Middle Florida, and to the waters of St. Andrews Bay, in West Florida, and a line from Amelia Island, on the Atlantic, to the waters of Tampa Bay, in South Florida, with an extension to Cedar Key, in East Florida; also, a canal from the waters of St. Johns River on Lake Harney to the waters of Indian River, are proper improvements to be aided from the Internal Improvement Fund, in manner as herein-after provided.

Sec. 5. *Be it further enacted*, That the several railroads now organized or chartered by the Legislature, or that may hereafter be chartered, any portion of whose routes as authorized by their different charters, and amendments thereto, shall be within the line or routes laid down in Section four (4), shall have the right and privilege of constructing that part of the line embraced by their charter, or giving notice to the Trustees of the Internal Improvement Fund of their full acceptance of the provisions of this act, specifying the part of the route they propose to construct, and upon the refusal or neglect of any railroad company now organized to accept, within six months from the passage of this act, the provisions of the same, any other company, duly authorized by law, may undertake the construction of such part of the line as they may desire to make, and which may not be in progress of construction under a previous charter.

Sec. 6. *Be it further enacted*, That before any railroad company shall be entitled to the provisions of this act, said railroad company shall first grade continuously, twenty miles, according to the following specifications:

First. The line of road for sixty feet from the center shall be cleared of all standing timber.

Second. The grading shall be for a single track except at depots, turn-outs and similar places, where it shall be wider if required by the State Engineer, with a roadbed twenty feet wide in cuttings, with ditches from two to three and a half feet in depth below grade, with such widths as the State Engineer may direct, and eighteen feet wide on embankments, at the grade line, with slopes of one and a half feet base to one foot rise; and in all excavations and embankments they shall be so constructed as to have a perfect drainage, and not permit any standing water to come within three feet of the lower side of the cross tie.

Third. All the cross ties shall be delivered on the line of the road and be of heart yellow pine, cypress, white, yellow, post, live or Spanish oak, white, or red cedar, and not less than nine feet long, with not less than nine inches face, and eight inches in thickness, and shall be well and carefully bedded,

and laid within two and a half feet from center to center.

Fourth. At all waterways, sufficient space shall be left for the unobstructed passage of water; and at all points on the line of the road where side ditches can be cut that will carry off the surface water, they shall be constructed by the company, under the direction of the State Engineer.

Fifth. In the crossing of all streams, the bridges shall be constructed according to the plans approved by the State Engineer; and over all streams that are navigated, suitable draws shall be put in to admit the passage of boats or vessels usually navigating the same, to be decided by the State Engineer.

Sixth. The gauge of the different railroads shall be uniformly five feet, and connected continuously, so that cars, or trains of cars, can pass on all the routes indicated, without changing freight. And it shall be the duty of the different railroad companies to adopt a uniform tariff for transportation of passengers and for hauling the freight in cars of another company, upon usual and equitable terms, and no discrimination shall be made by one company against the freight or passengers of another company.

Seventh. The iron rail used shall weigh not less than sixty pounds per lineal yard, and be of the best quality of iron, and well fastened to the cross-ties, with the best quality of spikes and plates.

Eighth. The entire equipment shall be of the first class, and shall at all times be sufficient for the prompt transportation of all the passengers and freight ordinarily offering.

Ninth. The grade on no portion of the routes indicated by this act shall exceed forty-five feet per mile and no single curve shall exceed three degrees of curvature, or be adopted unless approved of by the State Engineer.

Sec. 7. *Be it further enacted,* That after any railroad company shall have graded twenty miles of roadbed continuously, and furnished the cross ties agreeably to the specifications of this act, and shall give notice to the State Engineer, it shall be his duty to examine personally said section of twenty miles, and if, after full examination, he shall approve the

construction of said twenty miles, then, it shall be his duty to certify the same to the Trustee of the Internal Improvement Fund; and on the completion of the grading and furnishing of the cross-ties of each additional ten miles continuously, the State engineer shall also examine the same, and, if constructed in accordance with the provisions of this act, shall certify the same to the Trustees of the Internal Improvement Fund.

Sec. 8. *Be it further enacted*, That on the completion of the grading and the furnishing of the cross-ties of twenty miles continuously, and every additional ten miles, as provided by this act, said railroad company are hereby authorized to issue coupon bonds, having not more than thirty-five years to run, and drawing not more than seven per cent annual interest, payable semi-annually, in the City of New York or Tallahassee, at the option of the purchaser, at the rate of eight thousand dollars per mile, for the purchase and delivery of the iron, spikes, plates and chairs, and after the rail has been laid down on the line, the additional sum of two thousand dollars per mile, for the purchase of the necessary equipments; and said bonds shall always afterwards constitute and be a first lien or mortgage upon the road-bed, iron, equipment, work shops, depots and franchise.

Sec. 9. *Be it further enacted*, That it shall be the duty of said railroad company to deposit said bonds with the Comptroller of Public Accounts, to be by him recorded, and the record certified on each bond; and the State Treasurer shall enter in a book to be kept for the purpose, the amount of each bond, with the rate of interest, the time it becomes due, and the place where the principal and interest is payable, and shall countersign the same; and it shall also be the duty of the Trustees of the Internal Improvement Fund, after having received a certificate from the State engineer, that twenty miles, or ten miles, as the case may be, have been graded in all respects agreeable to the specifications of this act, to sign said bonds agreeable to the provisions of this act, and deliver them to the said railroad company: *Provided*, The President and at least four of the directors, file with the Trustees of the Internal Improve-

ment Fund a statement under oath that the necessary quantity or quality of iron for said twenty, or ten, miles, as the case may be, has been purchased, and is within the jurisdiction of this State, and paid for, or to be paid for, with said bonds, or their proceeds: *Provided, further*, That before said Trustees shall deliver to said railroad company the said bonds, the said company shall deposit with the Trustees of the Internal Improvement Fund the first semi-annual installment of interest on the amount of bonds certified to by said Trustees, to meet the same when due (or they shall retain the coupons for the first semi-annual interest), and shall give to the Trustees of the Internal Improvement Fund a bond, with approved security, that said quantity and quality of iron shall be laid down on the line of their road within six months after the said bonds are issued.

Sec. 10. *Be it further enacted*, That any railroad company receiving said certified bonds shall apply the same or their proceeds to no other purpose than purchasing the iron rail, spikes, plates or equipments; and before any additional bonds shall be certified by the Trustees of the Internal Improvement Fund, the iron rail shall be laid on that part of the route for which the bonds were issued, and so on continuously until the line is completed.

Sec. 11. *Be it further enacted*, That it shall be the duty of the President and directors of every railroad company accepting the provisions of this act, while the road is under construction, to report to the Trustees of the Internal Improvement Fund every six months, under the oath of the President and at least two of the directors, the gross receipts of said company from the traffic of the road for the past six months, the cost of transportation and repairs, and the total amount of the net receipts of said company; and it shall be the duty of the President and directors to pay to the Trustees of the Internal Improvement Fund fifty per cent. of said net receipts every six months, which sum or sums shall be applied by the Trustees of the Internal Improvement Fund towards the payment of the interest of any bonds issued by said company.

Sec. 12. *Be it further enacted*, That every rail-

road company accepting the provisions of this act shall, after the completion of the road, pay to the Trustees of the Internal Improvement Fund at least one-half of one per cent. on the amount of indebtedness, or bond account, every six months, as a sinking fund, to be invested by them in the class of securities named in Section 2, or to be applied to the purchase of the outstanding bonds of the company; but it shall be distinctly understood that the purchase of said bonds shall not relieve the company from paying the interest on the same, they being held by the Trustees as an investment on account of the sinking fund.

Sec. 13. *Be it further enacted*, That if, on completion of any of the roads indicated in Section 4, the net earnings should be less than six per cent. on the capital stock paid in and bonded debt of said company, first deducting the one per cent. per annum paid in to the sinking fund, it shall be divided *pro rata* between the stock account paid in and the bonded debt, and the Internal Improvement Fund shall pay the deficiency due on account of interest, from time to time, as it may fall due. In the event the net earnings are over six per cent. on the capital stock paid in and bonded debt and sinking fund of one per cent, then the President and directors shall first pay into the hands of the Trustees of the Internal Improvement Fund the amount due on the interest account of the bonded debt, in addition to the provision of the sinking fund, every six months.

Sec. 14. *Be it further enacted*, That for all payments made by the Trustees of the Internal Improvement Fund on account of interest for any railroad company, agreeable to the provisions of this act, said Trustees shall demand and receive from said railroad company equal amounts of the capital stock of said company, which stock shall entitle the Internal Improvement Fund to all the privileges and advantages of private stockholders.

Sec. 15. *Be it further enacted*, That on the routes indicated for the construction of the different lines of railroad, the State hereby grants to each of the different companies that may hereafter construct portions of such line or route, the alternate sections of State lands on each side for six miles, but the

title to the same shall not vest in the company except as the road progresses, and not until thirty miles are completed, when the company may sell one-half of the same within said thirty miles; and on the completion of thirty additional miles, then they may sell the balance of their lands remaining unsold in the first thirty miles, and so on for each division of thirty miles until the road is completed.

Sec. 16. *Be it further enacted*, That the Trustees of the Internal Improvement Fund shall hereafter fix the price of the public lands included in the trust, having due regard to their location, value for agricultural purposes, or on account of timber or naval stores, and make such arrangements for the drainage of the swamp or overflowed lands, as in their judgment may be most advantageous to the Internal Improvement Fund, and the settlement and cultivation of the land, and the said Trustees shall encourage actual settlement and cultivation of said lands by allowing pre-emption under such rules and regulations as they may deem advisable; *provided*, that in no case shall a pre-emption for more than one section of land be granted to any one settler.

Sec. 17. *Be it further enacted*, that as the Board of Internal Improvement recommend the construction of a navigable canal connecting the waters of the St. John's with those of Indian River, the State Engineer is hereby authorized to make a final location of the same as soon as practicable, and furnish detailed estimates and plans for the information of persons desirous of engaging in the work, and invite bids for its execution for one year—the bidders to specify the amount for which they will do the work, and the mode and manner in which payments are to be made, whether in lands or money, or in portions of each. And the Trustees of the Internal Improvement Fund are hereby authorized to pay out of said Fund, as the work progresses, the whole amount agreed upon by the terms of the contract. *Provided*, The entire cost shall not exceed four thousand dollars in money, and four thousand acres of land per mile; *provided further*, that the Trustees of the Internal Improvement shall be of the opinion that this sum in money can be applied to said purpose without im-

pairing the efficiency of the Fund for railroad purposes.

Sec. 18. *Be it further enacted*, That the capital stock of any railroad company accepting the provisions of this act, shall be forever exempt from taxation, and the roads, their fixtures and appurtenances, including workshops, warehouses, vehicles and property of every description needed for the purpose of transportation of freight and passenger, or for the repair and maintenance of the roads, shall be exempt from taxation while the roads are under construction, and for the period of thirty-five years from their completion; and that all the officers of the companies, and servants, and persons in the actual employment of the companies, be and are hereby exempt from performing ordinary patrol or military duty, working on public roads and serving as jurors.

Sec. 19. *Be it further enacted*, That should any of the officers or persons in the employ of any railroad company in this State, make any fraudulent statement of accounts, or make false issues or transfers of the capital stock or bonds of any railroad company, or shall fraudulently apply any money or property in his charge, belonging to said company, or in charge of said company, to his individual use or benefit, or to the benefit of any other person, it shall be considered a felony, and on conviction, in any court having jurisdiction of the same, shall be punished by fine at the discretion of the court, and imprisonment of not less than two nor more than ten years.

Sec. 20. *Be it further enacted*, That after the routes indicated have been actually surveyed and adopted, and a plat thereof deposited in the office of the Secretary of State, it shall not be lawful for any other railroad to be built, cut, or constructed in any way or manner, or by any authority whatsoever, running laterally within twenty-five miles of the route so adopted, unless by said company, or with the consent of the Trustees of the Internal Improvement Fund and a majority of the stockholders, at an annual meeting on a stock vote.

Sec. 21. *Be it further enacted*, That should the Government of the United States grant land to the

State of Florida, for the purpose of aiding in the construction of the lines of railroad indicated, and their extensions, by general or special act, said lines of railroad shall be entitled to all the benefits and advantages arising from said grant that the State of Florida would be entitled to by the construction of said lines of railway and their extensions; and the Governor of the State is hereby authorized and required, should such an act be passed by the Government of the United States, to direct said railroad companies to select said land, and, after such selection, to give the Secretary of the Interior notice of such selection, and furnish him with a list of lands so selected, the number of each section, fractional section, or sub-division, and take other action as may be necessary to fully secure the grant of lands to said railroad companies, subject to all the conditions and restrictions by the act of Congress making such grant.

Sec. 22. *Be it further enacted*, That it shall be lawful for the Board of County Commissioners of any county, or the Mayor and Council of any city, or the Trustees of any town, through or near which such railroads or their extensions may pass, or in which they may terminate, and they are hereby authorized to subscribe and hold stock in said company, upon the same terms and conditions, and subject to the same restrictions as other stockholders; *provided*, it shall be first submitted to the vote of the legal voters of said county, city or town, to be held and taken at such times and places, and in such manner, as said authorities respectively may appoint, whether or not stock shall be subscribed and taken; and if, when the vote be thus taken, it shall appear that a majority of the votes shall be in favor of such subscription, it shall thereupon be lawful for the Board of County Commissioners, city or town authorities, by agents by them appointed, to subscribe and take in such company, such an amount of stock as they shall determine; *provided*, that in no case of county subscription the amount shall exceed fifty per cent. of the cost of construction through said county; and to issue the bonds of such county, city or town, payable with interest, at such times and places as they may deem proper, and dispose of the same for the pay-

ment of such subscription, pledging the faith and resources of such county, city or town, for the payment of such bonds and interest; and they shall, from time to time, levy and collect such a tax as shall be necessary to pay the installments of interests and the bonds, as the same become due, or to create a sinking fund for the gradual reduction of the same; *provided*, that the rate of interest shall not exceed ten per centum per annum, or funds may be raised by such Board of County Commissioners, or city or town authorities, by tax, in such sums or instalments as will meet such subscription, and the receipt for the payment of such tax shall entitle the payers thereof, for every one hundred dollars so paid, to have one share or more, as the case may be, of the stock so subscribed by said County Commissioners, city or town, in said company, and which receipts shall be assignable. No stock held by any county, city or town, shall be assignable by said county, city or town, until the bonds issued for the purpose of procuring funds for the payment of said county, city or town subscription shall be paid, except in exchange for bonds.

Sec. 23. *Be it further enacted*, That in the event of the disagreement between any railroad company accepting the provisions of this act, and the Postmaster General as to the compensation to be paid per mile by the Government of the United States, to said companies for transporting the mails of the United States, on the routes indicated by this act, the matter shall be settled by mutual agreement between the Postmaster General and the Governor of the State, and the refusal on the part of any railroad company to perform the services required by the Postoffice Department, for the compensation agreed on by the Governor and the Postmaster General, shall subject said company to a fine of one hundred dollars for each and every day they refuse to perform the said award, which will be recoverable by an action of debt by the Postmaster General, but not if he be in arrears for more than one-quarter's compensation to such company.

Sec. 24. *Be it further enacted* that no branch roads from the main line of railroad, provided for by this act, between the waters of Pensacola or

Escambia bay and the junction with the Florida Railroad shall be made to the northern boundary line of this State, until that part of the line between the Suwannee river and the Florida Railroad has been constructed; nor shall any such branch road be made to a point West of the Alapaha river without the consent of all the companies owning the several portions of the main line, and without the approval of the Trustees of the Internal Improvement Fund.

Sec. 25. *Be it further enacted*, That the completed portion of any railroad authorized by this act shall carry the iron rails, spikes and plates or chairs required in the construction of any portion of the line indicated, at the uniform rate of two cents per ton per mile, and for such transportation shall receive in payment the capital stock of the company for which the same was transported.

Sec. 26. *Be it further enacted*, That whenever any of the different railroad companies shall purchase and deliver to the County Treasurer, or to the city or town authorities, the bonds issued by any county, city or town, to pay the subscription of the capital stock of said county, city or town, or any portion of them, the Treasurer of said county, city or town shall transfer an equal amount of the capital stock of said company to said railroad company, and it shall be the duty of the Treasurer of the county, city or town authorities to cancel and deface the bonds exchanged.

Sec. 27. *Be it further enacted*, That after the railroad companies indicated by the provisions of this act shall, for five consecutive years, pay six per cent. on the capital stock paid in, and the interest on the bonded debt, and apply the sum of one per cent. yearly to a Sinking Fund on said debt, then the Trustees of the Internal Improvement Fund may apply, under the direction of the Legislature, the annual income arising from said fund to other purposes of internal improvement, or to the support of schools, so long as the said company shall continue to pay the same. But should any of said railroad companies thereafter fail to provide the interest upon their bonded debt, and one per cent. annually as a Sinking Fund, then said fund shall pay the deficiency on the interest account, from time to time, as it may arise.

Sec. 28. *Be it further enacted*, That the right of way through the State lands for two hundred feet in width is hereby granted to the different railroad companies on the routes indicated, with the right to cut timber and procure the necessary earth and stone from the adjacent land, to construct and repair the same, and whenever it is necessary to construct turn-outs or side-tracks, that this privilege may be extended to one hundred feet on each side of the road, and of such side-track.

Sec. 29. *Be it further enacted*, That the alternate sections of the swamp and overflowed lands, for six miles on each side, may be granted by the General Assembly to such railroad companies, to be hereafter chartered, as they may deem proper, on their compliance with the provisions of this act, as to the manner of constructing the road and drainage, and the sale and transfer of the alternate sections thus granted shall be in accordance with the provisions of this act.

Sec. 30. *Be it further enacted*, That no bonds shall be issued to the companies under the provisions of this act in aid of any part of their road not completed at the end of eight years from the passage of this act, and any company failing to grade twenty miles of their road within four years from filing notice of their acceptance of the terms of this act shall forfeit all right to its benefits.

Sec. 31. *Be it further enacted*, That in addition to the bonds authorized to be issued in the preceding sections of this act, there may be issued by the proper railroad companies bonds to the amount of one hundred thousand dollars for a bridge crossing the Choctawhatchie River, and a like amount for a bridge crossing the Apalachicola River; also, one hundred thousand dollars for the structures necessary to cross from the west side of Nassau River to Amelia Island, and fifty thousand dollars for the crossing of the Suwannee River—which bonds shall be guaranteed and provided for in the same manner as those hereinbefore authorized: *Provided*, That said bonds shall not issue except in payment for work done, and then only as the work progresses, upon the certificate of the State Engineer that such work has been done, and that the amount of bonds issued is required for the payment therefor.

Sec. 32. *Be it further enacted*, That if any person shall, while in charge of a locomotive engine, or acting as the conductor or superintendent of a car or train of cars, or on the car or train as a brakeman, or employed to attend the switches, drawbridges, or signal stations, on any railway in this State, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction before any magistrate shall be punished by fine or imprisonment, at the discretion of the court.

(Passed the House of Representatives December 29, 1854. Passed the Senate January 2, 1855. Approved by the Governor January 6, 1855.)

CHAPTER 734.—NO. 125.)

AN ACT TO FACILITATE THE CONSTRUCTION OF THE VARIOUS LINES OF RAILROAD PROVIDED BY THE ACT ENTITLED "AN ACT TO PROVIDE FOR AND ENCOURAGE A LIBERAL SYSTEM OF INTERNAL IMPROVEMENT IN THIS STATE," approved January 6th, 1855.

Whereas, Differences of opinion exist among competent civil engineers as to the details of construction of railroads best calculated to ensure a desirable and permanent structure; and

Whereas, It is desirable to construct the several railroads now in contemplation in this State in the most approved manner, and with the aid and assistance of the best scientific skill and experience; and

Whereas, Also, the details of construction specified in the above mentioned act can only be modified by and with the consent of the State of Florida, the Trustees of the Internal Improvement Fund, the several railroad companies, and all others having vested interests under the law; therefore,

Sec. 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That all the details of construction specified in the sixth and seventh sections of the

"Act to provide for and encourage a liberal system of Internal Improvement in this State," except the sixth specification in the sixth section, may be modified by and with the consent and approval of the Trustees of the Internal Improvement Fund, and the several railroad companies shall be and they are hereby authorized (having first obtained the assent of the said trustees) to adopt such details of construction as may be recommended by a competent engineer, to be approved of by the trustees of the Internal Improvement Fund.

Sec. 2. *Be it futher enacted*, That all the duties devolved upon the State engineer may be performed by any other competent civil engineer, to be designated by the Trustees of the Internal Improvement Fund.

Sec. 3. *Be it futher enacted*, That whenever "twenty miles" occurs in the act above mentioned to encourage and provide for a liberal system of internal improvement in this State, the same shall be erased and "ten miles" inserted in lieu thereof, so as to entitle the several companies to aid on the completion of the first ten miles, instead of twenty, as heretofore, and for any number of miles less than ten at the termination of any road.

Sec. 4. *Be it further enacted*, That a line of railroad to be constructed from the City of Pensacila to any other point or points on the waters of Pensacola bay, or the waters of the St. Andrews bay, to the north line of the State, leading in the direction of Montgomery, Alabama, shall be considered as proper improvements to be aided from the Internal Improvement Fund in the manner provided for, or may hereafter be provided for, in "An act to provide for and encourage a liberal system of internal improvements in this State," approved January 6, 1855.

Approved December 14, 1855.

CHAPTER 874—(NO. 16).

An act to amend an act to provide for and encourage a liberal system of internal improvements in this State, approved January 6, 1855.

Section 1. *Be it enacted* by the Senate and the

House of Representatives of the State of Florida, in General Assembly convened, That an act to provide for and encourage a liberal system of internal improvements in this State, approved January 6, 1855, be so amended that the Trustees of the Internal Improvement Fund shall be, and they are hereby, empowered to appoint, at their annual election for directors, one director, not a stockholder, for each of the several railroad companies who have or may hereafter accept the provisions of said act, said directors to exercise and perform all the rights, privileges and duties appertaining to a director in said company.

Sec. 2. *Be it further enacted*, That the said Trustees may remove at will said directors, and shall have power to appoint a successor in case of such removal or in case of vacancy from any cause.

Approved January 14, 1859.

CHAPTER 1,015—(NO. 20).

An act to repeal in part the 24th Section of the act entitled and act to provide for and encourage a liberal system of internal improvements in this State, approved January 6, 1855.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida, in General Assembly convened*, That so much of the 24th Section of the act to which this is an amendment as provides that no branch road shall be made from the main line of railroad to the northern boundary line of this State to a point west of the Alapaha River, without the consent of all the companies owning the main line of road between the waters of Escambia Bay and the Florida Railroad, and without the approval of the Trustees of the Internal Improvement Fund, be, and the same is hereby repealed.

Passed the Senate December 17, 1859. Passed the House of Representatives December 22, 1859. Approved by the Governor December 22, 1859.

CHAPTER 1,110—(NO. 17).

An act to amend the 22d Section of the act to provide for and encourage a liberal system of internal

improvements in this State, approved January 6, 1855.

Whereas, Doubts have been suggested whether, by the section of the act to which this is an amendment, the receipt for the payment of the tax levied and collected by the counties subscribing for stock in any railroad company entitles the payers thereof to a transfer of stock, where the tax levied has been so levied and collected for the purpose of paying outstanding bonds, for remedy whereof.

Section 1. Be it enacted by the Senate and House of Representatives of the State of Florida, in General Assembly convened, That the County Commissioners of any county in this State which shall have subscribed for stock in any railroad company under the provisions of the act to which this is an amendment, shall distribute the stock paid up, or for which bonds have been issued and paid *pro rata*, and transfer and assign to the parties holding tax receipts for taxes levied to pay for any instalment of stock, or for any bond or bonds issued by such county to pay for such instalments of stock, each person holding such receipts surrendering the same to be entitled to a *pro-rata* portion of the stock paid up, or for which bonds have been issued and afterwards paid, which distribution and transfer shall continue as fast and as often as the outstanding bonds are taken up, or paid by the county; and thereafter the stock so distributed and transferred shall be represented by the holders thereof, and the county shall only be entitled to represent the remaining stock subscribed for by it.

Sec. 2. *Be it further enacted*, That the several counties subscribing for shares of stock as aforesaid, shall have the right and power, by the consent of the company in which it holds the stock subscribed for by it, to sell and transfer the stock held by it, for which its bonds are outstanding, without waiting until the bonds issued for the purpose of raising money to pay for its stock shall be paid.

Sec. 3. *Be it further enacted*, That if any taxpayer shall present to the County Commissioners a certificate of his having given public notice in a newspaper, published in or nearest to the county of his residence, for one month, of his having lost his

tax receipt or receipts, and of his intention to apply for a transfer of his *pro rata* share of the stock as authorized by this act, and shall likewise file with the County Commissioners his affidavit of his having lost his tax receipt or receipts, the County Commissioners on his application shall transfer to him his *pro rata* portion of the stock, taking as a basis, in the absence of his tax receipt or receipts, the tax book of the county filed with them.

Approved February 14, 1861.

When the first Board of Trustees was organized under the act with Governor James E. Broome, president; Mariano D. Papy, attorney general, and Secretary David S. Walker, State Register of Lands; Theodore W. Brevard, comptroller, and Charles H. Austin, treasurer, there was in the fund the 500,000 acres of Internal Improvement land, less 142,793 60-100 acres, previously sold by the State, and all of the swamp and overflowed lands, though this great body was at that time unsettled and unpatented to the State.

In addition to these lands there came to the hands of the first Board of Trustees under the act cash and bonds as follows:

Cash	\$22,250.88
Land Bonds	12,777.98
State of Florida Loan	34,491.06
N. C. 6% Bonds	45,000.00
Gadsden County Bonds	1,150.00
Calhoun County Bonds	650.00

amounting to \$116,319.92, the proceeds from sales of 142,793 60-100 acres of land, belonging to the Fund, which had been sold by the Register of Lands, who, as a member of the Board of Internal Improvement, administered the Fund from the time the grant was made by the United States to Florida, and until the Trustees were created and the land vested in them by the Act of 1855. The State Register's Report to the Legislature of 1856, page 14, reads as follows:

"From the 31st. of October, 1855, to November 1st., 1856., I have sold of lands belonging to the Fund 4,490 46-100 acres, at an average price of \$1.78 23-100 per acre, producing in cash \$2,330-

79-100, and \$5,687 63-100 in bonds. Add this number of acres to the 142,793 60-100 stated as having been sold at the date of my last report, and it appears that 147,284 06-100 is the whole number of acres belonging to this original Fund, (meaning the 500,000 acres of Internal Improvement Land) that have been sold since the establishment of this office, producing in cash and bonds the sum of \$252,586, 35-100. I have sold of the swamp lands which were *brought into market on the 23 of January, 1856*, 36,338 53-100 acres, at \$1.25-100 per acre, producing in cash \$15,326.98-100 and \$33,052.43-100 in bonds.

Omitting receipts and disbursements, the report further says:

“The whole number of acres of swamp land selected and reported to Washington for confirmation, is 11,339,582. The number of acres confirmed is 9,581,609. Patents have been received for 5,604.158.”

This report of the Register of lands is quoted at length

in order that we may know just what the Trustees found in the Fund when the Trustees assumed the obligations of the Trust, under the Act of 1855.

From the cration of the Board of Trustees to the present time, the swamp and overflowed lands have been selected by agents employed by the Board, but the proof of the character of the lands was not made to the Board, but to the Secretary of the Interior of the United States, who considered the proofs, and by his own agents, caused the lands to be examined and then determined whether or not the lands selected were swamp and overflowed. Those lands found by him to be swamp and overflowed, were patented to the State upon the request of the Governor, and when patented, under the Act of 1855, immediately vested in the Trustees. As stated, of swamp and overflowed lands granted to Florida by the United States, there had been patented to the State to June 30th., 1907, 20,151,806.44 acres. (See report of Auditor filed with testimony.)

SUMMARY OF THE LAW.

It will be necessary to refer to and examine the Acts of Congress above quoted, granting this land, as also to

the Act of the Legislature of 1855, known as Chapter 610, also quoted, which created the Board of Trustees and vested the lands in this Board, in order to more intelligently present our findings in this report.

The Act of Congress granting to Florida 500,000 acres of land for internal improvement, was a grant without any condition as to how the land should be applied in securing such improvement to the State, except that the same should not be sold for less than \$1.25 per acre.

Out of this grant 13,273 58-100 acres were conveyed to the old Florida Railroad, to aid its construction from Fernandina to Cedar Key, with a branch to Tampa. A portion of this land was conveyed to Williams and Swann, and to Williams, Swann and Corley for their services as selecting agents for swamp and overflowed lands.

The Commissioner of Agriculture in his Ninth Biennial Report says:

"An Act of the Legislature, Chapter 3474, approved February 16, 1883, directed that the remainder of these lands be set apart and the proceeds from the sale of the same be applied to the payment of certain bonded indebtedness of the Counties which had issued bonds for *aid in building* certain railroads in the State.

"The Trustees of the Internal Improvement Fund accepted and approved the Act of the Legislature to distribute the funds arising from the sale of the 'Internal Improvement Lands Proper' to the bonded counties. After distributing these funds for several years it was found that some of the counties stopped the levy of their tax for payment of their bonds, while others continued the same. As a result of this action, some of the counties liquidated their indebtedness, while others had bonds outstanding. The Trustees felt that it was unfair to continue to distribute these funds to only a part of the counties when they had failed to continue their tax. Therefore, for some years, no funds have been distributed. The proceeds of this class of lands have, so far as distributed, gone indirectly to aid in the construction of railroads."

On June 30th., 1907, there was 8,330 82-100 acres of this Internal Improvement Fund. Since that time, some

4,000 acres have been sold. Of this, and former sales, we will speak later.

The grant of the Internal Improvement Land, granted by act of Congress in 1841, was followed by the grant of the swamp and overflowed lands within the State by act of Congress of September 28th, 1850.

The State of Florida accepted this later grant in 1851, with the conditions expressed therein, and for the purposes therein set forth by Chapter 332, acts of the Legislature 1851, and which act was approved January 24, 1851.

In this act, the first Board of Internal Improvement for the State of Florida, was created, consisting of the Governor, Attorney General, Treasurer, Comptroller and Register of Public Lands, and one member of each judicial district of the State be elected by the General Assembly, to serve two years, and required the Treasurer to keep a separate account of all moneys received for swamp lands to be laid before the general assembly at their regular session.

On January 7th, 1853, the Legislature enacted Chapter 481, providing for granting lands reclaimed by the grading and construction of the Florida, Atlantic and Gulf Railroad Company, through the swamp and overflowed lands belonging to the State for a portion of said lands, and on January 8, 1853, Chapter 482, with similar provisions to the Florida Railroad Company, and on January 10th, 1853, Chapter 496, repealing that portion of 332 that created a Board of Internal Improvement, also created a new Board of Internal Improvement of the State of Florida, to consist of the State Engineer, as president, and eight Commissioners to be elected by the general assembly, two Commissioners from each judicial district, to hold for four years.

This Board of Internal Improvement of the State of Florida, filed a report December 22d, 1854. (House Journal, page 133.)

This report recommended that the Board be abolished as a Board, if the proposed plan as outlined in the report of the Board should be followed. This Board submitted with the report a bill which was enacted into law, approved January 6, 1855, and became Chapter 610, Laws of Florida. This law was the product of the brain of Hon. David Yulee, he consulting with the Hon. James T. Archer and Governor James E. Broome.

This act was passed in accordance with that provision of the Constitution of the State operative in 1855, which provided: "A liberal system of Internal Improvements being essential to the development of the resources of the country, shall be encouraged by the government of the State, and it shall be the duty of the general assembly 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 improvement."

This act, with the amendatory acts we have quoted and included in this report. All of the swamp and overflowed lands granted to the State by the act of Congress September 28th, 1850, were by this act of January 6, 1855, vested in the Trustees of the Internal Improvement Fund. The trusts to which the lands are devoted by this act, and the subsequent amendatory acts are all along the line and for the purpose as provided in the last clause of Section 2, of the act of Congress, March 3d, 1845, which reads:

"Provided, however, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively so far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid."

The Legislative act directs the trustees to guarantee the interests on the bonds to be issued by the railroads mentioned in the act, (Section 4) and to this extent, the fund was pledged.

By Section 29 of the Act, every railroad or canal company, incorporating under the general incorporation laws of the State, became entitled to receive the alternate sections of land, within six miles of its line, and indemnity within twenty miles, as the road or canal is completed in sections of six miles, as approved by Chapter 3166, Acts of 1879.

By Section 15 of the Act, the lines of railroad mentioned in Section 4, to wit: Jacksonville to Pensacola, with extension on said line to St. Marks or Crooked River, at White Bluff on Apalachicola Bay, and to the waters of St. Andrews Bay, and a line from Amelia Island (Fernandina) to Cedar Key, with a branch to Tampa, when the provisions of the act were complied

with, were entitled to receive from the Trustees the alternate sections of State lands on each side of such line for six miles.

By the 16th Section of the Act, it is provided: That the Trustees shall fix the price of the lands, *“and make such arrangement for the drainage of the swamp and overflowed lands as in their judgment may be most advantageous to the Internal Improvement Fund, and the settlement and cultivation of the land, and the said Trustees shall encourage actual settlement and cultivation of said lands by allowing preemption under such rules and regulations, as they may deem advisable; Provided, That in no case, shall a preemption for more than one section of land be granted to any one settler.”*

Thus, it will be seen, that “the trusts to which the lands are devoted by the original act, and all amendatory acts, are all 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, viz.:

1, Internal improvement by railroads and canals; 2, drainage devoted immediately to that purpose; 3, encouragement of actual settlement of and cultivation of said lands by allowing pre-emptions not exceeding one section to any one settler.” (See letter of Trustees to U. S. Senate sub-committee, dated Sept. 5, 1888, Vol. 3, Minutes of Trustees, page 506.)

“By reference to the Auditor’s report attached can be found the number of acres that have been patented by the United States government to the State, under the Act of Congress of September 28, 1850, 20,151,806 44-100.

We call attention to the Auditor’s report, which shows the total number of acres that the railroads have received the direct benefit of, by deeds from the State.

In addition to this acreage should be added the acreage deeded to E. N. Dickerson, in 1867, for coupons on Florida Railroad bonds, 248,602.98 acres; to Wm. E. Jackson, in 1868, for coupons on Florida, Atlantic & Gulf Central R. R. bonds, 113,064.80 acres, and also the 4,000,000 acres sold to Hamilton Disston, as these lands, and the proceeds from these lands, were applied to the payment of interest and the redemption of bonds issued by railroads, the pay-

ment of which was guaranteed by the Trustees. For detailed verification of these amounts, see attached Auditors report. To this should be added the lands belonging to the Internal Improvement Fund proper, and the proceeds arising from the sale of which is applied to the relief of bonded counties, which had issued bonds for the benefit of certain railroads. This latter item of 191,164 acres being approximated, gives the grand total of 14,990,306.42 acres of the State's holdings that the railroads of the State have reaped the fruits of, directly or indirectly. By reference to Auditor's report, you can find the small acreage comparatively speaking, that yet remains to be drained and reclaimed. The railroads, as stated above, have appealed to the Federal courts to give them what remains, regardless of drainage. This brief sketch indicates how the swamp and overflowed lands have been disposed of."

HISTORY OF THE FUND'S LITIGATION.

With this brief statement and review of the law covering the subject of the trust under consideration, we will pass to an examination of the litigation that has grown out of the administration of the Fund.

When the trustees assumed the trust, the then most pressing need to the whole State, was transportation facilities. The several lines of road mentioned in Section 4 of the act, which were in process of construction, availed themselves of the aid given by the act, and proceeded to build. The trustees carrying out the provisions of the act, gave operation and effect to the trust by aid to these roads, and prior to the Civil war, a line of railroad was built from Fernandina, on the Atlantic, to Cedar Keys, on the Gulf coast, and a line was built from Jacksonville in the direction of Pensacola, as far as Quincy, and a road from Tallahassee to St. Marks in all about 400 miles of road. The interest on the bonds of these roads was, under the statutes, guaranteed by said fund, including said swamp and overflowed lands, during and after the war, default in payment of such interest was made by the railroads and the said Internal Improvement Fund.

In 1871, suit was begun on behalf of Francis Vose, one of the bond-holders, upon the interest coupons of

bonds held by him, in the United States Circuit Court, in process of which a receiver of these lands and the fund was appointed. The fund remained subject to the control of the court, although managed by the trustees, with the approval of the court, until relieved by the Disston sale, as hereinafter stated. (See the case of Vose vs. Reed, et. al., trustees, 1 Woods, U. S. Circuit Court report, 647, and Vose vs. Trustees Internal Improvement Fund, 2 Id., 647

These coupons held by Vose, with interest—a little, grasping, weazened-faced fellow, with a heart no bigger than a mosquito's gizzard—together with others holding coupons, who had intervened in the suit, amounted to considerable more than a million (\$1,000,000) dollars, and the ordinary sales of the land did not suffice to keep the debt from increasing, but the fund was being eaten up by compound interest, costs, receivers, allowances, and other expenses of litigation, and it was obvious that only by making a sale of a considerable quantity of the lands at one time could the fund be saved. After endeavoring for several years both in the United States and in Europe, without success to make such sale, the trustees finally succeeded in 1881 in selling four million acres of these lands, with the approval of the United States Circuit Court, to Hamilton Disston, of Philadelphia, for one million (\$1,000,000) dollars.

By this case nearly all of the debts of the fund were paid, and the remaining lands were released to the Trustees.

Bailey Case.—On the 9th of March, 1861, William Bailey, a holder of railroad bonds, issued under the Internal Improvement act of January 6, 1855, filed his bill in the Leon county Circuit Court, praying for an injunction to restrain the Trustees of the Internal Improvement Fund from applying said fund, or any part thereof, to the cleaning out of the Appalachicola river, or making any survey preparatory thereto and from applying said fund to any other purposes except those provided for in the Internal Improvement act. The court decided that a holder of bonds, issued under the Internal Improvement act of January 6, 1855, may enjoin the Trustees of said fund, from appropriating any portion of it to other purposes than those named in the act, so as to endanger his security, even though such appropria-

tion be commanded by a subsequent act of the general assembly.

Trustees of I. I. Fund vs. Bailey, 10th Florida, 112.

Gleason Case.—In 1869, W. H. Gleason filed his bill in the Circuit Court of Duval county to enforce specific performance of a contract entered into with the Trustees of the Internal Improvement Fund; whereby he was to ditch and drain certain lands, in consideration of which the Trustees were, upon the payment by him of the sum of \$240.00, to deed him a certain number of acres of land. The court decided this case in favor of the Trustees, because the cesqui que trust had not been made a party to the action.

Trustees I. I. Fund, vs. Gleason, 15th, Florida, 334.

The case of the State of Florida by its Attorney General on behalf of the State and the Trustees of the Internal Improvement Fund, against Daniel P. Holland, and Edward C. Anderson and other citizens of Georgia.

This suit was brought in the United States Circuit Court, Northern District of Florida, in 1873, against defendants to prevent them from intermeddling with the property whilst being pursued by the State in due course of litigation in the State courts.

The subject matter of the suit was a line of railroad in Florida extending from Jacksonville westwardly to Quincy about one hundred and ninety miles, with a branch from Tallahassee to St. Mark's of twenty-one miles. It consisted of three divisions, originally built and owned by different companies. The first division, from Jacksonville to Lake City, was built and owned by the Florida, Atlantic, and Gulf Central Railroad Company; the second, from Lake City to Quincy, by the Pensacola and Georgia Railroad Company; and the branch, from Tallahassee to St. Mark's, by the Tallahassee Railroad Company.

Certain railroad companies, availing themselves of the provisions of the act of the Legislature of Florida of January 10, 1855, to provide for and encourage a liberal system of internal improvements in the State, issued their bonds to the extent of \$10,000 per mile, the interest whereon was duly guaranteed by the Trustees of the Internal Improvement Fund created by the act. Such bonds thereby became a first lien or mortgage on the roads, their equipments, and the franchises, of the respective companies. The latter having failed to pay the

interest on the bonds, or the installments due the sinking fund for their ultimate redemption, the roads were seized by the Trustees, pursuant to their authority under the act, and sold for an amount equal to the principal of the bonds. The purchasers being allowed the privilege of paying the purchase money by delivering the bonds at their par value, nearly a million dollars of them were thus surrendered and cancelled; but a balance of about \$472,000 remained unpaid. The purchasers obtained, however, a deed for, and took possession of, the property, being a line of road from Lake City to Quincy, with a branch from Tallahassee to St. Mark's, and procured a new charter from the Legislature, under the name of "The Tallahassee Railroad Company." Having subsequently consolidated their interests with the Florida Central Railroad Company, owning the road from Lake City eastward to Jacksonville, they procured another charter, with enlarged powers, creating a corporation by the name of "The Jacksonville, Pensacola & Mobile Railroad Company." This last act of incorporation authorized the company to acquire and consolidate certain lines of road, and extend the same from Quincy westward to the western boundary of the State; and, with a view to aid the company in the completion of this work, the act, as subsequently amended by the Legislature, authorized the Governor to loan the company bonds of the State, to an amount equal to \$16,000 per mile, in exchange for an equal amount of the first-mortgage bonds of the company. In order to secure the principal and interest of the company's bonds it was declared "that the State of Florida shall, by this act, have a statutory lien, which shall be valid to all intents and purposes as a first mortgage duly registered on the part of the road for which said bonds were delivered and on all the property of the company, real and personal, appertaining to that part of the line which it may now have, or may hereafter acquire, together with all the rights, franchises and powers thereto belonging; and in case of failure by the company to pay either principal or interest of its bonds, or any part thereof, for twelve months after the same shall become due, it shall be lawful for the Governor to enter upon and take possession of said property and franchises, and sell the same at public auction." Under this power, bonds of the State to the amount of \$4,000,000 were delivered to

the company. The balance of the purchase money due on the Trustees' sale remaining unpaid, and the Jacksonville, Pensacola & Mobile Railroad Company having also failed to pay the interest on their bonds delivered to the State in exchange for those of the State aforesaid, the State and the Trustees of the Improvement Fund commenced suit in a circuit court of the State to recover by a sale of the road the balance of such purchase money, which was claimed to be a lien thereon. All then known parties having liens against the road were made defendants. Suit was also brought against the company, in another circuit, by certain first-mortgage bondholders. The Circuit Court of the United States for the Northern District of Florida also entertained, at the instance of certain other bondholders, a suit in equity against the company and the Trustees; but the bill, as against the latter, was dismissed by the complainants under an arrangement between the complainants and the company, a consent decree was obtained, declaring the bonds a first lien on the road, and issue of the execution a bill was filed to carry the decree into execution, making the Trustees of the Internal Improvement Fund defendants, and charging them with intent to seize the road, and praying for an injunction. Meanwhile suit was commenced in the same court against the company by one Holland for services alleged to have been rendered it. Judgment was recovered accordingly for \$60,000; and, at the sale of the road thereunder, he became the purchaser for \$20,000, and entered into possession. Under these circumstances, the State of Florida filed the bill in this suit, which was decided in favor of the Trustees and State. 91 U. S. 667.

St. Johns Ry. Co. Case.—The St. John Railway Co. filed its bill in the Circuit Court of St. Johns county, on the 20th day of January, 1876, against the Trustees of the Internal Improvement Fund, charging the Trustees with taking and selling for the benefit of that Fund, certain lands granted to it by the Legislature, under the 29th Section Internal Improvement Act. That the same was in violation of the charter of the company, of the Constitution of the United States and State of Florida, by taking private property for public use, without compensation, and without due process of law, and prayed that the grant of lands to the company should be decreed to be valid, and that the title to

same had been vested in fee simple, and for injunction, account and the payment to the company of the proceeds of the sale of said lands, as had been sold by the Trustees.

The Circuit Court decided the case against the Trustees July 17th, 1877, and in 1878, the Supreme Court affirmed the decree of the lower court, and said: "The 29th Section of the Act of 1855, reserving to the General Assembly the power to grant alternate sections of swamp and overflowed lands to railroad companies to the extent therein mentioned, operated as a limitation of the trust, and the power of the Trustees," etc. Trustees I. I. Fund, vs. St. Johns Ry. Co., 16th. Fla., 531.

Case of Gonzales vs. Sullivan. Daniel F. Sullivan filed his bill for injunction against Samuel Z. Gonzales tax collector Escambia county, 1877, in the Circuit Court of Escambia county, the case transferred to Leon County Circuit Court, charging that as Collector of Revenue of Escambia county, he had levied upon and advertised for sale the track and rolling stock of the Pensacola and Louisville Railroad, formerly the Alabama and Florida Railroad. (The road running from Pensacola to Flomaton, Alabama,) and claiming that the road being built under the provisions of the Internal Improvement Act, was, by Section 18 of said act, Chapter 610, Acts 1855, exempt from taxation.

The Circuit Court, December 22, 1877, sustained the bill, and on appeal, the Supreme Court, January, 1878, affirmed the ruling of the lower court, and in April, 1878, denied the Appellant Gonzales, a rehearing.

Gonzales vs. Sullivan, 16th. Fla., 791-829.

H. Bisbee, Jr., vs. Trustees Internal Improvement Fund, Western Division, N. O. R. R. Co., vs J. P. & M. Ry. Co., and Trustees of Internal Improvement Fund, et al.; J. Fred Schutte, et al., vs. J. P. & M. R. Co., and Trustees of Internal Improvement Fund, et al.—Above suits were brought in 1877, for coupons on bonds issued by the railroads under the act of 1855, the interest on which were guaranteed by the Trustees. They were all merged into the Francis Vose suit vs. the Trustees, which had been begun in 1871.

Swann vs. Trustees of Internal Improvement Fund.—This was a proceeding in the Circuit Court of the United States, Fifth Circuit, Northern District of Florida, brought in 1881, by Samuel A. Swann to enforce the collection of commissions alleged to be due, as agent for the

Trustees for the sale of lands under a contract made prior to 1881. This controversy grew out of the sale of four million acres of land to Hamilton Disston and associates—Mr. Swann claiming that he had made a prior sale of lands, under his contract as agent for the Trustees. See Minutes Trustees, Book 3, page 273, 274.)

In the endeavor to sell lands under that contract, he visited different parts of the United States and Europe. Suit was finally settled by a compromise, by which he (Mr. Swann) was paid \$20,000.00, and suit dismissed.

Doggett vs. Trustees Internal Improvement Fund.—This was a suit instituted in 1881, to enforce the collection of certain coupons of the Pensacola & Georgia Railroad Company, and the Florida, Atlantic & Gulf Central Railroad Company bonds, which suit was dismissed.

Sammis vs. Trustees of Internal Improvement Fund.—This was a proceeding by Sammis in 1882, in the United States Court, Northern District of Florida, to enforce the collection of certain coupons detached from bonds issued under the Internal Improvement Act of 1855.

Trustees Internal Improvement Fund vs. Houston Estate.—This was a suit brought in Leon County Circuit Court for the purpose of requiring Captain P. Houston, executor of the estate of Edward Houston, to render an account of the balance of funds placed in the hands of Edward Houston, from the proceeds of sale of the P. & G. R. R. Suit was instituted in 1882. Suit was afterwards compromised and settled by payment of the amount of \$5,000. (Minutes Trustees, Book 3, pages 146, 151, 156, also, book 2, pages 115, 116, 203, 315, 316.)

Union Trust Company vs. Southern Inland Navigation Company and the Trustees of Internal Improvement Fund.—This was a proceeding in 1882 in the United States Circuit Court for the Northern District of Florida, involving a deed conveying 1,360,600 and 65-100 of an acre, which deed was issued on the 10th day of February, A. D., 1871, by Harrison Reed, Governor, J. S. Adams, Commissioner of Immigration, James B. C. Drew, Attorney General and S. B. Conover, State Treasurer, as Trustees of the Internal Improvement Fund of the State of Florida, Hon. R. H. Gamble, the other Trustee, refusing to sign same.

This deed was made to the Southern Inland Navigation & Improvement Company, under an act of the Legislature, entitled "An Act to Organize the Southern In-

land Navigation & Improvement Company." approved July 28th, A. D. 1868, and for the consideration of one (\$1.00) dollar. The endorsement of the original deed involved in the above suit is as follows:

"This conveyance was declared void by decree in the case of Francis Vose vs. the Trustees of the Internal Improvement Fund of Florida, in the United States Circuit Court for the Northern District of Florida, and the lands restored to market. See Book of Decrees in Vose case, and also page 372 of Volume 3, Book of Minutes of Trustees.

W. D. BARNES,
"Secretary,

"Comptroller's office, Tallahassee, Florida, July 20, 1882."

Florida Improvement Company and A. E. Studwell vs. the Trustees of Internal Improvement Fund.—This suit was brought in 1883 to compel conveyance by the Trustees of the Internal Improvement Fund, to the complainants, of certain lands that had hitherto been contracted to be conveyed by the Trustees to the Southern Inland Navigation & Improvement Company. In this case, the complainants failed to obtain a decree.

Chas. P. Grenough, as Administrator with the will Annored, of Francis Vose, vs. The Trustees of the Internal Improvement Fund and the Southern Inland Navigation & Improvement Company, et al.—In the Circuit Court of the United States Northern District of Florida 1884. This suit involved the collection of bonds and coupons, and the purpose of the suit was to subject the land that had been conveyed to the Southern Inland Navigation and Improvement Company, to the payment of the bonds, on the ground that the land had been mortgaged to the Union Trust Company of New York, for the benefit of the complainant. This suit was decided against the complainant.

Sanderson vs. The Trustees of Internal Improvement Fund.—This was a proceeding, in 1884, in the United States Circuit Court, for the Northern District of Florida, on the part of Sanderson, to compel the Trustees to pay certain coupons, the payment of which had been refused by the Trustees. This suit was decided in favor of the Trustees.

Bennett vs. The Trustees of Internal Improvement Fund. Suit instituted in 1889. This case was not pushed *Fund.*—Suit instituted in 1889. This case was not pushed and was probably dismissed.

Plant Investment Co. vs. Trustees of the Internal Improvement Fund.—This was a proceeding in 1889, in the United States Circuit Court, for the Northern District of Florida, for the recovery of one hundred and sixty thousand acres of land, claimed under Legislative Land Grant, on account of the road built from Kissimmee to Tampa.

This case was decided in favor of the Trustees by the Circuit Court, and appealed to the Supreme Court, and the decision of the Circuit Court was affirmed.

Adams vs. Trustees of Internal Improvement Fund.—This suit was instituted in 1889, and involved coupons to the amount of about fifty thousand (\$50,000.00) dollars principal and interest; and was decided in favor of the Trustees.

The coupons presented by C. S. Adams as administrator of J. S. Adams, who was a Trustee of the Internal Improvement Fund and salesman of the Board, were proven by the testimony of the Chief Clerk in the office, Hugh A. Corley, to have been the identical coupons that had been received by the said J. S. Adams, as salesman, for the purchase of lands from the Internal Improvement Fund; and said coupons then became the property of the Trustees of the Internal Improvement Fund; and should have been surrendered to the Receiver at Jacksonville, on behalf of the Trustees of the Internal Improvement Fund, for cancellation.

New York & Havana Construction Company vs. Trustees of Internal Improvement Fund.—This proceeding was simply commenced in 1889; and never pushed to completion. The complainants in this case claimed a grant of land under their charter, to construct a railroad across the Southern portion of the State. and they claimed that the grant was a grant in presenti, which position was denied by the Trustees, and suit was dismissed.

Chas. Edward Lewis, vs. Trustees of Internal Improvement Fund.—This suit was instituted in 1891, in the Circuit Court for the 2nd. Judicial Circuit of Florida. This proceeding was commenced for the purpose of forcing the Trustees to pay coupons which they had declined to

pay, on the ground that said coupons were detached from bonds that had been retired and cancelled. This suit was decided against the Trustees, and the Trustees were compelled to pay the coupons.

A. B. Hawkins vs. Trustees of Internal Improvement Fund.—This was a proceeding in 1893, in the Circuit Court of the 2nd. Judicial Circuit of Florida—to compel the Trustees to pay interest on past due bonds of the Florida Atlantic & Gulf Railway Company, from which bonds the coupons had been detached and paid. This case was decided in favor of the Trustees.

Wilson vs. The Trustees of the Internal Improvement Fund.—This was a proceeding instituted in 1894, in the United States Court for the Northern District of Florida. This suit grew out of a controversy as to the title to a piece of land near Charlotte Harbor—the title to which was claimed by the Trustees and the Florida Southern Railroad respectively. This suit was abandoned after the same question had been decided in another case.

W. H. Gleason vs. The Trustees of Internal Improvement Fund.—This was a proceeding instituted in 1894, in the United States Court for the Northern District of Florida. This is a proceeding that was instituted and was not prosecuted to termination—involving coupons to railroad bonds. (See testimony of Governor W. D. Bloxham.)

Union Trust Company vs. Trustees of Internal Improvement Fund.—This was a suit instituted in 1894 in the United States Circuit Court for the Northern District of Florida—involving questions similar to those involved in the Studwell & Southern Inland Navigation & Improvement cases; and was decided in favor of the Trustees.

J. T. & K. W. R. R. Co., vs. Trustees of Internal Improvement Fund.—This suit was instituted in 1894, in the Circuit Court of Duval county. Suit was compromised by conveyance of a part of the lands claimed.

F. T. and Isabella Lewis vs. the Trustees of the Internal Improvement Fund.—This proceeding was instituted in 1895, in the Circuit Court of Florida, for the Second Judicial Circuit. Case involving coupon from bonds that had been paid and retired. Resulted in a judgment against the Trustees, which was paid.

Samuel Pasco, Executor, vs. Trustees of Internal Improvement Fund.—This was a proceeding instituted in

1895, in the United States Circuit Court for the Northern District of Florida, suit known as the 103 bond case.

This suit involved the ownership of one hundred and three thousand dollars worth of railroad bonds, issued by one of the original railroads, under the Act of 1855. This case was decided in favor of the Trustees.

S. D. O. Wilson vs. Trustees of Internal Improvement Fund.—This suit was instituted in 1895, in the Circuit Court for the Second Judicial Circuit Court of Florida. Suit involved coupons, and was decided by the Circuit Judge in favor of the Trustees, and was appealed to the Supreme Court, and the decision of the Circuit Court was affirmed.

Trustees vs. F. C. & P. R. R. Company.—This was a suit commenced in 1899 by the Trustees in the Circuit Court of Duval county, Florida, for the purpose of forcing the F. C. & P. R. R. Co. to contribute the balance alleged to be due them, as their pro rata share on account of the sinking fund, and by advice of their attorneys, the Trustees abandoned the suit.

State of Florida, (Trustees of I. I. Fund) vs. George W. Bivens.—This was a contest in 1902, as to the ownership of a tract of swamp land, and was decided in favor of the Trustees.

L. & N. Railroad Co. vs. Trustees of Internal Improvement Fund.—The Atlantic Lumber Company, Intervenor.—This was a suit instituted in 1902 in the United States Circuit Court for the Northern District of Florida. This suit, from the pleadings, was understood to cover a demand for deeds to 1,117,000 acres of land, under the land grant of the Legislature, approved March 4, 1881, to the Pensacola & Atlantic Railroad Company—the Atlantic Lumber Company, intervenor, claimed certain of the lands located in Taylor county. The Intervenor Henderson, claimed the payment of certain outstanding bonds of the Florida R. R. Company. The Atlantic Lumber Company dismissed its bill for intervention. This suit was also against Neill G. Wade, and an injunction was granted against Wade, as the grantee of the Trustees, to certain lands in Taylor county. This injunction was afterwards dissolved, and an injunction granted against the Trustees, arising from the sale to Wade, which injunction is still in force. There was an order made by Judge Swayne on petition of Henderson,

Intervenor, authorizing the Trustees conditionally to pay the bonds claimed in the petition. Final decree was rendered in this suit during the month of May, against the Trustees for \$251,000.00, being the proceeds of the sale of lands to Wade, and interest thereon, at the rate of 2 1-2 per cent per annum from the date of the sale to the date of the decree. An appeal has been taken in this case from this final decree to the Circuit Court of Appeals, and is now pending.

East Coast R. R. Co. vs. the Trustees of the Internal Improvement Fund.—This suit was instituted in 1903, and was a suit in which the complainant claims 2,400,000 acres of land under the land grant made to the Jacksonville, St. Augustine & Indian River Ry. Co., which was by a bill in Chancery. No injunction has been obtained. This suit was instituted in the Circuit Court of Leon county, Florida, in 1903. There was an amended bill and a demurrer, and the suit now stands on demurrer to the bill.

Malone vs. Yeoman.—This suit was instituted in 1904, in the Circuit Court of DeSoto county, Florida, in ejectment. The plaintiff Malone, was the purchaser and grantee of the Trustees of the Internal Improvement Fund; Yeoman was grantee under the land grant made to the Charlotte Harbor, Gainesville, Ocala & Gulf Railroad Company, known as the Florida Southern. The plaintiff submitted his deed from the Trustees, and upon the defendant's offering to show their source of title by the introduction of the act of the Legislature, granting lands under the grant approved February 7, 1879, formal objections were made to the introduction of this act of the Legislature, being in substance, that the grant was inoperative and subject to the provisions of Chapter 610, Laws of Florida, which was sustained by the Court, and a verdict was directed by the judge on behalf of the plaintiff; the Court holding that the land grant approved February 7, 1879, was inoperative—no appeal was prosecuted in this case.

United States vs. Heitman et. al.—This was a suit instituted in 1904 in the United States Court for the Southern District of Florida, and required the Trustees to remove an obstruction which had been built by and with the consent of the Trustees in the Hickpochee canal. The charge being in effect that the dam obstructed a navigable water way and interfered with navigation. Final

decree was rendered during the month of June, 1907, dismissing the complainant's bill without prejudice.

Florida Coast Line & Transportation Company vs. Trustees of the Internal Improvement Fund.—This was a suit in Chancery, instituted in 1904, in the Circuit Court of Leon county, Florida, praying among other things, that the Trustees be decreed to recognize Legislative land grant to said company, and for an injunction enjoining the Trustees from selling the lands reserved and claimed under legislative land grant about 700,000 acres. The defendants filed a demurrer to this bill in 1904, and the matter stood on demurrer until the settlement was effected by the Trustees of the Internal Improvement Fund with the company.

Kittel vs. Trustees of Internal Improvement Fund.—This was a bill in Chancery, filed in the United States Court, in and for the Northern District of Florida, as claimants of eighty-seven thousand acres of land under land grant to the Carrabelle & Tallahassee Railroad Company. The Trustees filed an answer and the complainant filed exceptions to the answer in 1906. At this stage of the litigation, a settlement was reached between the Trustees and the complainant and the suit was dismissed.

The Trustees of the Internal Improvement Fund vs. Kittel.—This was a suit instituted in 1904 for the purpose of removing claims that were being asserted by representatives of Kittel, on the lands mentioned in the suit of Kittel vs. the Trustees; and afterwards, under stipulation of counsel, awaited the result of the suit instituted by Kittel; and was dismissed when the settlement was effected between the Trustees and Kittel in 1906.

The Tallahassee Southeastern Railway Company vs. Trustees of Internal Improvement Fund.—This was a suit instituted in the Circuit Court of Leon county in 1905, wherein the complainant claimed certain lands under Legislative grant, and praying for an injunction against the moneys in the hands of the Trustees arising from the proceeds of the sale to Neill G. Wade, of the lands in Taylor county. A temporary injunction was obtained upon the filing of the Bill. This temporary injunction was dissolved in the early part of 1905. Afterwards a demurrer on behalf of the Trustees was filed, and

the matter now stands on demurrer to complainant's bill.

Wisner Land Company vs. Trustees of the Internal Improvement Fund.—This was a suit instituted in 1906 in the Circuit Court of the United States for the Southern District of Florida, alleging among other things, that it was entitled to various land grants that it had purchased and procured from various roads, as follows:

Florida Southern	301,990.28
J. T. & K. W.....	19,696.62
Silver Springs, Ocala & Gulf.....	157,354.55
South Florida Railroad	93,175.29
Claims under certificates	166,333.90
	<hr/>
	728,550.64

A general and special demurrer raising some forty questions, was filed to this bill by the Trustees, and the suit now stands on demurrer to the bill.

Southern States Land & Timber Company vs. Trustees of Internal Improvement Fund.—This was a suit instituted in the United States Court, in and for the Northern District of Florida, in 1907—claiming lands heretofore certified to the Pensacola & Atlantic Railroad Company; the Wisner Land Company being one of the defendants in this suit, has filed a cross bill very similar to the original bill in the Circuit court of the United States, for the Southern District of Florida, above referred to, to which a demurrer has been interposed on behalf of the Trustees. A demurrer was filed in the case of the Southern States Land & Timber Company, and the cases now stand on demurrer.

Case of R. G. Peters vs. Trustees of Internal Improvement Fund.—This was a suit brought in the Circuit Court of the United States for the Northern District of Florida, claiming certain lands under Chapter 4267, Laws of Florida. A demurrer has been interposed to this bill, and the case now stands on demurrer.

United Land Company vs. Trustees of Internal Improvement Fund.—This is a suit now pending in the 7th Judicial Circuit, and which was brought in 1907, to recover certain lands claimed by that company as the grantee under a foreclosure sale against the Okeechobee

Land Company for a balance of lands claimed to be due from the Trustees under the modified or adjusted contract entered into by and between the Trustees and the Atlantic and Gulf Coast Canal & Okeechobee Land Company during the administration of Governor Perry. This suit is now pending, and has not yet reached a conclusion.

The Trustees of the Fund have settled and compromised several important suits and claims against the fund involving the Legislative grants of land to—

The Florida Southern Railroad Company.
 Jacksonville, Tampa and Key West Railroad Company.
 Silver Springs, Ocala and Gulf Railroad Company.
 Pensacola and Atlantic Railroad Company, and
 The South Florida Railroad Company.

The aggregate amount of land deeded to these companies or their assigns under these compromises was 441,118 and 94-100 acres, being 226,353 and 84-100 acres less than the number of acres called for by their certificates.

In this compromise the Trustees paid to the Louisville and Nashville Railroad Company on account of the grant claimed by the Pensacola and Atlantic Railroad Company, \$110,000.00.

In these compromises the Trustees secured an assignment of all residuary interest of these railroad companies claims upon the fund to the State Board of Education which amounted to 2,134,983.49 acres. Also deeded to the State Board of Education from the Wisner Land Company of 436,663.85 acres.

In addition to these compromises the Trustees also secured a compromise of the suits of the United Land Company, successor to Hamilton Disston and associates and the Atlantic and Gulf Coast Canal and Okeechobee Land Company against the Trustees, involving a claim against the Fund of 347,754.02 acres. This claim was compromised for 68,834.61 acres.

These compromises together with the sales and grants before made from the Fund since its creation left a balance in the Fund on January 1st, 1909 of 1,531,162.82 acres with a balance of cash in the Fund of \$103,986 and 28 cents.

Several advantageous sales and contracts were made by the Trustees for the Fund during the year 1908 which will be of great benefit to the Fund and materially aid in

reclaiming the overflowed lands in the Everglades District.

As stated, the balance of land in the Fund January 1st, 1909, was 1,531,162 and 82-100 acres.

Of this amount there is under contract for sale and providing for drainage of the land—

With the Davie Realty Company, approximately 100,000 acres at \$1.25 per acre, providing that 75 per cent. of the proceeds of the sale of the land to be applied to purchase and equipment maintenance and operation of a dredge in the Miami river. Minutes, Vol. 7, page 447-52.

To Walter R. Comfort, 6,442 and 13-100 acres at \$2.00 per acre, with understanding that he would drain and improve the land. Minutes, Vol. 7, page 438-39.

J. H. Tatem and Company purchased from the Trustees 12,000 acres at \$2 and \$3 per acre with no provision for drainage. Minutes of Trustees Vol. 7, page 457.

R. J. Bolles purchased 500,000 acres for \$1,000,000.00, the Trustees to use half of the proceeds in drainage of lands. Minutes of Trustees, Vol. 7, page 502-519.

W. S. Jennings the counsel for the Trustees of the Fund, conducted the negotiations and prepared the documents for the compromises between the railroad land grant claimants and the Trustees heretofore averted to. He also conducted the negotiations for the sale and drawing of the contract between the Trustees and the vendees in the sales of land referred to, except in the sale to R. J. Bolles. In this negotiation and contract of sale he declined to represent the Trustees stating he represented Mr. Bolles in the purchase and suggested that the Trustees secure the services of another Attorney and the Trustees were represented by Attorney General Ellis. Minutes of Trustees, Vol. 7, page 490.

Mr. Jennings was in the employ of the Board at the time of these transactions and had been since 1906, at an annual salary of \$5,000.00 and traveling expenses, averaging some \$700.00 per annum. Minutes Vol. 7, page 179-333.

In addition to the regular salary the Trustees allowed W. S. Jennings during the years 1907 and 1908 the following, to-wit, was allowed him:

December 27, 1907—For services in the matter of settlement with the Louisville and Nashville Railroad Company's several suits, \$5,000.00. See Minutes of Trustees, Vol. 7, page 179.

February 30th., 1908.—For services as agent in settlement in railroad land grant claims in the Wisner Land Company, \$5,000.00. See original voucher No. 1645, Minutes of Trustees, Vol. 7, page 240.

October 14th., 1908.—Compensation for services as agent in sale of lands to R. P. Davis and Walter R. Comfort, \$3,390.00. See Minutes of Trustees, Vol. 7, page 446, and see original voucher No. 1779.

December 5th., 1908.—Compensation for services as agent in sale of lands to Davie Realty Company, \$3,750. See Minutes of Trustees, Vol. 7, page 474, and see original voucher No. 1816.

Allowed to Mr. Jennings for stenographer and typewriter in the year 1907, \$525.00 Minutes Vol. 7, page 179. Exclusive of traveling expenses, stenographer and typewriter, the legal expenses for counsel fees to Mr. Jennings for 1907-1908 was \$27,140.00.

The suit of Peters vs. the Trustees to recover lands granted to the Tallahassee & Southeastern Railway Company, involving approximately one hundred and twenty-five thousand dollars and the proceeds of the sale made to N. G. Wade amounting to two hundred and fifty-one thousand dollars, has been dismissed by the U. S. Circuit Court of Appeals, Fifth Circuit, for want of jurisdiction. Appellants Peters has indicated that their purpose is to take this case direct to the Supreme Court of the United State.

POLICY OF FORMER TRUSTEES.

In our investigation and research, we have found that the several Boards of Trustees have been harmonious in their interpretation of the law governing the trust administered by them, with some exceptions, which will be noticed.

Railroads and Canals—Beginning with the administration of Gov. James E. Broome, to and including the administration of Governor N. B. Broward, there has been practically no difference in construction of the Act of 1855, and the amendatory acts as to the aid to be given under the act to railroads and canals.

Trespass—The several administrations since 1855, have used their best efforts to protect the Fund against trespassers, and to that end, have had constantly employed

trespass agents to look after and prevent trespass, as well as to prosecute any trespassers found.

Stumpage—Stumpage has been sold by each administration where it has seemed advantageous to the Fund.

Selecting Agents—Selecting agents have been constantly employed by the Trustees to make selection of the swamp and overflowed lands, for the reason that at the time the grant was made, nor since, has any survey by the United States been made that would designate these lands. This work of selection of these lands has been expensive to the Fund.

Homestead Settlement—Each of the several administrations has encouraged settlement and cultivation of the lands by fixing a minimum price on the land to bona fide settlers, and in all contracts for drainage and reclamation and to railroads, it was provided, that persons actually settled on land that should enure to such companies, should not be disturbed, but should be permitted to purchase the lands occupied at the current price of *swamp and overflowed lands*.

Immigration—Immigration to Florida has engaged the attention of the Trustees at various times, and many contracts have been made for sale of land on condition of drainage and reclamation, and upon the further condition of bringing settlers to occupy the reclaimed lands.

Drainage—Drainage of the swamp and overflowed lands has been the policy of each administration—the Trustees at all times seemed to be ready to make a sale of swamp land for a nominal price, upon condition that the party would drain and reclaim the land.

The most notable instances of this policy, as found in the minutes of the Trustees, is the contract made between the Trustees, during the administration of Governor David S. Walker, in 1867, with the Florida Canal & Inland Navigation Company, for the purpose of digging a canal, connecting Amelia River with Jupiter Inlet, and connecting the waters of the St. Johns River. (Vol. 1, Minutes, 298 and 303.)

A continuation of this inland waterway was provided for by a subsequent contract entered into during the administration of Governor Wm. D. Bloxham, June 27, 1882 (a previous contract having been made by the Trustees with this company, during the administration of Governor Drew), between the Trustees and the Florida Coast Line Canal Transportation Company. This great

waterway, which has been completed from St. Augustine to Biscayne Bay, affords an inland water route for 330 miles along the East Coast of Florida, and under the contract made with the Trustees of the Internal Improvement Fund on December 1, 1906, which contract provides for this canal from St. Augustine to the St. Johns river, this inland route will be complete from Jacksonville to Miami, a distance of 366 miles. (Vol. VI, Minutes, page 185.)

The Trustees, under Governor Drew's administration, made a contract with The Apopka Canal Company, for the construction of a drainage and navigation canal, connecting the waters of Lake Apopka and Lake Eustis, and the drainage of the adjacent lands to Lake Apopka and Lake Dora.

The Trustees of the administration of Governor Wm. D. Bloxham, in 1881, made a contract with Hamilton Disston and associates, who were afterwards incorporated as the Atlantic & Gulf Coast Canal and Okeechobee Land Company—to drain all of the land in the State of Florida practicable, and lying south of Township Twenty-three and east of Pease Creek, belonging to the State of Florida, or Internal Improvement Fund then subject to overflow by Lake Okeechobee, to Kissimmee River and its branches and the lakes contiguous to said river, whose waters flow into said river or Lake Okeechobee, or into the Caloosahatchee, or the Miami River, or other outlets.

Under this contract, the Disston people, for the drainage and reclamation of the land, were to receive from the Trustees every alternate section of land drained and reclaimed. *It was a condition of this contract incorporated therein, that after permanently lowering the waters of these lakes and rivers and draining the lands, that the contractors were to keep reduced the high water level of said Lake Okeechobee and Kissimmee River.*

“On August 17th, 1888, the contract between the Atlantic and Gulf Coast Canal and Okeechobee Land Company and the Trustees was amended under authority of the Act of the Legislature of 1887, and an agreement between the parties thereto entered into, changing the contract. This contract provided, that ‘the drainage reserve of said company shall be reduced so as to secure to said company a

total acreage of two million acres, including lands heretofore conveyed to said company, to be selected by said company in a body, as near as may be of alternate sections within the reserve heretofore held for said company, under its contract with the Trustees.'

It further provided that the Trustees should convey to said company so much of said lands to be selected and reserved as aforesaid, as should be earned by said company at the rate of an acre of land for each twenty-five cents of expenditure.' Minutes, Vol. 4, pages 310-311.)

The administration of Governor E. A. Perry, Governor F. P. Fleming, Governor Henry L. Mitchell and Governor William D. Bloxham, 1897 to 1901, each recognized the great advantage resulting to the State from the reclamation of these lands, and did all in their power to facilitate this great work.

During the two administrations of Governor Bloxham, the Trustees made special effort to drain and reclaim the swamp and overflowed lands of the State, to secure settlement of the lands, and to bring immigration to the State.

However, there seems to have been in the minds of the Trustees beginning with the first administration of Wm. D. Bloxham, and when Legislative land grants were first recognized, the idea that the Fund belonged to the railroads under these grants, and this idea, which seems to have possessed the Trustees at that time, found expression during the administration of Governor F. P. Fleming when "Mr. J. E. Ingraham, of Sanford, Florida, made a proposition to drain a million acres or more of that portion of the State known as the Everglades now (then) unsurveyed."

The matter was discussed and it was ordered that the salesman notify the railroad companies whose land grants had been earned by constructing railroads, but not satisfied in full, that proposition had been made to the Trustees to drain a portion of the Everglades by responsible parties, and to request said railroad com-

panies to show cause on or before June 10th next, why said drainage contracts should not be entered into.

On June 10th, 1892, the full Board being present.

F. P. Fleming, Governor.

W. D. Bloxham, Comptroller.

E. J. Triay, Treasurer.

W. B. Lamar, Attorney General.

L. B. Wombwell, Commissioner of Agriculture.

“After hearing the drainage proposition of Mr. Ingraham and statements made by Hon. E. K. Foster, for the South Florida Railroad Company, and the lines it controlled; and R. A. Burford, for the Silver Springs, Ocala & Gulf R. R. Company, and reading the protests of Mr. Thomas Day, for the Florida Southern; Jacksonville, Tampa and Key West and Indian River R. R. Cos., and Col. W. D. Chipley, for the Pensacola and Atlantic Railroad Company, the Board took the matters into consideration, and it was decided that in view of the fact that there was hardly a sufficient quantity of lands patented, or to be patented, to the State to satisfy the land grants of railroad companies earned, but not yet satisfied, that the Board could not accept any proposition to drain or purchase any of the unpatented State lands. (Minutes Trustees, Book IV, pages 203, 204, 205.)

The idea of the obligation to drain and reclaim was so firmly fixed in the minds of the Trustees, until one distinguished citizen of the State and former Trustee, gravely argued in public document he prepared, that drainage was being accomplished by the building of railroads, for it was necessary in constructing the roads, to dig ditches along the line of the road, and thus, the lands would be drained, and the original purpose of the act of Congress in donating the land, would be complied with.

On February 16, 1898, Capt. R. E. Rose, appeared before the Board, presided over by Governor Wm. D. Bloxham, and on behalf of himself and Hon. J. R. Parrott, J. E. Ingraham, J. E. Murray, J. M. Schumaker, G. R. Price, submitted a proposition to drain certain lands south and east of Lake Okeechobee. (See Book 4 Minutes, 432.)

The Trustees subsequently entered into contract with these gentlemen and E. M. Ashley, who joined with them in the contract to drain and reclaim these lands. (Book 4 Minutes, 437-442.) These gentlemen subsequently became associated as stockholders in the Florida East Coast Drainage & Sugar Company, and transferred their rights under the contract mentioned with the Trustees to this corporation. (See Book 4 minutes, 446.)

The company, by its president and secretary, accepted the transfer and assumed the contract made with the Trustees. (See Book 4 minutes, 449.) Filed maps showing routes, surveys and report of superintendent with Board. (Book 4, Minutes, 454.)

December 18, 1900, this company was granted further time to commence work of construction. (Book 5, minutes page 32.) Again on October 11, 1902, this company made application for extension of time to commence construction, but the Trustees declined to grant the same, and their contract was forfeited. (Book 5, 128.)

Again, this company on December 12th, 1902 made application to renew their contract and offered five cents (5c) per acre more for the land they were to receive under the first contract, which proposition was declined by the Trustees. (Book 5, minutes, 136-7.) by adopting the following resolution:

"Resolved. That it is the policy of the Trustees to secure the drainage and reclamation of the swamp and overflowed lands belonging to the Internal Improvement Fund by making sales of portions of such lands for cash to parties who will undertake to drain the purchased lands, the proceeds of such sales to be used for the purposes of the trust made by Messrs. Schumaker, Pride and Rose, the conclusion and determination of the Trustees, not to make a sale of so large a body of swamp and overflowed lands upon terms which extend the time for payments as asked for in said application."

The proposal to drain under this contract, embraced practically the same plans and contemplated the proposed canals to carry out the plan as are now being dug by the Trustees of the Fund. (See testimony of Captain R. E. Rose.)

In a letter from the Trustees, addressed to a com-

mittee of the United States Senate, dated September 5, 1888, the Trustees enunciate the novel doctrine that the ditches alongside of the railroads aided from the Fund, accomplished drainage of the lands—in the following language:

“In addition to facilitating drainage by opening up the country, furnishing transportation and increasing settlement, the specifications for construction of all roads receiving land from the Fund contain requirements as to ditches, and these hundred of miles of ditches do accomplish some drainage of such lands.” (Minutes Trustees, Vol. 3, pp. 509-510.)

For full report of policy of present Board of Trustees, same is discussed under title, “History and Outline of Present Drainage Operations.”

The records show that from July 1, 1868, when Governor Harrison Reed became president of the Board, and during the period generally known as the “carpet bag” regime—until January, 1877, the Trustees were presided over by Governor Reed, Lieut.-Gov. Day, February 20, 1872, to April 4, 1872 (Acting Governor during temporary suspension of Gov. Reed, who was under impeachment); Governor O. B. Hart from November, 1872, to January, 1874; Governor M. L. Stearns from January 1874, to January 1877, when Governor George F. Drew assumed the duties of the office, there seems to have been no fixed purpose during these Republican administrations, except to loot the Fund.

The Auditor's report shows a balance of cash on hand December 10, 1868, of \$139,200.20, and at the end of this period, when the Fund was turned over to Governor Drew's administration, there was a balance of only \$1,095.21 in the treasury, notwithstanding the fact that during this period there were additional receipts accounted for of \$236,446.34. Because of the destruction or loss of the records of the Trustees, shown by Auditor's report, from December 22, 1870, to June 1, 1872, much information bearing upon the acts and doings of the Trustees cannot be found. In addition to that accounted for, the records show \$444,051.52 received that has never been accounted for in the disbursements. And the total

receipts for the period from 1862 to 1876, as shown from the records found, being \$819,698.06.

Numerous contracts for sales of large acreage of lands were made at small prices, generally at ten cents per acre, with various parties representing different schemes to drain, cultivate and induce immigration.

During the administration of Governor Reed, R. H. Gamble was made Comptroller, and by virtue of his office, was a member of the Board of Trustees. It must be said of R. H. Gamble, that by reason of his staunch fidelity and unswerving integrity, he stood as the State's trusted agent, constantly combatting the making of graft contracts and wasteful extravagance, and but for his strong and steadfast opposition to these policies, much more of the Fund would have been dissipated. The records show many instances of the position he maintained throughout this trying period.

LEGISLATIVE LAND GRANTS.

The several Boards of Trustees of the administrations of Governor Jas. E. Broome, Governor M. S. Perry, Governor John Milton, Governor Davis S. Walker, Governor Harrison Reed, Governor O. B. Hart, Governor M. L. Stearns and Governor Geo. F. Drew, by their construction of Chapter 610, Acts of 1855, refused to recognize the right of the Legislature to legislate with reference to the Fund, or to make grants of land other than was expressly reserved to the Legislature by Section 29 of the act.

At the next session of the General Assembly, after the passage of the act, Governor James E. Broome, November, 1855, vetoed two bills—one entitled, "An act granting certain lands to the Palatka and Micanopy Plankroad Company," and the other, entitled, "An act to remove the obstruction to navigation of the Suwannee River."

These acts, as will be seen from their titles, contemplated the use of the lands or their proceeds, for purposes not embraced in the Internal Improvement act. The Legislature, by unanimous vote, sustained these vetoes.

The Governor vetoed and returned to the House, on January 12, 1855, "An act incorporating the Florida and Macon Railway Company."

Again, on November 24, 1855, the Governor vetoed two bills granting swamp lands. These vetoes were sustained.

The veto messages of the Governor accompanying these bills afford instructive reading, showing the construction placed upon the act by men who took part in its execution and enforcement, and at a time contemporaneous with or immediately subsequent to its enactment.

Succeeding Legislatures passed many acts and resolutions in harmony with the views of these several Boards from 1855 to 1879, upon the question as to the power of the Legislature to deal with the Fund that had been vested in the Trustees. For further information, see House Journal December 12, 1855, page 133, and also page 139; and see further references as found in legislative Journals.

All railroad land grants and acts of the Legislature containing provisions to divert the Fund or divest the Trustees of title, or of powers in the management of the Fund, or to control the discretion of the Trustees in the performance of their duties, were rejected by the Legislatures, or vetoed by the Governors and sustained by the Legislatures, without exception, so far as we have been able to determine, to the year 1879—at which session of the Legislature certain acts were passed granting lands to certain railroad companies, which are enumerated in the veto message of Governor Geo. F. Drew, under date of February 25, 1879—which veto message is perhaps the best and strongest document ever written upon the subject of the authority of the Legislature to deal with the Fund, vested in the Trustees by the Act of 1855. See this message in full in another part of this report, under the title "History of Land Grants."

From an examination of the Journals of the session of 1879, this veto message of Governor Drew was not voted upon by the Legislature, but was referred to a committee, which committee prepared a bill that was introduced as a committee bill (Senate Journal 1879, pp. 378, 379, 380; House Journal, pp. 452, 475, 476; Senate Journal 396-414, signed by the Governor, page 442), to incorporate the Gainesville, Ocala & Charlotte Harbor Railroad Company, and became Chapter 3167, Laws of Florida, 1879, to grant ten thousand acres of land for each mile of road, in addition to the alternate sections within six miles of the road of the lands granted to the State of Florida under act of Congress of September 28, 1850.

This grant was made subject to the trust created by

the Act of 1855, by a provision in Chapter 3167, as follows: That,

“Provided, However, That the grant of lands made by this section is made subject to the rights of all creditors of the Internal Improvement Fund and to the trusts to which said Fund is applicable and subject under the act entitled, ‘An act to provide for and encourage a liberal system of Internal Improvements in this State,’ approved January 6, 1855, and subject to control, management, sale and application of said Fund and the lands constituting the same by the Trustees of the Internal Improvement Fund, for the purposes of said Trust under said act; Provided, However, That the title to the lands granted under this section is not to vest until they shall be released from the indebtedness existing against said trust fund, it being the purpose of this section to grant residuary interest of the State in the lands granted by said act of September 28, 1850, after satisfaction has been made of said indebtedness to the extent or in the quantity indicated hereby to aid said railroad company.”

This provision was enacted into a general law as Chapter 3226, Acts of 1881.

Subsequently the Trustees of the administrations of Governor Wm. D. Bloxham, Governor Edward A. Perry, Governor Francis P. Fleming, Governor H. L. Mitchell, and the second administration of Governor Bloxham, recognized the railroad land grants made by the Legislature during this time, and executed many deeds to the various railroads that had received legislative favor.

By reason of their being no land in the Fund, on several occasions to meet the Legislative land grants, the Trustees during the administration of Governor E. A. Perry, issued certificates to various railroads for the land embraced in their legislative grants. One of the certificates was issued during the administration of Governor Fleming.

These certificates were in the following form and fully explain the reason for their issuance:

INTERNAL IMPROVEMENT FUND.

STATE OF FLORIDA.

Certificate No. ———— ———— Acres

Whereas, The Legislature of the State of Florida, by an act approved the ——— day of ———, 18—, entitled "An Act to incorporate the ——— R. R. Co., and to grant certain lands to the same in the section thereof, did grant to the said company— thousand acres of land, for each mile of road it might construct on the lands granted to the State of Florida by the act of Congress approved September 28, 1850; said lands to be of those lying nearest the line of said road;

And Whereas, The said company has constructed under and in conformity to the provisions of said act ——— miles of road and has received from the Trustees of the Internal Improvement Fund, conveyances to the amount of ——— acres, on account of said grant;

And Whereas, The said company made application to said Board for Conveyance of the lands now due them for constructed road as aforesaid;

And Whereas, The following described lands are believed and claimed to be of those granted to the State of Florida by said act of Congress, approved September 28th, 1850, and are nearest to the line of said road, of such lands, but have not been patented to said State, to-wit:

(Description of Lands)

containing in the aggregate ——— acres, lying and being in the counties of ——— and ———, in the State of Florida;

Now, Therefore, Know All Men By These Presents, That the undersigned, the Trustees of the Internal Improvement Fund of the State of Florida, in consideration of the premises, and in conformity with the act of the Legislature aforesaid, do hereby certify that the said the ——— R. R. Company, is entitled to the said lands whenever the same shall have been patented to the State of Florida, under the said act of Congress of September 28, 1850, and that upon the receipt of such patents by the State, the Trustees, or their successors, will convey the same

lands to the said company, its successors and assigns, saving the right to actual settlers on said lands acquired at or before the date hereof, and saving the right which — and — respectively may have under their respective contracts with the Trustees of the Internal Improvement Fund aforesaid, for selecting swamp and overflowed lands, and obtaining patents thereto, to the State of Florida respectively, under said act of Congress for which respective services said — and — are to receive — for each acre of lands which have been patented to the State, under their several contracts.

In Testimony Whereof, The said Trustees have hereunto subscribed their names and affixed their seals and have caused the seal of the Florida State Land Office to be hereto affixed, at the capitol in the city of Tallahassee, on the — day of —,

(Signed:)

..... (Seal)

Governor.

..... (Seal)

Comptroller.

..... (Seal)

Treasurer.

..... (Seal)

Attorney General.

..... (Seal)

Commissioner of Agriculture.

In the presence of:

.....
.....

Under the administration of Governor Fleming, the issuance of these certificates was discontinued, after issuance of certificates to the Silver Springs, Ocala & Gulf, also Augusta, Tallahassee & Gulf, and the Green Cove Springs and Melrose Railroad, and Western R. R., of Florida. (Book 4, minutes, 13, 19, 29, 101.) because as stated by Governor Fleming in his testimony before the commission, "The Trustees realized that that policy was likely to create confusion, especially as the companies might make some disposition of those lands predicated upon such certificates; and in some instances

the State would not receive patents to them as was not infrequently the case; that the State claimed land that the Interior Department of the United States did not confirm, as not coming within the terms of the grant of 1850, and in order to avoid such confusion, the policy was discontinued."

The trustees under the administration of Governor Mitchell resumed the issuance of these certificates, (see Book 4, minutes of Trustees, pages 13, 29, 101, 268, 356,) and again this policy was discontinued during the second administration of Governor Wm. D. Bloxham.

During the administration of Governor W. S. Jennings, the Trustees refused to issue certificates for lands to railroads under their Legislative grants on the grounds:

1st. That the Trustees of the Internal Improvement Fund of the State of Florida, had no legal right to bind their successors by means of these certificates or instruments of writing, or obligations, other than duly executed deeds passing the legal title to the lands.

2d. That there remained in the State of Florida, subject to the disposal of the Legislature thereof, no title to the swamp lands granted to the States of Florida, by the act of Congress of September 28, 1850, subsequent to the approval of the act of January 6, 1855, Chapter 610, laws of Florida, etc.

3d. That under the act of Congress of September 28, 1850, the legal title remains in the United States and passes to the State only on the delivery of the patent. Therefore, the lands embraced in the patent, Numbered 137, dated the 29th day of April, 1903, conveying 2,862,280 acres, known as the Everglades Patent, are not subject to any claim of any railroad or canal company by reason of any special Legislative enactments granting lands thereto, or certificates issued, or obligations entered into by the Trustees of said Fund prior to the date of said patent.

Vol. 5, minutes of Trustees, 267, 268 and 269.

This interpretation of the law has resulted in most, if not all, of the suits that were instituted against the Fund brought by those holding certificates issued by former Boards for land under various grants by the Legislature to railroads and canal companies.

The Trustees, under the administration of Governor N. B. Broward, adopted the same construction of the

law with reference to these certificates for land, as did the Trustees of Governor Jennings' administration.

Thus, it will be seen, that from 1855, the time of the creation of the trust, until the first administration of Governor Bloxham, it had been the steadfast policy of the Trustees to refuse to recognize any right or title in the State to the lands embraced in the trust.

This policy was changed with the first administration of Governor Bloxham, and land grants by the Legislature were recognized, and deeds executed to such roads as had received grants, which policy continued until the administration of Governor Jennings, when the policy adopted by the administration of Governor James E. Broome, Governor David S. Walker and Governor Drew was resumed.

CHANGE OF BUSINESS POLICY UNDER GOV. JENNINGS' ADMINISTRATION.

The Trustees during the administration of Governor Jennings specially directed their efforts to ascertain what title the Trustees held to the lands, the condition of the Fund, and to secure balance of land due the fund from the United States, with the result, that a patent was issued to the State by the United States the 29th day of April, A. D. 1903, conveying 2,862,280 acres, known as the Everglade patent.

During the administration of Governor Jennings, the Trustees adopted a different policy, with reference to handling the moneys, securities, etc., belonging to the Fund, and on July 23, 1902, adopted the following resolution:

"Resolved, That all money, bonds and other property belonging to or held by the Trustees of the Internal Improvement Fund, shall be deposited, kept and held in the name of the Trustees of the Internal Improvement Fund; that all receipts for money or other property coming into any of the Fund belonging to or for the securities, held by such Trustees, shall be given in the name of the Trustees of the Internal Improvement Fund by the State Comptroller; and all deposits and credits shall be made in the name of the Trustees of the Internal Improvement Fund, by the State Comptroller.

"All banks and other persons holding money or other property belonging to the Trustees, shall be notified by certificate over the signature of the Trustees, that no money or property belonging to, or held by the Trustees, shall under any circumstances, be paid or delivered to any one for any purpose, except upon order duly signed by the Trustees, and countersigned by the State Comptroller. Monthly statements in detail shall be made to the Trustees under the direction of the State Comptroller, of all receipts and disbursements and of the amounts and location of all money, bonds and securities belonging to or held by the Trustees, or under their control. The Secretary and Treasurer is hereby directed to have all money, bonds and securities on hand the first day of August, 1902, transferred to the Trustees of the Internal Improvement Fund of the State of Florida."

This plan has been pursued since that time, as also the arrangement made by the Trustees of the Jennings administration, requiring banks holding money on deposit belonging to the Fund, to pay interest on such deposits at the rate of $2\frac{1}{2}\%$ on quarterly balance, such deposits to be subject to check without notice (Book 5, Minutes page 84-85), as also the requirement of a monthly statement of the receipts and disbursements of the Funds of the Board during the preceeding months, as also a certified balance sheet showing amounts in each fund on the first day of the month, giving also the amount in each bank or other depositors. (See Minutes, Book 5, pages 81, 83-84).

During the administration of Governor W. S. Jennings, sales of large tracts of lands were made belonging to the Fund. One of 202,240 acres, to Chas. H. Scott and others, at 30 cents per acre, \$60,672.00. The land embraced in this purchase being south of Lake Okeechobee, bordering the Gulf of Mexico. Another sale was made to Neill G. Wade, of Levy County, of 103,778.09-100 acres, at \$2.15 per acre, or \$223,842.00. (Book V., Minutes, 118,119).

The policy of this Board in making these large sales, was to secure money with which to drain the swamp lands and pay expenses of the administration of the trust.

By resolution to the effect that under Section 16, Act

of 1855, the "Trustees of the Internal Improvement Fund are required to make such arrangement for drainage of the swamp and overflowed lands as in their judgment may be most advantageous to the Internal Improvement Fund, and the settlement and cultivation of the land."

The Trustees adopted the following resolution July 3rd., 1902:

"And Whereas, the arrangements made by the Trustees for the drainage of the swamp and overflowed lands belonging to the Fund, make it necessary to sell a portion of said lands to drain other lands belonging to the Fund;

"And Whereas, the Trustees have been offered what they deem from the best information obtainable by them, a fair and reasonable price for some of said lands:

"Therefore, Be it Resolved, That such offer be and the same is hereby accepted, and it is ordered that a conveyance be made to Joseph Jennings of 59,980 acres of swamp and overflowed lands in the County of Monroe, for the sum of 44 2-3 cents per acre." Minutes of Trustees, Book 5, 118-119.)

RELIEF OF BONDED COUNTIES.

In 1883, the Legislature passed an act, known as Chapter 3474, directing the Trustees to sell the lands belonging to the Fund, lying in the counties of Duval, Madison, Leon, Baker, Columbia, Suwannee, Bradford and Jefferson, and to apply the proceeds from the sale of these lands to the relief of the City of Jacksonville, and the counties named, by the purchase of outstanding bonds that had been issued by the said city and counties, under the Internal Improvement Act of 1855, in order to locate and grade the road now running from Jacksonville to Chattahoochee.

The amounts of the bonded indebtedness of the city and counties mentioned, as shown by the Minutes of the Trustees, (Book 3, 286 and 287 and also Book 6, page 26), is as follows:

Leon County	\$ 70,000.00
Jefferson County	80,000.00
Madison County	70,000.00
Columbia, (inclusive of Baker, Bradford and Suwannee)	90,000.00

City of Jacksonville 10,000.00
 \$320,000.00

Under this Act, the Trustees of the administrations of Governor Bloxham (first and second), Governor E. A. Perry, Governor Fleming, Governor Mitchell and Governor Jennings, complied with the Legislative Act, and many of these outstanding city and county bonds were purchased, amounting in the aggregate, (as per Auditor's report filed herewith) to \$219,701.47. During the administration of Governor Jennings, seven (7) of these Columbia County Bonds, Numbered 59, 67, 75, 77, 79, 80 and 207, were presented to the Trustees for payment, but on investigation, it was ascertained that Columbia County had paid them; therefore, the Trustees declined payment, and these bonds are still in the hands of the Trustees. (Minutes of Trustees, Book 5, page 93).

The Trustees under the present administration of Governor Broward, addressed a communication to the attorney for the Board, under date of April 17, 1905, as to his construction of Chapter 3474, Acts 1883, and with reference to the relief to be given by the Trustees to the city and counties named therein.

The Counsel for the Board, Hon. W. S. Jennings, advised the Trustees that the Act was unconstitutional and inoperative, because the Constitution of the State of Florida of 1868, in force when Chapter 3474 was adopted, contained a provision as follows:

"The Legislature may provide for the donation of the public lands to actual settlers, but such donations shall not exceed 160 acres."

And for the reason that the Legislature (of 1855) having granted said lands to the Trustees of the Internal Improvement Fund subject to certain trusts set out in the Act, subsequent Legislatures did not have the power nor the lands to grant or dispose of, save possibly the residuary interest after the trusts had all been performed and discharged, since which time payment has been suspended. (Minutes Trustees, Book 6, page 40).

MINUTES OF THE BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT FUND.

Under the administration of Governor W. S. Jennings, the Minutes of the Board which are kept by the Secretary of the Board in the books provided for that purpose,

had never been compiled, printed and published, though at different times the several Boards had adverted to the subject.

During the administration of Governor Jennings, at the suggestion of Mr. A. C. Croom, the Comptroller, the Minutes were ordered printed, and indexed, and which are now contained in seven volumes, embodying the Minutes of the Board from the beginning of the Fund until January 1st., 1907.

It being the purpose of the Trustees to have printed and published the Minutes in the future.

We have discussed the policies of the present Board of Trustees in connection with the policies of past Boards, with the exception of the subject of drainage of swamp and overflowed lands by the Trustees themselves.

The Trustees of the administration of Governor Jennings, advanced the proposition of drainage of the swamp and overflowed lands, and especially, of the Everglade lands by the State, (See Scott sale and Wade sale, Minutes Trustees, Book 5, pages 62, 64, 66-74, 115, 121, 122, 197, and for further treatment of the subject by the Jennings administration, see another portion of this report) —but the idea did not result in anything definite until the beginning of the administration of Governor N. B. Broward, when the matter was taken up, and an examination of the question was begun in a systematic manner.

The Trustees of the administration of Governor Jennings, secured from the United States Government, under the Act of 1850, a patent, (No. 127) to the State, of that body of lands around Lake Okeechobee, known as the Everglades. Some of this land was unsurveyed, but the number of acres embraced in this patent is 2,862,280 acres. A map was made of these lands which was adopted as the official map by the Trustees, January 2, 1905. (See Resolution and Map, Minutes of Trustees, Book 6, pages 5 and 6).

The Legislature of 1905 passed an Act, (Chapter 5377) creating a Board of Drainage Commissioners, and named the Governor, the Comptroller, the State Treasurer, the Attorney-General, and the Commissioner of Agriculture of the State of Florida, as members of such Board, authorized this Board to establish drainage districts, and a drainage system of canals, levees and dykes and reservoirs, for the purposes of drainage, irrigation and commerce, the assessment of lands to be drained and bene-

fitted, the collection of necessary funds by assessments of benefits and taxation, providing for the management and maintenance thereof, and for the exercise of the right of eminent domain, and for the sale and usage of said lands for the purposes of drainage, reclamation and improvement. This Board of Drainage Commissioners laid out and defined the Drainage District, embracing 8,179,200 acres (estimated) of land, within the Everglade district.

This land, as will be seen from the description, was the land lying immediately around Lake Okeechobee, in Lee, DeSoto, St. Lucie and Dade counties.

Under this Act, the Drainage Commission was permitted to levy a tax of not exceeding ten (10) cents per acre.

Upon a suit brought in the Circuit Court of the United States, Southern District of Florida, by the Southern States Land & Timber Company, against the Board of Drainage Commissioners, and the Collectors of Dade, DeSoto, St. Lucie and Lee Counties, January 11, 1906, praying for an injunction against the enforcement of the tax levy of five (5) cents per acre, acreage tax upon its swamp and overflowed lands, in these counties. Judge Locke, on the — day of —, A. D. 1907, declared the law void and inoperative, and granted a perpetual injunction upon the grounds:

That the Act was void, because there was no provision therein for notice to the land owners that the tax would be levied for the purposes named, or that their land would be included in the drainage district. That the land owners had a right to be heard whether their land should be included in the district, and whether the tax should be levied at all; And because the Legislature had exceeded its power by delegating authority to the Board of Drainage Commissioners to levy the tax and lay out the district.

The Legislature of Florida, to remedy the defect in this law, in 1907 enacted Chapter 5709, Acts 1907, wherein the Legislature defines and establishes a drainage district immediately around Lake Okeechobee, and levied an annual acreage tax of five (5) cents per acre for drainage purposes, and authorized the Drainage Commissioners to prepare a list of the lands within this district, etc. For fuller detail see act referred to. No drainage tax can be levied outside of this district.

It may be pertinent to the subject to say just here, that

this identical Act, (Chapter 5377, Acts 1905) with the exception of the amount of the tax, was incorporated as joint resolution No. 4, and passed by the Legislature of 1905, as a proposed amendment to Article XVI of the Constitution of the State of Florida, and was submitted to the people of the State, at a general election held in November, 1906. This proposed amendment was rejected at the polls, because as is generally understood, the people believed the amendment, if adopted, would confer power upon the Board to declare the whole State a "Drainage District," and thus subject the whole State to the drainage tax to be fixed by the Board.

The Trustees of the Internal Improvement Fund, whose members are identical with that of the Drainage Commission, proceeded to have a survey made of certain routes for drainage canals, under the following resolutions of the Board, July 27, 1905, and November 9, 1905:

"Whereas, The Trustees of the Internal Improvement Fund desire a preliminary survey of the levels and soundings of that territory of the State of Florida, lying between Lake Okeechobee and the Atlantic ocean, beginning at a point on the St. Lucie River, as preliminary to the work of building or constructing canals for the purpose of lowering the water level in said lakes, and,

Whereas, The said Trustees desire full and complete information as to the topography and geological formation of said territory to a depth of ten feet for the entire distance and securing the surface elevations for said distance, therefore,

Be it Resolved, That the Trustees engage the services of J. O. Fries, of Titusville, Florida, County Surveyor of Brevard county, to make such survey from the south prong of the St. Lucie River in a straight line as near as possible to a point in Okeechobee Lake, at or near Chancy Bay. Said Fries shall run a line of levels from the said St. Lucie River to Lake Okeechobee by the most practical route in as direct a line as practicable, with a view to establishing a canal, taking his levels at each one hundred feet, placing a stake at each station, properly numbered, and shall sound with a steel rod at each stake, to a depth not exceeding ten feet, noting the depth of rock, if any, and character of soil at

each station, and to make the necessary maps and profiles from data obtained by the survey, showing the surface profile of soil and rock, and topographical notes of the country through which the survey runs, the datum line for the profile to be the mean tide level of the St. Lucie River, the said Fries to employ such men, teams, and material, as may be necessary," etc. (Minutes Trustees, Vol. 6, pp. 52-53.)

"Be it Resolved, By the Trustees of the Internal Improvement Fund of the State of Florida, that John W. Newman be employed, beginning from Saturday, the 11th day of November, 1905, at a salary of \$125.00 per month and expenses, and he to proceed to Fort Lauderdale, State of Florida, and make a hydrographic and topographical survey of New River from Fort Lauderdale, including both the North and South branches of said river, to a point in the Everglades where the altitude approximates the mean low water level of Lake Okeechobee, and that he prepare profiles of said survey, showing the depth of water every one hundred feet, and the approximate depth of muck or other formation to said rock, and surroundings of water and muck along the coast of said survey, and to make an elaborate survey of the topographical and geological formations in the region about said New River, and to make calculations as to the quantity of water which will be discharged through a proposed canal one hundred and fifty feet wide and ten feet deep, and the effect which the discharge of such water will have upon the waters of New River and adjacent lands; that said survey be made by him, with a view to constructing a drainage canal extending from some point on the New River, through the Everglades, to Lake Okeechobee, of a width equal to one hundred and fifty feet, and depth of ten feet for the whole course, and that Mr. Newman be authorized to employ such assistance, including the hire of a wagon and team and boats, as he may deem necessary to the execution of said work; that Mr. Newman shall keep an accurate pay roll of all persons employed by him, and report the same bi-weekly to the Trustees, and that he shall also keep an accurate account of all expenses included under

this resolution, and report the same bi-weekly to the Trustees." (Minutes of Trustees, Vol. 6, page 91.)

In aid of the work of the Drainage Commission, the Trustees on October 2, 1905, passed the following resolution:

"Resolved, That for the purpose of carrying out the drainage operations contemplated by the act of 1905, Chapter 5377, of the Laws of Florida, the State of Florida by and through the Drainage Commission, created by said act, and through such agents as they may employ, shall have the right of way through any and all lands which were conveyed to the State of Florida by the United States government under the act of September 28, 1850, that are now held by the Trustees of the Internal Improvement fund, or as to which any reservation has been made in deeds of conveyance by the said Trustees, as to the right to drain and reclaim, including the right to cut canals, dykes and drains in and upon and through said land, to throw up dykes, embankments, remove earth and stone, and any other material that may be necessary in connection with the drainage and reclamation of said lands, and the land adjacent thereto." (Minutes Trustees, Vol. 6. pp. 82-83.)

On December 12, 1905, the Trustees adopted a resolution for the first canal to be dug, as follows:

"It is Resolved, That they (the Trustees) adopt as the route for the first canal to be dug by the Trustees of the I. I. Fund, for the drainage and reclamation of the lands of the Fund, and for the lowering of the waters of Lake Okeechobee to prevent their overflow, the route recommended by Mr. J. W. Newman, civil engineer, now in the employ of the Trustees, which route is described as follows:

"Beginning at the mouth of Sabate Creek, at a stake marked 50, in Section 19, Township 50 S, R. 42 E., continuing thence south 70 degrees W. 2,500 feet; thence N. 73 W. about four and one-half miles to a stake marked 90; from this stake turning north 32 degrees W., following the open glades to the south end of Lake Okeechobee.

"The depth of the canal at the beginning, is to be

ten feet; at the end of one mile it is to be 12.7; at the end of two miles it is to be 14.6; at the end of three miles it is to be 14.5; continuing the same depth to stake No. 90, from which point the depth of the canal is gradually to diminish to ten feet deep at Lake Okeechobee.

"It is Further Resolved, That in digging northward when we find waters having outlets to the glades, not through New River, but through some other river or creek, that we dig a canal eastward through such river or creek, as an outlet for such water. The canal at the beginning to be 65 feet in width, and each outlet to the Everglades to be 50 feet in width, minimum dimensions." (Minutes Trustees, Vol. 6, page 96.)

On September 18, 1905, the Trustees entered into a contract with the Featherstone Foundry and Machine company, of Chicago, Ill., for the machinery, fittings and appliances for two dredge boats, with which to begin operations for drainage of the Everglade swamp and overflowed lands, by digging two canals along the routes selected, beginning at the head of New river. (For contract for machinery, etc., of dredges, see minutes of Trustees, Book 6, pages 66 to 81 inclusive.)

By reason of his thorough knowledge and experience, the plans for these two dredge boats were drawn according to the ideas of Governor N. B. Broward, and under his direct supervision—the material for their construction was assembled at Fort Lauderdale, and in the winter of 1905, they were built and launched in New River above the bridge of the East Coast Railway company.

The building of these boats at this point was made necessary by reason of the fact that it was found to be impossible to pass them through the draw of this bridge, if they were built at any other point. The necessity for their construction at this place made the cost much greater, because of the long distance required for hauling the material, machinery, etc. The cost of these two boats to the Fund was \$134,043.05.

On the 2d day of July, 1906, the "Everglades" was towed up to the headwaters of New River, and on the 8th day of July, 1906, started on the work of cutting her way through the Everglades to Lake Okeechobee, from the north fork of the river.

On the — day of March, 1907, the dredge "Okeecho-bee" was placed in commission, cleaning out the canal that had been dug by the "Everglades," and on the 8th day of April, 1906, was towed back to the source of the North Fork of New River, and started on a similar journey to the lake, in a parallel, though slightly divergent course to that of the "Everglades."

The commission visited Fort Lauderdale, and the scene of the present operations of these two dredges during the time we were engaged in this investigation, in September, 1907. We were accompanied by His Excellency, Governor N. B. Broward, and Comptroller, A. C. Croom. We found both boats at the head of the respective canals that had been cut, busily engaged in the work of digging their way through the muck lands of the Everglades.

The canal being dug by the "Everglades" is sixty (60) feet wide by fifteen (15) feet deep below the surface of the glades, and at that time was about one and a half miles in length. At this date the canals are each about ten miles in length. The canal to the south being dug by the other boat was estimated to be 7-8 of a mile in length at that time, of the same width, and twelve (12) feet in depth. The surface of the water in these canals was three to five feet below the surface of the glades, affording ample fall for drainage.

From the observation of the commission of the outline of the proposed drainage plan, the work accomplished, and a view of these powerful pieces of mechanism at work, the conclusion was that the Trustees had brought great knowledge and study to bear in the solution of this subject, that has agitated the minds of the leading men of the State since the first resolution on the subject was adopted by the Legislature of Florida in 1848, memorializing the Congress of the United States to grant these lands of the Everglades to Florida, *on condition*, that the State would drain them.

The work of these two dredge boats cannot be very well described. To see either of them at work, gives one the impression that he is looking at something endowed with human intelligence, so perfect are they in their automatic operation.

At the time of the commission's visit, the dredge "Everglades" was working through a rock strata about twelve feet, in thickness at the bottom of the canal

which rock has been encountered, as the surveys showed it would be from the point of beginning for a distance of some three and a half miles. There was at that time, about a mile and a half more of rock ahead of the boat, before the point would be reached where only muck would be dug. On the other canal, the "Okeechobee" has encountered only about three-fourths (3-4) of a mile of this rock strata; and when the commission was there this boat was then cutting through muck, with only slight evidence of rock at the bottom, which was fast disappearing as the boat advanced.

The dippers used in cutting through the rock, are of a pattern having three teeth made of tool steel, attached to the lid of the bucket or dipper, which dipper takes up 2 1-2 cubic yards at each dip. These buckets make three dips every two minutes, as shown by the watches held by members of the commission. When the muck is reached, the dredge uses a mud dipper that takes up five cubic yards at each dip, and in the same time.

The Trustees have Mr. J. W. Newman, a civil engineer, employed, who is immediately in charge of the work. The dredges and their work are under his personal supervision. This gentleman from the intimate knowledge of every detail of the work, as shown by his answers to questions from members of the commission, relative to same, justifies the good judgment of the Trustees in his selection. The business manager and representative of the Trustees upon this work, is Mr. Reed Bryan. From observations made by the commission of the manner in which he discharges these important duties, shows that no mistake has been made in placing him in this position.

All employees engaged in operating these dredges have their quarters and meals upon the boats, the accommodations being of a nature to secure comfort and cleanliness. The boats being fitted with electric machinery, have a system of electric lighting that enables the two boats to work a night shift, which your commission was informed was contemplated by the Trustees when the rock is passed (and muck only is being dug.)

This plan has been adopted by the Trustees of the present administration of draining that portion of our State known as the Everglades, comprehends one of that class of undertakings of such great magnitude that only by a close study of the question can a full comprehension

be reached; and yet, when the question has been thoroughly studied, the feasibility demonstrated, and it has been conclusively shown that by this work, if carried to completion, some six million (6,000,000) acres of land, embracing a territory sixty (60) miles wide by one hundred and sixty (160) miles in length, will be effected, and the greater portion reclaimed to the State for settlement and cultivation.

If the drainage of these lands is feasible along the lines as projected by the Trustees, then, it is the conclusion of this commission that there should not be a moment wasted, but every patriotic citizen in Florida, should aid in this work.

We take it that no one questions the fertility of this region of our State, nor its adaptability to almost every product than can be produced from the soil.

It is not our province or purpose to pass upon the feasibility of this plan adopted by the present Board of Trustees, to drain the Everglades—for others—but only to present those facts that have been found bearing upon the subject in connection with our own observations that have caused this Commission to arrive at the conclusion that the plan is feasible, and that it is the *first duty* owing to the Trustees of the Internal Improvement Fund to the people of Florida to drain and reclaim this barren waste, that it may be made available for agriculture, and be added to the State's taxable property.

From the minutes of the trustees we find that eminent civil engineers have made numerous surveys of this region, and in no instance do we find other than a favorable report from them upon the feasibility of draining these lands. Many other men of undoubted knowledge and experience have added their testimony on this subject.

General Thomas Jessup, who commanded the army operating against the Indians in 1838, from his own observations and those of his officers who explored the Everglades, says that the glades at about Lake Okeechobee are some thirty feet above sea level, and that the practicability he took for granted, and the effect would be to reclaim many hundreds of thousands of acres without including the bed of the Everglades. Were the surface of the lake and the glades lowered these fine lands would be reclaimed.

General W. S. Harney, U. S. A., who, during the Seminole War, was much in the Everglades, and crossed it from Miami to Shark River, said: "Of the practicability of drainage, I have no question that such work would reclaim millions of acres of highly valuable lands; that his plan for doing the work would be to dig a large, deep canal from Lake Okeechobee into the Caloosahatchee on the west side, and smaller canals from the glades into the head of Rattones, Little River, Arch Creek, Miami, Shark River, and other outlets on both sides of the peninsular." That he was satisfied that these canals and drains once opened, the glades would become dry. And he speaks of the productiveness of the soil; that he knew of no project that was more calculated to benefit the country.

J. M. Kreamer, who was the engineer in charge of the drainage operations of Hamilton Disston and associates, under their contract with the trustees to drain the lands in the Everglades, in his reports to the Disston people, in 1886 and later, he says:

"The surface of this soil is at times exposed, and it is only during or subsequent to a heavy rainy season that it is possible to penetrate with a light skiff, and then advantage must be taken of the natural drains of the vast area. If there was any absence of the dense sawgrass, no difficulty would be experienced in traversing the country in any direction. A four-foot reduction of the surface of the waters of this region would be sufficient for cultivation. The surface of the lower glades is well elevated above tide level, but, due to the rim of outcropping lime rock extending along the Gulf coast and Atlantic borders, the waters are, in a great measure, impounded and retained at varying elevations about the tide. Levels and measurements taken at Lake Worth establish the surface of the fresh water of the Everglades to be $10\frac{1}{2}$ feet above the tide water of the Atlantic, and that a canal 1,100 feet long would be entirely feasible to cut the rim at frequent intervals and permit the impounded waters to flow into the Gulf or Atlantic. This would result in exposing great tracts of soil now practically valueless.

"In 1883 Col. C. F. Hopkins, Deputy U. S. Surveyor, was engaged by the drainage company to ac-

company the New Orleans Times-Democrat expedition on a reconnoissance from the south shore of Lake Okeechobee, in a line due south, through the Everglades, to a point about opposite the north end of the Ten Thousand Islands, and thence in a southwesterly direction of the head waters of the Shark or Horney's River.

"In addition to other instructions, Col. Hopkins was directed to carefully note the depth of muck on the line of travel.

"In his report he clearly states that he made daily soundings, and no rock or sand was encountered at any point on the line of travel at a depth of ten feet below the surface until the party reached a distance of thirty miles south of Lake Okeechobee, when rock was found at a depth of eight and one-half feet below the surface of the muck, which showed that the surface of the underlying rock at that point was practically at tide level.

"During the year 1887, a line of levels was run southward from Lakes Hickpochee and Okeechobee, on the western margin of the Everglades to ascertain the possibility of securing a feasible route for drainage in that direction. It was found that on the margin of the marsh in the north range of Sections in Townships 48 S. of R. 34 E., the elevation of the muck was 12.76 feet below the surface of Lake Okeechobee, and distant therefrom 24 miles; the level of Lake Okeechobee being 22 feet above tide level."

(See message of Governor N. B. Broward to Legislature of Florida, 1905.)

H. S. Duval, State Engineer, writing of the success of the drainage operations of the Disston people in his report to the Trustees, says: "I have now given you all the practical knowledge on the subject which my observations enable me to obtain. I can only report on the conditions as I found them, all of which tend to establish the fact that the success of the scheme is assured."

(Minutes of Trustees, Book 3, pg. 319.)

Mr. S. L. Niblack, of Columbia county, agent of the Trustees, at the request of the Board, made an examination of the swamp lands, embraced in the contract with the Disston people—Atlantic & Gulf Coast Canal and Okeechobee Land Company, and in his report to the

Trustees, December 18th, 1882, after stating his observations upon the conditions of these lands, throughout the southern portion of the State, all of which he visited, he says:

"This drainage enterprise is one of very great importance to the State, and if successful, will open up a large section of country for settlement and cultivation; and from the present tendency of immigration to South Florida, I have no doubt, that as fast as the land is permanently drained, it will be purchased and improved, which will add largely to the taxable resources of the State and contribute to the relief of the people from heavy taxes.

"But to accomplish the object in view, it will certainly require an immense expenditure of money. I am informed it will be necessary for the complete reclamation of the land to cut three, and more than probably four large canals, one to connect Lake Okeechobee with the Caloosahatchie River, one to enlarge and straighten the Kissimmee River, one to connect the lake with St. Lucie River on the east and more than probable one further south to connect the lake with New or Hillsboro River, and again to drain that large portion of country subject to inundation by rainfall, will require quite a number of large ditches of various lengths and in different directions to some source where the water will be carried either to the Atlantic or to the Gulf."

(Minutes Trustees, Book 3, page 194.)

J. M. Dancy, who was appointed by the Trustees of Governor's Bloxham's administration, to examine the Southern or Caloosahatchee division of the district, then being worked by the Disston people, made report to the Trustees November 26, 1881. After stating fully the condition of the lands as showing the success of the drainage operation then being conducted—he concludes as follows:

"I have personally examined the lands embraced in the above lists, and find that they have been permanently drained and reclaimed by the operations of the Atlantic and Gulf Coast Canal and Okeechobee Land Company, and rendered fit for cultivation.

"It is my opinion that should the drainage company keep the streams and canals even in the condi-

tion that they are now in—the country will never suffer from flood seasons again, but will constantly improve and become better drained.”

Minutes of Trustees, Book 3, page 338.)

In a previous report to the Trustees, on the same subject, June 30, 1883, we find the following language:

“This examination is confined to the northern portion of the drainage district. It will be well for me to note here, the main work of drainage which has been carried on at three points within the district, viz: South from Lake Tehapekaliga to Lake Cypress, west from Kissimmee Lake to Lake Tiger, Rosalie, Walkin-Water and west from Lake Okeechobee to Lake Hickpochee, Flirt and the Caloosahatchee River.

“I have only examined the townships affected by the connection of these large lakes by short cuts, thus lowering the entire water level of this entire section of country. I also carefully examined all streams of whatever size they were making into these lakes, and to the astonishment of all, though it had rained in that section of country for 24 days in succession, all travelers said the streams were lower than they had ever been, thus showing, in my judgment, that this lowering of the water level in those lakes had affected not only the drainage in the drainage district, but for miles outside of it, and I also noticed that small lakes and water ponds, though it rained on me every day but one, heavily, did not rise as they usually do during the rainy season.

“I may say here, relying on the good faith and success of the company, many settlers are taking up lands for permanent homes in this district.

“These lands one year ago, were considered of no value, on account of the overflow of water, which lands are now from two and one-half to eight feet above wet season water level.

“Through the agency of the drainage canals from this cause alone large tracts within the drainage district heretofore considered undesirable, are today improved and susceptible of cultivation; and adjacent lands are assuming the same condition.”

(Minutes Trustees, Book 3, pp, 243-44-45.)

“In 1880 and 1882 a line of levels was made by

General Gilmore, under the direction of the United States Senate. These and other surveys by Col. Charles Hopkins, Major Wirts, V. P. Keller and J. W. Newman, fix the elevation of the Everglades at from 21 to 23 feet above tide water level.

"The difference in these figures, is accounted for by the depth of the water on the glades when the surveys were made.

"In 1891, a survey by W. R. Caldwell, Assistant United States Engineer, fixed the levels of Lake Okeechobee at 20.42 feet above tide water level."

(See message of Governor N. B. Broward to the Legislature 1905.)

Captain R. E. Rose, the State Chemist, was superintendent of the drainage operations of the Disston people, under their contract with the state, from June 23rd, 1881, to March 31st, 1886. After stating that this company by their contract with the Trustees, undertook to drain the whole of the Everglades, or all of the territory south of Township 24, east of the Pease River, to the Gulf and Atlantic; and that he, as local engineer in charge of the construction of the dredges and canals—built three dredge boats, costing from \$7,500.00 to \$30,000.00 each—which were used by the company in its work under this contract, in cutting a canal from East Tohopekaliga into Tohopekaliga proper, and from this lake into Cypress Lake, and from Cypress Lake into Lake Hatchineha, which latter lake is connected with the Kissimmee River, which river was cut out and straightened into Lake Okeechobee; from Okeechobee a canal was cut into Lake Flirt, the head water of the Caloosahatchee River. Another canal was cut out of Hickpochee, running in a southeasterly direction, somewhat parallel to Okeechobee, and another out of Okeechobee to intersect with this canal; and still another was cut out of the south side of Okeechobee, leading south into the glades—altogether making seventy-four (74) miles of drainage canals dug by the Disston people.

Of the success of this work Capt. Rose says:

"The drainage of the Everglades, in my opinion, from long experience in such work in Louisiana and Florida—it is simply a matter of a sufficient number of drains of sufficient capacity to carry the water off. I consider the project absolutely feasible. I do not know of an engineer of any repute as drainage engineers, in this or any other

country, who is not fully convinced of the practicability of draining the area—there is no question about it at all. I was consulted by the Board of Drainage Commissioners in building their dredges, and laying out of the routes for drainage, which I have made a study of for some twenty-five years. (Referring to the Board of Drainage Commissioners created by the Legislature of 1905, and the dredges that are now used by the Trustees of the Internal Improvement Fund.) The Trustees are following the lines and methods as suggested by the Florida East Coast Drainage and Sugar Company, with whom the trustees contracted to drain these same lands in 1898—that was Mr. Parrott and his associates. From my intimate knowledge of the country and the character of the land and the situation there—I am convinced as to the feasibility of the present drainage operations. I was superintendent and general manager of the Florida East Coast Drainage and Sugar Company, and took part in the actual surveys that were made. There were three surveying parties employed by this company—one party under Mr. McDonald, one under Mr. Fredericks, and one under Mr. Sheen, working simultaneously in that district between New River and Miami, under my direction. The result of these surveys, maps, estimates, etc., were filed with the Board of Internal Improvement, as per contract mentioned; and at the same time, a plan or scheme practically the same as now being followed out by the Board of Drainage Commissioners (meaning the Trustees of the Internal Improvement Fund), was presented and approved by that Board. From previous surveys and levels made by the engineers for the Disston Company, under my direction, the altitude of Lake Okeechobee above sea level is twenty-one (21) feet. As to the financial value of these lands, when drained, I would hesitate to put a price on the lands. As to their agricultural value, however, there would be no superior lands anywhere in the United States, because of the agricultural productions, owing to the fertility of the soil, the sub-tropical climate, abundant rainfall and the practicability of absolute drainage, without artificial means. The system of canals projected by the Board of Trustees, as I understand it, and which I recommended in my report to the Board of Drainage Commissioners, embraces a canal not less than one hundred and fifty (150) feet broad, and ten (10) feet deep from Lake Okeechobee

to the Caloosahatchee River, removing the natural divide that occurs between Fort Thompson and Lake Hickpochee. Another canal extending south to New River of the same dimensions, with outlets into the streams north of New River, flowing to the east; the Hillsborough, the two Cypress Creeks, Middle River; also a canal of same dimensions, flowing from Okeechobee, or the New River canal, in a northeasterly direction, with an outlet into the St. Lucie River or Lake Worth—either of them; that would lower Lake Okeechobee in proportion to the depth of the cutting.”

Governor Broward, in his testimony, says that: “Instead of one canal being cut out of New River, as recommended by Captain Rose, two canals of sixty (60) feet in width are being cut to Lake Okeechobee.”

Governor Broward further says, in his testimony, in reference to the projected plan for drainage of the Everglades, and states the plan adopted to be as follows:

“It is also intended by the Trustees, that canals shall be cut into the heads of the several rivers, other than New River, which flow into the Atlantic Ocean, as the canals progress towards the north. South Fork of Middle Creek, North Fork of Middle Creek, two Cypress Creeks and the Hillsborough River, enlarging the size of the main canal after it passes each of these rivers to admit what additional amount of water that the river into which we cut would take away; and then, to dig into the St. Lucie River, from the east side of Lake Okeechobee, on a route to be agreed upon as the best route (lands to be reclaimed to be considered first), that we will determine upon. We have already found that to dig a canal there is feasible. In addition to that, we propose to deepen and widen the canal dug by Disston, from the southwest corner of Lake Okeechobee to the Caloosahatchee River, and then to run parallel canals south from Lake Okeechobee—one in the direction of Shark River and the other parallel to it, and connecting with the canals to the east and south, into which lateral ditches or small canals will be cut, and the work continued until all of the swamp and overflowed lands in that vicinity are reclaimed, so far as it is practicable, meaning profitable to do. I will say this: the backbone of the Everglades—the highest ridge, in other words—runs from the south end of Lake Okeechobee, in a direction slightly east of south, down to

the pine lands south of Miami—water from the center of the backbone, a portion of it, running east; and the other part of it running west, to valleys that run north and south—the highest end of the valley being at the southeast end of Lake Okeechobee; and it is well to keep in mind that the highest land south of Lake Okeechobee is the land immediately bordering the lake; and, in fact, it is higher than any of the lands south except Immokalee, which is the highest piece of land south of the Caloosahatchee River and Lake Okeechobee. The aim of the Trustees is to lower that lake—keep it inside of its own boundary, and to supply, in addition thereto, sufficient cross-section area of canals to carry off the rainfall that would be taken into the main canals by lateral ditches, dug either by the Trustees or by the persons to whom the lands are sold. We are going on the theory that it is the duty of the Trustees to dig the canals, the same as the water mains in a city, that are owned by the city, and laid by the city, and tapped by the private individuals. There will be a standard for these lateral ditches if the Trustees dig them, but some lands—suppose, for instance, one man—suppose that he concludes that he wants a rice field—then he would dig ditches with a view to planting rice; another would want to plant corn, or sugar cane, or some other crop that requires dry land, then he would dig his to suit the crop that he wants to plant; but the main streams would take care of the land.”

Governor Broward further says, in his testimony: “The project in the outset, contemplated six (6) dredges of the same capacity as these we now have, but we have been unable to obtain the six dredges for want of funds; and, therefore, we have been compelled to content ourselves with what we have. If we saw our way clear we would put on these dredges and complete the work within four years from the time that we began—yes, the whole thing. If we had the other dredges to work with we would put one in the Caloosahatchee River to clean out the headwaters, and to make the river straighter and to cut out openings in the lands bordering on Lake Okeechobee, with a view of draining it into the lake; two cutting south from Lake Okeechobee, to meet the two dredges that are now cutting north, and we would put one in the Miami River cutting north to intercept the canals being cut from New River.”

Governor Broward, in answer to the following question, "How does the cost of the dredging that is now being done by the Trustees, compare with contract work usually?" testified as follows:

"I can answer that better by detailing the work that is being done now, and that has been done in the last five or six years, in the State of Florida. The work being done—Captain R. G. Ross, in digging rock in the St. Johns River, was digging under competitive bid system of the United States, and he received \$4.33 per cubic yard for it. The work in the Hillsborough River—one of the contracts is at the price of \$4.89, and the other contract price is \$4.90 per cubic yard. The government has done, under its own management, with its own dredges, some rock digging in the Kissimmee River, for two dollars and sixty-odd cents (\$2 and 60-odd cents). You can see that in the report of it in the Journal of the Senate and House of the last Legislature. The government is paying P. Sanford Ross, in Biscayne Bay, seventy-eight (78c) cents per cubic yard on one contract; and the government at Sarasota, I believe—you will find in the Journal of the House and Senate—one dollar and thirty-four cents (\$1.34) I think. The cheapest work that I know of in rock, under competitive bid system of the United States government, or that I have ever known of, is that being done by P. Sanford Ross, in Biscayne Bay, which is seventy-eight (78) cents per cubic yard; and the cost to the Trustees for digging rock with the dredges that they have, has not been exceeding ten (10c) cents per cubic yard. That is figured into that eight hundred and thirty-four dollars (\$834.00) per month for each dredge, as wear and tear—which is excessive while they are new, but won't be excessive when they get old. Newman's figures that he gave to the last Legislature, at the last session, he added in all of the improvements—spuds and broken dipper arms. In my figures I simply allow eight hundred and thirty-four dollars (\$834.00) each, which is 20 per cent. on the fifty thousand dollar dredge. The life of a dredge, kept up as these are, under ordinary circumstances, would be thirty or forty years. I saw one in Chicago, made by the same people—it was twenty-eight years old, and had lost three days in six months."

From the foregoing view of the authorities, together with the personal observations made by this commission while engaged in this investigation, we can reach no

other conclusion than that this work should be completed as it had been begun; that any abandonment of, or even a cessation of same, would be a distinct and irreparable loss to the State.

This vast area of six million acres (6,000,000) has been and is now dead and useless to the State.

It may be added just here, that from our investigation, the great work performed by the Disston people under their contract, should have been carried forward—but there was no provision in the second contract requiring the contractors *“to permanently lower and keep reduced the waters of Lake Okeechobee, and thereby permanently lowering and keeping reduced the high water level of the Kissimmee River.”*

This provision was in the first contract (Minutes Trustees, Books 2, page 464), but was omitted in the substituted contract. (Minutes Trustees, Book 3, pages 501-504.)

The failure or oversight of the Trustees to include this provision left the Disston people free to earn the lands at the rate of one acre for every twenty-five (25c.) cents expended in digging canals. While these canals, dug at such cost and which had proved so beneficial, were abandoned and allowed to fill up.

This indifference on the part of the Trustees to one of the trusts imposed by the act of 1855 is one of those things that this investigation has failed to find satisfactory explanation for.

The 1,652,711.50 acres of land of the fund conveyed to the Disston people was, in our opinion, too great a price to pay for demonstrating the feasibility of drainage.

INDEBTEDNESS OF LAND GRANT RAILROADS AND CANAL COMPANIES TO THE FUND.

The question of whether or not the railroads, which have received grants from the State of lands belonging to the fund, while the Vose judgment was pending, should be compelled to reimburse the fund, caused the Trustees, at different times, no little concern, and on April 10th, 1885, the Trustees of Governor Perry's administration adopted the following resolution:

“Resolved, That it is the determination of this Board that they will withhold from all railroad companies which have legislative land grants, in addition

to alternate sections, one-third of the lands, or so much thereof as may be necessary to satisfy the estimated amount which has been and may be required to relieve the Internal Improvement Fund from incumbrance which *heretofore existed and still exists*, and for the purposes of administering the fund.”—
(Minutes of Trustees, Book 3, pages 343-354.)

This resolution was the result of a conclusion reached by the trustees:

1. That the railroads holding legislative land grants should contribute their pro rata share to the payment of the Vose judgment, which, for some fourteen years, had been a first lien on the whole fund.

2. That the legislative land grants to railroads were in *presenti*. That it took effect upon the lands then in place within the limit which embraced that quantity of land granted per mile; and any of the land which lay within the limits (including the ten or twenty thousand acres per mile) which was selected by Hamilton Disston and Sir Edward J. Reed (sold to them to pay the Vose judgment), the railroads could not go outside of the limits for more land to indemnify them. The fact that they did so, and were indemnified for the lands selected by Disston and Reed out of their grants, made them liable to the fund for their pro rata share of this indebtedness.

Subsequently, the Legislature of Florida took the same view of the matter, and adopted Resolution No. 9, Session of 1889, which provided for the appointment of a committee to investigate and report as to the proportion of indebtedness of the various land grant railroads and canal companies on account of the lien or indebtedness existing at the time the lands were granted to such railroads and canal companies.

The resolution in part states:

“That when large grants of lands were made by the Legislature of the State of Florida to corporations, in some cases including three million acres, said lands were encumbered by the lien created by the Trustees of the Internal Improvement Fund, which amounted to an enormous sum of money. It was the intention of the Legislature, as shown by the act making these grants, that the corporations to whom the grants were made should, before being

entitled to the land granted, have to pay a just portion of said debt of said Internal Improvement Fund."—(Page 57, Senate Journal, 1889.)

This provision referred to in this act was a provision written in every legislative land grant to railroads, that the grant was to be subject to the trusts created by the act of 1855, and which was, in 1881, by Chapter 3326, enacted into a general law, and carried into the Revised Statutes as Section 440 now in the General Statutes, Sec. 628.

This committee made report to the Legislature (1889), as appears on the Senate Journal, pages 750-763, which committee estimated that the railroads and canal companies were indebted to the Trustees of the Internal Improvement Fund in the sum of one million, five hundred and six thousand, nine hundred and thirty-six dollars and fifty-one cents.

The Legislature of 1891 passed Senate Joint Resolution No. 1, directing and empowering the Attorney General to institute legal proceedings to compel settlement of any indebtedness to the State by the different railroad and canal Companies.—(Acts 1891, page 212.)

On May 7th, 1892, the Attorney General reported to the Trustees that he was preparing to institute suit against these various land grant railroad and canal companies, under the provisions of the said resolution of the Legislature of 1891.—(Minutes Trustees, Vol. 4, page 198.)

In 1893 the Attorney General called attention to the fact that the resolution directed the proceedings be brought by him, and suggested that the suit should be in the name of the Trustees of the Internal Improvement Fund, in view of the fact that the title to the land was vested in the trustees, and any funds or lands recovered would enure to the benefit of and become a part of the trust held by said trustees.

For some reasons the suits were never instituted, and in April, 1905, the trustees requested advice from their counsel, Hon. W. S. Jennings, who advised the Board that the railroads and canal companies were not liable, for the reason that the Legislature *had no authority to grant the lands to these corporations, because the title to all these lands became vested in the trustees by the act of 1855.*

If this position is correct, the query is pertinent—

Why should these railroads longer continue to enjoy these great benefactions from the State?

It seems to create an anomolous situation to say that these corporations should be exempt from payment of their pro rata share of the Vose judgment (a liability created solely in aid of railroad construction, to-wit, by guaranteeing the interest on the coupons of the railroad bonds issued in aid of their construction, *because* the Legislature did not have the authority to grant these lands. This construction permits them to keep the lands illegally acquired, and by reason of being illegally acquired, immune from any liability for indebtedness that was against them when acquired. In other words, though the Legislature had no power to grant the land, yet, since it was granted, it is theirs, and the State was obligated to the railroads and canal companies to pay off the million dollars and more of judgments, in order that the illegal gift might pass free of incumbrance—warranted the title to the thing it did not have.

Before concluding this report, we think it well to submit our conclusions as to the legal environments of the fund.

The Supreme Court of California, Iowa, and the Supreme Court of the United States, have decided that the act of Congress of September 28, 1850 granting swamp lands to the several States, was a grant to the States in presenti, with full power to dispose of the land and to make application of the proceeds so far as necessary to secure the objects specified (that is to say, drainage, reclamation and settlement of the lands); that no person except the United States can question the disposal of these lands or their proceeds made by the Legislatures of the several States.

King county vs. Pulare county, 119 Cal. 509; 51 Pac. Rep. 866.

American Emigrant Company vs. Adams county
100 U. S. 61.

Mills county vs. Burlington & M. R. Co., 107 U. S.
557.

Hager vs. Reclamation district, 111 U. S. 700.

U. S. vs. Louisiana, 127 U. S. 182.

In an Iowa case, it was held that the act of Congress of Sept. 28, 1850, granting swamp and overflowed lands to

the States was a grant in presenti, and the grant of the General Assembly of Iowa of 1852, vested the title in the same manner in the respective counties.

Smith vs. Miller, 105 Ia. 688; 70 N. W. Rep. 123.

These decisions of the highest court of the land eliminate the question of any trust or contract being impressed upon or following the grant of these lands, and leaves us free to consider the effect of the act of the Legislature of Florida of 1855, known as Chapter 610, acts of 1855.

We think the word "irrevocable" in the act is mere surplusage, except, perhaps, to aid in showing the intent of the Legislature. We believe that the act of 1855, with or without the word "irrevocable," takes the fund and property entirely out of the control of the Legislature, so that no subsequent Legislature could grant the lands or control the funds unless such subsequent legislative enactments are made subject to the trust created by the act of 1855. These trusts we have noticed elsewhere in this report.

This act of 1855 passed the title to these swamp and overflowed lands and the remainder of the 500,000 acres of the Internal Improvement Land to the Trustees therein named. There was a complete divestiture of the State's title, except to the residue that might remain after the trust was executed and a full and complete vestiture of title in these Trustees of the Internal Improvement Fund. Using the language of the Iowa court in the case above cited, "The act of the General Assembly of Iowa, 1853, vested the title in the same manner in the respective counties." We apply it to the act of the Legislature of Florida and say: The act of the Legislature of Florida, 1855, Chapter 610, created the Trustees of the Internal Improvement Fund, a body corporate, and vested in them the title to these swamp and overflowed lands, and charged them with certain duties as to their disposal and management.

Therefore, we think that the act granting the lands to railroads by the Legislature of Florida, having a provision therein inserted in the first granting act in 1879, to meet the objections presented in Governor Drew's veto message, and contain in all the subsequent acts granting lands to aid in railroad construction and carried into the general law in Section 660 of the General Statutes of Florida, that the grant is made subject to all the obligations of the trust, was the only terms

upon which the Legislature could make a grant. The residuary interest is all that the State owned after the enactment of Chapter 610, act 1855—The trust therein created would have to be fully executed before any of these grants would be effective. This reservation in the acts has not been judicially construed, so far as we can find. We think the Trustees were and are absolutely right in refusing to deed any more land under these grants.

We fully realize that this proviso in these grants was never observed, except in the breach, after the administration of Governor Drew, and until the administration of Governor Jennings.

The Supreme Court of the United States, in the case of State of Florida vs. Anderson et al., 91 U. S. 676, held that the Trustees of the Internal Improvement Fund was a corporation established for a public purpose, vested with the legal title to the land.

The court in that case said:

“From the statement already made in reference to the history and character of this fund, and the duties of the Trustees in regard to it, it is apparent that the Trustees are merely agents of the State, *invested with the legal title of the lands for their more convenient administration*; and that the State remains in every respect the beneficial proprietor, subject to the guaranties which have been made to the holders of the railroad bonds secured thereby. *The residuary interest in the fund belong to the State.* The fact that the Trustees consist of the governor and other executive officers, and that they are charged with the duties of drainage, reclamation and settlement of the public lands (duties of a purely public character) shows that they are mere public agents invested with an important branch of the State administration.”

The case of Trustees of the University vs. Foy, 1 Murphy (N. C.) 58; 3 Am. Dec. 672, we find to be a case on all fours with the case under discussion. In that case the Legislature of the State granted to the Trustees of the University certain property (lands), escheated to the State. An act was subsequently passed divesting such property. The court said:

“When the Legislature have established a university, appointed trustees and vested them with property, which they were to hold in trust for the benefit of the institu-

tion, have they not discharged their duty as the agents of the people, and transferred property which is afterwards beyond their control?

"From that moment the trustees became, in some measure the agent of the people, clothed with the power of disposing of, and applying the property thus vested to the uses intended by the people, but over which the power of the Legislature ceased.

"Although the trustees are a corporation established for public purposes, yet their property is as completely beyond the control of the Legislature as the property of individuals, or that of any other corporation established for merely private purposes. In every institution of that kind, the ground of establishment is some public good or purpose intended to be promoted; but in many, the members thereof have a private interest coupled with the public object. In this case, the Trustees have no private interest beyond the general good; yet we conceive that circumstances will not make the property of the Trustees subject to the arbitrary will of the Legislature. The property vested in the Trustees must remain for the uses intended for the university, until the judiciary of the country, in the usual and common form, pronounce them guilty of such acts as will, in law amount to a forfeiture of their rights or as a dissolution of their body. Other authorities might be cited, but we think this is sufficient.

A resume of the history of the land grants at this point may be useful.

The Legislature adopted resolutions in the 40's and early 50's memorializing Congress to grant lands to several companies to aid in the construction of railroads and other public improvements, which resulted in Congress passing an act in 1866, granting the alternate sections within six miles of certain proposed lines of road, to wit: A road from St. Johns River to the waters of Escambia Bay, at or near Pensacola; and from Amelia Island, on the Atlantic, to the waters of Tampa Bay, with a branch to Cedar Key, on the Gulf of Mexico; and also a railroad from Pensacola to the State line, in the direction of Montgomery."

This grant provided that these lands could not be disposed of or used for any other purpose than that specified in the grant. This grant also provided that these roads should transport any property or troops of the United States free of toll.

The first land grant to a railroad by the State Legislature was in 1853, but this grant was repealed by the succeeding Legislature. The first effort to grant the Internal Improvement lands to any corporation by the State Legislature, after the lands had been placed in the hands of the Trustees, was made in the fall of 1855. This act was vetoed by Governor Broome, on the ground that the Legislature had no right to grant land beyond the six-mile limit—this right being expressly reserved in the act creating the Trustees. This idea seemed to prevail until after the war, when our State fell into the hands of what is commonly known as “carpet-baggers.” During the period from 1868 to 1876 there was a wild run for all there was in sight, and while they did not grant outright any but the alternate sections, as provided by law, the Trustees entered into numerous contracts to sell all the State’s interest, within certain limits, to the promoters of railroads, canals or darinage schemes, at a normal price, ranging from two to ten (2 to 10c) cents per acre. This condition continued until the State was rescued from the hands of the plunderers by the election of Governor Drew.

Again, in 1879, the Legislature attempted to grant lands beyond the six-mile limit, without any regard to the liabilities of the Trust Fund, or the provisions of Chapter 610, which placed these lands in the hands of the Trustees. Governor Drew vetoed these acts, and gave his reasons therefor in the following message to the Legislature:

Executive Office,
Tallahassee, February 25, 1879.

Hon. W. D. Barnes,
President Pro Tem. of the Senate.

Sir:

I have the honor to return through you to the Senate three bills, which originated in that body. One is entitled “An Act to grant certain lands to the Tampa, Pease Creek and St. Johns Railway Company,” the second “An Act to grant certain lands to the Gainesville, Ocala and Charlotte Harbor Railroad Company,” and the third “An Act to incorporate the Chattahoochee and Pensacola Railroad Company.”

The first bill proposes to grant to the Tampa, Pease Creek and St. Johns Railway Company the

alternate sections of the swamp and overflowed lands granted the State by the act of Congress of September 28, 1850, lying along and adjacent to its projected line of railway from Tampa to St. Johns River, a distance of about one hundred and ten miles (10) to the extent or quantity of ten thousand acres per running mile, and further provides, that if any of such lands are sold before a survey of the route is filed in the office of the Secretary of State, then, that the quantity so sold shall be made up from the even numbered sections of such lands or any state lands lying nearest the line. Upon the grading of ten miles of the roadbed and placing cross ties thereon, the Trustees are to convey to this company, lands at the rate of ten thousand acres per running mile, and so on for each ten miles, "graded and tied" until the completion of the road, it being provided, however, that for every forty miles so graded and furnished with ties there shall be ten miles of road fully equipped and in running condition.

The second bill proposes to grant to the Gainesville, Ocala and Charlotte Harbor Railroad company (No. 1.) the alternate sections of swamp and overflowed lands for fifteen miles on either side of its projected road, including its branches, to the amount or quantity of eight thousand acres per mile.

The proposed line of road is to commence at or near Lake City, in Columbia county, and run in a southerly direction through or near Gainesville, in Alachua county, Ocala, in Marion county, Leesburg, in Sumter county, and Brooksville, in Hernando county, to the waters of Tampa Bay, with one branch from some point in Sumter county, through or near Bartow, in Polk county, to the waters of Charlotte harbor, in Manatee county, and another branch to Palatka, in Putnam county. The length of this line including the two branches, is at least four hundred miles. *The Trustees of the Internal Improvement Fund are to withdraw from sale, the lands covered by this grant, and lying adjacent to each section of twenty miles, being filed with them, and so on, until the whole route is surveyed. The Trustees may make sales of such lands to actual settlers, and are to place the proceeds thereof to*

the credit of the company. As the company constructs sections of ten miles of the road, the Trustees are to convey to it, the lands so granted adjacent to the completed road. *Should any deficiency of land be found upon filing the preliminary survey, the Trustees are to supply the same by granting other lands adjacent to and nearest the line of road.*

The third bill proposes to grant to the Chattahoochee and Pensacola Railroad company, whose projected line of road is to extend from the Apalachicola river, at or near the terminus of the Jacksonville, Pensacola and Mobile railroad, westward to Pensacola Bay, within extension to St. Andrews Bay, and with branches to Freeport, on Choctawhatchie Bay, and to the Perdido river, and to the Alabama line, west of the Escambia river, a distance of about two hundred and seventy-five miles, the aid provided for in the Internal Improvement Act (Chapter 610) and its amendments, including those which may be passed at the present session, and also the swamp and overflowed lands lying along and adjacent to said line, its extensions and branches, to the amount of ten thousand acres per lineal mile; *and the Trustees of the Internal Improvement Fund are authorized upon the grading of sections of five miles and putting crossties thereon, to convey to the company ten thousand acres of such lands for each mile, it being provided, that for every forty miles of road so graded and furnished with ties, the company shall equip ten miles in a manner suitable for carrying passengers and freight before any other lands shall vest in such company.*

The company is not, however, to take under the act more than ten thousand acres per mile. *Should any of the lands granted be sold after the passage of this act, and before the survey of the route, or should the lands adjacent to the route be insufficient to supply the number of acres granted, the deficiency is to be made up from other "swamp and overflowed internal improvement or State lands" nearest the route.* After the commencement of the line of railway, all the land granted and lying west of the Apalachicola and Chattahoochee rivers *are to be withdrawn from market, until after the expiration of the time allowed for the completion of the road,*

unless the charter is sooner forfeited. The road is to be commenced in one and completed in five years.

An early development of our State is the desire of every good citizen, and should be the aim of all persons of individual or official influence. Nothing will secure this result sooner than the construction and operation of railroads, managed by persons feeling an interest in the country and controlling their business upon those healthy principles of reciprocal support, which always exist between the proprietary carrier on the one hand and the producer and consumer on the other. I yield to no one in earnest wishes to see such an end attained; and the character of the corporators, in the above named companies, satisfies me that if the roads proposed should be constructed, that their completion would soon be followed by a new era of prosperity and happiness to our people, and it is only in obedience to a pressing sense of official duty that I consent to withhold my approval of the bills named. The reasons for so doing I will now submit.

The lands covered by these grants are those granted to the State by the United States by the act of September 28th, 1850, and are commonly known as the "swamp and overflowed lands." As is well known, these lands and the five hundred thousand acres of internal improvement lands granted to the State by the act of Congress of September 4th, 1841, were, by the act of the Legislature, entitled "An act to establish a liberal system of internal improvement in this State, approved January 6th, 1855, vested in the Board of Trustees of the Internal Improvement Fund of the State. *To this Board was given power to make arrangements for reclaiming swamp and overflowed lands as contemplated by the act of Congress of September 28th, 1850, and decided by our Supreme Court in the case of the Trustees of the Internal Improvement Fund vs. Gleason (15 Florida), and to manage and sell the lands. The net proceeds of the sale of these lands, over and above the amounts necessary for the purpose of management and reclamation, were, by this act of January 6th, 1855, pledged to the payment of the interest on the bonds which might be issued by railroad companies, which should*

undertake the construction of any part of the line of railroad from the St. Johns River to Pensacola Bay, with an extension from suitable points on this line to St. Marks River, or Crooked River, at White Bluff on Apalachicola Bay in middle Florida, and to the waters of St. Andrews Bay in West Florida, and a line from Amelia Island to Tampa Bay, with an extension to Cedar Key. Certain companies constructed railroads on these lines from Jacksonville, on the St. Johns River, to Quincy, in Middle Florida, and from Tallahassee to St. Marks, and from Amelia Island to Cedar Key. To aid in their construction, these companies issued bonds, which were endorsed by the Trustees of the fund, with an agreement, guaranteeing the payment of the interest thereon out of the proceeds of the land. Thus, these lands became pledged to the payment of this interest.

It was a provision of this act of January 6, 1855, that no bonds issued after the end of eight years from its passage should be so guaranteed.

There are now outstanding of the past due coupons, representing the interest on these bonds, about \$367,000, and as these coupons, like other negotiable paper, bear interest themselves, there is now due upon these about \$650,000.

These are the amounts given by the Master in the Vose case. There are additional coupons. It was the evident intent and purpose of the Internal Improvement Law that these lands, or their proceeds, should be applied to no purpose of internal improvement other than those named in the fourth section of that act, until the coupons had all been paid, or at least placed on a safe basis of payment. That this was the contract between the coupon holder and the State, is not only plain from the language of the act, but has several times been adjudged by the courts, *and it is shown by the history contemporaneous with the enactment of the law.*

In November, 1855, Governor James E. Broome vetoed two bills, one entitled "An act granting certain lands to the Palatka and Micanopy Plankroad Company," and the other entitled "An act to remove the obstruction to the navigation of the Suwannee River." These acts, as will be inferred from their titles, contemplated the use of lands or their proceeds

for purposes not embraced in the Internal Improvement Act.

In speaking of the Internal Improvement Act, he says:

This act vests the whole Fund in a Board of Trustees, for certain well defined purposes, and divests the General Assembly of the title. These bills seek, under the authority of the General Assembly, to withdraw a portion of the Fund; and if the power exists to withdraw any portion or for any purposes not expressly provided, then it exists to withdraw the whole, and the deed of trust is of no value. The Fund cannot be applied to objects other than those specified in the general law; and therefore, had the bills been signed, they could only have led to unpleasant litigation." It is unnecessary to say that these bills never became laws.

A careful perusal of the Journals of these years will discover how fully it was the intention of the Legislature, as understood by contemporaries, to appropriate these lands to objects set forth in the Internal Improvement Act, and to prevent, not only any diversion of them from such purposes, but anything that would interfere with the management of that Fund by the Board of Trustees in the interests of the objects for which it was thereby pledged.

In 1861, when the Fund was not embarrassed anything like it is now, or at all, save for the state of war in which the country then was, it was attempted by the Legislature to appropriate part of this Fund to cleaning out the channel of the Apalachicola River. In a suit instituted by a holder of bonds, the interest on which the Fund was pledged to pay, it was held by the Supreme Court of the State, that the Legislature had the power to pass the Internal Improvement Act, and so pledge the lands and money composing that Fund, and that it constituted a contract with the bondholders, and that the improvement of the channel of the river not being one of the improvements designated in the Internal Improvement Act, that the Act of 1861, was in derogation of the rights of the bondholders, and therefore, unconstitutional and void. Trustees vs. Bailey, 10 Florida.

In the case of Gonzales vs. Sullivan, 16 Fla., 817,

the Supreme Court, in speaking of the above case, says.

"The ground of action was that the measure of the right of the holder of the bond, was the Act of 1855; that upon a sale of the bonds therein authorized, rights became vested, a contract was brought into existence; that the terms of the law measured its obligation, and that the Act appropriating funds for the improvement of the river was a violation of that contract in that it diverted a portion of the Fund pledged for the payment of the bond contrary to the terms of the law."

"That case is authority for the position that an antecedent bondholder can set aside or enjoin an appropriation of the fund for any purpose to which it was not applicable at the time that his right as bondholder attached.

In the case of the Trustees vs. The St. Johns Railway Company (16 Fla.), the Internal Improvement Act is held to have for one of its main objects the carrying into effect of the purposes of the grant of Congress, under the Act of September 28, 1850, and the court says that the 'companies' accepting it, their creditors and the Trustees, acquired all the rights conferred by this act, subject to its restrictions and reservations, which formed a part of the law of their contract with the State when they accepted its provisions.

Subsequent to 1868 and prior to 1873, the Trustees of the Internal Improvement Fund attempted to donate or sell at nominal prices these lands *for purposes other than as contemplated by the act. The result was, a suit by the holders of the bonds, and an injunction, and finally the appointment of a receiver, to whom all moneys derived from sale of lands are paid, to be applied to the payment of coupons, as contemplated by the Internal Improvement Act.* In this case (Vose vs. Trustees, 2 Wood) Mr. Justice Bradley in speaking of the case of the Trustees vs. Bailey, says: "By the decision in that case, neither they (the Trustees), nor the Legislature itself have the right to appropriate any part of the Internal Improvement Fund to the promotion of any other schemes of internal improvement than those men-

tioned in the Act of 1855, until the bonds issued to carry out the system therein mentioned have been paid or placed on a safe basis of payment as prescribed by the act." He also, in speaking of the injunction before alluded to, says: "The Trustees and their successors were enjoined from selling or disposing of, or donating the land belonging to the Trust otherwise than in strict accordance with the Act of 1855," or "from using or applying any of the moneys of the Fund, except in applying them to the creation of the Sinking Fund, under the act, or, in the payment of coupons, according as they belong to one purpose or another," and the Trustees are required to pay to the receiver all moneys in their possession or control, and to pay him from time to time all moneys which might come into their hands from the sale of lands, or any other source whatever.

In the light of these authorities and history, it is plain that neither the Legislature nor the Trustees can *divert these lands from the payment of the interest on the bonds.* The only question then, is, whether or not these bills propose any such diversion.

The Legislature by the Twenty-ninth Section of the Internal Improvement Act, expressly reserved the right to *grant alternate sections of the swamp and overflowed lands for six miles on each side of roads of companies* thereafter chartered, and grants of such sections within such limits made thereunder are proper, and will doubtless receive the approval of the courts, as in the case of the grant to the St. Johns Railway Company, reported in the 16th volume of the Florida Reports. Admitting, however, for the sake of argument, that these bills are effectual as to the *alternate sections now owned within the limit of six miles*, it is plain that *outside of this limit they are in violation of the contract with the bondholders.* The whole number of acres of land proposed by these grants to be donated, outside of the alternate sections within six miles, even if we assume that all of these alternate sections are still the property of the Fund, would be 4,028,000 acres, but it cannot be safely assumed that there are more than one million acres in the alternate sections now belonging to the Fund. The whole quantity of lands granted to these companies within and without this

limit is seven million acres, so deducting the one million acres, we have here grants of six millions of acres, which, as above shown, are pledged to the payment of the interest on the bonds, and cannot be diverted from the purposes of the Internal Improvement Act, within which the schemes proposed by these bills do not fall. The whole quantity of land so far selected as swamp and overflowed lands, is about fifteen millions of acres. Of this about 1,600,000 have been heretofore disposed of, leaving about 13,400,000 acres selected. Only, however, 11,749,000 acres have been confirmed by the United States Government, and taking from this the amount disposed of, there is on hand, under control of the Board, only 10,200,000 acres. So, from this fund of 10,200,000 acres, the seven millions of acres granted by these bills, is to be taken, and thus seven-tenths of the fund pledged as above stated, *is disposed of contrary to the contract.*

Judging from the sales, found from lands in the last twelve years, no other conclusion can be reached than that any such grants would be a most serious blow to the creditors of the Fund. These sales during this period, with the whole Fund to sell from, have not more than kept down the interest on the past due coupons. Should the seven millions of acres be withdrawn from the market, the sales would not even approach such a result. So, it is evident that such legislation would be very far from putting the creditors on a safe basis for the payment, which must be done before any other internal improvement than those mentioned in the Internal Improvement Act can become a beneficiary of the Fund, either from the action of the Legislature or the Board. These grants would tend to deter purchasers in case the legality of the same was insisted upon by the companies, and thus, another injury would result from them.

In view of the existence of the contract and of the injunctive orders under which the Board and Fund are, the burden will be upon the grantees in these bills, to assert the validity of the grant. The Board will be compelled to obey the injunctive orders of the court, made to secure the application of the Funds to the purposes of the act, until a

reversal of them shall have been obtained. It is very difficult to conceive upon what ground any court would reverse that current of decisions which has for years, in such strong, clear and uninterrupted flow, swept away every opposition to the lawful property of the Internal Improvement Act, and the inviolable contract rights of the holders of bonds issued thereunder. In the shape in which this legislation comes, the right of these companies to the alternate sections within the six mile limit is so mingled and mixed up with the attempted grant beyond these limits, that it is made as doubtful and as difficult of assertion as any form of legislation can make it.

It would be a blessed consummation if this Legislature would start a well digested scheme looking to the roads of Tampa and Pensacola Bays, with such aid as the Internal Improvement Act permits to the other lines contemplated by these bills. Such a scheme, embodying in it the settlement of the present indebtedness of the Fund, would be productive of great good. The grant of alternate sections within the six mile limit, attended by a consideration of the roads upon the terms of the Internal Improvement Law, will render the residue of the sections in the same locality more valuable than both were before.

It must be plain to everyone that until the Fund shall be placed in a more healthy condition as to meeting its past obligations, such legislation as that now proposed can be of no value to the State, *nor of any benefit to the grantors thereunder, at least beyond the grant within the six mile limit.* Besides this, we all know how necessary and wise it is for private and public bodies, looking to a future involving a necessity for financial credit, to adhere strictly to contracts that have been made; particularly at this time, when they have been adjudicated and explained by the courts.

The sixteenth article of our bill of rights declares that no law impairing the obligation of contracts shall ever be passed, and believing as I do, that these bills are in violation of this provision, I am compelled, for the reasons stated, to withhold my signature.

Very respectfully,

GEO. F. DREW,
Governor of Florida.

This objection was met in subsequent land grants, by making such grants subject to the provisions of the trusts created by Chapter 610, of 1855. During the period from 1879 to 1899. There were ninety-two acts passed granting lands to corporations. It would require more than three million acres of land over and above what the State owns, to satisfy these grants in full. We also find, that all of these grants contain a clause making them subject to the provisions of the Internal Improvement Act of 1855. As a result of these grants, twenty-eight railroad companies have received eight million, two hundred sixty-six thousand, twenty and 81-100 acres. Canal and Drainage Companies have received two million, seven hundred ten thousand, nine hundred fifty-three and 78-100 acres.

In addition to the above amount of land, the railroads received directly, they received the proceeds from the sale of three hundred sixty-one thousand, six hundred sixty-six and 78-100 acres; which was sold to take up railroad bonds; and also, the four million acres sold to Hamilton Disston for the same purpose; and added to this, should be the two hundred fifteen thousand, nine hundred eighty-two and 77-100 dollars paid out by the Trustees to take up county bonds that were issued to aid in the construction of railroads, and still in addition to this, eighty-nine thousand, five hundred ninety-eight and 26-100 acres sold to take up railroad bonds issued.

A perusal of the above facts shows that the railroad and canal companies have received approximately fifteen million acres, or about three-fourths (3-4) of the twenty-million acres of swamp and overflowed lands conveyed to the State by the United States.

COST OF SELECTING AND PATENTING SWAMP AND OVERFLOWED LANDS.

The matter of selecting the swamp and overflowed lands has been of considerable expense to the Fund. The Trustees have, at different times, been represented in this capacity by Randolph and Wells, Williams and Swann, and Williams, Swann and Corley, and John A. Henderson.

It was the duty of these agents to select and list the lands due the State under the grants from the United States. This work has cost the Fund 326,214.32 acres.

Of this amount Randolph and Wells received the proceeds from the sale of one hundred thousand acres, and John A. Henderson received the deeds to one hundred, sixty-one thousand, one hundred seventy-nine and 11-100 acres. Col. S. I. Wailes represented the State before the Land Department in Washington, D. C., for the purpose of securing patents to these lands, and for this service, he received two hundred twenty-four thousand, five hundred forty and 81-100 acres, making a total of five hundred fifty thousand, seven hundred fifty-five and 13-100 acres, the cost for selecting and patenting twenty million one hundred fifty-one thousand, eight hundred six and 44-100 acres.

HISTORY OF DRAINAGE CONTRACTS.

We find that the first contract of record specifically for drainage of swamp and overflowed lands, was entered into by the Trustees, April 6th., 1866, during the administration of Governor D. S. Walker, with Wm. H. Gleason. This contract gave Mr. Gleason the right to drain any of the swamp and overflowed lands, lying south of township thirty-seven, east, of Lake Okeechobee, and south and east of the Everglades; and also one tier of townships bordering upon the south side of the Caloosahatchee, and adjacent thereto. This contract was rescinded January 23, 1869, by the Trustees, under the administration of Harrison Reed. Mr. Gleason, under this contract, was to be allowed to purchase the land drained, at the nominal price of 6 1-4 cents per acre.

The Reed administration made a new contract with Wm. Gleason, February 4th., 1869, by which said Gleason was to drain certain lands in township 38, and the lands as far south as township 49, in range 41 east, and other lands, lying east of those described. In this contract Gleason was to be allowed to purchase (640) six hundred and forty acres at 6 1-4 cents per acre, for each 50,000 cubic feet of ditch cut.

On June 2nd, 1870 the Trustees entered into a contract with the Gulf Hammock Immigration Company, to clear out all obstructions in the Wacasassa and Wekiva rivers and Cow Creek; and also, to drain all swamp and overflowed lands, lying contiguous to said streams, and for which the company was to receive one-half of the land drained.

On October 26, 1867, the Trustees entered into con-

tract with one H. L. Hart, to clear out Ocklawaha river and drain the adjacent lands. The provisions of this contract were, that H. L. Hart should receive lands in the odd-numbered sections within ten miles of said river in an amount equal to the amount of money expended in said work, at the regular prices.

On February 4th., 1869, the Trustees authorized by resolution, Wm. H. Hunt to ditch and drain certain lands lying near Miami river, and he was to be allowed to purchase six hundred and forty (640) acres of land for each fifty thousand cubic feet of ditch at 6 1-4 cents per acre.

February 5th., 1869, the Trustees entered into contract with S. L. Niblack, et al., to drain and reclaim the swamp and overflowed lands lying along the Caloosahatchee and Kissimmee rivers, the contractors to receive one-half the land drained.

On February 3, 1870, the Trustees by resolution, contracted with one M. W. Downie to dig a canal or canals through townships 8 to 13, ranges 8 to 14. Under this contract, Downie was to be allowed to purchase the odd-numbered sections within three miles of the canal, at two (2) cents per acre.

The above contracts, except those with W. H. Gleason and H. L. Hart, were made during the time of Republican rule. They required no guarantee of good faith, and there was nothing accomplished under them. The records show that H. L. Hart did some work on the Ocklawaha, for which he received 23,356.16 acres.

February 25, 1879, during the administration of Governor Drew, the Trustees made a contract with the Apopka Canal Company. This contract proposed the drainage of a considerable body of land around Lakes Eustis, Apopka and Lake Dora, and the Ocklawaha river. Under the provisions of this contract, the Canal Company was to receive four-fifths (4-5) of the land drained. This contract was changed in 1890, during the Fleming administration, to the effect that the Apopka Canal Company should be allowed to purchase all the lands embraced in their contract, at one dollar (\$1.00) per acre, provided, they would bind themselves to expend thirty-thousand dollars (\$30,000.) in draining the lands.

On August 28, 1879, the Trustees, under the administration of Governor Drew, entered into a contract with the Midland Railway Drainage and Canal Company. This contract was intended to secure the drainage of

swamp and overflowed lands, along the Caloosahatchee and Kissimmee rivers.

On February 26, 1881, during Governor Bioxham's first administration the Trustees entered into a contract with Hamilton Disston and associates, by which said Disston and associates agreed to drain all of the swamp and overflowed lands belonging to the State lying south of Township 23, and east of Pease Creek. Under the provisions of this contract, the Disston company was required to keep the canals open, thereby rendering the drainage permanent and complete. As compensation for this work, the company was to receive one-half the land drained. This contract was transferred to the Atlantic and Gulf Coast Canal and Okeechobee Land company. This company, after considerable operation, applied to the Trustees for it's share of the lands claimed to have been drained. The Trustees had these lands investigated by three different engineers, viz: J. L. Dunham, J. M. Dancy, and H. S. Duval; and while there was some difference of opinion among the engineers as to the amount of land that had been reclaimed, they all agreed upon the magnitude and the great benefits that would accrue to the State by the completion of this great undertaking. H. S. Duval, State engineer, reported that the company had drained two million, one thousand eight-two four hundred and twelve and 27-100 (2,182,412.27) acres, and the Trustees settled with them on this basis, giving the company one-half of this amount. At this time, contentions arose, some people claiming that the lands were not drained, and therefore the company was not entitled to this amount. As a result of this contention, the Legislature in 1885 passed an act authorizing the Governor to appoint a committee of two (2) discreet men, who were not connected either directly or indirectly with any railroad, canal or land company, to investigate and report upon what had been accomplished by the work of the company in the way of drainage.

Governor Perry appointed on this committee, J. J. Daniels, of Duval county; John Bradford, of Leon county, and W. H. Davidson, of Escambia.

This committee submitted its report February 4th, 1887, which report sets up the fact that the company had received more land than it was entitled to. This resulted in the Disston people offering to deed back to.

the State a portion of the land they had received; but the Legislature of 1887, being anxious that the drainage operations should continue, authorized the Trustees to compromise the matter with the drainage people. As a final settlement, and to encourage the drainage company to continue its operations, the Trustees, during the latter part of Governor Perry's administration, entered into a new contract with said drainage company, by which the company should receive one acre of land for each 25 cents expended by them in draining the lands, the whole number of acres conveyed not to exceed two million acres. The drainage company entered into bond, for the expenditure of one hundred twenty-five thousand dollars on the lands already conveyed, and an additional sum of two hundred six thousand, two hundred and sixty-four dollars, for which they should receive land at the rate of one acre for each 25 cents expended.

As a final result of these contracts, the Atlantic and Gulf Coast Canal and Okeechobee Land Company received from the Trustees, one million, six hundred fifty-two thousand, seven hundred eleven and fifty one-hundredths acres.

March 17th, 1892, the Trustees adopted a resolution, granting to H. L. Taylor, of Buffalo, New York, the right to enter upon and drain the swamp and overflowed lands, between townships 20 and 38 south, and in ranges 32 to 40 inclusive, provided, that Mr. Taylor should pay to the State fifty cents per acre, and enter into a good and sufficient bond to expend fifty cents, or as much thereof as might be necessary, to reclaim said lands. There is no record of Mr. Taylor ever having availed himself of this resolution. This was during the administration of Governor Fleming.

July 9, 1898, the Trustees entered into a contract with J. N. Parrott et al., for the drainage and reclamation of all that land lying south of Township Forty-six (46) south and east of Range Thirty-six (36) east, as far south as Township Fifty-nine (59) and as far east as Range Forty-two (42).

This contract contemplated the drainage of the Everglades, and the Trustees are now pursuing the plans and routes projected by the promoters of this scheme. Under the provisions of this contract, the drainage company was to be allowed to purchase twenty thousand acres at twenty-five cents per acre, for each two hun-

dred thousand cubic yards of excavation made by the company. The company had twelve months in which to begin operations, but they did not carry out the contract, hence, nothing was accomplished by it.

We find from a perusal of the foregoing contracts made and entered into by the various Trustees, that each and every administration since 1876, has endeavored to secure the drainage and reclamation of some portion of the overflowed lands of this State; thereby showing that they regarded it as part of their duty, as Trustees, to drain the overflowed lands. After repeated efforts to reclaim these lands through contracts with individuals and corporations, had resulted in a dismal failure, the Trustees during the administration of Governor Jennings, laid the foundation by selling off lands and collecting funds for this purpose, and active operations have been going on now, under the administration of Governor Broward, for more than a year, which is more fully treated in another part of this report.

LEGAL EXPENSES OF THE FUND.

An inspection of that portion of this report that deals with the number and nature of the suits in which the Fund has been involved in the past, and that are now pending, will cause one to readily see that the legal For the details of the legal expenses, including attorney's expenses are, and have been, necessarily very large. fees and court costs, consult the table of such expenditures, filed with the exhibits attached to this report.

We have attempted to divide these expenditures into periods covering each administration. The amount of expenditures for strictly legal expenses, are so out of proportion to the amount of attorneys' fees, as to lead one to believe that this Fund has proved a fruitful source of revenue to those attorneys who stood in with certain of the Board of Trustees.

We realize that the litigation has been important; that it has been and is now of such a character, and of such importance as to require the ablest talent of the Florida bar, and that such attainments command good prices; but we are persuaded that the sum amounting to more than one hundred thousand dollars was larger than was, and is, necessary to protect the Fund in the courts of the country.

An examination of the table shows that one distinguished and honored citizen of Florida, has received the munificent honorarium of \$22,368 from said Fund. A former Attorney General was paid by the Trustees thirteen thousand, two hundred and sixty-eight (\$13,268) dollars extra of his salary as Attorney General, for legal services to the Trustees. The framers of the Constitution of 1885 put a stop to such practices as this, by making it a part of the organic law that no official should receive additional compensation from this source. The table also discloses the fact that very large sums have been paid special, as well as general, counsel out of this Fund, at a much more recent date.

The custom of employing special counsel for this Fund has prevailed from its earliest history, some Boards of Trustees being much more lavish than others in this particular, or else, there was a much larger volume of litigation during their Trusteeship.

While a large amount went to attorneys during the Perry administration, it was for the payment of services contracted for and rendered preceding Trustees. The records do not show that any special counsel was employed during that administration, but that the then Attorney General looked after the interests of this Fund, in connection with his other duties, and without any additional compensation.

Only four hundred and fourteen dollars (\$414.00) was found necessary to be expended in legal expenses from 1865 to 1876, and yet, over eleven thousand dollars (\$11,000) went to attorneys during that period. From 1877 to January 1st, 1881, it was found necessary to expend fourteen hundred and fifty (\$1,450.) dollars in legal expenses, while the lawyers in the same period, scooped in sixteen thousand, eight hundred and eighty-eight (\$16,888.00) dollars. A notable instance of the disparity between legal expenses and attorneys' fees occurs in the period between 1897 and 1900—the expenses being only twenty-two (\$22.00) dollars, while the fees amounted to five thousand, two hundred and eighty (\$5,280.00) dollars. During the last two years the expenses of litigation have been extremely heavy, growing out of the fact, that a number of exceedingly important cases have been instituted in the Federal courts against the Trustees, but as the grounds of defense to these suits, *if not identical*, are very nearly the same, we think the amount

of attorneys' fees paid general and special counsel out of all proportion to any services they could have rendered the Fund.

We do not wish to be understood as undervaluing the services of the counsel whom the Trustees have seen fit to select, or to in the least impugn the motives of the Trustees, but feel constrained to point out these matters as instances of improvident expenditures of the Trust moneys.

The legal expenditures for the past two years amount to one thousand, seven hundred and eleven and 26-100 dollars (\$1,711.26), while the attorneys' fees already paid, reach nineteen thousand and forty-eight (\$19,048) dollars, and as one of the counsel is on a standing salary, there may be some earned that has not yet been paid, that will increase the total.

The efforts made by the Land Grant Corporation, through the Federal courts, to get what little is left of the general government's princely gift to the State of Florida, would justify the Trustees in attempting to save to the people what is left of the public domain, even if they had to expend yet more bounteously, and we commend them in their effort, and allude to it only through a sense of duty; and that no fact connected with the Fund may be passed over in this report.

Another enormous expense connected with the Fund, was the payment made to what is known as "selecting agents." Randolph & Wells were paid out of this Fund for their services, the proceeds of the sale of one hundred thousand acres. John A. Henderson, while in life, and his heirs since his death, was deeded by the Trustees one hundred and sixty-one thousand, one hundred and seventy-nine and 11-100 acres, and there is yet coming to them some three thousand more when patents are issued. And Williams and Swann, and Williams, Swann & Corley sixty-four thousand, four hundred and thirty-five and 21-100 acres.

The duty of these agents was to select and list the lands due the State under the Congressional grant. Col. S. I. Wailes represented the State in the Interior Department at Washington, in securing patents to the land so selected, and for his services received two hundred and twenty-four thousand, five hundred and forty and 01-100 acres, making a grand total of five hundred and fifty thousand, seven hundred and fifty-five and

13-100 acres that was expended in selecting and getting patents for twenty millions, one hundred and fifty-one thousand, eight hundred and six and 44-100 acres.

We do not believe that the Trustees who made these contracts were as active in seeing that the Fund was fully protected, as they might have been.

We think it amply demonstrated that too much of the Fund has been expended in its administration, outside of legal expenses, lawyers' fees and selecting agents' compensation in the past, and think it is costing more now than there is any real necessity for.

If it is necessary to keep the number of clerks in the Commissioner of Agriculture's office to look after the lands and keep up the correspondence, we see no use for a fifteen hundred dollar man merely to draw warrants, make deposits in the banks and keep the minutes.

In referring to the transactions of the Trustees that have not proven beneficial, we put first and foremost the second contract for drainage entered into between the Trustees and the Atlantic & Gulf Coast Canal and Okeechobee Land Company, (Hamilton Disston). Such safeguards as were contained in the first contract were improvidently left out of the second one. This transaction, however, is treated of fully in another portion of this report.

The custom adopted in the administration of Governor Perry of issuing certificates to railroads to land grants yet unpatented to the State by the General Government, has not one redeeming feature—its impropriety was so patent, until the Trustees, under Governor Fleming's administration, declined to continue the custom, but the pressure of the land grant corporations was so great until the Mitchell administration succumbed to the allurements, and again began the inexcusable practice, which continued until the Trustees under Governor Jennings' administration, refused further to issue certificates to unpatented lands, or to give deeds under the legislative land grants, to lands which had been patented by the general government to the State, under the Swamp and Overflowed Congressional Act.

Among other improvident grants of land from which the State received no corresponding benefit, we may mention in passing, the gift of seven thousand, seven hundred and eighty-one and 48-100 acres of heavily timbered land, in Clay county, to the Green Cove Springs &

Melrose railroad. When the timber was removed from this land, the railroad which was very little, if any more than a lumber road, gave back the land largely denuded of its then chief value, for permission to remove its rails, doubtless to be used in the construction of another lumber road somewhere else. And the deeding to H. L. Hart of twenty three thousand, three hundred and fifty-six and 18-100 acres of land, for removing obstructions in the Ocklawaha river—a stream that Hart was plying a line of steamers upon.

The granting of a large acreage of lands to the Etoniah Canal Company, was without any precaution taken whatever to protect the interest of the people.

A Chicago Colonization Company applied to the Legislature in 1887, and obtained a land grant, which gave them lands in the counties of Clay and Putnam, in consideration of their draining them. There was no clause of forfeiture for failure to commence within a definite time, or requiring the completion of the drainage work. Thirteen years after the passage of the Act, the Trustees deeded to this land company 4,336 acres, upon a report that the work had been done according to the specifications of the company's engineer.

The colonization scheme fell through, and only a small portion of the land was successfully and permanently drained, and the State has suffered by such careless legislation, and no effort, so far as the records disclose of the then Trustees attempting to withhold deeds until the good faith of the company was more fully demonstrated.

Previous to the adoption of the Constitution, which went into effect January 1st., 1887, some of the State officers had been receiving pay for their services to the Internal Improvement Fund, in addition to their compensation as State officers. The new Constitution positively prohibited this, but a way to avoid this was found, and clerks in the offices drawing their regular salaries, put in accounts for services claimed to have been rendered the Fund—and when the warrants were issued, the clerks turned them over to the State officers—thus evading the wise prohibitory measure in the Constitution. For a glaring instance of this, see testimony of Charles Munroe, pages 515 to 519 of the transcript of testimony, taken by this Commission, showing that the then Treasurer through the medium of said witness, who was a clerk in the Treasurer's office, continued to

receive pay for the years 1887 and 1888, twelve hundred dollars in amount, despite of the Constitutional provision that was especially intended to prevent such reprehensible practices.

On August 29th., 1903, the Commission of Agriculture, by direction of the Trustees, sold to D. W. Munroe & Company 4,120 acres of land, at 75 cents per acre. It was disclosed by the investigation that the purchasers were informed that these lands were not on the market and could not be bought at that time. It then appears that Munroe & Company applied to the son of the then Commissioner of Agriculture, who was employed in some minor capacity in the prison department, which department is a part of and connected with the Agricultural Department, to act as their agent and secure these lands. Shortly thereafter, the sale was made to Munroe & Company—and the lands finally passed into the hands of the Consolidated Naval Stores Company. The Internal Improvement Fund received seventy-five (75) cents per acre, and the agent about fifteen or sixteen hundred dollars, as appears from the evidence on file (and from an examination made by the Chairman of this Commission of the books now in the possession and control of the Consolidated Naval Stores Company) for his participation in the transaction. The testimony shows that the then Commissioner of Agriculture was not present at the meeting of the Trustees when the sale was authorized—but the Minutes of the Trustees record him as present. Doubtless there was nothing wrong in this transaction, but, taking an old-fashioned view of the matter, we think the Trustees should in the future, be careful in the disposition of the trust lands, when young employees of one of the departments can pull off a deal of lands not theretofore for sale, and clean up a commission of such generous proportions. If the land was worth the seventy-five (75) cents per acre, plus the fifteen hundred dollars, it would seem that the Trustees should have been able to turn it into the trust fund, instead of clerks being so largely the beneficiary of the transaction.

On April 30th., 1907, during the session of the Legislature, Senator Frank Adams purchased from the Trustees some four or five thousand acres of land in the counties of Columbia and Alachua at the low price of one dollar (\$1.00) per acre. The action of the Trustees

in making this sale will not commend itself to the average citizen. The only proof as to the value of the land, before the Trustees, was the statement of one Israel McCall, who has a contract to collect money due the Fund by trespassers, and who had made an effort to purchase the land for himself, and the statement of the purchaser himself, and the statement of I. N. Withers. We think it a fact, and it is charitable to conclude that no sufficient examination of the land in Alachua county was ever made. It seems that McCall used his position as State Agent, appointed by the Trustees, to protect the public lands from trespassers, to ascertain the numbers and locations of the State lands, and failing to buy them himself, would report to Senator Frank Adams, and advise him what and where to buy. It is hardly to be supposed that McCall would take all of this trouble through an entirely disinterested desire to advance the interest of the purchaser (See McCall's testimony, page 214 of transcript of testimony).

We submit that men do not conduct their private business in such a loose manner.

This comment we think is amply warranted by the testimony taken by this Commission, of men of unimpeachable veracity and of excellent judgment, who are familiar with the lands.

From the testimony we conclude the fallen timber upon these lands is alone worth the price paid for them—saying nothing of the standing timber and their value for farming purposes, and the great probability of valuable phosphate deposits upon that portion of the land lying near the Natural Bridge section—Santafee river.

The Legislature was in session at the time of the making of this sale, and both Columbia and Alachua county were represented in the Senate and in the House. We are quite sure that if the Trustees had taken the trouble to inquire of the representatives of either of these counties, they would have learned that it is not always good business judgment to take the values fixed by the party wanting to buy. The investigation of this matter convinces us that this sale was made too hurriedly, and without sufficient or proper information as to the value of the land.

A lumber firm, under the guise of a railroad company, obtained from the Legislature a grant of lands, and the Trustees, during the administration of Governor

Fleming, made deeds to the same. The road commenced nowhere and ended nowhere, and no one lived along the route—but it traversed a fine body of timber. As soon as the saw mill timber was utilized, the projectors of the enterprise generously deeded the land, bereft of its timber, back to the Trustees, for the privilege of tearing up and removing the iron rails.

Later, a turpentine firm acquired some tax claim against the land, and under cover thereof, procured what timber was left.

In the meantime, the Trustees had entered into a contract with Small & McCall to look up trespasses on Internal Improvement lands, and adjust the matter with the trespassers—and for that purpose they were appointed State agents—and were to receive as compensation for their services fifty per cent. (50%) of any amount recovered from trespassers, either by suit, or by compromise.

The General Counsel of the Trustees had obtained an abstract of these lands, at a cost of something over four hundred (\$400.00) dollars, and rendered an opinion that the Hillman-Southerland Company were trespassers. The State agents then opened up on the track of the turpentiners, and demanded a settlement—announcing that no settlement would be satisfactory that did not net the State two (\$2.00) dollars per acre.

While the negotiations were pending between the State agents and the turpentine firm, one of the firm, Mr. W. J. Hillman appeared at Tallahassee, secured a meeting of the Trustees, and offered 52.43 cents per acre for some eight thousand acres, and \$1.25 per acre for some eight hundred acres of said land—which was accepted by a majority of the Trustees, it appearing that three of the Trustees favored, and two opposed the sale.

The State agents advised Commissioner McLin that these parties would doubtless apply to the Trustees direct, with the hope of making a settlement with small outlay, and the Trustees were admonished that the trespass in this case was large, and the damage would mount up into the thousands. (See letter from McCall & Small, page 219 of the Testimony.)

There was some conflict in the testimony as to whether the Trustees had this information before them at the time of the settlement—Commissioner McLin

stating that he read the letter of the State agents at the meeting of the Trustees—some of the other Trustees saying that they had no recollection of even seeing said letter.

From the evidence it is shown that while these lands were owned by this railroad company, they were sold by the State for taxes, that the Hillman-Southerland Company had acquired these tax titles to these lands, and went upon the land and operated it for years under this tax title.

The deed from the railroad to the Trustees was by some oversight not recorded for ten or fifteen years. The holders of these tax titles claimed they were bona fide purchasers without notice, and when Small & McCall, on behalf of the Trustees began pressing the Hillman-Southerland Company, charging them with trespass, they stood upon their tax titles and claimed to hold legal title to the land. It was a question as to whether their title was good. The equities seemed to be with the turpentine people, and there was probability of their having a better title than the Trustees, and in order to settle the matter the land was finally sold at the rate of 50c and \$1.25 per acre.

At various times during the history of the Fund, the Trustees have found it necessary, in order to protect the Internal Improvement land, to employ agents to look after trespass, and have at various times, entered into stumpage contracts. We do not deem it necessary to cite each of these contracts, but shall content ourselves with a general reference to this policy. It will not be seriously contended by anyone that it was not the duty of the Trustees to protect the property, and the employment of agents would appear to have been the only course they could have adopted.

We have no doubt but that sometimes some of the agents lost sight of the interests of their employers, and considered their own interests in preference; and the Trustees, who were State officials, discharging the duties of their positions at the Capitol, were in blissful ignorance of what their agent was doing at some far and remote portion of the State—so that even if the Fund has been depleted by the acts of agents and through stumpage contracts—anyone disposed to criticize the Trustees on this account, in view of the fact, that there is positively no evidence of any character in the remotest

degree, tending to connect the Trustees individually or collectively with anything wrong that may have occurred through these agents or through any stumpage contracts, does so without sufficient or satisfactory ground to base it upon, and from an innate desire to growl at those discharging a public trust.

The first few years of the trust, it was the policy of the Trustees to sell the lands in small tracts to actual settlers, thus encouraging immigration—the most pressing need of the State at that time. The price was fixed at one dollar and twenty-five cents per acre, and the highest and best land was of course selected by the intending settler. The price has since been increased, and is now held at three dollars per acre.

Ofttimes futile efforts were made to dispose of the land in large bodies, at prices varying from ten to thirty cents per acre. As time progressed, all of the best of the State land in the populous sections of the State, was disposed of, leaving in the Fund a large area of overflowed lands in the southern portion of the peninsular.

The Disston sale of four million acres at twenty-five cents per acre, was harshly criticized by those who did not undertake to inform themselves of the pressing and absolute necessity for some disposition of a portion of the land in order to save the remainder. So have some more recent sales been criticised without proper information, or else, without reflection. The sale of a quantity of land in Taylor county to one N. G. Wade is one instance. This large body of wild land (a considerable portion swamp and overflowed) brought nearly \$2.20 per acre. It will not do to say that this land is worth more now, or that the purchaser can sell for a larger price at this time. We can only consider what was its market value at the time of the sale. The evidence shows that effort after effort by competent salesmen had been made to sell this land at a price much below what was obtained, but without success. The witnesses, competent and observing citizens, and entirely disinterested, agreed that the land brought its full market value.

From the sworn testimony, which is all the information we have, we are forced to the conclusion that the adverse comments on this sale would have been withheld had the full facts been known.

Another instance to which our attention was specially

called by certain publications, whose editors under oath, admitted that they knew nothing, but were merely giving currency to idle rumors, was the sale made by the Trustees to one Charles H. Scott, through J. Murdock Barrs, of some lands down in the Everglades. This sale was sifted to the bottom and it was found that the land lay on the west coast in the Everglades, a considerable portion of it being actually in the Gulf of Mexico; that it was impossible of drainage, and consequently was of very small value, if any. There is so much salt water on it, until it should have been sold by the gallon, instead of by the acre, and we understood from one of the witnesses that the purchaser would be glad to sell back at half price.

Still lower down the Gulf coast, the Trustees owned some land that is submerged in brackish water at all seasons. It is covered with a growth of mangroves. Can never, by any possibility, be of any value for any other purposes than the raising of mangroves. This growth is supposed to have some value for tanning purposes. One Joseph Jennings applied for and bought this portion of the Everglades, incapable of reclamation, for 44 2-3 cents per acre.

At some time in the past history of the Fund, deposit was made with certain banks, and other than State, county or municipal bonds was accepted as collateral, to-wit: Bank stock and naval store bonds. The State Treasurer will not deposit funds in any bank upon other security than State, county or approved municipal bonds, and we understand that the present Trustees have wisely determined the same way, and we respectfully suggest to them the wisdom of requiring the depository banks to furnish State, county or municipal bonds in lieu of the corporation bonds, now held as collateral security, or else call in the deposit.

For a list of the banks, the amount deposited, and the nature and kind of security, see Auditor's report.

The investigation has failed to develop any scandal on any individual Trustee, or fix corruption upon some particular administration of the Internal Improvement Fund, and it should be a matter of gratulation to every lover of his State, that (barring the Republican regime) there is nothing in the long history of the Fund that points to the corruption of a single Trustee; there is nothing in the voluminous testimony taken that shows

that a single Trustee of any Democratic administration pecuniarily profited by his position, with the possible exception of an incident in the Perry administration, and an employee during the Jennings administration, a more particular reference will be found attached in this report. Of course there were mistakes made, the exercise of poor judgment, and sometimes lack of zeal to look beneath the surface indications and protect the Fund from the hungry herds that invariably surround large and complicated trust funds; but we are forced to the conclusion by the overwhelming weight of the testimony that the Trustees acted upon what they believed to be the best interests of the Fund, with the lights then before them, as to the environments of the Fund and the needs of the State, some of the errors of judgment and lack of proper precaution, are definitely pointed out in another part of this report.

The investigation, though not disclosing any specific acts of corruption on the part of any of the Trustees, emphasizes the necessity of overhauling all trust funds at least once in a while, if nothing else. Such supervision has a marked and strong tendency to cause the Trustees to be careful in handling the trust fund, and in the disposition of the trust property. The long lapse of time in which the public had but the barest knowledge of the acts and doings of the Trustees (through no fault of the Trustees, possibly because the public did not attempt to inform themselves) caused baseless suspicion to find a lodgment in the public mind, and some newspapers for factional purposes by inuendo and insinuation, fanned this spirit of suspicion and caused it to grow, until finally those insinuations ripened into thinly veiled accusations of corruption. The editors of the newspapers that had given currency through their publications to these implied corrupt practices, when summoned before the Commission and asked for their sources of information, invariably replied that they knew nothing, and were only repeating articles that they had seen in other papers. Several of those who were subpoenaed, wrote that illness prevented their attendance, and *stated in writing, over their own signatures*, that they knew nothing. In view of these written statements of their lack of knowledge, the Commission took no further steps to compel their attendance.

The rumors of corrupt practices on the part of the

Trustees thus set afloat and fanned into active life, became so numerous and so persistent, until on the first day of the session of the Legislature of 1907, resolutions were introduced in the Senate by Senator John S. Beard, and in the House of Representatives by Syd L. Carter, looking to an investigation. Finally the Carter resolution was adopted by both houses, and became a law. Under it, a joint committee was appointed, consisting of Senators H. H. Buckman, J. H. Humphries and Thos. F. West, and Representatives Syd L. Carter, R. Pope Reese, J. F. C. Griggs and John W. Watson. This committee organized by the selection of Senator Buckman as chairman, and after the employment of some non-resident accountants, undertook the investigation, by beginning at the last end of the line and working backwards. The New York accountants seemed to have mistaken the purpose of their employment, and to please some interested parties unknown to the Legislature, spent their time more in criticisms upon the Trustees and past auditors, than in ascertaining the truth as to the acts and doings of the Trustees. As soon as they had gone over the books and accounts that related to the transaction of the first half of Governor Broward's administration, and the four years of Governor Jennings', they ceased work, though the Legislature had not adjourned, and the chairman of the committee reported the result of his labors, which not being full and complete, that body declined to receive, and proceeded to pass an act creating a Commission to conduct a full and complete investigation of all the acts and doings of the Trustees of the Internal Improvement Fund, from the date of the creation of the trust in 1855. to the day of the closing of the Commission's report, and ordered the testimony taken by the Legislative committee be turned over to the Commission thus created, which testimony is herewith returned to the Legislature for its disposal.

This Commission, at great pecuniary sacrifice to some of its members, has conducted the investigation with economy and fidelity, and with a sincere desire to arrive at the truth, while at the same time, do justice to all parties now or heretofore connected with the Fund. Having brought the investigation down to date, there should be no difficulty in the State Auditors, beginning from this date, and bringing it down to each change of administration, when the personnel of the Trustees is

changed. If this had been done in the past, your Commission is of the opinion, that the State would have vastly benefitted thereby, and are confident that benefits in the future will accrue to the State by the auditors being required to bring down and publish the condition of the trust fund and the acts of the Trustees at the end of each administration.

An examination of the itemized statement of the expenses incurred by the Commission, will show that outside of the per diem and mileage of the members and pay of witnesses, the principal expense was the expert accountants and the stenographer. The accountants' work could have been done by others, equally as well, at much less cost, but the demand was for Certified Public Accountants, and none others would have proven satisfactory. The law making this monopoly a possibility should be repealed. The stenographer received the compensation provided by statute for court stenographer, and her expertness and accuracy saved the Commissioners sitting at least ten days longer and challenged the admiration and approval of every one connected with the work. The only other employee was the janitor—the members of the Commission waiting upon themselves.

It will be observed that the expenses of the Legislative Committee amounted to two thousand, eight hundred and eighty-eight dollars and sixty-seven cents (\$2,888.67), exclusive of the pay of the members of the committee—for an investigation extending over a period of a little over six (6) years, which is nearly one-third (1-3) as much as was expended by this commission for an investigation extending over a period of fifty-two years—including the period covered by the other report.

We now submit this report with the accompanying testimony and exhibits, as the result of our labors, with the hope and confident belief that the remainder of the Internal Improvement Fund will be so managed, that in the future no suspicion will attach to it, and the State reap the rich benefits intended by the donor and

the original purpose of the gift be carried to a successful and honorable conclusion.

SYD. L. CARTER,

Chairman.

(With exception of dissent following).

B. P. REESE,

F. P. CONE,

PARK TRAMMELL,

GEO. G. MATHEWS,

C. L. LEGGETT,

M. S. KNIGHT.

Throughout the litigation now pending and governing the action of the Trustees during the two past administrations, the contention of the General Counsel of the Trustees, former Governor Jennings, that the Acts of 1855, creating the Trust, is to use its own language, irrevocable, and that no disposition whatever can be legally made of the Trust Fund or lands other than that specifically set forth in the terms of the Act, Chapter 610, Acts of 1855, governs and controls the actions of the Trustees in disregarding the various land grants made to railroads and denying absolutely the right of the Legislature to control the trust property in any manner whatever.

I find myself wholly unable to agree to this as a correct legal proposition. I do not believe that the Act of 1855 takes the Fund and property entirely out of the control of the Legislature so that no subsequent Legislature can grant the lands or control the Fund. One Legislature cannot irrevocably grant anything that a subsequent one can not set aside, if they do not thereby interfere with the rights that have accrued thereunder. But I do hold that the Acts granting the lands to railroads, have a provision inserted therein in the first granting acts of 1879 to meet the objections so forcibly presented in Governor Drew's veto message, written as I understand by the accomplished jurist who then adorned the position of Attorney General, and carried into all the subsequent acts granting lands, to aid in railroad construction and crystalized into General Law in Section 660 of the General Statutes, that the grant is made subject to all the obligations of the trust. This reservation in the Act has not been judicially construed, so far as I can find, and

until the courts have passed upon this clause of the granting act, I think the Trustees were and are absolutely right in refusing to deed any more land under these grants, until the courts have been given an opportunity to pass upon this feature of the case.

If the Legislature granted these lands without condition to these companies to aid in the construction of railroads, instead of using them for the purposes of drainage and reclamation, however great an act of bad faith it may have been, and Congress has acquiesced in the disposition of it's gift by the State Legislature, then, under the decision of the Supreme Court of the United States in the Louisiana Case, In 127 U. S. Reports—the decision of this court being the Supreme law of the land, there is no use wasting further time and money fighting the cases. But if the Legislature did not give these lands, but upon the condition (and the roads accepted them upon that condition) that they were subject first to the obligations of the trust and drainage and reclamation was one of the obligations, then in my judgment, the Trustees, through their counsel, should hasten the decision of a court of competent jurisdiction, upon this point

I quote from the Acts of 1885, which provide *inter alia*, that the Trustees of the Internal Improvement Fund should fix the price of public lands included in the Trust, and “make such arrangements for the drainage of the overflowed lands as in their judgment may be most advantageous to the Internal Improvement Fund,” and that they shall encourage actual settlement and cultivation of the same.

In connection with this I direct attention to the proviso in Section — of the Act first granting lands specifically to aid in the construction of railroads. This is the parent act which was followed in all subsequent acts granting lands to railroad companies, and the proviso was inserted in the act to cure the defect in the act vetoed by Governor Drew in a carefully prepared message. The act was passed by the Legislature of 1879 and the proviso is as follows: “Provided however, that the grant of lands made by this section is made subject to the rights of all creditors of the Internal Improvement Fund, and to the trusts to which said Fund is applicable and subject under the act entitled “an act to provide for and