

The Earliest Land Grants in the Miami Area

By HENRY S. MARKS

Miami did not become large enough in population and promise to be incorporated until 1896, but there was human activity in the region long before that date. White men had attempted settlement first in 1565. At that time the southern part of the Floridian peninsula was the home of two related tribes of aborigines who had made it their home for some 1500 years. The western portion, from Tampa Bay to the Keys, belonged to a confederation called the Calusa. The east coast, from Cape Canaveral to the Keys, was the domain of several small independent tribes. Prominent among them were the Tequestas, located on Biscayne Bay.

In 1565 the Spanish King commissioned Pedro Menendez de Aviles to drive the French from Florida and colonize the land for Spain. The story of his efforts in establishing St. Augustine is familiar to readers of Florida history. But Menendez also was anxious to pacify and settle the southern coast in order to protect refugees from shipwreck along the Florida reef, to have a port of refuge in case of storm, and to have this area occupied by people friendly to Spain.

As the Spanish considered Christianization of the Indians as important for their purposes as colonization, aid was sought from the Jesuits. Two men, Father Rogel and Brother Villareal, landed in Tequesta in the early part of 1567, Menendez establishing a fort and a small garrison on Biscayne Bay.¹

Later the two Jesuits divided forces, Rogel going to the village of Carlos on the west coast, leaving Brother Villareal in charge of the mission on Biscayne Bay. But Brother Villareal did not succeed in Christianizing the Tequestas, nor in winning them as allies for Spain. In this he was not alone, however, for after a few years the Jesuits abandoned the whole field of Florida.²

Thereafter a long period elapses before there is any attempt at permanent settlement by white men near the mouth of the Miami River. The first recorded evidence of land grants within the present Miami area did not come until 1774, during the British occupation of Florida. During that year John

Augustus Ernest (a German, secretary to Count Bruhl, a Saxon statesman who was prime minister in virtual control of Saxony and Poland from 1746 to 1763) received a grant of twenty thousand acres "on Gulph Sandwich commonly called the Sound of Biscayne about 290 miles South of St. Augustine."³ This grant, as did most other large ones issued during the English occupation of Florida from 1763 until 1783, came from an Order in Council.

Ernest was to settle this grant with foreign Protestants in the proportion of one to every one hundred acres, plus the payment of quitrents and several minor stipulations. However, by his own admission, he never cleared any of the land nor complied with any of the other conditions, stating that he was prevented from doing so by the breaking out of the Revolutionary War. He further stated that in 1777 he had engaged seventeen Swiss and German Protestants to settle upon the grant, but that these people were detained in England for more than three months and were then prevented from embarking for the grant by an order of George Germaine, secretary of state for the British colonies from 1775 to 1782. Germaine had refused to grant passage saying that it would strengthen the rebellion, as the agent of the claimants, Dr. Andrew Turnbull, was disaffected to the government.⁴ The only activity on the grant was the locating and surveying as it was never appraised to establish any value. Thus the first attempt to settle a specific grant within the present Miami area came to naught.

During the second Spanish occupation of Florida, 1783-1821, as in the earlier administrations of Florida, the King of Spain, or officials acting under his authority, granted lands. These grants were made to any person, whether native or naturalized Spaniard,⁵ who would settle and cultivate them, the period of residence required to clear title usually being ten years. Nothing was required in way of payment except fees to the officials who prepared and registered the title papers. One hundred arpents were usually granted to the heads of families, fifty arpents to each child, and twenty-five for each slave.⁶

On the lower east coast there were five such grants. The earliest was made to a Pedro Fornells in 1790 for "175.00 acres" on "Key Biscayno."⁷ The other grants were made to the following: T(P)olly Lewis in 1805 for "640 acres South of River Miami"; James Hagen⁸ in 1810 for "640 acres, North Miami River, Cape Florida"; Mrs. Hagen, the mother of James Hagen, in 1810 for "640 acres, South Miami River, Cape Florida"; and for Jonathan Lewis, in 1813 for "640 acres near Cape Florida."⁹

When the United States acquired possession of Florida by the treaty of St. Ildefonso, the treaty provided for the full acceptance by this country of the land grants made by the Spanish government under authority of the Spanish king, provided they dated not later than January 24, 1818.¹⁰

The Congress of the United States, in order to check the validity of the Spanish grants, passed on May 8, 1822 "An Act for ascertaining claims and title to land within the territory of Florida". This act provided for the establishment of two adjudication boards of three commissioners each to settle separately claims in East and West Florida. The board representing East Florida was to maintain headquarters in St. Augustine.

To obtain a valid title to each grant lying within the confines of East Florida the grantee or his or her heirs or assigns had to present before this board any and all proof of the validity of the grant under question. The first of the Miami area claims to be brought before this board was the grant on Key Biscayne held by a Mrs. Mary Ann Davis, who had acquired the property from the descendants of Pedro Fornills.¹¹ Mrs. Davis, in her presentation, claimed title to a "tract of land containing one hundred and seventy-five acres, situated, lying, and being in an island called Key Buskin". However, it is stated here that the grant was issued to Peter Fornills by Governor White on January 18, 1805, that Fornills was compelled to abandon the settlement because of the war between Great Britain and Spain, and that Fornills died shortly afterward. Also, that his widow being unable to continue the settlement, the grant was passed to Raphael Andrews, her son and legal heir. Mrs. Davis purchased the grant from Andrews, a certified copy of the conveyance, dated July 12, 1824, being presented to the commission.

Mrs. Davis, as further proof of the authenticity of her claim, presented to the board three depositions taken before Elias B. Gould, Justice of the Peace for St. John's County.¹² The first one is by Peter Miranda who claims to have known Fornills and states that Fornills had purchased a schooner to proceed to the island, and that Fornills had told Miranda some time later that he had been on the island. The second deposition was by one Bartolo Pounce, who states that his father and Fornills left St. Augustine about 1804 to settle Key Buskin, but had to return to St. Augustine because of the war between Great Britain and Spain. The third deposition was that of John Pounce, who states that he was on the island about 1804 and that he did not think that it contains more than 175 acres fit for cultivation. He also

stated that there was a man named Vincent then living on the island and that he saw guinea corn and coffee growing on the key.

The adjudication board, taking into consideration the above depositions and the original concession by the Spanish governor White to Pedro Fornills, deemed the grant a valid one, and confirmed it to Mrs. Davis. This was done on December 21, 1824.¹³

The other Miami area grants were presented before the commission in St. Augustine on November 24, 1824. Those applying for confirmation were James Hagen; his mother, Rebecca Hagen, listed as Mrs. Hagens; Polly and Jonathan Lewis. The first of these grants to be validated, on December 23, 1825, belonged to Polly Lewis, for "six hundred and forty acres, under the donation act, on the east side of Miami River, near Key Biscayno".

The remaining three grants were all confirmed on December 27, 1825. They were "Jonathan Lewis, six hundred and forty acres, river Miami, near Cape Florida; . . . Mrs. Hagens, six hundred and forty acres, river Miami, near Cape Florida; James Hagens, six hundred and forty acres, river Miami, near Cape Florida."¹⁴

Between 1830 and 1835 the Hagens and Jonathan and Polly Lewis¹⁵ conveyed their holdings to R. R. Fitzpatrick, originally from Columbia, South Carolina, who had moved to Key West and was afterward collector of customs there.

Fitzpatrick took possession of the four properties, later consolidating them into one tract. He then erected buildings on the property, and brought in from South Carolina a number of slaves to work his plantation. He had purchased these slaves from his sister Harriet English, also of Columbia, for the cultivation of cotton. This was not unusual, for cotton was to be extensively cultivated in this area from 1830 to 1837. Fitzpatrick also cleared almost all of the large body of hammock on the bay-front extending from what was the north line of the city of Miami in 1896 to down below the Punch Bowl, almost one mile south of present Coconut Grove. He also planted limes, guavas and other tropical trees, remnants of which greeted early settlers at the turn of the century.

However, Fitzpatrick's claim to success was to be short lived, for in 1835 the Seminole War broke out in the northern part of the state. The Indians and Negroes were driven steadily southward. Towards the close of the war Fitzpatrick had to move his Negroes to Key West in order to keep them from

deserting to the Seminoles. Fitzpatrick, deciding that safety was the better part of valor, departed with them.

After his departure the plantation was used as quarters for a company of United States sailors under the command of Lieutenant L. M. Powell. These troops decided to name the main home of the Fitzpatrick plantation "Fort Dallas" in honor of Commodore Alexander James Dallas, then in command of United States naval forces in the West Indies.

From Fort Dallas, by way of the Miami River, expeditions into the interior of the peninsula sought out Seminoles for removal to the west. The most famous of these Indian hunting missions was that of Colonel William S. Harney who went in after Chief Chakaika who had murdered Henry Perrine during a raid on Indian Key.

This Seminole War came to an end in 1842 but Fitzpatrick, who had become seriously involved financially due to the war, was forced to convey his holdings to his nephew William F. English. This was accomplished on May 20, 1843.¹⁶

William English entered Florida during a ten year period of much activity, both territorially and locally. Of much importance to the southern part of the peninsula was the establishment of a new county. This county, created on February 4, 1836, was named after Major Dade, who had been massacred by the Seminoles in 1836, several miles from the Withlacoochee River. The area of Dade County was immense, for it commenced at the west end of Bahia Honda Key, ran in a direct line to Lake Okeechobee, thence on a direct line to the head of the North Prong River (a branch of the Potomac), commonly known as the Hillsborough River and then down the Hillsborough to the Atlantic Ocean. However, the inclusion of such a large territory under the confines of a single unit was not without political machinations. For example, the southern confines of the county was set at Bahia Honda Key so as to include Indian Key. This was done through the political persuasions of one Jacob Houseman, who owned the key and wished to create a thriving community there. Houseman was also successful in getting the territorial legislature to make Indian Key the site of the county court.¹⁷

However, in spite of this increased activity in South Florida, English was not successful. He moved to Miami during 1844, bringing with him a number of slaves, and endeavored to put the property in order. But the plantation had been badly wrecked — by the United States troops as well as by the Seminoles. The troops had cut down the lime groves planted by

Fitzpatrick, so as to allow an unobstructed view from Fort Dallas, to detect any approach by the Seminoles. The United States Government finally paid for these damages in 1877, awarding the heirs of Fitzpatrick \$12,000.

William English went to Columbia in 1845 to procure additional slaves from his mother, Harriet English. On his return to Florida English began to neglect the plantation, for he spent considerable time in Key West with his uncle Fitzpatrick, with whom he was associated in commercial and shipping enterprises.

Both Fitzpatrick and English now succumbed to the lure of gold in California. In 1851 they sailed for the gold fields. They managed to sail around Cape Horn successfully, but were forced into a Mexican port on the Pacific coast by a storm and a scarcity of provisions. They resumed their journey and managed to reach California safely. It is said that English intended to return to Florida. He never made it back, for he accidentally shot and killed himself at Grasse Valley, California in 1855.

From 1850 to 1869 the English plantations at Miami were unfortunately neglected, but on November 30, 1869 a Dr. J. V. Harris (later a resident of Key West) purchased the 610 acres belonging to English on the north side of the Miami River and promptly settled upon it.

Dr. Harris was the first in a long line of possessors of the northern half of the Fitzpatrick plantation — this succession ending when Mrs. Julia D. Tuttle purchased this part of the property, taking personal possession on November 13, 1891, with which the beginning of modern Miami is usually associated.

¹ Robert E. McNicholl, "The Caloosa Village Tequesta: A Miami of the Sixteenth Century," *Tequesta*, March 1941, p. 16.

² *Ibid.*, p. 17.

³ Wilbur Henry Siebert, *Loyalists in East Florida, 1774 to 1785*, v. 2, Deland, The Florida State Historical Society, 1929, pp. 52-53.

⁴ *Ibid.*, p. 53. This is the same Andrew Turnbull who attempted to settle and establish the New Smyrna Colony. Fifteen hundred colonists were gathered under the backing of English capitalists led by Turnbull and settled upon a tract of several thousand acres near Mosquito Inlet, which they called New Smyrna. The colonists, under indentures, complained of hardships inflicted upon them by managers or overseers of the colony. As a result of these complaints the colonists were removed to St. Augustine. The cause of Turnbull's alleged "disaffection" can be traced to his feud with the Governor of Florida at this time, Patrick Tonyn, who finally succeeded in forcing Turnbull from the colony. Vide Passim, Carita Doggett Corse, *Dr. Andrew Turnbull and the New Smyrna Colony of Florida*, Florida, The Drew Press, 1919.

⁵ The Royal Order of Spain of 1790 applied to grants to foreigners. These grants, before the cession of Florida to the United States, had been sanctioned by the King of Spain and the authorities representing him in Cuba, the Floridas and Louisiana.

- ⁶ Arpents were a French measure of land, containing 100 square perches, of 18 feet each, or about an acre (from .84 to 1.28). John Lee Williams, *The Territory of Florida: or, Sketches of the topography, civil and natural history, of the country, the climate, and the Indian tribes, from the first discovery to the present time, with a map, views, & c.*, New York, A. T. Goodrich, 1837.
- ⁷ U. S., *American State Papers*, v. 4, Documents of the Congress of the U. S. in Relation to the Public Lands from the 1st sess, 18th Cong., December 1, 1823 — March 3, 1827, Washington, 1859. p. 260.
- ⁸ Although the original grants are listed to "James Hagen" and "Mrs. Hagen" there are references made by other sources concerning this family which list the name as Egan or Eagan. This writer is inclined to accept the name of Egan or Eagan, as given in the Dade County deed record books B 216, E 510, Q 253, Q 255 and N 273.
- ⁹ American State Papers, *op. cit.*, p. —.
- ¹⁰ 8 *U. S. Statutes* 256 (1819).
- ¹¹ American State Papers, *op. cit.*, pp. 348-349.
- ¹² *Ibid.*
- ¹³ *Ibid.*, p. 349.
- ¹⁴ *Ibid.*
- ¹⁵ Jonathan Lewis and Polly Lewis were brother and sister and were children of Frankee Lewis, who had obtained a donation on the New River in 1796 near present day Fort Lauderdale.
- ¹⁶ Monroe County Deed Record Book C, pp. 340-341.
- ¹⁷ *Compilation of the Public Acts of the Legislative Council of the Territory of Florida Passed Prior to 1840*, p. 271.

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