

and Richard J. Bolles, under date of December 23, 1908, and are being cut as therein provided, the information contained in the Government engineers' reports, as published herewith, will no doubt be of great value to the future work incident to the drainage of the Everglades.

Conclusion.—The entire plans have been laid out for the drainage and reclamation of the Everglades by means of lowering the waters in Lake Okeechobee, as outlined by the State authorities years ago, and the reduction of the water level in the Everglades, thus making, it is believed, available and habitable approximately 3,000,000 acres of exceedingly fertile lands greatly favored by climatic conditions, and funds have been provided to complete the work, which, it is claimed, has been progressing satisfactorily and is about one-third completed.

The act of Congress approved June 25, 1910, making appropriations for rivers and harbors, among other appropriations for river and harbor work in Florida, made an appropriation for a—

survey of the Kissimmee and Caloosahatchee Rivers, and Lake Okeechobee and its tributaries, with a view to adopting a plan of improvement of said waters which will harmonize as nearly as may be practicable with the general scheme of the State of Florida for the drainage of the Everglades.

This survey work has been practically completed under the supervision of the United States Engineers' office for the District of Florida. The field notes and profiles have been completed, but the report has not as yet been acted upon by the Board of Engineers for Rivers and Harbors.

In the report of Buckingham Smith, transmitted to the Senate of the United States by Senator Breese, Chairman of the Committee on Public Lands, in 1848 (see p. 44), will be found a comprehensive treatise on the subject of the Everglades and the hopes indulged in respect thereto, enumerating many tropical fruits that grow in this area and not elsewhere in the United States, and other products, and stating that the Everglades is the only region that can be looked to as capable of rendering us to any extent whatever independent of other countries with respect to those productions.

NOTES TO

See No. 1—

1855 to 1858

Walker, register

1858 to 1860

Walker, register

1860 to 1862

register; Thos.

1862 to March

Coley, register

March 4, 1862

ney general; H.

treasurer.

December 19,

attorney general

Austin, treasurer

January 18,

attorney general

Austin, treasurer

November 17,

J. B. Galbraith

William Marvel

treasurer.

January 3, 1870

ney general; H.

treasurer.

August 22, 1870

ney general; J.

triller, S. B. C.

January 7, 1871

attorney general

triller, S. B. C.

February 25,

attorney general

triller, S. B. C.

May 7, 1872

attorney general

triller, S. B. C.

January 11,

attorney general

gill, comptroller

May 11, 1874

attorney general

gill, comptroller

January 16,

attorney general

Dew, comptroller

January 4, 1876

Raney, attorney

William D. Bar

March 2, 1876

Raney, attorney

William D. Bar

NOTES TO HISTORY OF DRAINAGE AND RECLAMATION WORK IN THE EVERGLADES OF FLORIDA.

NOTE NO. 1.—MEMBERS OF BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT FUND, STATE OF FLORIDA, FROM 1855 TO 1912.

1855 to 1858.—James E. Broome, governor; N. B. Papy, attorney general; Davis S. Walker, register; Theo. W. Brevard, comptroller; Charles H. Austin, treasurer.

1858 to 1860.—M. S. Perry, governor; N. B. Papy, attorney general; Davis S. Walker, register; Theo. W. Brevard, comptroller; Charles H. Austin, treasurer.

1860 to 1861.—M. S. Perry, governor; N. B. Papy, attorney general; H. A. Corley, register; Theo. W. Brevard, comptroller; Charles H. Austin, treasurer.

1861 to March 4, 1861.—M. S. Perry, governor; N. B. Papy, attorney general; H. A. Corley, register; R. C. Williams, comptroller; Charles H. Austin, treasurer.

March 4, 1861, to December 10, 1861.—M. S. Perry, governor; J. B. Galbraith, attorney general; H. A. Corley, register; R. C. Williams, comptroller; Charles H. Austin, treasurer.

December 10, 1861, to January 16, 1865.—John Milton, governor; J. B. Galbraith, attorney general; H. A. Corley, register; Walter Gwynn, comptroller; Charles H. Austin, treasurer.

January 16, 1865, to November 17, 1865.—A. K. Allison, governor; J. B. Galbraith, attorney general; H. A. Corley, register; Walter Gwynn, comptroller; Charles H. Austin, treasurer.

November 17, 1865, to January 9, 1866.—Charles H. Austin, temporary president; J. B. Galbraith, attorney general; H. A. Corley, register; Walter Gwynn, comptroller; William Marvin, provisional governor (not acting as trustee); Charles H. Austin, treasurer.

January 9, 1866, to July 1, 1868.—Davis S. Walker, governor; J. B. Galbraith, attorney general; H. A. Corley, register; John Beard, comptroller; Charles H. Austin, treasurer.

August 31, 1868, to January 7, 1872.—Harrison Reed, governor; A. R. Meek, attorney general; John S. Adams, commissioner of immigration; R. H. Gamble, comptroller; S. B. Conover, treasurer.

January 7, 1872, to February 26, 1872.—Harrison Reed, governor; J. B. C. Drew, attorney general; John S. Adams, commissioner of immigration; R. H. Gamble, comptroller; S. B. Conover, treasurer.

February 26, 1872, to May 7, 1872.—Samuel T. Day, governor; Horatio Bisbee, jr., attorney general; John S. Adams, commissioner of immigration; R. H. Gamble, comptroller; S. B. Conover, treasurer.

May 7, 1872, to January 11, 1873.—Harrison Reed, governor; J. P. C. Emmons, attorney general; John S. Adams, commissioner of immigration; R. H. Gamble, comptroller; S. B. Conover, treasurer.

January 11, 1873, to May 21, 1874.—O. B. Hart, governor; William Archer Cocke, attorney general; H. A. Corley, commissioner of lands and immigration; C. A. Cowgill, comptroller; Charles H. Foster, treasurer.

May 21, 1874, to January 16, 1877.—M. L. Stearns, governor; William Archer Cocke, attorney general; Dennis Eagan, commissioner of lands and immigration; C. A. Cowgill, comptroller; Charles H. Foster, treasurer.

January 16, 1877, to January 4, 1881.—George F. Drew, governor; George P. Rainey, attorney general; H. A. Corley, commissioner of lands and immigration; Columbus Drew, comptroller; Walter Gwynn, treasurer.

January 4, 1881, to March 8, 1882.—William D. Bloxham, governor; George P. Rainey, attorney general; H. A. Corley, commissioner of lands and immigration; William D. Barnes, comptroller; Henry L. Engle, treasurer.

March 8, 1882, to January 13, 1885.—William D. Bloxham, governor; George P. Rainey, attorney general; P. W. White, commissioner of lands and immigration; William D. Barnes, comptroller; Henry L. Engle, treasurer.

January 13, 1885, to January 9, 1889.—Edward A. Perry, governor; C. M. Cooper, attorney general; C. L. Mitchell, commissioner of lands and immigration; William D. Barnes, comptroller; Edward S. Crill, treasurer.

January 9, 1889, to May 8, 1890.—F. P. Fleming, governor; W. B. Barnes, comptroller; F. J. Pons, treasurer; W. B. Lamar, attorney general; L. B. Wombwell, commissioner of agriculture.

May 8, 1890, to January 5, 1892.—F. P. Fleming, governor; W. D. Bloxham, comptroller; F. J. Pons, treasurer; W. B. Lamar, attorney general; L. B. Wombwell, commissioner of agriculture.

January 5, 1892, to January, 1893.—F. P. Fleming, governor; W. D. Bloxham, comptroller; E. J. Triay, treasurer; W. B. Lamar, attorney general; N. B. Wombwell, commissioner of agriculture.

January, 1893, to January, 1897.—Henry L. Mitchell, governor; W. D. Bloxham, comptroller; C. B. Collins, treasurer; W. B. Lamar, attorney general; N. B. Wombwell, commissioner of agriculture.

January 7, 1897, to June, 1897.—W. D. Bloxham, governor; W. H. Reynolds, comptroller; C. B. Collins, treasurer; W. B. Lamar, attorney general; N. B. Wombwell, commissioner of agriculture.

June, 1897, to January, 1901.—W. D. Bloxham, governor; W. H. Reynolds, comptroller; J. B. Whitfield, treasurer; W. B. Lamar, attorney general; N. B. Wombwell, commissioner of agriculture.

January 4, 1901, to August 9, 1901.—W. S. Jennings, governor; W. H. Reynolds, comptroller; J. B. Whitfield, treasurer; W. B. Lamar, attorney general; B. E. McLin, commissioner of agriculture.

August 9, 1901, to February 18, 1903.—W. S. Jennings, governor; A. C. Croom, comptroller; J. B. Whitfield, treasurer; W. B. Lamar, attorney general; B. E. McLin, commissioner of agriculture.

March 23, 1903, to February 12, 1904.—W. S. Jennings, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; J. B. Whitfield, attorney general; B. E. McLin, commissioner of agriculture.

May 17, 1904, to January 4, 1905.—W. S. Jennings, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; W. H. Ellis, attorney general; B. E. McLin, commissioner of agriculture.

January 19, 1905, to January 4, 1909.—N. B. Broward, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; W. H. Ellis, attorney general; B. E. McLin, commissioner of agriculture.

January 6, 1909, to ———, 1912.—A. W. Gilchrist, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; Park M. Trammell, attorney general; B. E. McLin, commissioner of agriculture.

MEMBERS OF THE BOARD OF DRAINAGE COMMISSIONERS UNDER THE DRAINAGE TAX LAW.

1905 to 1909.—N. B. Broward, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; W. H. Ellis, attorney general; B. E. McLin, commissioner of agriculture.

1909 to 1912.—A. W. Gilchrist, governor; A. C. Croom, comptroller; W. V. Knott, treasurer; Park Trammell, attorney general; B. E. McLin, commissioner of agriculture.

NOTE NO. 2.—AGREEMENT BETWEEN HAMILTON DISSTON AND TRUSTEES OF THE INTERNAL IMPROVEMENT FUND FOR THE RECLAMATION OF OVERFLOWED LANDS.

Articles of agreement made and entered into this the 26th day of February, A. D. 1881, by and between Hamilton Disston, William H. Wright, and Whitfield H. Drake, of the city of Philadelphia, in the State of Pennsylvania, William C. Parsons, of Arizona, Albert B. Linderman, of the city of Philadelphia aforesaid, and Ingham Corvell, of the State of Florida, parties of the first part, and William D. Bloxham, governor of Florida, George P. Rainey, attorney general, Hugh A. Corley, commissioner of lands and immigration, Walter Gwynn, treasurer, and William D. Barnes, comptroller of said State, and ex officio the Trustees of the Internal Improvement Fund of the State of Florida, of the second part, witnesseth:

That the parties of the first part, for themselves, their heirs, executors, administrators, jointly and severally agree and bind themselves, at their own expense and charge, to drain and reclaim by draining all overflowed lands in the State of Florida practi-

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Note No. 2.
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cable and lying south of township 23 and east of Peace Creek, belonging to the State of Florida or said Internal Improvement Fund, now subject to overflow by Lake Okeechobee, the Kissimmee River and its branches, and the lakes contiguous to said river whose waters now flow into, or can be made to flow into, said river or into Lake Okeechobee, or into the Caloosahatchee River, or Miami River, or other outlets, by cuts or canals, including both those already patented as well as those that may hereafter be patented to said State by the United States, the said lands to be reclaimed and drained and rendered fit for cultivation by permanently lowering and keeping reduced the waters of Lake Okeechobee, and thereby permanently lowering and keeping reduced the high-water level of said river, and by thus lowering the waters of said lake creating an increased current in said river, and by the increased current thus created causing the bed of said river to cut or wash out, and by these means and by cutting off bends in said river to further increase the current of said river and permanently confine the water flow of said river within its natural banks, and thereby effectually and permanently prevent the overflow of the banks; it being understood and agreed that the drainage, reduction, or lowering of the waters of Lake Okeechobee may be made by a series of canals or cuts from the waters of said lake to the Caloosahatchee River, on the west, and by cuts and canals from said lake eastwardly to the waters of the St. Lucie, or other available points; and also by cuts or canals southwardly to some stream or streams through the Everglades; and also by cuts or canals on the southeast side of the Everglades to the Miami River and to any small streams heading or rising in the Everglades: *Provided, however,* That no canals or cuts shall be made, dug, or constructed unless the same be necessary to reduce the waters of said Lake Okeechobee, to effect the said object of drainage and permanently reclaim said lands. * * *

The parties of the second part, for themselves and their successors in office, do agree and bind themselves, and their successors in the administration of said trust, that they will, and their successors shall, pay, give, grant, convey, and deed the alternate sections of land, belonging to the State or to their fund, now patented or that may be hereafter acquired, within the limits of this contract, which may be reclaimed and thus rendered fit for cultivation; such lands to be conveyed in such quantities and at such times as may be justified by the progress of the work, and will be equitable and just to the said parties hereto; it being mutually agreed that the policy of the board of trustees will at all times be such as not to pay in excess of the work done, and yet to such extent and at such times as will facilitate and aid the faithful performance of the covenants of the parties of the first part: *Provided, however,* That no lands or compensation shall be conveyed or payable to said parties of the first part until some considerable quantity of lands, not less than 200,000 acres, shall have been reclaimed. * * *

It is further understood and agreed that all work shall be done in a substantial and first-class manner, and that time is to be considered as the essence of this contract. * * *

(Minutes of the Trustees of the Internal Improvement Fund, vol. 2, pp. 463-466.)

NOTE NO. 3.—ABSTRACT OF REPORT BY J. J. DANIEL, W. H. DAVISON, AND JOHN BRADFORD, COMMITTEE APPOINTED BY THE GOVERNOR OF FLORIDA ON NOVEMBER 17, 1885.

TO THE GOVERNOR OF THE STATE OF FLORIDA.

SIR: Having been appointed by you, under date of November 17, 1885, to perform certain duties indicated and prescribed by chapter 3639 of the laws of the State of Florida, entitled "An act authorizing the governor to appoint a committee to investigate and ascertain what quantity of land and the number of acres the Atlantic and Gulf Canal and Okeechobee Land Company has reclaimed for the State, and other purposes," we respectfully report that we have concluded the investigation contemplated by said act and submit the following statement of facts as the result thereof: -

* * * * *

The Atlantic & Gulf Canal & Okeechobee Land Co., which for greater brevity we will hereafter designate as the Drainage Co., has dug a canal from the East Tohopekaliga Lake, which is now known and will be designated in this report as East Lake, to and into Lake Tohopekaliga, the length of which is 3.2 miles, the width from 33 to 36 feet, and the depth from 4 to 7 feet.

The least depth of water found was 22 inches, and the average current 1½ miles per hour. From the south end of Lake Tohopekaliga, at a point near the former outlet of the Kissimmee River, now known as Southport, the company has dug a canal to

and into Cypress Lake, the length of which is 3.6 miles, the width 70 feet, and the depth from 5 to 8 feet, with an average current of $1\frac{1}{2}$ miles per hour.

From Cypress Lake to Lake Hatchineha a canal has been dug 2.4 miles in length, 70 feet in width, and from 4 to $6\frac{1}{2}$ feet in depth.

During the past summer a canal has been cut from Hatchineha in the direction of Lake Kissimmee and to within a few hundred yards of the latter lake. This canal has not been completed. Its width is reported to be 36 feet.

Below Lake Kissimmee there have been several cuts made across loops or bends in the river the entire length of which approximates 2 miles, the width varying from 45 to 60 feet, and depth from $2\frac{1}{2}$ to 6 feet. These cuts are on the upper part of the river between Lake Kissimmee and Orange Bluff. This point is estimated to be about 30 miles from the south end of Kissimmee Lake, and below it to Lake Okeechobee there has been no work of any moment done by the Drainage Co. From a point on the southwest side of the Okeechobee a canal has been dug 25 feet in width and from 4 to 7 feet in depth, a distance of 2.57 miles, with an average current of $1\frac{1}{2}$ miles per hour, connecting the waters of the Okeechobee with Lake Hicpochee.

From Lake Hicpochee to Lake Flirt a canal has been dug a distance of about 4 miles, the cut being 46 feet in width and from 4 to 10 feet in depth, with a current of $1\frac{1}{2}$ miles per hour.

After reaching Lake Flirt a series of cuts have been made westward along and near this lake and into the headwaters of the Caloosahatchee River for a distance of about 9 miles, varying from 40 to 45 feet in width and from 2 to 7 feet in depth.

The width of these canals we give from actual measurements made at different points. Soundings were taken along their entire course and by cross sections at short intervals, and speed of current noted. The length we give as reported by the company's engineers, whose statements correspond substantially with our observations and measurements.

Below Lake Flirt the Drainage Co. has expended a good deal of work in opening and cleaning the channel of the Caloosahatchee, through a limestone ridge above Fort Thompson, at a point known as the rapids.

In addition to this work we find that the company has, by the use of a snag boat, cleared away the obstructions in Tiger Creek, an important tributary of the Kissimmee, which enters Lake Kissimmee from the west, connecting it with Tiger Lake, Lake Rosalie, and Walk-in-the-water Lake, making this stream practicable for the lighter class of steamers which navigate the river into Lake Rosalie, and under favorable circumstances, to a point above that lake. * * *

Your committee reached Kissimmee City on the 20th of February, 1886, and proceeded from that point down the river, through the lakes to Fort Myers, making the examinations, the results of which, verified by the statements of reliable witnesses, as well as by subsequent observations, are given in this report. * * *

Your committee found by examination that the waters of East Lake, at the time of their last visit in the latter days of February, had been lowered about $6\frac{1}{2}$ feet. This lowering of the waters was to be attributed largely, if not altogether, to the opening of the canal. * * *

Lake Tohopekaliga your committee found to be about $5\frac{1}{2}$ feet below its highest level before the canal from Southport to Cypress was cut, as shown by persons long resident and familiar with the waters of the lakes. Proceeding southward along the Southport Canal, the level of the waters and adjacent marshes gradually approximated until, at a distance of a little more than 2 miles from the south end of the Tohopekaliga, being about two-thirds of the distance between the two lakes, the waters were no longer confined to the banks of the canal, but flowed freely over the lowlands on either side, and your committee found, on reaching Cypress Lake, from actual observation and the statements of persons connected with the drainage work from its inception, the waters of the lake were nearly at their normal height.

From this point southward to Lake Okeechobee, both from their own careful observations and from the statements of settlers and persons thoroughly acquainted with the river and lakes, your committee are satisfied that very little effect has been produced upon the waters along their route by the opening of these canals.

In other words, the facts show that from Cypress Lake to Lake Okeechobee the canals which have been dug have not thus far exhibited sufficient capacity to carry off the waters along the route or materially reduce their normal level.

That the canal from Lake Okeechobee to Lake Hicpochee had not materially lowered the waters of the former lake was evident, though even so small an outlet can not but have produced some effect. * * *

¹ In the report of the general counsel for the Trustees of the Internal Improvement Fund for Sept. 16, 1908 (vol. 7, p. 416, of minutes), it is stated that "After this, the South Canal was cut 10 miles long and 40 feet in width, making an approximate total of 90 miles of canals cut, 70 miles of which being in the vicinity of the town of Kissimmee."

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The canals below Lake Hicpochee and through Lake Flirt into the headwaters of the Caloosahatchee were evidently producing some results. * * *

From Fort Thompson westward to the Gulf the waters were at their normal level. No outlet had been provided by the Drainage Co., and no change could be expected. * * *

The permanent lowering of the waters of Lake Okeechobee, the Kissimmee River, its lakes and tributaries, was and is the main feature of the whole plan of drainage as embodied in the contract made with the Trustees. * * *

The effect of the lowering of the waters of Lake Tohopekaliga and East Lake, on the contiguous marshes adjacent to the country, when examined by the committee in February and March of 1886, was very marked. At Narcoosee, on the east side of the lake, at which point an English colony have located, and on the west side of this lake where the canal enters the cross prairie, and at Southport and several other places on the Tohopekaliga, extensive areas of marsh lands were ditched and being prepared for crops, plows were upturning the rich mold, and, notably at Southport, large crops of vegetables were in process of cultivation. The creeks leading into the lakes for some distance back were sensibly reduced and their waters running with rapid current, while the adjacent country, for a considerable distance, was visibly affected by the drainage operations.

From Cypress Lake southward, however, the committee found the waters of the lakes and rivers very nearly at their normal level; neither Okeechobee nor the rivers and lakes above had been either permanently or sensibly lowered by these canals. * * *

Below Lake Cypress they (the committee) did not find the watercourses sensibly lowered or reduced by the work of the company, except in Lake Flirt and the Caloosahatchee above Fort Thompson and in the lakes at the head of Tiger Creek. * * *

After mature and careful deliberation, the committee find, and so report, that the only lands that can be considered reclaimed are those lying on and adjacent to East Lake and the Tohopekaliga, and these lands can not be treated as permanently drained until relief is given to the rivers and lakes below.

The number of acres so reclaimed they estimate at about 80,000. The reclaimed lands around East Lake, with proper subsidiary drainage, may be considered as fit for cultivation in any ordinary season, provided the canal is freed and kept free from bars and obstructions. * * *

While the company has not progressed as rapidly as may have been desired and expected, the progress made has been sufficient to establish, beyond any reasonable doubt, the practicability of the drainage scheme and the admirable quality of the soil when brought into condition for the cultivation of crops.

The commissioners not only considered the reclamation of these lands practicable, but are impressed with the fact that both the State and the drainage company will greatly profit by the reclamation, if fully carried out as contemplated in the contract made with the Trustees.

In this connection, your committee desire to express, in very positive terms, their conviction that the interests of the State and of the Drainage Co. are reciprocal in this matter.

So far as the State is concerned, the beneficial results to be anticipated from the reclamation of these lands can not well be overestimated, while the company will be amply compensated for the expenditure of money, time, and labor required by the increased value of the reclaimed lands to which they will be entitled under their contracts. * * *

Notwithstanding the experience of the past summer, we are satisfied that the plan of drainage outlined in the contract between the Trustees and the Drainage Co. can be carried out and will accomplish the object proposed.

The scheme of drainage contemplated is one of great magnitude and of the utmost importance to the State. The area of country embraced is estimated at 15,000 square miles, or over 9,000,000 acres, extending from the foothills of Orange County to the southernmost point of the peninsula. Vast as is this area, and extensive as is the drainage required, we feel assured that the problem is capable of solution with an expenditure of money, time, and labor not disproportionate to the results to be reasonably anticipated; and that the plan outlined in the contract, if carried out in its fullness, will accomplish the object desired. * * *

The reduction of the waters is simply a question of sufficient capacity in the canals which may be dug for their relief.

Lake Okeechobee and the Everglades, which form a part of its great basin, furnish the receptacle for the drainage of the vast region embraced in the drainage district. The lake, at its normal level, is 20.24 feet above mean tidewater.

It needs no demonstration to show that if sufficient outlet is afforded, Lake Okeechobee may be reduced so as to receive, without engorgement, the waters which flow

into it. The lowering of this lake is, by the contract with the trustees, made the basing point of the whole drainage scheme. If sufficient vent be given to its waters and their level is sufficiently reduced, an opportunity is given to relieve the country above.

Without permanent lowering of the Okeechobee there can be no complete reclamation of the region above. This is the primal and most important factor in the entire plan, which, by the terms of their agreement, the Drainage Co. is to carry into effect * * *

We suggest that the Trustees employ a thoroughly competent, reliable, and skilled engineer, whose duty it shall be to make a complete topographical survey of the entire drainage district, with a view to the intelligent determination of what is required for its relief, and to see that the interests of the State are protected, and that the Drainage Co. complies with the terms of its contract.

In addition to what we have before said as to the character of the lands which have been or may be reclaimed under this contract, we desire to say that the marsh lands around East Lake, on the Cross Prairie, and around the Tohopekaliga, are of the very finest kind. Capt. R. E. Rose has now under cultivation several hundred acres of these lands, the fertility of which can not but impress the most casual observer. His farm, which he calls St. Cloud, is at the upper end of the Cross Prairie. The same character of soil is to be found at Haresfoot Farm and at Southport on the Tohopekaliga.

The saw-grass marshes below we consider to be still better and more valuable. We estimate that of these rich, alluvial lands there will be brought into market, if the drainage is prosecuted, not less than 500,000 acres, and not less than 500,000 acres of secondary or intermediate lands. There will remain 5,000,000 acres more of lands, excluding such as may be considered unreclaimable, the value of which will be largely increased by the drainage work * * *

The drainage of this territory has long been the subject of discussion and many theories have been advanced regarding it. However interesting these theories may be, we have only to do with the facts bearing upon the contract between the Atlantic & Gulf Coast Canal & Okeechobee Land Co. and the Trustees, under the instructions with which we have been charged.

We have taken time to observe the condition of the waters in the drainage district at every season of the year, in order to test the permanent character of the work and better assure ourselves as to the correctness of the conclusions which we have reached.

The general view of the drainage problem, which we present for the consideration of the board, as requested by you, we submit with distrust as to our ability to advise upon a subject so important in its character, without more careful and accurate investigation than we have been able to make, but with the earnest desire to impress upon both of the contracting parties our profound conviction of the magnitude of the work required, and the larger benefits, both to the State and the company, of its successful accomplishment.

The interests of both parties are alike involved in the speedy completion of the work.

J. J. DANIEL.
W. H. DAVISON.
JOHN BRADFORD.

NOTE NO. 4.—RESOLUTION OF THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND.

Therefore,

Be it resolved by the Trustees of the Internal Improvement Fund, all being present, That the Trustees adhere strictly to the provisions of the act of January 6, 1855, chapter 610, Laws of Florida, as to their powers and duties and the purposes for which said trust was granted, and that they will assert their rights and defend the title to the lands granted and irrevocably vested in them for the purposes therein set forth of reclaiming said lands by means of levees and drains.

(Minutes of the Trustees of the Internal Improvement Fund, vol. 5, p. 267.)

NOTE NO. 5.—GOV. JENNINGS'S TESTIMONY.

In the suit of the Louisville & Nashville Railroad Co. against the Trustees of the Internal Improvement Fund, instituted in the early part of 1902, in which the railroad company claimed the lands of the fund as against the Trustees, who were asserting superior rights to the lands, that the same might be used for the purposes of drainage

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and reclamation, and during the taking of the testimony, on November 28, 1904, Gov. Jennings was called to the stand as a witness and was asked by counsel for the railroad company this question:

"Q. Do you know of any other disposition of these funds during your trusteeship, except payment of debts, anteceding the time you became governor, and the payment of current expenses of the board?—A. I do not recall any.

"Q. Have there been any sums paid for reclamation or drainage?—A. I think not."

Recross-examination:

"Q. Have you, as a trustee, understood and acted upon the belief that your first and chief duty in handling the swamp and overflowed lands was to have these lands drained and reclaimed?—A. Yes, sir; I think that was the purpose of the act, but we found the fund in such condition, so many claims by the railroads and other claims against that fund, that we have not been able to undertake the work of draining and reclaiming any of the lands under the conditions surrounding the fund at the time.

"Q. Have you reason to believe, and do you believe, from your experience since you have been a trustee, that if the fund had not been tied up by litigation and held in the condition that it is on account of suits, advantageous arrangements might have been made to drain large parts of swamp and overflowed lands belonging to the fund?—A. I am under that impression. There was one small effort made in that Eltoniah Canal matter, but most of it was under a former contract. We had hoped to carry out this policy, but have not been able to do so on account of the condition we found the fund in."

NOTE NO. 6.—LETTER OF W. S. JENNINGS, GENERAL COUNSEL OF THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND, TO GOV. N. B. BROWARD.

JANUARY 21, 1905.

HON. N. B. BROWARD,

Governor and President Internal Improvement Board,

Tallahassee, Fla.

DEAR GOVERNOR: According to promise, I examined particularly into the question of the Louisville & Nashville Railroad suit and other matters that you discussed with me, and beg to thank you again for your expressed confidence.

I do not underestimate the burden that I am to assume in this work and am impressed with the importance of the work before the Trustees. While I am entirely confident of our former expressed views and conduct, I know that the railroad companies are relying with a great deal of confidence upon the stand they have taken and will find some decision tending to sustain them, which we must overcome. I can only repeat, as my only means of emphasizing the fact, that I deem it of the utmost importance to the success of the Trustees in the litigation that some work shall be begun to meet the allegations in the bill of the Louisville & Nashville Railroad, to the effect that the Trustees are not performing any of the trusts required of them under the law. This line of attack was clearly brought out during the taking of the testimony of the Louisville & Nashville Railroad suit some time last December; it was apparent that the effort there was to prove that the Trustees were not performing any of the trusts claimed by them in their pleadings.

Among other questions propounded to me as a witness was one inquiring, in effect, if I knew of any disposition of these funds during my trusteeship, except the payment of debts anteceding and during the time I was governor and the payment of the current expenses of the board, which I was unable to answer in the affirmative. I was further asked if there had been any sums paid for reclamation or drainage, which was likewise answered in the negative; but upon recross-examination I was asked by our counsel if I, as a trustee, understood and acted upon the belief that my first and chief duty in handling the swamp and overflowed lands was to have these lands drained and reclaimed, to which I answered in the affirmative, stating that I thought that was the purpose of the act, but that we found the fund in such condition—so many claims by the railroads and other claims against the fund—that we had not been able to undertake the work of drainage and reclaiming any of the lands under the conditions surrounding the fund at the time; that I had reason to believe, and did believe from my experience as a trustee, that if the fund had not been tied up by litigation and held in the condition that it is on account of suits advantageous arrangements might have been made to drain large bodies of swamp and overflowed lands belonging to the fund; that we hoped to carry out this policy, but had not been able to do so on account of the condition we found the fund in.

From our several conferences with Mr. Wisner I have become convinced that a suitable dredge could be purchased for from \$25,000 to \$35,000. In conversation some time ago with Mr. J. H. Tatum, of Miami, he informed me that he could procure, without any considerable cost to the Trustees, right of way over the waters of the Miami River into the Everglades and also suitable ground for dredge building and launching, which, I think, should be taken up at once and definite steps be taken to start even a small dredge, in order that our pleadings in these suits may be sustained by the facts and that the Trustees may be sustained in their efforts.

I have named the matter of financing the Trustees to Mr. Coachman, our president, and while no definite arrangement has been made about providing the money I feel confident that we can arrange with the Trustees to furnish them necessary funds up to \$25,000 anyway for this purpose. I consider the launching of a dredge absolutely essential to the success of the litigation, and if you have not fully decided to start the dredge in the Miami River immediate steps should be taken to determine where the start should be made.

From my investigation of the law, I do not deem it advisable to propose a constitutional amendment on the subject of the drainage tax. I do think, however, that you should consider recommending to the legislature the adoption of a drainage law that would be fair to all landowners, without regard to ownership, so that in the event that the Trustees do not succeed in sustaining their views as heretofore expressed there will be a fund provided for carrying on the drainage work.

Yours, very truly,

W. S. JENNINGS, *General Counsel.*

NOTE NO. 7.—REPORT OF CAPT. J. O. FRIES ON PRELIMINARY SURVEY.

TALLAHASSEE, FLA., *September 21, 1905.*

Capt. J. O. Fries, civil engineer, appeared before the Trustees and reported the result of his labors in making a preliminary survey of a route between Lake Okeechobee and the Atlantic Ocean for the purpose of draining and reclaiming lands in that vicinity. He also presented an account for his services and expenses, amounting to \$652.50, which was approved and ordered paid, after deducting the \$150 already paid him on said account.

(Minutes of the Trustees of the Internal Improvement Fund, vol. 6, p. 79.)

NOTE NO. 8.—RESOLUTION OF THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND ADOPTING CANAL ROUTE.

TALLAHASSEE, FLA., *December 12, 1905.*

It is resolved, That they adopt, as the route for the first canal to be dug by the Trustees of the Internal Improvement 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° W. 2,500 feet; thence N. 73° W. about 4½ miles to a stake marked 90; from this stake, turning north 32° W., following the open Glades to the south end of Lake Okeechobee."

The depth of the canal at the beginning is to be 10 feet; at the end of 1 mile it is to be 12.7 feet; at the end of 2 miles it is to be 14.6 feet; at the end of 3 miles it is to be 14.5 feet, continuing the same depth to stake No. 90, from which point the depth of the canal is to gradually diminish to 10 feet deep at Lake Okeechobee.

It is further resolved, That in digging northward, when we find waters having outlet 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 waters.

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 of the Trustees of the Internal Improvement Fund, vol. 6, p. 96.)

NOTE NO. 9.—DRAINAGE TAX LAW APPROVED BY GOVERNOR MAY 27, 1905.

SECTION 1. The governor, the comptroller, the State treasurer, the attorney general, and the commissioner of agriculture of the State of Florida, and their successors in office, are hereby constituted and designated as a Board of Drainage Commissioners, and are hereby authorized and empowered to establish a system of canals, drains, levees, dikes, and reservoirs of such dimensions and depth as in the judgment of said Board of Drainage Commissioners is deemed advisable to drain and reclaim the swamp and overflowed lands within the State of Florida, or such parts or portions thereof as is deemed best by said Board of Drainage Commissioners from time to time, and to provide for the irrigation of the lands reclaimed, and to maintain such canals, drains, levees, dikes, and reservoirs in such manner as will be most advantageous to the territory so drained, the State of Florida, its inhabitants, and the commerce thereof.

SEC. 2. That the Board of Drainage Commissioners are hereby authorized and empowered to establish drainage districts and to fix the boundaries thereof in the State of Florida; that the Board of Drainage Commissioners be, and it is hereby, authorized and empowered to prepare a list or lists of all the alluvial or swamp and overflowed taxable lands within such drainage district or districts, and levy thereon an acreage tax not exceeding 10 cents per acre per annum to be fixed annually by said Board of Drainage Commissioners, and the various tax assessors of the various counties embraced in part or in whole within such drainage district or districts shall receive such list or lists and enter the same upon the tax rolls of the county or counties in which such lands may lie and the amount so levied by the Board of Drainage Commissioners in such manner and form as may be prescribed by the Board of Drainage Commissioners from time to time, which amount shall be collected by the various tax collectors of the counties wherein such levies have been made as other taxes are collected in accordance with law, and pay over said amounts collected to the Board of Drainage Commissioners.

SEC. 3. That the Board of Drainage Commissioners be, and it is hereby, authorized to exercise the right of eminent domain in the condemnation of lands for the location of its canals, drains, levees, dikes, and reservoirs for the purposes aforesaid, and may enter upon, take, and use such lands as it may, pending condemnation proceedings, deem necessary for such purposes, and in ascertaining the compensation to be paid for such land or right of way, benefits to be derived from such drainage shall be considered by the jury.

SEC. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

SEC. 5. This act shall take effect upon its approval by the governor.
(Fla. Stats., chap. 5377, May 27, 1905.)

NOTE NO. 10.—DRAINAGE TAX LAW AS AMENDED MAY 28, 1907.

SEC. 2. That a drainage district is hereby established, beginning at the intersection of township line between townships 36 and 37, south and east, with the range line dividing ranges 31 and 32 and extending east along said township line to the intersection of the range line dividing ranges 39 and 40 and south to the intersection of township line dividing townships 41 and 42; thence east along said township to the intersection with the range line dividing ranges 41 and 42; thence south along said range line to the intersection of the township line dividing townships 51 and 52; thence west along said township line to the intersection of the section line dividing sections 3 and 4 in township 52, range 41 east; thence south along said section line to the waters of Biscayne Bay; thence along the coast line of said waters and the waters of the Gulf of Mexico to the point of the range line between ranges 31 and 32 intersecting with the coast line of the said Gulf of Mexico; thence north along said range line to the intersection of the township line between townships 36 and 37, the point of beginning. A tax of 5 cents per acre is hereby levied annually, including the year 1907, upon all the lands within said drainage district that were included in patents received by the State of Florida from the United States under act of Congress approved September 28, 1850. The net proceeds arising from said acreage tax shall be used and applied to the drainage and reclamation of the lands within said drainage district, described and established in this act. The Board of Drainage Commissioners shall prepare a list, or lists, of such patented lands and send them to the tax assessors of the several counties embraced in part or in whole within such drainage districts. And the tax assessors of the several counties embraced in part or in whole within such drainage district shall receive such list or lists and shall enter the same upon the tax rolls of the county or

counties within which said lands may lie, and the amount so levied by this act, and include said acreage tax in his warrant to the tax collector in the usual form prescribed by law, which amounts shall be collected by the several tax collectors of the counties wherein such levies have been made as other taxes are collected on real estate in accordance with law, and pay over said amounts so collected to the Board of Drainage Commissioners. Such moneys so collected shall be used exclusively for the purposes stated in this act within the said drainage district.

(Fla. Stats., chap. 5709, May 28, 1907.)

NOTE NO. 11.—LETTER AND MINUTES RELATING TO THE SCHOOL FUND.

OCTOBER 19, 1907.

HON. N. B. BROWARD,

Chairman State Board of Education, Tallahassee, Fla.

DEAR SIR: I have prepared resolutions relating to the provisions found in the constitutions of 1868 and 1885 on the subject of the sources from which the common-school fund shall be derived, among them being 25 per cent of the sales of public lands, as stated in the said constitutions. I have given the matter considerable time, research, and thought, and have prepared resolutions along the lines that you suggested, which I am pleased to inclose herewith. My investigation of this question has resulted in findings as indicated and outlined by said resolutions, and leads me to conclude that, as counsel for the Trustees of the Internal Improvement Fund, I should not express an opinion thereon at this time.

Yours, very truly,

W. S. JENNINGS,

General Counsel, Trustees Internal Improvement Fund.

TALLAHASSEE, FLA., March 30, 1908.

The following certified copy of resolutions adopted by the State Board of Education were submitted to the Trustees:

Whereas section 4 of article 8 of the constitution of the State of Florida, adopted February 25, 1868, contains, among other provisions, the following:

The common-school fund * * * shall be derived from the following sources: The proceeds of land or other property which may accrue to the State by escheat or foreclosure; the proceeds of all property granted to the State when the purpose of such grant shall not be specified; * * * 25 per cent of the sales of public lands which are now or may hereafter be owned by the State;

And whereas large areas of public lands had been granted the State of Florida by the Congress of the United States, two of the most important grants being the act of Congress approved March 3, 1841, and the act of Congress approved September 28, 1850, commonly known as the swamp and overflowed land grant act, under which acts the State of Florida became seized and possessed of upward of 20,000,000 acres of land, the greater portion of which lands had been vested in the State of Florida, prior to and at the date of the adoption of the aforesaid constitutional provision on the 23d day of February, 1868, and subsequent thereto;

And whereas the constitution of the State of Florida, adopted by the convention of 1885, that became effective January 1, 1887, contains among other things, at section 4, Article XII, under the subject of education, the following provision:

That the State school fund * * * shall be derived from the following sources;

Among them being enumerated the following items:

Twenty-five per cent of the sales of public lands which are now or may hereafter be owned by the State;

And whereas public lands are defined by high legal authority in the following language:

"Public lands" is habitually used in legislation to describe such lands as are subject to sale or other disposal under general laws. (Anderson's Law Dictionary, *Newhall v. Sanger*, 92 U. S., 763; *Worth v. Branson*, 98 U. S., 118.)

And the second headnote in the *Newhall v. Sanger* case, above cited, reads as follows:

The words "public lands" used in our legislation mean such as are subject to sale or other disposal under general laws.

And in delivering the opinion of the court in the above-entitled case, Justice Davis of the Supreme Court of the United States uses this language:

The words "public lands" are habitually used in our legislation to describe such as are subject to sale or other disposal under general laws. (Text, first page of decision.)

Whereas the State of Florida has disposed of several million acres of said public lands since the adoption of said constitutional provisions, which have been in full force and effect continuously since the adoption of the first provision in 1868, without any accounting or distribution or payment to the State Board of Education, or otherwise applying said constitutional proportion of 25 per cent or any other amount or per cent, to said fund as required by the constitution of the State of Florida, and the State Board of Education is advised that said constitutional provisions are in full force and effect, and that said school fund is entitled to 25 per cent of the sales of all public lands affected and under the provisions of the constitution above referred to: Now, therefore, be it, by the State Board of Education,

(1) *Resolved*, That it is the opinion of the State Board of Education that the State school fund, under said constitutional provisions, is entitled to receive and recover 25 per cent of the sales of all public lands of the State of Florida from the date that the constitution of 1868 became effective to the present time, being the proceeds from the sale of said public lands which have been owned by the State of Florida since the constitution of 1868 became effective, or may hereafter be owned by the State of Florida.

(2) *Resolved*, That an accounting be demanded of the Trustees of the Internal Improvement Fund of the State of Florida under the clauses of the constitution of 1868 and of the constitution of 1885, requiring that 25 per cent of the sales of public lands be paid to the State Board of Education for the use of the common-school fund as provided by the said constitutions, showing the total acreage of the public lands as of the date of February 23, 1868, the number of acres of public lands that have been vested in the State of Florida since the adoption of said constitution of 1868, the acreage sold since that date by the State of Florida, or by its authority or consent, the amounts of money received from said sales, the amounts paid over to the said common-school fund or to the State Board of Education for said fund, since said constitution of 1868 became effective, if any, and the total acreage of public lands vested in the State of Florida, or her grantees in trust not disposed of.

(3) *Resolved*, That the Trustees of the Internal Improvement Fund of the State of Florida be furnished with a copy of these resolutions, that the commissioner of agriculture of the State of Florida be furnished with a copy of these resolutions, and that the land clerk of the State Board of Education be furnished with a copy of these resolutions, and that said land clerk shall assist in the preparation and compilation of such data in the making and stating of the account referred to in the foregoing resolution.

N. B. BROWARD, *Governor*.

Attest:

W. M. HOLLOWAY, *Secretary*.

Adopted 22d day of October, 1907.

Upon motion it was

Resolved, That the accounting requested by the State Board of Education in said resolutions be made by the Trustees; and

Resolved further, That the secretary of the Trustees do proceed to make up an account and report same to the Trustees showing the total acreage of the land held by the Trustees as to the date of February 23, 1868, the number of acres of public lands that have been vested in the Trustees since the adoption of the State constitution of 1868, the acreage sold since that date by the Trustees or by their authority, the amounts of money received from said sales, the amounts paid over to the State school fund or to the State Board of Education for said fund since said constitution of 1868 became effective, if any, and the total acreage of public lands vested in the Trustees not disposed of.

Resolved further, That the secretary is directed to proceed at once to make up such accounting, and to continue the same with all reasonable dispatch, without intermission, until the said account shall be made up and submitted to the Trustees.

(Minutes of the Trustees of the Internal Improvement Fund, vol. 7, p. 240.)

TALLAHASSEE, FLA., September 2, 1908.

Whereas on the 22d day of October, 1907, the State Board of Education of Florida adopted certain resolutions which were transmitted to the Trustees of the Internal Improvement Fund:

And whereas on the 21st day of November, 1907, the governor addressed a communication to the attorney general, as follows:

NOVEMBER 21, 1907.

Hon. W. H. ELLIS,
Attorney General, Tallahassee, Fla.

Sir: Section 4 of article 8 of the constitution of Florida contains among other provisions the following: "The common-school fund * * * shall be derived from the following sources, among others, 25 per cent of the sales of public lands which are now, or may hereafter be, owned by the State."

I have the honor to ask for your opinion as to whether or not this clause of the constitution is of full force and effect and is applicable to the lands in the hands of the Trustees of the Internal Improvement Fund of the State of Florida; and, if so, from what date and to what sales of public lands is the State school board entitled to an accounting and recovery?

I have the honor to be, very respectfully,

N. B. BROWARD, Governor.

And whereas on the 5th day of February, 1908, the attorney general submitted to the governor his answer to said communication, as follows:

TALLAHASSEE, FLA., February 5, 1908.

Hon. N. B. BROWARD,
Governor, Tallahassee, Fla.

DEAR SIR: Your letter of recent date, requesting my opinion as to whether section 4, Article XII of the constitution, which provides among other things that "the common-school fund * * * shall be derived from the following sources * * * among others, 25 per cent of the sales of public lands which are now or may hereafter be owned by the State," is of full force and effect and is applicable to the lands in the hands of the Trustees of the Internal Improvement Fund of the State of Florida; and, if so, from what date and to what sales of said public lands is the State school board entitled to an accounting and recovery?

In my opinion the provision of the constitution of 1868, as well as that of 1885, is self-executing; it is a present application of public money arising from sale of public lands. The treasurer was the custodian of all funds. The superintendent of public instruction under the constitution of 1868 had the "administrative supervision" of all matters pertaining to public instruction, and the provision of the constitution referred to as applying 25 per cent of the sales of public lands to the common-school fund was a direction to the Trustees to so apply such portion of the sales.

The constitution of 1885 makes no material change, except vesting a "State Board of Education of Florida" with the power and duty of managing and investing all State school funds. The State Board of Education, therefore, has the right to demand an accounting from the Trustees of the Internal Improvement Fund of the State of Florida for 25 per cent of the proceeds of the sales of all lands contained in the Internal Improvement Fund from February 25, 1868 (or that have since been acquired and placed into said fund), to date, excluding only such sales as were made for the purpose of discharging a lien upon the fund held by the bondholders of the railroads which had acquired rights under the act of 1855 and such liens as may have been acquired prior to February 25, 1868.

Very respectfully,

W. H. ELLIS,
Attorney General.

And whereas on the 30th day of March, 1908, it was resolved by the Trustees of the Internal Improvement Fund that an accounting as aforesaid be made to the State Board of Education, and directed that the secretary of the Trustees do proceed to make up such account and report same to the Trustees;

And whereas such account has not yet been reported to the Trustees, on account of which it has not yet been practicable to make or offer any settlement between the Trustees and the State Board of Education on said account covering the period between said February 25, 1868, to said February 5, 1908;

And whereas it appears from the records of the Trustees of the Internal Improvement Fund that the Trustees have received, as proceeds of the sale of public lands between said February 5, 1908, and the 31st day of August, 1908, both inclusive, the sum of \$33,299.75;

And whereas under the constitution and laws of Florida, as construed by the attorney general, 25 per cent of said amount of \$33,299.75, said 25 per cent amounting to \$8,324.94, is due and payable to the State Board of Education of Florida by the Trustees aforesaid:

It is therefore ordered by the Trustees of the Internal Improvement Fund that the said sum of \$8,324.94 be this day paid to the State Board of Education of Florida.

And it is further ordered that hereafter, on the first day of each month, 25 per cent of the proceeds of all sales of public lands by the Trustees of the Internal Improvement Fund during the next preceding month shall be paid by the Trustees to the State Board of Education of Florida.

(Minutes of the Trustees of the Internal Improvement Fund, vol. 7, pp. 313-322.)