

1961

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Recommended Citation

Covington, James W. (1961) "The Armed Occupation Act of 1842," *Florida Historical Quarterly*. Vol. 40 : No. 1 , Article 5.

Available at: <https://stars.library.ucf.edu/fhq/vol40/iss1/5>

THE ARMED OCCUPATION ACT OF 1842

by JAMES W. COVINGTON

THROUGHOUT THE HISTORY of advancing frontiers in many parts of the world there have been attractive offers of free land to brave and fool-hardy persons who would live at the dangerous edge of the advancing settlements. Such an offer was made to the retiring Roman legionnaires in the hope that they would live near the frontier line in Gaul and elsewhere and serve as added protection against the warlike German tribes. In 1630, a large tract of land was offered to each commander and fifty acres to other persons who would settle near the dangerous Pamunkey tribe in Virginia, and serve as a buffer against attacks by these warlike Indians. In 1636, John Chew and his nine associates were given a patent to five hundred acres in this section.¹ In 1653, the Virginia Assembly offered ten thousand acres in the valley of the Roanoke, or Moratock, River to any group who would establish a defensive position and secure sufficient arms and ammunition to defend it.² Thus at this early date in American history we can see formulated the principle of offering free land to those who have the courage to settle in relatively dangerous areas.

In 1840 the Territory of Florida certainly needed the application of such a principle as a stimulus to immigration. The most fertile lands lying to the westward in Ohio, Michigan, Illinois, Mississippi, and Alabama had attracted the vast bulk of the frontier migratory wave and the Florida peninsula had been bypassed. A few figures from the census records of 1830 and 1840 will lend support to this statement:

	1830	1840
Alabama	309,527	590,756
Mississippi	136,621	375,651
Michigan	31,639	212,267
Illinois	157,445	476,183
Ohio	937,903	1,519,467
Florida	34,730	54,477

1. Philip A. Bruce, *Economic History of Virginia in the Seventeenth Century* (New York, 1934), I, 510.

2. *Ibid.*, 511.

The principal deterrent to settlement in Florida at this time was the long and costly Second Seminole War (1835-1842). Although fighting was reduced to a series of soldiers chasing Indian episodes by the winter of 1837, immigrants just would not come to Florida in great numbers and those who came remained some distance from where the Seminoles might be found.

The first to come forth with a plan to assist the population of Florida make a great leap forward was Senator Thomas Hart Benton of Missouri. In 1840, he introduced the Armed Occupation Bill, a measure which would have provided land, weapons, and food for the prospective settlers. In his introductory speech, the Senator from Missouri made the following points:

Armed occupation, with land to the occupant, is the true way of settling and holding a conquered country. It is the way which has been followed in all ages and in all countries from the time that children of Israel entered the promised land with the implements of husbandry in one hand, and the weapons of war in the other. From that day to this, all conquered countries have been settled in that way . . . the peninsula of Florida is now prepared for this armed settlement: the enemy has been driven out of the field. He lurks an unseen foe in the swamps and hammocks. . . . We want people to take possession and to keep possession; and the armed cultivator is the man for that. The blockhouse is the first house to be built in Indian country; the stockade is the first fence to be put up . . . the heart of the Indian sickens when he hears the crowing of the cock, the barking of the dog, the sound of the axe and the crack of the rifle. They are the true evidences of the dominion of the white man; these are the proof that the owner has come, and means to stay; and then they feel it is time for them to go.³

In spite of Benton's fine speech, determined opposition by Southerners including Senators Robert Strange (North Carolina), John C. Crittenden (Kentucky), and William Preston (South Carolina), defeated the measure. Benton addressed the Senate on January 12, 1840, and accused the large slaveholders and speculators of desiring all the good land for themselves and preferring soldiers to settlers: "This is an additional reason for me to place meritorious cultivators upon soil to defend it both from

3. Thomas H. Benton, *Thirty Years' View* (New York, 1856), II, 167-169.

Indians and speculators. It is cheap, efficient and humane.”⁴

The next notice concerning a policy of armed occupation came on May 10, 1842, when President John Tyler announced the termination of the Second Seminole War. He stated that there were only about eighty adult male Seminole Indians remaining in Florida and peaceful pressure should be exerted for their migration to Oklahoma. In the several sentences concluding Tyler’s message, he expressed the hope that settlers could move to Florida and be provided with food for the period of one year.⁵ Powder and guns might be loaned to the hardy pioneers from the government’s warehouses so that the settlers would be able to protect themselves from possible attack.

There had been a trickle of settlers southward even before Tyler’s May, 1842, announcement. In March, 1842, the *St. Augustine News* reported twenty-three settlers bound for the Withlacoochee River and Clearwater Harbor.⁶ They were reported to be the first settlers moving south of the Withlacoochee since 1835. They planned to erect a blockhouse at first and use it as a rallying point. Many of these settlers took their slaves along with them.

The United States Army had helped promote some immigration into Central Florida, perhaps in anticipation of the presidential announcement. Donald Stewart had come under this military-sponsored plan *via* a steamboat full of crying children and grunting pigs up the St. John’s River to Fort Mellon. He was fortunate in having his ten by fourteen foot cypress log cabin finished first, and seemed happy in Florida.⁷ Most of the settlers under this plan became discouraged after the army had reduced its forces, closed many outposts, and became unable to supply them with food or provide protection.

Delegate to Congress David Levy (Florida) was not very pleased with the President’s message. He noted that the seven year war which had cost millions had been terminated, and yet much of the disrupted land was still in the hands of the enemy. He read to the House of Representatives a letter from Secretary of War

4. *Journal, United States Senate*, 26th Congress, 2nd sess. (Washington, 1840), 12.

5. James D. Richardson, *A Compilation of the Messages and Papers of the Presidents* (New York, 1897), V, 2007-2008.

6. *Saint Augustine News*, March 26, 1842.

7. Letter of Donald Stewart, May 10, 1842, in *ibid.*, May 28, 1842.

John C. Spencer in which the federal official advocated the use of armed families who would settle in Florida on federal land and be given a supply of provisions for one year and a guarantee that arms and ammunition would be loaned to the pioneers from the military warehouses.⁸

To Levy it was foolish to declare a war at an end when weekly raids were still being undertaken by the Indians. He related how, during the past month, the Seminoles in separate raids had: wounded three men, killed a man and a mule, killed two Negroes, and shot one soldier. Levy read to the assembled Congressmen a clipping from the Tallahassee *Floridian* April 16, 1842, giving a report of a military expedition along the Suwanee and Apalachicola rivers.

Thomas Hart Benton, determined person that he was, introduced the Armed Occupation Act with some modification again in June, 1842. According to the version presented to the Senate, the United States Government would provide arms and ammunition to the settlers during their first year's residence on selected tracts of land. Determined opposition began to form against the bill as before, but Benton received more support this time from the Senators representing the southern states. The measure had cleared Benton's Committee of Military Affairs without suffering much damage on June 2, 1842, but several Senators were able to make hard hitting statements against it on the Senate floor when the bill was returned from committee. An amendment providing for the arming of the settlers was defeated.⁹

The bill passed the Senate by a vote of twenty-four to sixteen, with the support for the Armed Occupation Bill coming mostly from the South and West. Foes of the measure were mostly from the Northeast, but included scattered support from other areas. Benton had led the debate in support of the measure and Daniel Webster led the attack against it.

The measure passed the House eighty-two to fifty. The section dealing with free rations and loan of weapons was elimi-

8. *Congressional Globe*, House of Representatives, May 16, 1842, 27 Congress, 2nd sess. (Washington, 1842), 502.

9. *Congressional Globe*, Senate, June 13, 1842, 27 Congress, 2nd sess. (Washington, 1842), 624. Senator Preston supported the Armed Occupation Bill, pointing out that should the measure prove effective, ten acres could be sold later for each one given away free to the armed occupants.

nated, however, and the Senate approved the House version. John Quincy Adams from Massachusetts and William Johnson from Maryland representing the abolitionist Whigs had led a bitter fight against the bill, but the non-voting Florida delegate, David Levy, supported by Southerners and Westerners, won the day.¹⁰

The act was signed on August 4, 1842.¹¹ The act stated that a 200,000 acre area south of present-day Gainesville was open for settlement. This law stipulated that one hundred and sixty acres would be given to any head of family or single man over eighteen who was able to bear arms, and he was required to live on the land in a house fit for habitation during five consecutive years and cultivate at least five acres.

What this law really meant was that a huge “grab-bag of land” extending from present-day Gainesville and St. Augustine to the Peace River was open to settlement by an adventurer who was willing to risk the wrath of the Seminoles. The only conditions limiting his selection were that he could not claim a site on the coastal islands or settle on a private claim previously established or claim land within two miles of a fort. The area south of Peace River was declared out of bounds as it included the Indian reservation section. A two hundred thousand acre limit was placed upon total selections from the open area.

When the news that the Armed Occupation Act had been passed reached Florida, some hardy pioneers put into action some plans previously drawn. Those living in the area, of course, had known about the best locations and now were ready to make their claims for the desirable sites. Maximo Hernandez, who had operated a fishing camp at the tip of Pinellas Peninsula, secured a legal title for his operations by application under the act.

10. Opponents of David Levy argued that he had dragged his heels while supporting the measure but evidence presented in the March 13, 1843, and April 17, 1843, issues of the *Florida Herald* and records of the debates in the House of Representatives demonstrate clearly that Levy was the prime mover in helping the bill clear the House. A county created in 1845 was named in honor of Levy and still bears that name. Benton, however, did not have such good fortune. Hernando County was renamed Benton March, 1844, in memory of the good work done by the Senator. However, in 1850 when he took the “wrong” side of the slavery issue in the western territories, the honor was taken away and Benton County became again Hernando County.

11. *5 United States Statutes at Large*, 502. The area open to settlement was situated south of a line dividing Townships Nine and Ten South and East of Base Line. This act was corrected on June 15, 1844, *5 United States Statutes at Large*, 671.

In like manner, Levi Collar, one of the first Anglo-Saxon settlers in Hillsborough County, filed a claim for land along Rocky Creek. Levi Collar originally came to Tampa in 1824 from Alachua County and established his first home at Six Mile Creek - then known as Collar Creek. Many of the former servicemen at Fort Brooke, Fort Marion, and other military posts made applications for land which they had previously observed and desired.

The ones who had exerted themselves the most for land claims were those applicants living at the time in northern Florida or in Georgia, Alabama, or the Carolinas. Some were able to make use of water transportation and disembark at a sea or river port not far from the desired property, but the majority of settlers made their way by land into the tract from the northern Florida counties and nearby states.¹²

By June, 1843, it was estimated that half of the applicants had come from outside Florida - the Carolinas, Georgia, and Alabama.¹³ Sometimes a solitary man or small groups of men fought their way through the thick hammocks and lowlands to select a site and then returned for their families.¹⁴ Meager possessions and a supply of corn and sweet potatoes were loaded into the ox-drawn carts and the procession headed for middle and southern Florida.

Several men probably guided the group by going ahead on horseback. A small herd of cattle, guarded by men armed with muskets and accompanied by a pack of ever present dogs, may have followed the entire procession. The men usually rode on horseback; the women and babies were transported in the wagons or carts and the children walked.

After a site had been selected, it was necessary for a person to travel either to the Land Office at Newnansville or at St. Augustine to file a claim. Persons living in southwestern and central Florida usually obtained their permit for settlement at Newnansville while those living along the Atlantic coast and in the St. Johns and Indian River sections traveled to St. Augustine. At this time Newnansville was a town of about one thousand

12. Lillie B. McDuffie, *Lures of the Manatee* (Manatee, 1933), 24.

13. *Florida Herald*, June 5, 1843.

14. Article by Albert De Vane in "Pioneer Florida," *Tampa Sunday Tribune*, April 29, 1956.

persons and contained several stores.¹⁵ This now extinct town was situated ten miles northwest of Gainesville.

Since a trip by land in those times was indeed a tedious journey, it was not deemed necessary to visit the Land Office in person. We have only to look at the experience of one man who took two weeks to travel from the area of present-day Bradenton to Newnansville and return to understand why such a practice was permitted.¹⁶ Consequently, one person would volunteer to carry several friends' applications for permit along with him when he traveled to the Land Office. The record permit carrier from the Bradenton area was Isaac Garrison, who took approximately one hundred permits to Newnansville for processing.

One applicant from the present-day Brooksville section wrote the following letter to the land office at Newnansville:

"I have come from North Carolina with two good guns and several hundred pounds of ammunition. I pitched my tent and started to work to make land worth defending. Hope you issue permit and give it to bearer. Signed, Jeremiah Dodson."¹⁷

Most desirable land sites included old Indian fields, rich hammock land, and the Alafia, St. John's, Hillsborough, and Manatee river valleys. Due to the great distances from claimed sites to land offices, a strange pattern of applications developed. The first application was filed on October 11, 1842, at the St. Augustine office by Frederick Weedon. Two applications were filed in November, seven in December, ten in January, eight in February, and thirty in March. Elias Hart filed the first application at Newnansville on December 15. There were thirty-three applications in December, one hundred fifty in January, two in February, one hundred thirty-eight in March, and fifty in April.¹⁸

During the nine month period in which this law was in effect 1,312 permits were issued; nine hundred and forty-two at Newnansville and three hundred and seventy at St. Augustine. We shall discuss the ones disallowed a little later, but of those not

15. Malachi Hagan's letter dated November, 1839, and printed in "Pioneer Florida," Tampa *Sunday Tribune*, March 1, 1959.

16. Madam Atzeroth, article in "Pioneer Florida," Tampa *Sunday Tribune*, August 22, 1954.

17. Letter of Jeremiah Dodson dated June 14, 1843, in *Florida Herald*, July 17, 1843.

18. The complete list of permits granted, person who carried the permit, and place of settlement may be seen in *Senate Executive Document No. 38*, 30th Congress, 1st session.

annulled, 1,184 permits were issued for a total of 189,440 of the 200,000 acres available.

Although the bulk of the applicants desired land in the western and central part of the peninsula, there was some interest displayed in the Atlantic coastal section. "In 1854, when Volusia County was created, nearly all of the fifty property holders had obtained 160 acres of land from the government under the Armed Occupation Act of 1842."¹⁹

In applying for the land an affidavit had to be filled out and sworn before a justice of the peace stating: (1) how long applicant had been a resident of Florida, (2) that claimed land was not within two miles of permanent military post and did not interfere with prior private claims. The site had to be specified either by township section, or, if unsurveyed, by some natural object. Many filed in this vague way - "near Fort Sullivan - near Boca Grande, near Homosassa river, near Big Negro Old Field, or Powel's Town." After this application was presented at the Land Office a permit was issued.

Within six months after the expiration of the act, certain details concerning proof of settlement had to be presented to the Land Office. The necessary information included: date of crop cultivation, kind of crop, number of acres in cultivation, type of house, number and description of inhabitants, and proof of settlement.²⁰

Although the Armed Occupation Act was signed on August 4, 1842, and an end to the Indian war had been proclaimed by President John Tyler in May, 1842, the majority of the settlers could not take advantage of the act's provisions during 1842. One reason was that no one told the Indians that the war had ceased. As late as September, 1842, an entire family was wiped out by Indians near Marianna. During the same month Mrs. Charlotte Crum was killed in present-day Hernando County.²¹

On August 14, 1842, the troops in the field were notified that the hostilities were at an end and the Indians were to be

19. Ianthe B. Hebel, *Centennial History of Volusia County, 1854-1954* (Daytona Beach, 1954), 3-4.

20. *Florida Herald*, July 24, 1843. Not all of the settlers were required to submit the necessary information at the same time. Such requests were staggered, and the section and deadline for data was advertised in Florida newspapers.

21. *St. Augustine News*, October 1, 1843.

given temporary use of land for hunting and farming purposes.²² Thus, if it took three months for a message to be transmitted from the President to the troops, we can understand the delay in notifying all of the Seminoles that the fighting had ceased.

The Indian raids both in the Florida panhandle and in central Florida were only temporary flare-ups and did not last very long. The Indians who were doing the killing and destroying in the Florida panhandle were not Seminoles but a group of Creeks from Alabama and Georgia who had fled to the coastal swamps. Within a short time, General Hitchcock secured their surrender and transportation to Oklahoma.²³ By 1843, the Seminoles had visited Tampa and sought permission to shoot the ownerless cattle roaming wild in the prairies; however, their request was denied.²⁴ Thus, the settlers in Central Florida were not subject to any real danger of Indian attack at this time.

Naturally there were to be some problems connected with the large number of applicants and of permits issued. One person wanted 163²⁰/₁₀₀ acres instead of the square 160 acres - his petition was disallowed.²⁵ The question arose concerning the right of a woman to file for land if she had sons and slaves capable of bearing arms. Such permits were approved. The owners of slaves were not allowed to claim land settled and occupied by the slaves. If a person was unlucky enough to occupy land subject to flooding he could not exchange it for higher land. If a person died before his five year period had expired, his heirs were permitted to use his rights. A man was not allowed to cut the trees on his allotment and sell the timber.²⁶ He was however permitted to clear some land and use the logs for construction of a house and fences.

One hundred and twenty-eight of the permits were annulled for various reasons. At least sixty-six sites were abandoned when

22. A copy of General Order 28 dated August 14, 1842, and issued by Colonel William J. Worth may be seen in *Florida Herald*, March 12, 1844. It was summarized in the excellent account of the Second Seminole War by John T. Sprague, *Origin, Progress and Conclusion of the Florida War* (New York, 1848), 485-486.

23. Ethan A. Hitchcock, *Fifty Years in Camp and Field*, edited by W. A. Croffut (New York, 1909), 168-173.

24. *Florida Herald*, July 24, 1843.

25. Letter of Commission of General Land Office, Thomas Blake, March 18, 1843, printed in *Senate Executive Document No. 37*, 30th Congress, 1st Session, 12.

26. *Ibid.*

the applicant found that he could not cope with the Florida frontier wilderness. Other permits were cancelled when it was found that they had been issued for lands already owned by others, or were sites claimed within two miles of a military post, or were on coastal keys and islands which were reserved for military purposes.

Among the settlers of present-day Hernando County we find that at least one was a lawyer and another a doctor. The first church to be established in this area was the Methodist in 1843.²⁷ During 1842-1843 marriages, births and even one murder took place - all of these facts demonstrate that the pioneers were leading average lives.

The successful settlers usually erected their homes near some source of water, and the first houses usually were crude double-pen log houses with palmetto-thatched roofs and detached kitchens. Other buildings erected about the dwelling place included quarters, barns, and smoke houses. The garden in which sweet potatoes, peas, corn, sugar cane, and squash were planted was enclosed by a fence made of sharpened split pickets. The fence was built high and the pickets kept sharpened to prevent deer, rabbits, and other wild life from entering the precious garden. A small herd of cattle fed in the surrounding dense forest and a pack of virtually wild hogs ate acorns and other forest products.²⁸ Chickens were kept mostly for eggs as meat was no problem in the woods full of wild turkey and deer.

One observer perhaps viewed with a jaundiced eye life along the Florida frontier. In a diary written during March, 1853, a correspondent for the New York *Commercial Advertiser* related the following facts about Florida food:

Go out from Tampa 25 miles. Supper served on porch. Venison fried with pork, sweet potatoes, corn bread and arrow root. No tea. No doors to bed chamber and broken shutter attached to window. The air comes in freely through logs.

Second day. Salt and hard bacon, sweet potatoes, corn bread nothing else. Breakfast - hard dried beef fried, half

27. C. T. Jenkins, "Settlement and Latter [*sic*] History of Hernando County" (Bay Port, 1876). Messages sent to the President of the United States, 1876, Library of Congress.

28. Sudie Knight, in "Pioneer Florida," Tampa *Sunday Tribune*, January 1, 1956.

cooked rice, heavy hot cakes, corn bread . . . the best meals are obtained at St. Augustine.²⁹

The Armed Occupation Act was deemed a success in settling central Florida by the federal official in charge of the operation - Commissioner Richard M. Young. He hailed the movement of approximately six thousand persons into an unknown, unsurveyed, and unpopulated district containing few or no roads and no mail facilities as a major successful operation.³⁰ These settlers had been severely handicapped by the heavy rains washing out the primitive roads which were the only link with the outside world but in spite of the many obstacles, they demonstrated their bravery to all by residing near the haunts of seemingly hostile Indians.

According to Governor Thomas Brown of Florida in 1849, the Armed Occupation Act was not able to create a determined band of hard fighting farmers who would fight until the last to protect their land. The governor ruefully admitted: "Settlers under the Armed Occupation Act have neither weapons nor the disposition to use them - not one of ten appearing with arms of any description."³¹ He fortified his observation with an even more startling statement, "If ten warriors break loose they will break up and scatter the entire line of new settlements even if [the settlers] are ten fold in number." The governor could prove his point by recalling the events during a mild Indian scare in 1849, when almost all the interior settlements south of Ocala were abandoned.

Another charge raised against these pioneers was that they in their inexperience had by-passed valuable agricultural lands and settled on lands which were not very productive at all. A letter written to the *Florida Republican* and signed "Actual Settler" described the situation in the following words:

29. Reprinted in *Floridian and Journal* (Tallahassee), June 25, 1853.

30. Commissioner of General Land Office Richard M. Young to Senator Samuel Breeze, April 12, 1848, *Senate Executive Document No. 38*, 30th Congress, 1st Session, 1.

31. Governor Thomas Brown to George W. Crawford, Secretary of War, November 29, 1849; *Journal of the Proceedings of the Senate of the General Assembly of State of Florida* (Tallahassee, 1850), 27-28. Captain John Casey, the Seminole Emigration Agent, was greatly surprised to find that many frontier people did not possess a single rifle to defend their cabins from attack. John Casey to General George Gibson, July 29, 1849, *Senate Executive Document No. 49*, 31st Congress, 1st Session, 39.

At the cessation of Indian hostilities, the settlers under the armed occupation act located for the most part on or near the main routes through the interior of the country south of the line designated for such settlers, and the few who turned towards the coast and rivers sought rather for places for towns, healthy residence, islands, etc., than far rich hammock land. To verify this, I need only to mention the fact that there is one hammock of *fifty* square miles without a permit on it; another of *thirty*, and yet another of *fifteen* square miles within the limits herein above mentioned. It is true there were some permits taken out upon the Crystal River, Homossassa, Cheesahowitska, Wekiwachee Rivers, but this may be accounted for from the fact that they were upon one of the routes of travel South. These settlers were, however, of the class who had no experience in planting, no intention of making a permanent settlement, and soon abandoned their places.

In spite of certain admitted deficiencies in martial demeanor and selection of proper agricultural land, as demonstrated by the settlers, the Armed Occupation Act must be deemed a success. Those who settled under the terms of the act formed a hard core of pioneer communities extending from Indian River to Tampa Bay, which gradually attracted others into the frontier region. It was these pioneers who constantly complained about the Seminole Indian threat in Florida and finally forced a show-down by reluctant federal officials. In the resulting war (Billy Bowlegs War, 1855-1858) these frontier folk formed the inadequate, poorly diciplined militia companies which by fall, 1857, had developed into praiseworthy Indian fighting units. Their hot pursuit of the Indians into the Big Cypress Swamp and the southwestern part of the present-day Everglades National Park was one of the two principal reasons for the surrender of most of the Indians.³³ Thus the Armed Occupation Act indirectly resulted in the removal from Florida of most of the Seminole Indians.

32. *Florida Republican*, May 9, 1850.

33. These conclusions are reached as a result of a study, still in progress, made concerning the Third Seminole War by the author. He hopes to publish the results within a relatively short time.