Land Grants, Land Use, Land Alienation

Fall 1981

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LAND GRANTS, LAND USE
LAND ALIENATION

BY

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B.A., University of Central Florida, 1978

THESIS

Submitted in partial fulfillment of the requirements for the Master of Arts degree in History in the Graduate Studies Program of the College of Arts and Sciences University of Central Florida Orlando, Florida

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Governments often used the promise of land as a means to implement policy. Whether the land was in the form of a large grant to a successful explorer, or in the offer of a homestead on the frontier, the motive for such grants was seldom entirely altruistic. Most grants contained stipulations for settlement and cultivation because a growing population was necessary for economic development. Rulers of Florida also offered land grants to encourage a particular religion, to protect shipping, or to establish protection against Indian attacks.

When Florida became part of the United States, large sections of the territory were already claimed under various land grants made by Spain or Great Britain. Succeeding United States governments continued to grant land to individuals or companies to stimulate internal improvements or to increase population. In the hands of developers, land grants usually had the desired effect, but in the hands of speculators they tended to decrease population growth. The purpose of this paper is to examine the effect of land grants on population growth in Orange County, Florida.
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CHAPTER I

EARLY FLORIDA LAND POLICY

The Spanish monarchs governed the colonies in the New World with the assistance of the Council of the Indies.¹ The 1760 codification of the many ordinances, orders, and instructions to the governors of the colonies, known as the Law of the Indies, formed the structure of Spanish policy in the New World.² Because of Florida's strategic location along the shipping lanes from the Americas to Spain, Spanish policy makers encouraged adventurers to conquer Florida and establish protective settlements along the coast. To assist such enterprises, the kings offered royal grants of land up to twenty-five leagues square to those willing to undertake a project.³

Pedro Menéndez de Avilés obtained a patent for a


tract of land twenty five leagues square on the condition that he introduce 500 settlers and livestock to support them. Two hundred of the settlers were to be married, but he was able to attract only twenty six married men and their families for his first expedition to establish the colony of St. Augustine, even with the promise of free land.4

Grants of land under the Law of the Indies varied with the rank of the settler and the type of land available. A common settler could obtain a plot fifty feet by one hundred feet plus some woodland, pasture, and enough arable land to produce specific amounts of grain and a vegetable garden. A settler of higher rank could receive a lot 100 feet by 200 feet and five times more arable land than the common settler. Because some lands were more fertile than others, the size of individual grants varied.5 The colonist had to take possession of his grant within three months or the land reverted to the crown which owned all unappropriated land.6


Most settlers in and around St. Augustine were soldiers or officers of the government who had little time for agriculture. The Royal Order of 1670 discouraged practices which hindered soldiers "... from their labor when planting corn, which is the principal sustenance for themselves and families." but no commercial agriculture developed during the first Spanish occupation of Florida. The city of St. Augustine, however, grew to a population of 3,406, supported to some extent by individual gardens and a wide variety of fruit trees.

By the Treaty of Paris, 1763, Great Britain exchanged Havana, which it had captured during the Seven Year's War, for possession of Florida. Settlers willing to become British subjects could remain with their land claims acknowledged upon presentation of suitable proof of ownership. The Spanish government encouraged its citizens to leave Florida, however, by offering land in Cuba as compensation for losses on the peninsula. It sent Don Juan


8Ibid., p. 105; Tebeau, History of Florida, p. 74.


Cotilla to assist those leaving and the last group of Spanish families left St. Augustine in January 1764. Article XX of the treaty allowed Spanish subjects leaving the new British province eighteen months to dispose of their property but permitted them to sell only to British subjects.

The eighteen month period officially began on March 10, 1763, and speculators preceded the British army which arrived in St. Augustine on July 21. These speculators bought at depressed prices because most other British subjects who first arrived in Florida were soldiers who had little money and because Britain's land policy in other American colonies supported the belief that free land would be available in the future.11

When Don Juan Elihio de la Puente arrived at St. Augustine on May 7, 1764 with proxies and real estate records to dispose of remaining Spanish possessions, he was able to obtain merchandise, slaves, or money for only 1/10 of the remaining properties. Puente then arranged transfers of other Spanish assets "in confidence" to British subject Jesse Fish who had lived in Florida for several years as the agent for Walton Exporting Company of

Puente gave Fish deeds of sale for the properties which Fish was to sell on behalf of the original owners when the market improved. Luciano de Huerrera, one of the few Spanish citizens to stay in St. Augustine, was then to send the proceeds from the sales to Havana. John Gordon, a merchant formerly from South Carolina, made similar "confidence purchases" of real estate. Fish and Gordon acquired 4,577,280 acres along both banks of the St. Johns River. Fish managed to retain most of his purchases, but the Spanish owners and most other speculators lost their property because the British governor refused to recognize the validity of their claims. Great Britain considered some of the original Spanish claims as invalid because they were based on "time immemorial" occupancy only, not true grants from the king. Gordon spent twelve years trying to get his claims acknowledged and eventually received $15,000 as a settlement in 1775 after the government had distributed most of his "pretended purchases" to others.

12 Gold, Borderland Empires, p. 29; Mowat, East Florida, pp. 8-9.


14 Robert C. Gould, "That Infamous Floridian, Jesse Fish," Florida Historical Quarterly 52 (July 1973):8; David R. Chesnutt, "South Carolina's Impact on East Florida
The government's Proclamation of October 7, 1763, reflected a change in land policy by prohibiting settlements in Indian lands. The government offered generous land grants to "coax" frontiersmen away from the Indian occupied interior of North America and into the newly organized provinces of East and West Florida.\textsuperscript{15} Under the "family right" or "head right" system the governor and the Council for East Florida could grant 100 acres to the head of a family and an additional fifty acres for each person he brought with him.\textsuperscript{16} He was required to pay a quit-rent of one half-penny an acre after two years and to clear three acres for each fifty acres of his grant. Proof of the required development was necessary in court within three years or the land was forfeited to the crown. The settler was also entitled to purchase up to 1,000 additional acres at five shillings for fifty acres. Gov. Patrick


\textsuperscript{16}Mowat, East Florida, p. 54; Tebeau, History of Florida, p. 80; Mowat, "Land Policy," p. 75; Gold, Borderland Empires, pp. 26, 120.
Tonyn reported in 1776 that he had made 576 grants to heads of families for a total of 210,700 acres.\(^{17}\)

The Proclamation contained another section which was designed to attract those able to finance a colony. A proprietor could obtain grants of land up to 20,000 acres if he settled Protestant families in Florida at his expense. These grants were similar to proprietorship grants in other English colonies and required settlement of at least one person for each 100 acres granted within ten years or any unsettled part reverted to the crown. A quit-rent of one half-penny per acre on half the grant was due after five years and on the entire grant after ten years.\(^{18}\)

As an example, the conditions of Denys Rolle's 20,000 acre grant on the St. Johns River required settlement of a 100 acre parish "in the form as usual"\(^{19}\) within two years. If he met the conditions he was then entitled to another grant with the same stipulations, but if the requirements were not met, the land would revert to the crown and he would

\(^{17}\)Mowat, East Florida, p. 55; Gray, History of Agriculture 1:391-95.


\(^{19}\)Most British grants were in the form of a parallelogram with the shorter sides one-third the length of the longer sides. The depth of the grant extended outward from water or roads. "Spanish Land Grants," 1:xv.
forfeit all future claim rights.\textsuperscript{20}

Happily, the expansion of cotton cultivation along the south Atlantic coast of North America caused much interest in the November 14, 1763 advertisement by the Privy Council for proprietors to establish settlements in Florida in return for large grants of land. Planters from South Carolina and speculators from England obtained large grants and established several plantations along the Florida coast and the St. Johns River for the cultivation of sugar, indigo, and cotton.\textsuperscript{21} The Privy Council issued 227 proprietorship awards in Florida between 1764 and 1770, more than were issued in all the other American colonies combined. By 1774, they had issued 242 grants in East Florida, but only 114 proprietors actually presented their claims in St. Augustine for a total of 1,440,000 acres.\textsuperscript{22}

Grants in East Florida were located around St. Augustine and east of the St. Johns River, in agreement with the


\textsuperscript{22}Gold, Borderland Empires, p. 120; Michael G. Schene, Hopes, Dreams, and Promises, a History of Volusia County, Florida (Daytona Beach: News Journal Corp., 1976), p. 5.
provisions of the Proclamation of 1763 by which no permits were issued for lands reserved for Indians. Following a meeting at Picolata in 1763, the Indians along the St. Johns agreed to yield all land east of the river, as well as a large section of land on the west bank of the river as far south as Lake George, and no settlers were to be permitted on the lower east coast. Under these conditions private claims, both large and small, rapidly covered most of the attractive available land, although many of the large grants were never developed.23

In many of the southern colonies the head right system degenerated into a method of establishing large holdings through fraud, so by 1773 the British government decided to change its liberal land policy. While considering the details of the new policy the government suspended grants in all the American colonies except military grants in Florida. Those grants ranged from 5,000 acres for a field grade officer to fifty acres for a private soldier.24 The government decided to make no further donations and to survey all remaining unappropriated land into regularly shaped lots of 100 to 1,000 acres to be sold at auction for not


less than six pence an acre. This was an effort to end the southern practice of irregular surveys and settlement which often left gaps between claims which were quietly engrossed by neighbors who neglected to pay quit-rents for them. In other instances some claims overlapped which caused litigation. This policy, instituted by the Royal Order of February 21, 1774, applied to all ungranted land in the American colonies but authorized completion of grants previously awarded. 25

Most of the large proprietorship grants remained undeveloped when the Revolution began in the northern colonies, although almost 100 smaller "estate type" operations in East Florida were producing marketable crops. Gov. Tonyn reported in 1776 that only sixteen of the large Privy Council grants contained settlers. The sixteen settled grants totalling 220,000 acres were apportioned into seven grants of 20,000 acres, one grant of 12,000 acres, six grants of 10,000 acres, and two grants of 5,000 acres. 26 In July, 1777, the British government provided a refuge for loyal subjects driven from the rebellious colonies by suspending the Order of 1774 and authorizing the governor to break up the undeveloped grants and to make head right


26 Hanna, Florida's Golden Sands, p. 28; Gray, History of Agriculture 1:403; Tebeau, History of Florida, p. 81.
grants to the refugees. An estimated 5,000 whites and 8,000 slaves migrated to Florida during the war.\footnote{27} The Floridas, which were still heavily dependent on the government for protection and support even though some plantations were flourishing, remained loyal throughout the war. There was fighting in West Florida after Spain declared war on England, but East Florida was relatively peaceful except for the crowded conditions caused by the influx of refugees. Spain regained ownership of the Floridas after the war and the refugees, along with most other British subjects, departed.\footnote{28}

Under the Spanish Royal Order of April 5, 1786, British subjects willing to take an oath of loyalty to Spain were allowed to remain in Florida; those choosing to leave were allowed eighteen months in which to dispose of their property.\footnote{29} Because the real estate market in East


Florida was severely depressed after the announcement of retrocession, planters faced enormous losses. "Friendly sales" of property were arranged with some of the established planters such as Francis Fatio, Jesse Fish, and John Leslie who remained and prospered under the new government. Some property ostensibly sold at auction, but no money actually changed hands in the "friendly" sales and the new owners were to sell the property at a better price for the original owner at a later date. Gov. Tonyn appointed John Leslie and David Yeats to register all property sales for verification of claims made to the newly established East Florida Claims Office in London. Former Florida settlers presented 372 claims for losses and the British government awarded £170.11.10 in compensation.

The government also offered assistance to the displaced Florida settlers in the form of land grants in the Bahama Islands. The government bought the claims of the proprietors of the islands and authorized the governor to award forty acres to the head of an emigrant family and an additional twenty acres for each member of the household.

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32 Ibid., pp. 24-25, 190, 193-94.
Despite the prospect of encountering financial problems by leaving, most British subjects took advantage of their government's offer of transportation and left before Spanish Governor Vincente Manuel de Zespedes arrived in East Florida on July 12, 1784. 33

William Brown, commissioner for evacuation of East Florida, reported 3,398 whites and 6,540 blacks left the province. Most army personnel obtained generous land grants in Nova Scotia, but the largest group of settlers moved to the Bahama Islands. 34 George J. F. Clarke, who had come to Florida with his parents during the Revolution, later wrote, "Perhaps no such other general emigration of the inhabitants of a country amicably transferred to another government ever occurred." 35

Spain retained the British governmental divisions of East and West Florida and instituted a land policy similar to the British family right system to encourage Spanish resettlement in the Floridas to counter the remaining British and American influence in the provinces. After confirming

33 Ibid., p. 171; Mowat, East Florida, p. 70.
34 Siebert, Loyalists 1:208-09.
Indian claims to most of the interior, Spain tried to attract Catholic settlers with grants of land based on family size. When this effort proved unsuccessful in re-establishing the agricultural economy, the government opened East Florida to general settlement by the Royal Order of 1790.\textsuperscript{36}

The order authorized the governor to grant land to foreigners even though they retained their own religious faith. Public Protestant religious services were not permitted, however. The head of a family could acquire 100 acres and an additional fifty acres for each slave and member of his household. Settlers could also purchase land at public auction, but in both cases the acreage a settler could obtain was dependent on his ability to develop the land.\textsuperscript{37} The order also imposed a thirty day limit for proof of any British claim still pending, required possession of new claims within six months, and increased the period of cultivation to ten years before final title would

\textsuperscript{36}House Doc. 51, (1830), p. 2.

Opening East Florida to general settlement resulted in an influx of American settlers who took land around St. Augustine and along the St. Johns River. After 1800 many refugee British planters from the Bahama Islands began to return to the province to establish new plantations, and Jose Bernardo Reyes of St. Augustine attributed the rising prosperity of the colony to the influence of the foreigners. Governor Zespedes began to doubt the loyalty of the growing English speaking population and a series of border skirmishes and smuggling caused him to close Florida to emigration from the United States in 1804.

Following the Americans' unsuccessful "Patriot War" of 1812, the Spanish government rewarded its loyal subjects with land under the Royal Order of 1815. Since these grants, available to all soldiers of the militia and all married officers and soldiers of the Third Battalion of

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Cuba, were made as rewards for services previously rendered or losses sustained in service to the king, they did not stipulate actual occupation and cultivation of the land. Governor Jose Coppinger made 133 service grants under the Order of 1815, several of which covered land in old Orange County.

Some Spanish citizens requested land as compensation for losses suffered in service to the crown, but others saw acquisition by the United States as inevitable and requested grants as security for the future. Spanish governors also made grants to support mills, bridges, and other public service objectives. During the period when the United States was trying to negotiate for the acquisition of Florida, Governor Coppinger, the "agrarian prodigal," distributed 1,500,000 acres of land. 42

After the American occupation of Amelia Island in December, 1817, Ferdinand VII made grants of land to the Duke of Alagon, the Count of Punon Rostro, and Don Pedro de Vargas which incorporated almost all remaining unappro-


purchased land in the Floridas. United States Secretary of State John Adams and Spanish Minister Don Luis de Oñís reached an agreement regarding Florida in 1819, but the treaty was not ratified for another two years. Whether the grants were made to prevent American absorption of Florida by denying settlers any vacant lands or whether John Quincy Adams was correct that "... swindling American land jobbers... interested in Florida land..." contributed to the delay, ratification was not accomplished until after the king rescinded the grants on October 20, 1820. The ratified treaty included a clause which restricted recognition of land grants to those made before January 24, 1818.

With ratification the United States gained possession of a long coveted territory, but with Indians inhabiting most of the interior and much of the accessible land covered by grants guaranteed under the terms of the treaty. To facilitate Americanization of the territory, Congress established a Board of Commissioners to evaluate

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the validity of the Spanish land grants. Congress had long before faced the question of land titles derived from foreign governments and had determined that commissions were the best way to cope with the problems involved.
CHAPTER II

AMERICAN LAND POLICY 1778-1821

Between the time of the Revolution and the acquisition of Florida, several changes took place in American land policy. During the Revolution Congress and individual states used the promise of free land in the west as a bounty to attract soldiers. Those states with western lands ceded them to the central government with the stipulation that all existing claims be honored. An empty treasury at the end of the war forced Congress to look at land as a source of revenue. In 1780, Congress decided to sell the ceded lands "... for the common benefit of the United States..." and established the conditions of sale in the Ordinance of 1785. The act established townships six miles square divided into thirty-six one mile square lots containing 640 acres, to be surveyed and sold for cash at public auction for a minimum of $1.00 per acre. Congress reserved lots eight, eleven, twenty-six,

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48 Ibid., p. 35.
and twenty-nine for the United States and set aside lot sixteen as school land. Congress imposed no maximum limit on the amount of land that could be acquired and several large land companies were organized to take advantage of the provisions of the Ordinance.

Early land sales brought only $176,090.00, so in 1787 Congress amended the Ordinance to allow purchasers, after an initial cash payment of one-third of the total price, to pay the remainder within three months. Since the smallest parcel of government land offered was 640 acres, the minimum price of $640.00 was still beyond the economic ability of most pioneers who had little cash. Frontiersmen therefore bought cheaper land from the states, smaller amounts of land from land companies, veterans' land warrants, or exercised "cabin rights" or "squatters rights" and occupied vacant land.


52 Hibbard, Public Land Policies, p. 41.
Although Congress tried to prohibit squatting, even using militia to evict such settlers, the practice continued on the frontier. By 1789, Representative Thomas Scott of Pennsylvania estimated there were 7,000 unauthorized settlers on public land hoping for pre-emption rights to secure their homes against purchasers, but Congress passed no further land legislation until 1796.

Secretary of the Treasury Alexander Hamilton reported a plan for producing revenue from the public lands on July 22, 1790. His proposal generally favored large purchasers but provided 100 acre tracts for actual settlers. He also recommended the establishment of a central land office with branches to be located near land open for settlement. Congress considered several proposals and finally passed the Land Act of 1796. The act included most of the provisions of the Ordinance of 1785, with the term "section" applied to the one mile square divisions of the townships. Half the townships were to be sold in Washington, either intact, or as quarter townships of nine square miles. Congress established a minimum price of

53 Ibid., p. 42.
54 Ibid., p. 56; Johnson, Order Upon the Land, p. 48.
56 Ibid., p. 68; Johnson, Order Upon the Land, p. 55.
$2.00 per acre, with the land to be sold at public auction. A cash deposit of one-twentieth of the total price held the land for thirty days, when half the total price was required, and the balance was due in one year.\(^{57}\)

The Act of 1796 was not a success and sales fell far behind their anticipated levels with only 50,000 acres being sold.\(^{58}\) As western population increased and began to gain representation in Congress, complaints against land speculators and the operation of federal land laws brought about a review of land policy. William Henry Harrison of Indiana was appointed chairman of a committee to recommend necessary changes, many of which were incorporated in the Land Act of 1800.\(^{59}\)

The major changes included in the new law were the establishment of the office of "Register of the Land Office" to record transactions at local land offices, a reduction in the required minimum purchase to a half section of 320 acres, and the extension of credit at six percent for four years. Land remained at $2.00 per acre, with a required down payment of one-fourth of the total price and a fee charged for surveying. Another fourth of the total amount was due within two years, and the balance in

\(^{57}\)Hibbard, Public Land Policies, p. 66.


\(^{59}\)Hibbard, Public Land Policies, p. 70.
another two years. If a payment was not made within a year of the time it was due, the buyer forfeited his money and the tract was again offered for sale.60

Land availability varied throughout the country. While frontier settlers in the north and west continued to petition Congress to decrease the minimum acreage and lower the price for federal land, the state of Georgia held a lottery in 1803 to dispose of recently ceded Indian lands.61 Although revenue was still the goal of Congress, competition from land companies and cheaper land available in the original states forced another change in federal land policy. The Land Act of 1804 permitted sales of quarter sections of 160 acres with the cost of surveying paid by the purchaser. Congress also allowed discounts for cash payment which reduced the actual purchase price to $1.64 per acre.62

At this time Congress also faced the problem of land claims derived from foreign sovereignty because of the


62 Hibbard, Public Land Policies, pp. 73-75; Johnson, Order Upon the Land, p. 60; Gray, History of Agriculture 2:632.
Louisiana Purchase and the extension of surveys to the Mississippi River. In an effort to deal fairly with claimants whose grants were obtained from foreign governments, while at the same time wanting to open land for American settlement, Congress established boards of land commissioners to verify the private claims in Louisiana and the Old Northwest. In 1805 the commissioners at Detroit heard seven classes of claims, ranging from confirmed grants made by kings, to the approximately 400 "occupation and settlement" claims. The final reports from the commissioners at both Detroit and Kaskaskia rejected most of the claims submitted to them. The commissioners at Kaskaskia delayed their final report until 1807 because of the confusion caused by 700 perjured depositions and another 200 false claims sworn before the board itself.

The "sea of corruption" created by speculators and squatters in the Old Northwest extended to Louisiana. Congress established a temporary government for the territory on February 18, 1804 and appointed a commission... for the determination and confirmation of French grants.

63 Johnson, Order Upon the Land, p. 59.
64 Treat, National Land System, pp. 212-15
65 Ibid., p. 226
and Spanish grants in Louisiana. . ." on March 2, 1805. 66 The act made squatting in the territory a crime punishable with fines and imprisonment and gave enforcement to the military. During the twelve years before federal land in Louisiana was opened officially for settlement, the commission recognized most of the small land claims. Speculators followed the actions of both the commissioners and surveyors to learn the ownership and location of the best lands in the region. 67

Some of the settlers with grants from foreign sovereignty were not familiar with American law and readily sold their claims to American speculators who pressed their cause before the commission. Stipulations for settlement and development, similar to those found in Florida grants, often appeared in the larger grants. Since many of these were not completed, the claims were not valid under the terms of the Louisiana Purchase. American owners of rejected foreign claims often successfully appealed to Congress, in which sat many land speculators. 68


67 Ibid., pp. 123, 166; Eaton, Southern Civilization, p. 44.

flicting claims arose after sales of some of the private grants, the government issued scrip for the equivalent amount of land at another location, increasing the opportunities for fraud and corruption.\(^{69}\) Hearings and appeals on private claims in the Louisiana Territory continued for years and effectively closed the land to legal settlement.

Squatters and land speculators continued to expand their activities, especially in the original states in the South where the traditional system of irregular settlement prevailed. Despite the government prohibition of squatting, pioneers continued to advance into open land and land owners complained that their poaching caused a decrease in land values.\(^{70}\) Settlers on the frontier continued to ask Congress for changes in the land laws, but Congress did not act until shortly before the War of 1812. As had been the case during the Revolution, Congress again promised land as an inducement to soldiers to serve in the army. The nontransferable land warrants were limited to non-commissioned officers and private soldiers between eighteen and forty-five and the offer expired five years after discharge. The warrants were good for land in the

\(^{69}\)Ibid., pp. 187-88.

military districts in the West, but actual location was
decided by chance. Since the warrants could not be sold,
a veteran had to locate and patent his land before selling
it if he decided not to live on it himself.71

From the end of the War of 1812 to the Panic of 1819
land speculation continued with private and state land
competing with more expensive federal land.72 Private and
speculator owned land often sold at higher prices per acre
because location, improvements, small minimum purchases,
and the availability of credit often made it more attrac-
tive to the impecunious frontiersman. The Panic of 1819,
brought about partly by liberal credit and excessive land
speculation, slowed western migration but much of the best
land was already in private hands.73

By 1820 Congress responded to continuing pressure
from the frontier settlers and the reality of the real
estate market and passed legislation reducing the price of
government land to $1.25 an acre. Congress also abolished
the credit system and reduced the minimum purchase to
eighty acres, half a quarter section. The Act of 1804 had
decreed that divisions of sections into halves and quarters

72 Ibid., p. 638.
73 Billington, Westward Expansion, pp. 309–11.
were run east and west, the Act of 1820 divided land into half quarters by lines running north and south. 74

By the time Florida became a territory of the United States in 1821, the prospective settler had several options by which he could acquire land, often with little money. The daring could venture to the frontier, and braving the wrath of Congress and the Indians, establish a homestead with the hope of eventually acquiring title to the land. This could be accomplished by making enough profit to be able to buy when the land officially came on the market; by selling a portion of an occupancy claim to a newcomer at improved prices for enough money to pay for the entire claim, or by selling the entire claim for enough money to purchase an unimproved parcel. Some veterans of the War of 1812 could obtain free land in the West, and some land companies extended liberal credit terms on small amounts of land. Land was available throughout the frontier, but as the negotiations for Florida proceeded, both small farmers and land speculators anticipated depressed prices in the provinces the Spanish were preparing to evacuate. 75

The land situation within Florida itself was confusing. Some settlers held valid title under various Royal Orders while others merely occupied land with the

74 Johnson, Order Upon the Land, pp. 60-61; Eaton, Southern Civilization, pp. 32-33.
75 Simmons, Notices of East Florida, p. 9.
permission of the governor which did not imply ownership. Few proprietors had satisfied the occupancy or settlement requirements of their grants and other owners of large tracts merely held the land in anticipation of future profits.76

Many service grants made by governors Zespada and Coppinger overlapped and the absence of reliable surveys left questions as to the locations of the grants.77 Americans hoping to acquire land in Florida at depressed prices because of the anticipated Spanish evacuation found problems caused by land speculators, delays caused by questionable land titles, and confusion resulting from the Spanish land record system.78


78 Williams, Territory of Florida, p. 287.
CHAPTER III

CONFIRMATION OF PRIVATE LAND CLAIMS

One of the problems facing General Andrew Jackson as the first United States governor of Florida was the question of the validity of land claims. Spanish land records were in disarray; documents for each year were kept in separate bundles, but without lists of contents. This made it much more difficult to ferret out chicanery, and the disappearance of the archives from Pensacola seemed to lend credence to belief in a conspiracy to press fraudulent claims. Jackson asserted that very few grants existed before 1817 and argued that the claims put forward covered more than twice the actual territory of Florida. He urged President James Monroe to appoint a commission to review the claims but warned against including any person with landed interests in Florida. 80

Residents of the territory without explicit titles to land petitioned Congress to recognize their right to 800 arpens of land which they asserted was the usual amount

allotted to actual settlers under Spanish law. The petitioners referred to previous favorable Congressional decisions for settlers in Missouri, Mississippi, and Louisiana who claimed land deraigned from foreign sovereignty. Congress established a territorial government for Florida on March 30, 1822, and on May 8, authorized the appointment of a board of commissioners to evaluate land applications.

The commission had power to confirm grants for specific quantities of land up to 1,000 acres that were made before January 24, 1818, "... which were valid under the Spanish government or the law of nations, and which are not rejected by the treaty..." The United States Attorney for East Florida, Alexander Hamilton, second son of the former Secretary of the Treasury, estimated the board would hear 1,200 Spanish applications and 500 British claims. The commission began hearings in Pensacola, but because of illness and the increasing number of

81 An arpen is approximately one acre.
84 Ibid., sec. 4, pp. 425-26.
claims to be heard, appeared to make little progress toward reducing the number of pending claims. In an effort to hasten the process, Congress amended the law to establish separate boards of commissioners for East and West Florida on May 3, 1823, and President Monroe appointed Hamilton, Judge David Floyd of Indiana, and Judge William Blair of Kentucky to serve in East Florida. The act expanded the confirmation authority of the board to 3,500 acres and eliminated the necessity of derangement of title from the original grantee to actual settlers if the original papers were unavailable and the claimant had other satisfactory proof of ownership. Congress also extended the time for filing claims to December 1824, and authorized the establishment of land offices in East and West Florida.  

Florida residents continued to petition Congress concerning claims, and on May 26, 1824, Congress tendered donation grants up to 640 acres to actual settlers in Florida and Louisiana. Evaluation of these habitation and cultivation claims fell to the boards of commissioners and greatly increased their workload since settlers often

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87 An Act Granting Donations of Land to Certain Actual Settlers in the Territory of Florida, Statutes at Large 4, 47 (1824).
made claims which overlapped or conflicted with pending Spanish land grants. Because of the intricacies of some of the cases and the travel distances required to attend the hearings, Congress extended the time for filing new claims to January 1, 1825. The boards heard seven classes of land cases, ranging from clear title under the Royal Order of 1790, to grants made after January 24, 1818 which had been declared void by the treaty. There were such long delays in establishing clear title, however, that the Legislative Council sent a memorial to Congress in December, 1824, complaining that the delays were restricting emigration into the territory.

Congress abolished in boards of commissioners in 1827, directed their records be turned over to the register and receiver of the appropriate land districts, and required claimants to produce descriptions of their land so surveys could be made by the United States. It again ex-


89 An Act to Extend the Time Limited for the Settlement of Private Claims in the Territory of Florida, Statutes at Large 4, 6-7 (1824).


tended filing time for additional claims, this time to November 1, 1827. Congress gave the Territorial Superior Court jurisdiction in cases involving more than 3,500 acres and in conflicting claims. Both parties in a dispute had the right to appeal decisions to the Supreme Court of the United States.92

Following another amendment to land claim legislation in 1828, the land office in St. Augustine submitted a detailed report of the disposition of claims in East Florida in 1829. The report included fifteen claim classifications, including those confirmed, rejected, and beyond the authority of the land office. One classification included thirty separate claims through the "Messrs. Clarke."93

Because the courts were clogged with land grant cases, the United States Attorney General asked Florida's delegate to Congress, Joseph White, to prepare a report on foreign laws regarding such cases. White had served as a land commissioner for West Florida and acted as an assistant attorney for the United States in several land cases.

92An Act Providing for Confirmation and Settlement of Claims in East Florida, Statutes at Large 4, 202-03 (1827).

His report, *Spanish and French Ordinances Affecting Land Titles in Florida and Other Territories of France and Spain*, became the standard reference in such cases. Although most small claims were settled relatively quickly, some of the larger ones dragged through the courts for years.

Suspicion of fraud attached not only to the legality of the grants under Spanish or British law but also to the actual locations of the grants themselves. Conflicts arose between the owners and the federal surveyors as to actual quantities of land granted and land marks given in the descriptions, sometimes making discrepancies of fifteen to twenty miles in the location of a grant. Since the Law of the Indies required a survey as part of the grant process, some old Spanish surveys of private grants existed. The proprietors of the Alachua grant employed Charles Vignoles, surveyor and civil engineer for the City of St. Augustine, to survey their land but the United States re-

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garded almost all available surveys as totally inaccurate. In spite of the provisions of the Act of 1827, owners of private claims were often reluctant to produce descriptions of their grants for official surveyors. The proprietors complained land being sold as public domain actually lay within their claims, and the government agents argued that private grants projected illegally into public lands.

The question of differentiation between public and private land was not uncommon. The United States sold land worth $80,724.30 in Florida in 1825, and at least eight people later gained pre-emption rights for land lost by the sales. The result of this uncertainty as to public or private land was to delay a general increase in population where clear title to land was in doubt.

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A further deterrent to population growth was the lack of reported surveys while illness kept Robert Butler, Surveyor General for Florida, away from his office for almost a year.\textsuperscript{100} He reported no surveys in 1832 and sales dropped to $10,040.66 from a volume of $40,977.11 for the previous year. By September, 1832, land sales in Florida had returned a total of $528,827.43 to the Treasury of the United States, but the federal government had spent $505,672.44 within the territory for such things as roads, salaries, and Indian titles, leaving a very small profit after more than a decade of possession.\textsuperscript{101} By 1835, total sales of public land in the United States had reached $58,619,523.00, with $556,283.20 being generated from Florida sales.\textsuperscript{102}

The general land boom throughout the United States at this time was reflected in Florida. Most of the cotton growing land in Florida was in private hands by this time and selling at approximately $10.00 an acre, less expensive


\textsuperscript{101}Cockran, New American State Papers: Public Lands 4:388.

than similar land in Alabama selling at $25.00 an acre.\textsuperscript{103} The combination of eager buyers and slow surveys caused some grant land to be sold as public land, but the original owners eventually received scrip allowing them to locate equal acreage elsewhere. The same situation existed in other areas of the United States where foreign land grants had been made and was remedied by Congressional action. The United States confirmed 1,869 private land claims in Florida involving 2,711,290.57 acres. This total included township grants made by Congress to the Marquis de Lafayette in recognition of his service during the American Revolution and to Dr. Henry Perrine for his work in the introduction of tropical agriculture in Florida.\textsuperscript{104} Congressional acts relating to specific grants in Florida authorized scrip relocation of 67,562.01 acres of land.\textsuperscript{105}

Most of the accessible land along the coast and the St. Johns River was covered by pending or confirmed Spanish grants. The combination of problems with titles

\textsuperscript{103}Smith, \textit{Slavery and Plantation Growth}, p. 23.


\textsuperscript{105}Table IX, "Private Land Claims, Scrip," S. Doc. 189 (1905), p. 158.
and boundaries of land grants, slow surveys, and the provisions of the Treaty of Moultrie Creek which established much of peninsular Florida as an Indian reservation, effectively slowed population growth since independent settlers looking for land avoided an area that did not guarantee clear title within a reasonable time. Settlement continued within established grants such as Hope Hill, Volusia, and Alachua, but speculators withheld their tracts from development, thereby closing large areas to potential settlers and deflecting population to more amenable areas. Table I on page 40 lists the major confirmed grants on the west side of the St. Johns River from Lake George to Lake Jessup.

<table>
<thead>
<tr>
<th>NAME</th>
<th>AMOUNT</th>
<th>LOCATION*</th>
<th>CONFIRMED</th>
</tr>
</thead>
<tbody>
<tr>
<td>D. Fernandez</td>
<td>5,299.62</td>
<td>T17S R29E</td>
<td>U.S. Supreme Ct. 1836</td>
</tr>
<tr>
<td>M. Levy</td>
<td>12,547.15</td>
<td>T11&amp;12S R30&amp;31E</td>
<td>U.S. Supreme Ct. 1834</td>
</tr>
<tr>
<td>P. Yonge</td>
<td>5,000.00</td>
<td>T20&amp;21S R30&amp;31E</td>
<td>U.S. Supreme Ct. 1834</td>
</tr>
<tr>
<td>M. Levy</td>
<td>8,000.00</td>
<td>T20&amp;21S R30&amp;31E</td>
<td>U.S. Supreme Ct. 1834</td>
</tr>
<tr>
<td>M. Levy</td>
<td>7,981.11</td>
<td>T18&amp;19S R29&amp;30E</td>
<td>E. Fla. Sup. Ct. 1835</td>
</tr>
<tr>
<td>P. Miranda</td>
<td>2,619.21</td>
<td>T19S R29E</td>
<td>Act of May 26, 1830</td>
</tr>
<tr>
<td>M. Levy</td>
<td>10,475.34</td>
<td>T16&amp;17S R27&amp;28E</td>
<td>U.S. Supreme Ct. 1834</td>
</tr>
<tr>
<td>T. Rodriguez**</td>
<td>5,426.82</td>
<td>T19S R28E</td>
<td>Sec. of Interior 1894</td>
</tr>
<tr>
<td>M. Levy</td>
<td>13,756.55</td>
<td>T15&amp;16S R27&amp;28E</td>
<td>U.S. Supreme Ct. 1835</td>
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</tbody>
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CHAPTER IV

EARLY LAND ACQUISITION IN CENTRAL FLORIDA

The Territorial Legislature created Mosquito County, from which Orange County was formed, on December 19, 1824. Its jurisdiction included all of the peninsula east of the Indian reservation from the south half of Lake George to Lake Okeechobee, but most settlement was around New Smyrna and along the St. Johns River as far south as Volusia.  

By 1837 several Spanish grants in those areas had been confirmed, surveyed, and offered for sale, but surveys did not extend as far south as Lake Monroe until the 1840s. Federal policy encouraged emigration into Florida by the extension of pre-emption rights, but the Second Seminole War forced the abandonment of settlements and destroyed the economy, effectively ending migration into the region subject to Indian raids.  

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109 Smith, Slavery and Plantation Growth, p. 22;
army established several forts which later became the nucleus of permanent civilian settlements, but the 1840 census reflected only military personnel in Mosquito County. 110

To encourage civilian repopulation in Florida, Senator Thomas Hart Benton of Missouri introduced the Armed Occupation Act in 1840, but Congress did not approve the measure until 1842. 111 In the meantime, Col. William J. Worth, commanding officer of the regular army in Florida, invited settlers to locate in "Indian country," which included present Orange and Seminole counties, and promised to assist them with arms and rations as indicated in Sen. Benton's proposal. 112 While disclaiming any intention of interfering with Col. Worth's conduct of the war, Live

Williams, Territory of Florida, pp. 288, 303; Dodd, Florida Becomes a State, p. 37; Dovell, Florida 1:355.


111 An Act to Provide for the Armed Occupation and Settlement of the Unsettled Part of the Peninsula of East Florida, Statutes at Large 5, 502 (1842).

Oak Agent, Capt. Hezekiah Thistle, questioned the advisability of encouraging settlement in an area rich in valuable timber.\footnote{Hezekiah Thistle to A. P. Upshur, Sec. of Navy, Jacksonville, May 22, 1842, Ibid., p. 480.} Lt. M. R. Patrick, Army Superintendent of Settlement in Florida, authorized Donald Stewart to establish a colony on Lake Jessup and Stewart arrived at Ft. Mellon with 160 settlers aboard an army sponsored steamboat in April, 1842.\footnote{James W. Covington, "The Armed Occupation Act of 1842," \textit{Florida Historical Quarterly} 40 (July 1961):42; Schene, \textit{Hopes, Dreams, and Promises}, p. 51.} The army soon permanently abandoned Ft. Mellon, however, and since supplies were no longer available many of the colonists who had arrived with Stewart also withdrew from the area. Before Congress passed the Armed Occupation Act in August of that year, the House eliminated the provision allocating arms and rations for settlers.\footnote{Ibid.}

The Act offered 160 acres of land to male and female heads of families or males over the age of eighteen who were able to bear arms and willing to cultivate at least five acres of land south of township nine for five consecutive years. Congress limited the amount of land available under the Act to 200,000 acres and prohibited settlement within two miles of an established and garrisoned fort.
soned military fort, on land already claimed, or on coastal islands. 116 Six months after the Act expired on August 4, 1843, the settler was required to present proof of settlement, including the number of acres in cultivation and the types of crops planted, to the appropriate land office. 117 Florida residents who owned 160 acres of land at the time of passage were not eligible to participate.

Many former soldiers and others who were familiar with the best locations in the territory took advantage of the law, but approximately half the applicants came from the Carolinas, Georgia, and Alabama. 118 Congress authorized the land offices in Newnansville and St. Augustine to issue permits under the Act and the Newnansville office issued 942 permits for land in the central and western part of the peninsula. 119 The 370 applications processed at St. Augustine embraced 44,000 acres in the eastern portion of the area, including four coastal regions; along the Indian River near Ft. Pierce, at Jupiter, by Lake Worth,

116 Thomas Blake, Commissioner General Land Office to William H. Simmons, Register, St. Augustine, Sept. 26, 1843, in Carter, Territorial Papers 26:745-46.
118 Ibid., p. 46.
and in the Biscayne Bay area. Other settlements in the St. Augustine jurisdiction reached to the headwaters of the St. Johns River and westward to Lake Apopka.

Not all claims under the Act resulted in settlement and land ownership. Of the permits issued at St. Augustine, sixty six locations were abandoned and twenty one others cancelled because they did not conform to the restrictions of the Act. The Act did not authorize the land offices to permit changes of location, but settlers who found their land flooded by spring and summer rains or who later realized their claim lay within owned land, petitioned Congress for relief. The law did recognize priority of settlement for two claims which overlapped and allowed the second settler to locate land elsewhere. Congress amended the Act in 1844 to allow for some changes in location and to permit a settler who was in compliance with


the stipulations of the Act to purchase his land for $1.25 an acre.123 In 1848 Congress relaxed the occupation requirement and granted patents to those claimants living on the frontier who had not "... voluntarily relinquished or abandoned their claims...," but who had not received land under the Act. Congress authorized agents to take depositions from those settlers for presentation to the Commissioner of the General Land Office.124

The first Armed Occupation Act permits for land in the interior of Mosquito County were issued on December 10, 1842, for land around Lake Monroe since the area was accessible by steamboat and forts existed at Ft. Mellon, Ft. Reid, and near Enterprise.125 Major Cornelius Taylor, one of the first settlers to locate land under the Act, was familiar with the area because of his earlier service as Agent for the Preservation of Timber on Public Lands in East Florida, or "Live Oak Agent."126

123 An Act to Amend an Act Entitled "An Act to Provide for the Armed Occupation and Settlement of the Unsettled Part of the Peninsula of Florida," Statutes at Large 5, 671 (1844).

124 An Act for the Relief of the Bona Fide Settlers Under the Act for the Armed Occupation and Settlement of a Part of the Territory of Florida, Statutes at Large 9, 243 (1848).

125 Permits 3, 4, 5, 6, 7, 8, 9, 10, S. Exec. Doc. 39, (1848), p. 30.

126 William H. Simmons, Register, St. Augustine, to Hon. David Henshaw, Sec. of Navy, Aug. 4, 1843, in Carter, Territorial Papers 26:708; Schene, Hopes, Dreams, and
Live oak trees on public land were reserved for the United States Navy, but timber poaching, especially in Louisiana and Florida, was a lucrative business. Major operators moved into an area with saw mills, quickly cut all available live oak timber, and moved rapidly to another location. Poachers were usually crews of twenty to thirty men hired for the winter by firms from Philadelphia, Norfolk, and Baltimore, but local planters also stripped public domain while ostensibly clearing their own lands. 127

Because of the value of the timber and its slow rate of growth, Secretary of the Navy Samuel L. Southard recommended in 1825 that an agent be appointed to locate stands of the trees and preserve them for the government. 128 The first agents had limited powers, and since surveys advanced slowly to segregate public land from private claims, early

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efforts to stop poaching were generally unsuccessful and the office was temporarily abolished in 1841. Before leaving office, Agent Nathan Sargent suggested that copies be made of all confirmed private land claims to help distinguish them from public land and the task was completed by Agent Thistle in 1842.

Naval officials viewed Indian removal, pre-emption rights, and especially the Armed Occupation Act as practically engraved invitations to increased timber poaching. As the war closed, the Indians retreated and new areas became open for settlement, including the rich timber lands along the St. Johns River and its tributaries. Agent Thistle estimated at least 200 settlers located their claims under the Act "... for the sole object of cutting timber, without the least idea of becoming set-
One settler who aroused Thistle's suspicions was his immediate predecessor as Live Oak Agent, Major Cornelius Taylor who arrived at Enterprise on Lake Monroe with twenty men in 1842 and later located land under the Armed Occupation Act. Thistle claimed Taylor had previously cut Navy logs along Pablo and Clapboard Creeks and argued that Taylor was not eligible to claim land under the Act because he already owned over 320 acres of land in Florida. Thistle questioned the right of any settler under the Act to sell timber from his land. United States Attorney General Jonathan Nelson gave his opinion that title to the land was not vested under the Act until a patent was issued after five years occupation and therefore a settler had no right to sell or cut timber except on the five acres specified by the Act for cultivation. Taylor argued that the settlers had arrived with the expectation of supplies and rations until a crop could be made, but when supplies were cut off with the withdrawal of the army,

132 Agent Thistle to David Henshaw, Sec. of Navy, Aug. 9, 1843, in Carter, Territorial Papers 26:713.


the settlers were forced to accept charity or sell timber
to provide themselves with basic necessities.\textsuperscript{135}

Claims under the Act covered 189,440 acres and
brought approximately 6,000 people into the district, ac-
cording to Richard M. Young, Commissioner of the General
Land Office.\textsuperscript{136} Although Governor Thomas Brown of Florida
argued in 1849 that only one settler in ten claiming land
under the Act was actually armed and prepared to fight
Indians, the approximately 1100 homesteads established
through its provisions attracted others into the area and
eventually contributed to Indian removal.\textsuperscript{137}

Speculation, rather than settlement, appeared to be
the motive of some applicants. Less than two years after
the Act became effective, settlers in East Florida peti-
tioned for relief from the continuous residence require-
ment on the grounds that the Indians were no longer a
menace but the settler's health was endangered by bad
water.\textsuperscript{138} Some of the same names appeared on another

\textsuperscript{135}Cornelius Taylor to Hon. David Henshaw, Sec. of
Navy, Aug. 1, 1843, Ibid., p. 711; Schene, Hopes, Dreams,
and Promises, pp. 51-52.

\textsuperscript{136}Cushman, "Indian River Settlement," p. 23; Schene,
Hopes, Dreams, and Promises, p. 51; Covington, "Armed

\textsuperscript{137}Ibid., pp. 51-52; Dovell, Florida 1:355.

\textsuperscript{138}Petition to Congress by Citizens of East Florida,
March 11, 1844, in Carter, Territorial Papers 26:174-76.
The Census Office included Alachua, Columbia, Duval,
petition in 1844 asking for immediate patents for their 160 acres since the Seminoles were then confined. 139

After Congress amended the Act to allow the settler to purchase his land, some took advantage of that provision, obtained title, and began selling portions of their claims. 140 Others sold their entire quarter section within months of obtaining a patent. 141 Although settlement was the stated objective of Congress in the Armed Occupation Act, one-third of the permits located in present Orange and Seminole Counties were never patented and did not appear on the tax rolls. 142

Most early Armed Occupation Act claims near Lake Monroe were located north of the lake because of the existence of several Spanish land grants on the south side of


141 Peter Hynee, permit 303, July 31, 1843, patent 7, Nov. 20, 1849, Ibid., pp. 103-04.

142 Orange County Tax Rolls 1846-1851 (Tallahassee: Florida State Library, microfilm copy by the Genealogical Society, Salt Lake City, 1956).
the lake which limited site selection. (See map on page 54.) The 2,000 acre Miranda tract on the Wekiva River was confirmed in 1830, the Yonge-Levy grants on Lake Monroe and Lake Jessup in 1834, and another Levy tract of almost 8,000 acres on the Wekiva River in 1835. Deputy Surveyor Henry Washington surveyed the township and range lines in 1843, but the private claims and their connections to other survey lines were not run until between 1847 and 1850.143 This lack of survey effectively closed the land near the Spanish grants to Armed Occupation Act permit location because the Act prohibited settlement on existing claims and did not include relocation rights. An error in location could result, therefore, in the loss of the land as well as the time, money, and effort expended in improving it. Congress later amended the Act to allow some adjustments, but at the time of settlement under the original provisions of the Act, a mistake in locating a claim on private land could result in cancellation of the permit.144

Approximately twenty five families lived near Lake Monroe in 1843, but the extent of the private claims and the existence of marsh areas around the lake influenced settlers wishing land suitable for general agriculture and

143Florida Plats, T19&20S R30&31E.
144Statutes at Large 5, 502.
ARMED OCCUPATION ACT PERMIT SITES
LAKE MONROE AREA

1. John Simpson, permit 3, W²NW⁴, NE⁴NE⁴ sec. 3 T19S R30E.
2. Nicholas Shepherd, permit 5, NW⁴ sec. 10 T19S R30E.
3. John C. Houston, permit 7, E²NW⁴, W²NE⁴ sec. 9 T19S R31E.
4. Henry DeMasters, permit 8, NW⁴ sec. 3 T19S R30E.
5. Henry Crane, permit 10, lot 1, sec. 30 T19S R31E.
6. Cornelius Taylor, permit 21, SW²SW⁴ sec. 5, lots 1 & 2 sec. 6 T19S R31E.
8. Charlotte Ayres, permit 110, NE⁴ sec 1 T19S R30E.
9. Augustus Vaughn, permit 113, SW⁴ sec. 31 T19S R31E.
10. John Bethel, permit 50, SE⁴ sec. 10 T19S R31E.

Estimated Locations:
* Peter Hale, northwest side Lake Monroe
* John Eaton, west end Lake Monroe
* William Kelly, west side mouth Lake Monroe.
* John Baker, east side Lake Monroe
* William Fail, east side Lake Monroe
* William Hunton, 2½ miles Lake Monroe
* Eliza Glenn, northwest side Lake Monroe
* George Houston, Black Hammock, Lake Jessup
* John Hale, Black Hammock, Lake Jessup
* John Stoatz, south shore Lake Jessup
* John Zierman, southwest shore Lake Jessup
cattle raising to move westward toward higher ground.\textsuperscript{145} Much of the land around lakes Monroe and Jessup and on the north side of Lake Apopka was swamp with peat and marl soils, while land south of Lake Apopka, west of Lake Jessup, and in the present Orlando area was a major recharge area for the Florida Aquifer with sand and clay soil. The excellent drainage made those areas suitable for cotton and other extensive agriculture.\textsuperscript{146}

By 1843, claims in the interior of Mosquito County extended to Lake Apopka, with several permits issued for land near Lake Gatlin.\textsuperscript{147} (See map on page 57.) Aaron and Isaac Jernigan obtained Armed Occupation Act permits for the northeast and southeast quarters of section 10, T23S R29E on July 21, 1843, at St. Augustine.\textsuperscript{148} Aaron brought a few hundred head of cattle and two slaves with him and later built a small stockade near Lake Conway. He

\textsuperscript{145}Schene, Hopes, Dreams, and Promises, p. 51; Eve Bacon, Oakland, the Early Years (Chuluota, Fla.: The Mickler House, Publishers, 1947), p. 1.


\textsuperscript{148}Aaron Jernigan, permit 262, NE\textsuperscript{4} sec. 10, T23S R29E, patent 12, Oct. 1, 1849, Isaac Jernigan, permit 273, SE\textsuperscript{4} sec. 10, T23S R29E, patent 13, Oct. 1, 1849, Ibid., p. 34; Florida Tract Records 25:172.
ARMED OCCUPATION ACT PERMIT SITES
LAKE GATLIN AREA

1. Vincent Lee, permit 55, NW\textsuperscript{4} sec 36 T22S R29E.
2. Peter Hynee, permit 303, SW\textsuperscript{4} sec. 2 T23S R29E.
3. Aaron Jernigan, permit 272, NE\textsuperscript{4} sec. 10 T23S R29E.
4. Isaac Jernigan, permit 273, SE\textsuperscript{4} sec. 10 T23S R29E.
5. B. F. Witner, permit 277, SW\textsuperscript{4} sec. 7 T23S R30E.

Estimated Locations:
* Gabriel Seeley, 1/2 mile west of Ft. Gatlin.
* L. H. Hearn, 1 mile northwest of Ft. Gatlin.
* H. H. Bell, 2 1/4 miles northeast of Ft. Gatlin.
* S. C. Benjamin, 1 mile southeast of Ft. Gatlin.
* Henry King, 4-5 miles northeast of Ft. Gatlin.
* Theodore Hearn, 4-5 miles northeast of Ft. Gatlin.
* Michael Hearn, 4-5 miles northeast of Ft. Gatlin.
* Charles Gorman, 1 mile east of Ft. Gatlin.
* Samuel Backley, adjoining Ft. Gatlin.
* James McRory, 4 miles south of Ft. Maitland.
acquired extensive holdings in the county and later served as Orange County's first representative in the state legislature.149

The St. Augustine land office alienated 44,000 acres under the Armed Occupation Act and sold 70,155.04 acres by early 1844.150 The Act had increased the population in the interior of Mosquito County, but most of the privately held land was in large tracts in the hands of absentee land owners. Henry Gee's tract on Lake Jessup was the smallest assessed holding of the 115 names appearing on the tax rolls for 1845-1846, and only five assessments were for 600 acres or less.151 Charlotte Ayres,152 a woman who obtained a permit for land near Lake Monroe did not appear on the list since her land was not yet taxable and as a woman she paid no poll tax. The poll tax was instituted by the second General Assembly and sixteen other holders of permits whose land was not yet taxable


150 Thomas Black, Commissioner General Land Office to Delegate Levy, June 22, 1844, in Carter, Territorial Papers 26:919-20.

151 Schene, Hopes, Dreams, and Promises, p. 20; Orange County Tax Rolls, 1845-46.

152 Charlotte Ayres, permit 110, May 16, 1843, sec. 1, T19S R30E, patent Nov. 12, 1849, Deed Book D, p. 88.
appear among the seventy one white male resident taxpayers of the county. The area was still sparsely settled and only beginning to be developed as proposals for statehood began to attract support.
CHAPTER V

LAND ACQUISITION IN THE EARLY YEARS OF STATEHOOD

When Florida achieved statehood on March 5, 1845, it became eligible for 500,000 acres of public land granted by Congress to new states under the Distribution Act of 1841 to support internal improvements. Florida's delegate to Congress, David Levy, worked for passage of the bill and later used the prospect of income derived from that land to support his argument for statehood. Floridians also benefitted from the provisions of Senator Thomas Hart Benton's bill which granted general pre-emption rights. Widows and male citizens over twenty one years of age who owned less than 320 acres of land were eligible under the Act to purchase public land they had settled upon for $1.25 an acre. The Act also gave section sixteen in each township to the state for the support of schools. Levy esti-

153 An Act to Appropriate the Proceeds of the Sales of Public Lands and to Grant Pre-emption Rights, Statutes at Large 5, 453 (1841).

154 Dovell, Florida 1:285; Shofner, Nor Is It Over Yet, pp. 108-09.

mated sales of the 975,307 acres of school land would provide a fund of $2,500,000 to support education. 156

The earliest sales of school land in present Orange and Seminole counties were generally in 1857, with most sales transacted in the 1880s. Joseph G. White and John B. White had purchased forty acres in section 16, T23S R30E in 1841, and one sale of school land was recorded as late as 1945. 157 The state also received land to support seminaries or schools of higher learning which were originally administered by the Trustee of Seminary Lands and later by the Register of the Land Office. 158 The General Assembly granted a five percent discount for cash sales of the school and seminary lands at a minimum price of $1.25 an acre in 1847. The state extended credit for three-fourths of the total price after a one-fourth cash down payment, with installments due annually. 159

The state also offered credit for the purchase of the lands given for internal improvements at a minimum

157 Florida Tract Records 26:87.
price of $1.25 an acre. The lands were originally offered in lots of no less than 40 acres nor more than 320 acres at prices from $2.50 to $1.00 an acre, depending on the quality of the land. The Register determined the value based on "... the returns of the locating agents or by personal inspection. ..." 160 After the initial cash down payment of one-fourth of the total price, an additional payment was due in one year and the balance in four years from purchase. The land was transferable by assignment of the certificates issued by the Receiver for payment of the installments. The land was forfeited to the state when payments were not made. 161

The new state legislature needed to impose taxes to raise revenue to support the government so it authorized the appointment of assessors and collectors to classify land and collect taxes from $.025 to $.075 an acre according to its value. 162 The law required owners to furnish the county assessor with a list and description of their taxable property. In addition to land, taxable property included such assets as gold or silver watches, slaves,


cattle and money loaned at interest. Private land claims were liable to taxation when confirmed by the courts or patented by the land office and surveyed. The General Assembly later amended the Act to increase taxes and to create the office of Register of the Land Office with the responsibility of selecting and classifying the land given to the state by the federal government.\textsuperscript{163} The office of Register was to keep records relating to land purchases and the office of Receiver was to accept payments and issue receipts.

Mosquito County became Orange County in 1845 with most of its public and private land still unsurveyed. Tax Assessor Constant Potter, a settler under the Armed Occupation Act,\textsuperscript{164} reported 20,182 acres of first rate land, 22,169.55 acres of second rate land, and 91,588 acres of third rate land taxed within the county in 1846. Classification as first rate land usually implied cultivation. Eleven holdings containing first rate land were located near New Smyrna, but in the recently settled areas from Lake Monroe westward, only the Henry Gee tract at Black Hammock on Lake Jessup and the Ievy grant on the Wekiva


River were assessed as including some first rate land.  

Under the revenue laws enacted by the General Assembly, failure to pay assessed taxes resulted in "distress sales" by the sheriff to raise enough money to pay all due and delinquent taxes. One of the first sales in Orange County under these laws involved property held in the name of Spanish surveyor Andrew Burgevin. Beneficiaries of Gov. Coppinger's grants under the Spanish Royal Order of 1815 frequently employed Burgevin to survey their grants. Two grantees, Antonio Huertas and Pedro Miranda, each deeded Burgevin 600 acres in July, 1821, as payment for his services. No taxes were paid on the land in 1845, so Sheriff John Simpson sold the land at public auction in Mellonville in September of 1846 to Robert Mickler who acquired title to 1,200 acres of land for $6.42.

Sheriff Simpson also sold for taxes part of the Miranda grant on the Wekiva River which Burgevin had surveyed. Miranda was Captain of the Port of St. Augustine and received 10,000 acres on the "English Big Spring," or Wekiva River, from Gov. Coppinger on September 16, 1817, in

165 Orange County Tax Rolls, 1846.


167 Deed Book D, pp. 18-19.
recognition of his services to Spain. Miranda also re-located a 2,000 acre grant in the same general area in December, 1817. After no taxes were paid on the land in 1846, Sheriff Simpson sold 2,000 acres of the land at public auction on April 6, 1847. He offered the land in forty acre lots, all of which were bought by George Fairbanks, an attorney and former Clerk of the United States Superior Court in St. Augustine. Fairbanks paid between one-sixth of a cent an acre and twelve and one-half cents per acre for the land, acquiring 2,000 acres for a total price of $26.88.

The next year the General Assembly raised taxes by twenty percent and authorized sheriffs to buy land on behalf of the state if a public auction did not raise enough money to meet delinquent taxes and expenses of the sale. In 1852 Sheriff Simpson bought 3,115 acres of the Miranda grant on the Wekiva River in sections 39 and 40,

168 "Spanish Land Grants" 4:56, 131.
170 Deed Book D, pp. 56-57.
T19S R29E for $49.33 due for taxes. 172

Township and range surveys reached Lake Monroe in 1846 and most public land in present Orange and Seminole counties was opened for sale in 1846 and 1847. Deputy Surveyor A. M. Randolph's detailed surveys revealed two claims conflicting with confirmed grants belonging to Moses Levy, father of Florida's first United States Senator, David Yulee. 173 Moses Levy, a Jew who had prospered in the lumber business on St. Thomas Island, moved to Cuba in 1816 where he established a business furnishing supplies to the Spanish army. Levy purchased several Spanish land grants from the original owners and moved to Florida when the United States acquired the territory from Spain. 174

One Levy grant on Lake Monroe covered a small portion of the Armed Occupation Act tract patented to Augustus Vaughan, 175 and the Henry Gee land on Lake Jessup lay en-

172Deed Book D, p. 151. On October 20, 1843, Thomas Blakley, Commissioner of the General Land Office directed that private claims within each township be numbered consecutively, starting with no. 37. In Carter, Territorial Papers 26:768-71.


tirely within another Levy grant. Vaughan's patent was upheld, but the Gee claim was denied. Henry Gee bought 125 acres of federal land reserved for the support of the Kentucky School for the Deaf and Dumb on March 4, 1840, but lost it because of a late pre-emption claim filed at the land office in Tallahassee by Michael Lott on August 20, 1840. Gee petitioned for relief and since he had been "wrongfully deprived" of his original selection, Congress passed the Act for the Relief of Henry Gee in 1842 allowing him to relocate on any unappropriated land. Gee chose land at Black Hammock on Lake Jessup and on November 18, 1845, George Huston made a survey of the land which was filed with the General Land Office on July 27, 1846. Gee paid taxes on the land through 1849, but the Randolph survey of private claims in 1850 showed the land entirely within the Levy grant. Since the Supreme Court had confirmed Levy's claim in 1843, Gee's later claim was null and void. William Gee tried to obtain a warrant to relocate the claim in 1875, but the Land Office refused

176 Statutes at Large 9, 243; Florida Plats, T19S R30E, supplemental survey.
178 Florida Plats, T20S R30E.
179 Orange County Tax Rolls, 1846-1849.
180 Department of the Interior, General Land Office
since all federal land in Florida was limited to homestead entry at that time.\textsuperscript{181} Joseph Finegan acquired the land in 1849 through the purchase of the Levy grant.

Finegan purchased two of the several Spanish grants totalling 65,000 acres confirmed to Moses Levy by the United States Supreme Court in 1834.\textsuperscript{182} The tracts were part of a grant to Don Philipe Roberto Yonge, Commander of the Militia, who had lost a ship and over $20,000 during his service to the Spanish government. In response to Yonge's petition and in recognition of his performance of duty, Gov. Coppinger rewarded Yonge with a grant of 25,000 acres on February 22, 1817. At Yonge's request the grant was divided with 12,000 acres located on Lake Monroe and 13,000 on Lake Jessup.\textsuperscript{183} Levy purchased 20,000 acres from Yonge and later sold the land to William Traverse of St. Augustine.\textsuperscript{184} Yonge retained 5,000 acres within the grant to W. H. Gee, April 24, 1875, Henry Gee, Private Land Claim 183, Department of the Interior, Bureau of Land Management, Record Group 49.

\textsuperscript{181}An Act for the Disposal of the Public Lands for Homestead Actual Settlement in the States of Alabama, Mississippi, Louisiana, Arkansas and Florida, Statutes at Large 14, 66 (1866).

\textsuperscript{182}"Spanish Land Grants" 4:54.

\textsuperscript{183}"Spanish Land Grants: 5:231.

on Lake Jessup and in 1837 Yonge and Traverse each deeded 1,000 acres to Joseph White, Florida's delegate to Congress in lieu of attorney's fees.

White sold his 2,000 acres which formed a parallelogram within the original 13,000 acres on Lake Jessup on October 22, 1849. William Brochenbrough of Leon County acquired a half interest in the land and William Chavis of Albany, Georgia, and William Sims of Apalachicola each acquired a quarter interest in the land for a total price of $4,000.\(^{185}\)

After Traverse died, George Fairbanks, acting under the direction of the court as a Master in Chancery, sold the Traverse land at public auction on November 5, 1849. Joseph Finegan of Duval County purchased the 12,000 acre tract on Lake Monroe for a high bid of $25.00 and the 8,000 acre parcel on Lake Jessup for $15.00.\(^{186}\) Finegan had problems keeping out timber poachers and requested copies of the surveys and a patent from the land office in 1851.\(^{187}\) The patent was unnecessary since the decision of the Supreme Court made the grant "complete upon its

\(^{185}\)Deed Book D, p. 89.

\(^{186}\)Ibid., pp. 102-03.

face" and therefore no further action was needed.\(^{188}\)

Congress enacted two laws in 1850 which had significant impact on Florida lands; the Military Bounty Land Act and the Swamp and Overflowed Land Act. The Swamp Land Act of September 28, 1850,\(^{189}\) gave Florida millions of acres of federal land which were removed from the market as they were selected and approved by the state in the course of several years. In 1850 the state established the Board for Internal Improvements to administer both the original 500,000 acres granted the state in 1845 and the swamp lands acquired by the Act of 1850.\(^{190}\)

In 1847 Congress had offered 160 acres of land to non-commissioned officers, musicians, and private soldiers willing to serve one year in the army during the war with Mexico.\(^{191}\) Congress authorized military land warrants to include officers in 1850 and made the warrants assignable in 1852.\(^{192}\) By 1855, Congress extended the military bounty

\(^{188}\) Department of the Interior to Chelsea Title Co., July 24, 1962, Ibid.

\(^{189}\) An Act to Enable the State of Arkansas and Other States to Reclaim "Swamp Land" within their Limits, Statutes at Large 9, 519 (1850).

\(^{190}\) Dovell, Florida 1:399; Tebeau, History of Florida, p. 189.

\(^{191}\) An Act to Raise for a Limited Time an Additional Force, and for Other Purposes, Statutes at Large 9, 124 (1847).

\(^{192}\) An Act Granting Land to Certain Officers and Soldiers Who Have Been Engaged in Military Service of the
to cover all veterans of the armed services, and since the warrants were assignable, a flourishing market in them developed throughout the United States. Speculators advertised widely, offering to pay cash for warrants, and acquired thousands of acres of public land.\textsuperscript{193} The warrants, representing land selling at $1.25 an acre, often sold for sixty to eighty cents an acre. John T. Williams, Virgil Dupont, and Cornelius Taylor were among the first to locate military warrants near Lake Monroe.\textsuperscript{194}

The 1850 Census credited Orange County with a total population of 446, including 226 slaves.\textsuperscript{195} The county contained fifty five families and the nineteen farms had a total value of $74,095.00, including implements and improvements. By 1852, ten years after the repopulation of East Florida began with the stimulus of the Armed Occupa-

\begin{itemize}
\item United States, Statutes at Large 9, 520 (1850); An Act to Make Land Warrants Assignable, and for Other Purposes, Statutes at Large 10, 3 (1852); Gray, History of Agriculture 2:634.
\item Florida Tract Records 21:86; Deed Book D, p. 133.
\end{itemize}
tion Act, land was acquired by a variety of measures. Confirmation of the Spanish land grants gave a few proprietors many thousands of acres of land, most of which was still undeveloped. The federal government gave thousands of acres of public land to settlers by the Armed Occupation and military land warrants. Although some claimants were speculators who sold their land at improved prices as soon as they obtained a clear title, others became permanent residents. A few purchasers obtained land for far less than the $1.25 an acre minimum price of public land by successful bidding at tax sales. Individuals acquired land in return for services rendered, such as building a house or in lieu of attorney's fees, and a few bought public land at the standard minimum price. While $1.00 an acre or less was a common price in private land sales, i.e., sales by individuals, not governments, a few parcels at Ft. Reid and Mellonville sold for as much as $60.00 an acre and some land on the north side of Lake Monroe sold for $6.00 to $7.00 an acre. One 175 acre tract doubled in price from $400.00 to $800.00 between February and November, 1852.

196Deed Book D, pp. 89, 115.
197Ibid., pp. 108, 86.
198Ibid., pp. 121, 134, 186, 132, 175, 156.
199Ibid., pp. 159, 161.
In that year the county collected taxes on 1,020 acres of first rate land, 20,194 acres of second rate land, and 90,438 acres of third rate land. At a tax sale on July 5, 1842, Sheriff John Simpson bought 7,567 acres of land for the state, but the land was not open for purchase during the two years allowed the previous owner to redeem his property. At the same sale John Starke paid $347.50 in back taxes to acquire the Rodriguez Grant, 5,408 acres on Seminole and Black Water Creeks.

Spanish Governor Juan Estrada awarded Sub-Lieutenant Miguel Marcos the land, later known as the Rodriguez Grant, in recognition of his service to the crown. In 1823 his widow presented the claim to the board of commissioners who recommended that it be confirmed. No action was taken, however, and when the grant was surveyed in 1850 the claim was rejected because it exceeded the limits established by the Act of May 23, 1828. After years of petitions and legal battles, the Secretary of the Interior issued a patent in the name of Teresa Rodriguez in 1894, but the heirs could not recover the land from the owners in equity who had legitimately purchased the land.

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200 Orange County Tax Rolls, 1852.

201 Deed Book D, pp. 143-56; Florida, An Act to Amend the Several Acts to Raise a Revenue, Laws of Florida, (1848), p. 20

202 Deed Book D, p. 277.
for past due taxes. 203

The state acquired part of the Miranda grant through tax sales, but Levy, Fairbanks, and Finegan controlled thousands of acres of land in confirmed Spanish land grants that were undeveloped and not available for purchase. Speculation was apparent in a few transactions, but the guarantee of pre-emption rights, the possibility of military land warrants, and the availability of large amounts of cheap public land made its impact on the average settler negligible. The population in the interior of the county was increasing and mail routes connected the settlements on Lake Monroe, Lake Jessup and Lake Gatlin with Tampa. 204 Until the impact of the Civil War reached the county, population continued to grow and land prices slowly increased.

203 Teresa Rodriguez, Private Land Claim 326, Department of the Interior, Bureau of Land Management, Record Group 49.

204 Bacon, Orlando 1:9.
CHAPTER VI

ORANGE COUNTY LAND FROM THE 1860s TO 1880s

As the population of Florida increased in the years before the Civil War, newcomers intending to settle in present Orange and Seminole counties continued to bypass Lake Monroe and Lake Jessup and to choose land in the Orlando area or near Lake Apopka. Although more total acres changed hands in the Mellonville-Ft. Reid area, this reflected sales of entire Spanish grants and was, therefore, not indicative of increased population. According to Sheriff J. C. Stewart, ex-officio tax assessor and collector, in 1860 the county contained 83,654 taxable acres, 74,329 of which were controlled by forty absentee owners. Residents held 9,325 acres, approximately 11.2% of the taxed land.205

In the Orlando area, sevel non-residents acquired 962.63 of the 2,386 acres of federal land alienated from 1852 through 1860. Most of the 778.78 acres of land in area sold by the Trustees of the Internal Improvement Fund went to residents, while non-residents acquired approximately half of the 2,283.92 acres transferred through

205 Orange County Tax Records, 1860.
private and sheriffs' sales.206

Edward Barnard of Leon County and Walter Gwynne bought 1,237.87 acres of Internal Improvement Fund land near Lake Jessup in May and December of 1860, more than half of total state land sales of 2,083.49 acres in the area through 1860. Private sales other than that of Spanish grants transferred slightly more than 1,000 acres in the area. From 1852 through 1860, state and federal governments alienated 2,364.85 acres of public land on the west side of the St. Johns River near Lakes Monroe and Jessup.207

In contrast, during the same years the governments alienated a total of 3,446.84 acres of similar land near Lake Apopka. (See Table II on page 77 for a comparison of federal land alienated in the three areas, compiled from Florida Tract Records.) Since the soils around the three major lakes were similar, there must have been factors that outweighed the basic advantage of accessible transportation on the St. Johns River enjoyed by settlers in the Lake Monroe-Lake Jessup vicinity. Given similar soils and climates moderated by large bodies of water, land


<table>
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<th>YEAR</th>
<th>ORLANDO AREA</th>
<th>APOPKA AREA</th>
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<tr>
<td>1852</td>
<td>159.98</td>
<td>317.42</td>
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<tr>
<td>1853</td>
<td>159.98</td>
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<td>115.90</td>
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<td>437.63</td>
</tr>
<tr>
<td>1859</td>
<td>959.96</td>
<td>595.38</td>
</tr>
<tr>
<td>1860</td>
<td>324.64 acres</td>
<td>3,388.84 acres</td>
</tr>
<tr>
<td></td>
<td>1,106.19</td>
<td>2,282.65</td>
</tr>
</tbody>
</table>

**Total Area:**
- Lake Monroe Area: 324.64 acres
- Total Orlando Area: 2,386.77 acres
- Total Apopka Area: 3,388.84 acres
availability would seem to determine site selection.

Public land available in all three locations was partially restricted by state selection of swamp and overflowed lands under the Act of 1850 which removed large tracts of land as they were approved by the state in March, 1856.\(^{208}\) (See maps on pages 79, 80, and 81 for selected swamp lands.) The major difference in land availability between the Lake Monroe and the interior of the county was the presence of Spanish land grants. The soil in the Orlando area had slightly different drainage characteristics so it attracted different agricultural interests than the lake areas. Since much of the arable land on the south shore of both Lake Monroe and Lake Jessup was closed to settlement by grant ownership, and since most of the original locations around Lake Apopka were for similar land also on the south side of the lake, it would seem that potential purchasers could have been deflected away from the Mellonville-Ft. Reid area by limitations imposed by the presence of undeveloped Spanish land grants.

Another factor in site selection was the cost of land. The price of developed land in the Mellonville-Ft. Reid area rose sharply during these years and some early settlers realized handsome profits. A 40 acre parcel in

\(^{208}\)Florida Tract Records, T19-21S R30-31E, T21-22S R27-28E, T22-23S R29-30E.
Land disposition Orlando area, 1860

State land

Swamp selection

Private land

Grant owner
Land disposition Apopka area, 1860
section 31, T19S R30E originally claimed by Augustus Vaughan under the Armed Occupation Act sold for $112.50 an acre in 1855, and a one acre tract at Ft. Reid increased from $60.00 in 1853 to $150.00 in 1856.\textsuperscript{209} Other private tracts in the area sold for prices ranging from $6.30 to $33.30 an acre whereas private sales of 1,313.67 acres in the Orlando area recorded prices from approximately $4.00 to $10.00 an acre by 1860.\textsuperscript{210} In the Apopka area an 80 acre tract sold for $1,500.00 in 1858 and a parcel of 659.59 acres sold for $12.00 an acre in 1859.\textsuperscript{211} The county courthouse burned in 1869, destroying the early deed books, so other sales could have taken place, but the available records indicate a general increase in the price of privately owned land in the county.

Some federal land was available at reduced prices, however. In 1854 Congress lowered the minimum price of federal land from $1.25 an acre to $1.00 an acre for land unsold after ten years on the market. After twenty five years land still on the market could be purchased for as little as $0.12\frac{1}{2} an acre. Florida contained 6,448,560 acres subject to graduation, some of which was available

\textsuperscript{209}Deed Book D, pp. 248, 288.
\textsuperscript{210}Ibid., pp. 425-26, 377, 338, 341, 356.
\textsuperscript{211}Ibid., pp. 320, 357.
in Orange County. Since the price of private land had increased in all three areas and the price of public land was the same, selection of new settlement sites must have been influenced by land availability.

In 1860 the Spanish land grants were held by absentee owners who had little interest in development and their land was generally valued at less than $1.00 an acre for tax purposes. The 4,000 acre portion of the original Yonge grant retained by Philip Yonge sold to Henry Yonge of New York City for $2,000.00 in 1852, but failed to bring an offer equal to taxes owed in 1855 when tax collector Elijah Watson bought it for the state. Henry Yonge later redeemed the land by paying back taxes and expenses in 1857.

The other 18,400 acre portion of the original Yonge grant was mortgaged by Joseph Finegan of Jacksonville to John Bellechaise of Cuba for $7,250.00 in 1851. The mortgage was cancelled in 1856 and Finegan sold the 8,000 acre tract on Lake Jessup to D. R. Mitchell for $8,000.00 in 1859. Mitchell began to develop the land and paid taxes for 1860 on land valued at $8,600.00 and improvements

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213 Deed Book D, pp. 186, 282, 309.
worth $2,150.00. Finegan's undeveloped 12,000 acres on Lake Monroe had a tax value of $5,000.00, slightly more than $0.42 an acre. He sold a tract of 1,200 acres on the west line of the former Yonge grant to James Parramore of Madison County for $250.00 in 1860, approximately $0.20 an acre.

An exception to the generally low price of grant land was the White tract in the original Yonge grant on Lake Jessup. The 2,000 acre parcel sold for $4,000.00 in 1849, but Phineas Nightingale of Camden County, Georgia, paid $5,000.00 for a half interest in the land in 1849.

The 32,900 acre Levy lands in Orange County had an assessed value of $7,500.00 in 1859, approximately $0.23 an acre. Since the Levy holdings included well established grants such as Volusia, lying along the St. Johns River, the lands were probably drastically under assessed. The Levy lands were entangled in constant litigation following Moses Levy's death in 1854. As one of Levy's four children, David Yulee applied for a Letter of Administration for the estate, then ceded his interest to his

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214 Ibid., pp. 293-94, 369; Orange County Tax Rolls, 1860.


216 Ibid., p. 375.

217 Orange County Tax Rolls, 1857-1859.

brother Elias. Elias entered a Petition to Partition for the estate at the Circuit Court in Putnam County in March, 1856, but a few months later, B. A. Putnam filed a will for probate in St. Johns County. The will offered for probate left $100.00 to each of the two sons and divided the remainder of the estate between Levy's two daughters, Rachel Levy Pretto and Ramah Levy DaCasta, and Levy's sister, Rachel Levy Benlissa of St. Thomas in the Virgin Islands. Elias immediately challenged the will and the land was tied up by legal battles for several years. As long as the estate was not settled, thousands of acres in Orange County were closed to development.219

During the Civil War land values throughout the South declined as the economy collapsed.220 The decline in the value of Confederate money was reflected in a promisory note which allowed payment of $100.00 in gold for a debt of $1,500.00.221 In an effort to raise revenue, the Florida legislature increased the price of public land to $10.00 an acre for hammock land and $5.00 an acre for all other land which it claimed it acquired by secession. It also raised the price of school and seminary land to five times their previous cost and instituted a

219Deed Book E, p. 205; Deed Book H, pp. 206, 300.
220Shofner, Nor Is It Over Yet, p. 132.
221Deed Book D, p. 510.
five percent commission to be paid on all land purchases.222

Several land purchases in the county were made in women's names and many of the sales were not recorded until after the war was over.223 Isophoenia Speer, wife of James Gamble Speer, located several military warrants and purchased several hundreds of acres of land from the Trustees of the Internal Improvement Fund between 1860 and 1865, much of it around Lake Apopka.224 The United States government did not recognize titles to 800,000 acres of federal land sold in Florida during the Civil War, but apparently the Speer acquisitions were valid since they were subsequently sold.225 Further confusion concerning land titles was the result of seizure and tax sales of Confederate property in Union held areas of the state. The property was sold at public auction if United States taxes were not paid after advertisement of assessment in the newspapers. Several sales were held and some Unionists acquired valuable property at nominal prices. While those


224Ibid., pp. 389, 435-37, 439, 497.

225Ibid., pp. 550, 562; Shofner, Nor Is It Over Yet, pp. 134-35.
sales were important to the individuals concerned, many of
the original owners regained their property through the
redemption clause in the law or through the courts.\textsuperscript{226} However, the sale of the Florida Railroad, which was in
receivership at the end of the war, had serious conse­
quen­ces for the economy of the state.\textsuperscript{227}

United States Senator David Yulee, first president
of the Florida Railroad, promoted the passage of the Act
of Congress of May 17, 1856, which granted alternate
sections of federal land six miles deep along a 200 foot
right-of-way "... from Amelia Island on the Atlantic, to
the waters of Tampa Bay..." to aid in the construction
of a railroad.\textsuperscript{228} The Florida Railroad acquired 276,419.11
acres in 1858 and 5,565.06 acres in 1860. Other Florida
railroads received 1,630,129.48 acres of federal land
between 1856 and 1860.\textsuperscript{229}

The Trustees of the Internal Improvement Fund who

\textsuperscript{226} Ibid., pp. 5, 27-28; New York Times, Jan. 27, 1867.

\textsuperscript{227} Shofner, Nor Is It Over Yet, pp. 115-16; Edward D. Williamson, Florida Politics in the Gilded Age 1877-

\textsuperscript{228} Caroline Watkins, "Some Early Railroads in Alac­
hua County," Florida Historical Quarterly 53 (April 1975):
451; S. Exec. Doc. 91 (1884), p. 72.

\textsuperscript{229} Table VI, "Railroad Construction Grants," S.
Doc. 189, (1905), pp. 146-47.
administered the land permitted railroads to issue bonds as the roadbed progressed and guaranteed payment to investors should the railroad default. The Florida Railroad was in default at the end of the war and the Trustees agreed to its reorganization by sale to E. R. Dickerson of New York. Dickerson was one of the original investors in the railroad and became the new president, with David Yulee becoming vice president. The sale brought $323,400.00, approximately twenty percent of its indebtedness, and some bondholders refused to accept such a loss on their investment. Francis Vose, whose company had supplied the rails and who owned 195 bonds of the railroad, obtained a federal injunction in 1871 to prevent any further depletion of Internal Improvement lands until the indebtedness was paid. The injunction prohibited the board from disposing of land except for cash, which was to be applied toward the debt. Since local capital was practically nonexistent in Florida at that time, land was the inducement used by the government to encourage outside companies to invest in Florida improvement projects. The injunction, therefore, effectively stopped internal improvement projects until 1881, when the Vose claim was paid.230

230Shofner, Nor Is It Over Yet, pp. 115, 251-52; Williamson, Florida Politics, p. 8; Dudley S. Johnson, "The Florida Railroad After the Civil War," Florida Historical Quarterly 47 (July 1968):293-94; Edward C. Williamson, "Independentism, A Challenge to the Florida De-
Although there were many abuses of railroad land grants throughout the country, they often offered a more affordable alternative to public land or other privately held land since some railroads offered free transportation, extended credit, and allowed installment plan purchases. According to a pamphlet published by J.S. Adams, Florida Commissioner of Land and Immigration in 1869, the Florida Railroad offered 400,000 acres along its right-of-way to settlers from other states. A newcomer could obtain free land in parcels from eight to twenty acres, depending on the distance from the railroad. Adams was also an agent of the Florida Land and Immigration Company which controlled the democracy of 1884," Florida Historical Quarterly 27 (Oct. 1948): 132; Jerrell H. Shofner, "Political Reconstruction in Florida," Florida Historical Quarterly 45 (Oct. 1966): 158.


led approximately 1,000,000 acres along the roadway. 233

The land was available in alternate tracts to promote settlement and therefore increase the business of the railroad, which in turn would raise the value of the remaining land. Such advertising increased general interest in Florida land, thereby assisting other areas, such as Orange County, which also wanted new settlers to improve their economy.

There were problems, however, when settlers mistakenly located homesteads on railroad land grants. The state generally withdrew land in the area of a proposed railroad until the final route was established and the company had made its selections. 234 David Yulee claimed that after the Civil War the Atlantic, Gulf, and West India Transit Company, the re-organized Florida Railroad, relinquished 80,139 choice acres to settlers on railroad land because of confusion in land titles. Yulee was unsuccessful in his efforts to persuade Congress to grant the company land in compensation, and N. C. McFarland, Commissioner of the General Land Office estimated there

233 Shofner, Nor Is It Over Yet, p. 262.

between 2,000 and 3,000 contested homesteads on railroad, swamp, or other grants in 1883.²³⁵

Congress had passed the Homestead Act in May, 1862, giving 160 acres after five years residence and improvement, to the head of a family, or a male over twenty one years of age and a citizen of the United States.²³⁶ After six months a settler could convert his homestead to a pre-emption claim and purchase the land for $1.25 an acre. The Act opened 83,916,649 acres of public land to free homesteads but did not apply in the South until after the Civil War.²³⁷ The Southern Homestead Act, passed in 1866, opened public land in southern states to loyal citizens without regard to race.²³⁸ For two years after passage, the Act limited homesteads to eighty acres and required a loyalty oath. A settler was required to cultivate the land for five years before a patent would be issued and all cash sales and pre-emption rights on federal land in

²³⁵David Yulee to Commissioner General Land Office, June 25, 1881, N. C. McFarland to President of Senate, Jan. 10, 1883, S. Exec Doc. 91, (1884), pp. 7, 76.

²³⁶An Act to Secure Homesteads to Actual Settlers on the Public Domain, Statutes at Large 12, 392-93 (1862).


²³⁸Statutes at Large 14, 66 (1866).
the South were prohibited until Congress removed all limitations in 1876.239

Commissioner Adams estimated 18,000,000 acres of federal land in Florida were open to homesteading in 1869 with another 6,000,000 acres of state land available at prices from $1.25 to $5.00 an acre depending on location. Adams urged groups of families who came to Florida together to pool their resources in order to purchase tracts of partially cleared and improved plantation land available at $3.00 to $10.00 an acre from private owners. The owners were often reluctant to sell small parcels and Adams argued that the large holdings in plantations and Spanish land grants hampered the economy. Adams saw the partition of such holdings as essential to the re-establishment of agricultural prosperity. He described the grants as "... a practical land monopoly of the worst description, and have operated largely to obstruct the settlement of the immense territory of the State. ..." Adams expressed optimism that the new constitution would produce fair valuations of the previously underassessed grants, thereby bringing the unproductive tracts into the market.240


240 Adams, Florida, pp. 18, 50, 58-60.
Some privately held land fell drastically in price during and after the war. John Hughey sold the 80 acres he owned in the original Yonge grant on Lake Monroe to Miles Dobbin of Georgia for $162.50 an acre in 1862, but most land sold for much less since there were few buyers. An 80-acre tract in Orlando belonging to William Roper sold for $16.00 an acre in 1864, but brought only $5.00 an acre the next year. Several other private sales shortly after the war brought between $2.00 and $5.00 an acre. The economy of the plantation area was severely depressed, but land along the St. Johns River was beginning to attract northern settlers interested in citrus and vegetable farming, and population began gradually to increase. While the black population of the county decreased from 164 to 142 between 1860 and 1867, the number of white inhabitants increased from 1,283 to 1,374, mostly by newcomers who had been in the state for a short time.

By the end of 1868 several of the 3,648 homesteads

241 Deed Book D, pp. 504, 520, 525, 551, 554, 549; Deed Book E, pp. 1–4.
243 Florida, Registration Record, Orange County, 1867, (Tallahassee: Department of State, Division of Archives, History and Records Management, microfilm DSRM [7–721]; Adams, Florida, pp. 11–12.
entries on federal land in Florida were in Orange County. By 1871 there were twenty eight homestead locations in the townships around Lake Monroe and Lake Jessup and the state had sold forty one tracts in the area for prices ranging from $0.50 to $3.86 an acre. Similar conditions existed in Orlando, and in the Laka Apopka area settlers claimed over 2,000 acres by homestead entry by the end of the year. There were relatively few homestead entries in Florida in 1872 and 1873, but settlers claimed 32,053.13 acres by homestead entry in 1874.

Although free homesteads were advertised in 1873, most of the desirable land in the county was in private ownership. After years of litigation the Levy estate was settled in 1869 by court ordered sales of the lands. However, 8,700 acres in the present Alexander Springs Recreation Area had been sold for $504.49 in back taxes to John Mizell, Hugh Partin, and William Holden. Ramah Levy DaCasta bought some of the land in Orange and Clay counties, Rachel Levy Pretto's estate bought some of the

244Shofner, Nor Is It Over Yet, p. 134; Miscellaneous Book A, p. 574; Deed Book E, pp. 59, 76-77, 96, 177.

245Florida Tract Records T19-21S R30-31E, T21-22S R27-28E, T22-23S R29-30E.


247Jacksonville Florida Republican, April 24, 1873.

248Deed Book E, p. 370.
land in Orange and Marion counties, and Samuel Benlissa acquired the Ft. Butler tract and land on the Wekiva River.249 Henry Laza acquired the Pretto holdings in 1874 for $1,600.00 and Henry Sayre of New York purchased the DaCasta portion of almost 10,000 acres for $1,500.00 on June 11, 1874.250 William Astor of New York, William Stokes Boyd of Philadelphia, and Richard McLaughlin of Jacksonville acquired a three-fourths interest in the Benlissa land at Ft. Butler in 1874 and the remaining quarter interest in 1875. Astor also bought the 7,969.11 acre Levy grant on the Wekiva River in 1875 when the Benlissa estate was divided.251 Only the land at Ft. Butler was divided and offered for sale, the remainder was kept intact.

Thomas Ledwith had acquired the Domingo Fernandez grant on the west bank of the St. Johns River in 1852 and sold it to James Hawthorne for $1,200.00 in 1859.252 Hawthorne mortgaged the land during the war and Johnathan Steward filed a foreclosure notice in 1867. William Lovell bought the land at public auction for $950.00 in 1869.253

249Ibid., p. 205; Deed Book H, pp. 206, 300.
250Ibid., pp. 428, 432.
251Ibid., pp. 259-60.
252Deed Book D, pp. 239, 344.
253Deed Book H, p. 108.
Although new owners held most of the original Spanish grants by 1870, most of the land was still closed to development.

One large tract was purchased in 1870 by General Henry S. Sanford of Derby, Connecticut, who had become interested in Florida land in 1867. Sanford intended to speculate in land to subsidize a long term investment in orange groves and became interested in the Lake Monroe-Lake Jessup area where the industry was thriving. Since the Levy lands were still involved in litigation at that time, and Mitchell was improving part of the original Yonge grant at Lake Jessup, Joseph Finegan and Henry Yonge owned the only available undeveloped tracts in the area suitable for development. Negotiations between Finegan and Sanford probably began in 1868 or 1869 since Finegan undertook to bring the grant back to almost its original size by regaining the 1,200 acre tract sold to James Parramore in 1860. In the meantime, Parramore sold a one-third interest in the land to J. Rutledge Finegan of Nassau County, Agnes Parramore of Madison County, and James R. Finegan of Nassau County for $200.00 each on September 5, 1868.

While Finegan was arranging to repurchase the land,


255Ibid., pp. 30-33, 14-15.
Sanford bought two tracts along the edges of the grant from the Trustees of the Internal Improvement Fund. He paid $1.25 an acre for 280 acres in sections 14 and 15, T20S R30E on March 24, 1870, and on April 27 paid $1.25 an acre for 231.98 acres in sections 5, 9, and 15, T20S R30E, and $1.50 an acre for 159.10 acres in section 16 of the same township. After Finegan regained the 1,200 acres by paying $200.00 to each of the interested parties, he sold the entire tract, with minor exceptions, to Sanford for $18,200.00. Exceptions noted in the deed were 80 acres reserved for Finegan himself in section 1, T20S R30E, previous sales of 160 acres to Henry Crane, Constant Potter, and Jacob Smith, 80 acres sold to John Hughey, and promised sales of 49 acres to J. W. Tucker for $1,000.00 and 80 acres to W. W. Woodruff for $800.00. A further exception was noted on the map of the grant delivered to Sanford as being west of the Mellonville tract and between that tract and the baseline in section 30, T19S R30E, sold to Samuel Chapman for $1,000.00.

When Sanford gained control of the tract he established a model orange grove and began intensive efforts to attract settlers and purchasers. He built and operated a general store, cotton gin, slaughter house, telegraph sta-

256 Ibid., pp. 238, 240-41.
257 Ibid., pp. 181-86, 232-34, 197.
tion, and a wharf for the convenience of settlers and operated a hotel to attract both potential settlers and affluent tourists from through the United States who arrived on the two or three weekly river boats. 258 "Rambler's" Guide to Florida carried an advertisement for the Mellonville House and several other commercially produced books and pamphlets extolled the virtues of the state as a haven for invalids or a place where a newcomer with a little money could establish himself in reasonable comfort. 259 The state actively encouraged immigration through the Office of Lands and Immigration which circulated glowing reports and pamphlets throughout the United


States and parts of Europe.260

By 1873, L. M. Moore, postmaster at Mellonville and Sanford's agent, advertised 5 to 500 acre tracts for sale in the "Sanford Grant," twenty five square miles on an old Spanish grant with perfect title. Moore claimed the area was universally recognized as being best for oranges and that a grove would be fully bearing in seven to ten years when started from seed.261 In an effort to guarantee an available labor force, Sanford resorted to the method used by the original Spanish grant proprietors, i.e., the promise of free land. Sanford persuaded a group of immigrants to come from Sweden to work on his grant in return for free land and timber to build a house at the termination of a short labor contract. Sanford advertised that these workers could be hired for $15.00 a day and "found."262 Some were quickly disenchanted and wanted to leave, but some made lasting contributions to the area. Joseph Henschen, later a successful grove owner and investor in the Orange Belt Railroad, arrived in the United States as a supervisor of one group of immigrants, and thirteen Swedish families were living near Lake Monroe by


261Jacksonville Florida Republican, April 24, 1873.

1873. 263

Approximately 4,000 people lived in Orange County in 1874, and 580 residents paid the state poll tax. The area continued to attract more attention than most other sections of the state during the 1870s. 264 After a marked increase in tax valuations in 1873, the undeveloped land in Sanford's tract had an assessed value of $2.60 an acre in 1875. Some parcels within the grant were assessed at $100.00 an acre, with an average assessed value of slightly more than $39.00 an acre for parcels already sold within the grant. Most of the grant land Mitchell had bought from Finegan had a tax value of $2.28 an acre, but one 1,208 acre parcel containing a developed tract of 43 acres had an assessed value of $13,700.00. Tax Assessor A. W. Leonard rated the adjoining undeveloped Yonge grant at approximately $1.00 an acre and classified most of the Rodriguez grant as swamp worth $0.26 an acre, with the exception of one 40 acre tract assessed on a value of $850.00. 265

Prospective settlers arriving in Orange County in

263 Shofner, Nor Is it Over Yet, p. 260; Bacon, Oakland, p. 121.


265 Ibid., 1875; Shofner, Nor Is It Over Yet, p. 261.
the early 1870s found 133,251.82 acres closed to purchase because the Trustees of the Internal Improvement Fund had assigned them to development companies prior to the Vose injunction. E. A. Studwill and the New York and Florida Land and Improvement Company received 52,114.52 acres in the county on October 11, 1870 for $2,757.22 and fulfillment of conditions of a contract dated October 26, 1869, and the Southern Navigation and Improvement Company received 81,137.30 acres on March 1, 1871. The sale to the Florida Improvement Company was rescinded and the land returned to the market at a reduced price of $0.75 an acre in 1874, but the initial removal encouraged newcomers to buy the highly promoted land in the Sanford grant.\footnote{Jacksonville Florida Republican, April 24, 1873; Deed Book E, pp. 242-43, 311-18.}

While Sanford attracted many settlers, the "hot house" method of development and advertising ate into the profits of the venture. Although Sanford's project was described as "... probably the most extensive land enterprise in the state... unlike anything attempted in the United States..."\footnote{George M. Barbour, Florida for Tourists, Invalids and Settlers: Containing Practical Information Regarding Climate, Soil and Productions; Cities, Towns, and People; the Culture of the Orange and Other Tropical Fruits; Farming and Gardening; Scenery and Resorts; Sports; Routes of Travel, etc., etc., with a Map and Illustrations (New York: D. Appleton & Co., 1882; reprint ed., Floridiana Facsimilie and Reprint Series, Gainesville: University of Florida Press, 1964), p. 155.} Sanford was unsuccessful in at-
tempts to raise money in the North and turned to Europe where he had friends from his days as ambassador to Belgium. Sanford found backing in England and formed the Florida Land and Colonization Co., Ltd., in May, 1880. The company bought land from Sanford for $60,000.00, mostly paid by shares in the company. Sanford became president and chairman of the board of directors, and with increased capital expanded the company's holdings in Florida.268

James E. Ingram, one of the first general managers, used Civil War military scrip bought for $0.40 to $0.50 on the dollar to locate some of the new acquisitions and in 1881, the "Tafford Selection," 40,000 acres along the South Florida Railroad near Bartow, was purchased by the new general manager, E. R. Tafford, former Chief Engineer of the railroad.269 As the company expanded into several other Florida counties, it advertised several towns with schools, hotels, and saw mills, and offered small lots at favorable terms for improvers or settlers.270


269Orange County Reporter, Feb. 21, 1884; Amundson, "Florida Land and Colonization Company," p. 57.

A prospective settler arriving in the county seat in the early 1880s faced a bewildering array of choices regarding land, but publications warned him to be wary of "land sharks." Those settlers averse to waiting for a grove to mature into production could purchase a grove on Lake Eola for $2,000.00 an acre, or John B. Staten in Ocoee was willing to divide his grove for small purchasers. Page McKinney of Apopka encouraged potential speculators to purchase land along the line of the Tavares, Orlando, and Atlantic Railroad, and William Anno divided 80 acres in Pine Castle into quarter acre lots selling for $25.00 each. Several "land locators" offered their services and many towns and counties organized immigration associations which published brochures assuring potential settlers that they were welcome and that their location was superior to others. In spite of the many alternatives available for new settlers as the state continued to develop, increased competition for growth stressed the importance of undeveloped land grants which limited orderly expansion.

271 Ibid., p. 29.

272 Orange County Reporter, April 19, May 8, May 29, 1884; Mason, General Description; Elias Nason, Chapin's Handbook of St. Augustine, Florida, U.S.A (St. Augustine: George H. Chapin, 1884); The Columbia County Immigration Association, Columbia County, Florida; A Description of Her Climate, Soil, Health, and General Advantages (Jacksonville: Horace Drew, 1883); Board of Commissioners, Marion County, Map and History of Marion County and its Wonderful Resources (Ocala: Banner Steam Printing House, 1888).
Most federal land open to homesteading was taken, although there were some defaults, and large portions of former state land were controlled by Hamilton Disston of Philadelphia. The Vose injunction in 1871 had curtailed internal improvements since the state could alienate land only for cash to be applied against the Vose claim, which was approximately $1,000,000.00 and cost the state $70,000.00 in interest each year. The Trustees of the Internal Improvement Fund proposed various methods of retiring the debt, but Vose refused anything less than full value. In 1875 the board authorized Samuel Swann of the Fernandina real estate firm of Williams, Swann and Corley to sell 3,000,000 acres of swamp and overflowed land for not less than $0.30 an acre. Swann had been land commissioner for the Florida Land and Immigration Company, had served the state in the selection of swamp and overflowed lands, and had acted as agent for the Florida Town Improvement Company. Swann traveled for several years

273 Mason, General Description, p. 9.


275 Ibid., p. 237; Shofner, Nor Is It Over Yet, p. 251; Orange County Reporter, March 20, 1884; Shofner, "Political Reconstruction," p. 158.

before finding a possible purchaser, Sir Edward Reed of Kent, England. Before Swann could conclude negotiations with Reed, Governor William Bloxom announced the sale of 4,000,000 acres of swamp and overflowed land to Hamilton Disston for $1,000,000.00, enough to satisfy the Vose claim.277

Disston became interested in Florida while on a fishing trip with his friend Henry Sanford and negotiated a contract with the state to drain land south of township twenty three east and east of Peace Creek in return for half the acreage recovered. The state was to act as his agent and sell the regained land for $0.70 an acre. At the urging of Gov. Bloxom, Disston purchased 4,000,000 acres on June 1, 1881, for $1,000,000.00.278 To raise part of the cash owed the state, Disston sold 2,000,000 acres to Swann's prospective customer, Sir Edward Reed, and a syndicate of European businessmen. Reed formed the Florida Land and Mortgage Company in 1883, one of several British companies promoting land in Florida in the late 19th century.279

Disston formed three companies in 1882 to complete

278Hanna, Lake Okeechobee, p. 98; Deed Book CC, pp. 1-12.
his drainage contract and to exploit his land; the Florida Land and Improvement Company, the Kissimmee Land Company, and the Atlantic, Gulf Coast and Okeechobee Land Company. Disston had agents in New York, Chicago, Philadelphia, and Buffalo, as well as in Florida, and offered land from St. Johns County to Lake Okeechobee at prices from $1.25 an acre upward. Disston made a major contribution to the economy by relieving the state of the burden of the Vose injunction and his various projects brought thousands of new acres into productive use. Land grants in the hands of developers such as Disston made a positive contribution to the region around them while tracts held only for speculation tended to suppress population growth.

The grants around Lake Monroe and Lake Jessup impeded settlement in that area from the time of the Armed Occupation Act to Henry Sanford's hot house development of the Yonge grant. Although Sanford never realized a great profit from his project and died in debt, he nonetheless opened a previously closed region to development.


281 Mason, General Description, p. 25; Jacksonville Florida Times Union, Trade Edition, Jan., 1890; Orange County Reporter, Feb. 21, March 19, 1884.
and improved the economy of the entire area. The undeveloped grants continued to deflect potential settlers into other parts of the region, thus indirectly improving such areas as Apopka and Orlando at the expense of Mellonville and Ft. Reid. As railroads made outside markets more accessible, the advantage of location on the St. Johns decreased and newcomers who might have stayed had the other grants been open at undeveloped prices, continued to purchase more expensive land elsewhere. Only when in the hands of an active developer such as Sanford, did the land grants fulfill their original objective, increased population. In the hands of speculators they deflected new settlement toward other area.

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