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James W. Covington

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The Hackley Grant, The Fort Brooke Military Reservation and Tampa

By JAMES W. COVINGTON, PH.D.

The circumstances that brought about the purchase of the first privately owned lots in Tampa were indeed most unusual. When the Transcontinental or Adams-Onis Treaty had been in the process of negotiation between the United States and Spain, some persons in the Spanish court prevailed upon King Ferdinand VII to grant tracts of land to three royal favorites: The Count of Punonrostro, the Duke of Alagon (both grants on December 17, 1817) and Don Pedro de Vargas on January 25, 1818.¹ When John Quincy Adams and Luis de Onis y Gonzalez discussed the treaty by which Spain relinquished Florida, they decided Article VII should stipulate that all royal grants made before January 28, 1818 in the ceded area which was Florida should be regarded as if Spain still owned the area. Of course, those made after that date would be declared null and void.² Actually Onis would have been willing to nullify all land grants made by the Crown after 1802 but Adams let this point slip by and would soon discover that much of Florida would remain under Spanish control in private hands.³
It was Henry Clay, Speaker of the House of Representatives, who discovered the error made by Adams and insisted that corrections be made. Clay discovered that if the treaty had been approved in its original form, much of American Florida would remain in foreign ownership. Accordingly Adams informed Minister to Spain George W. Erving that the United States would not ratify the treaty unless the King of Spain nullified the grants. Acting under American pressure the Spanish representative body known as the Cortes annulled the grants on October 5, 1820, and on October 24 of the same year King Ferdinand VII approved the action of the Cortes. When speculation reached Spain that the grants would be nullified, parts of the grants were assigned to American citizens in the hope that they could influence members of Congress and gain some profit from the aborted transaction. Richard S. Hackley, former consul of the United States at Madrid, claimed that he had proposed a contract for half of the grant to the Duke of Alagon on January 1, 1818, and the two had signed a contract for the transaction on May 22, 1818. The Duke of Alagon grant included the central part of Florida extending from the Suwannee River to Lake Okeechobee. Since Hackley's wife was the sister of Governor Thomas M. Randolph of Virginia and Hackley knew many important people including former President James Madison, he had considerable political clout.
In July, 1822 Hackley sent S. S. Seymour to look over his prospective land holdings.
Entering the bay known at that time as Bahia de Espiritu Santo faced on the left by which some called "old" Tampa Bay and others Buffalo Bluff and on the right Mangrove Bluff. Seymour moved into Hillsborough Bay and River. He noted the huge swarms of fish in the bay-large numbers of sheephead, bass and mullet. In addition, there were many manatees and turtles. After noting the names of the rivers flowing into the bay which included the Hillsborough, Manatee and Alafia, he proceeded ten miles up the Hillsborough. Although Seymour saw no Indians, there probably was an active village at Thonotosassa and an abandoned one at present day Plant City. He did meet a Black-Indian who had lived in the neighborhood for five years. There were no Cuban fishing ranchos in Tampa Bay but Seymour had learned one had been there probably on Mullet or Egmont Keys but the fishermen left when the United States acquired Florida.

Seymour had written such an excellent report concerning the commercial possibilities of the thick forests and bounties of seafood that Hackley dispatched his 25 year old son, Robert, to Florida. Some time in November, 1823, Robert Hackley made a landing at the juncture of Hillsborough River and Hillsborough Bay and began laying the foundations of what he hoped would be a profitable plantation. According to Hackley there were only Indians, alligators, panthers and wolves on the land but no white settlers. Since he had brought with him spades, hoes, a plough and a work force of 16 white men Hackley proceeded to clear the land of trees and underbrush and assemble a frame
dwellings that he had carried by boat from New York City. So far as can be determined, the Hackley building was erected on lots 9-10, Section 24, Township 29 South, Range 18 East. Soon the cattle, oxen, hogs and poultry which had been carried from New York were earning their keep by clearing the Florida vegetation.

**Officers’ Quarters**

The Hackley plantation was destined not to last very long. In January, 1824, four companies of the Fourth Infantry from Pensacola under the command of Colonel George M. Brooke arrived on the northeastern bank of the Hillsborough River. By March the troops had realized what a comfortable house Hackley had erected and taking advantage of his absence on a trip to Pensacola seized the house from an agent of Hackley named Rhodes and put it to use as officers’ quarters.\(^{10}\) It was difficult for Hackley to oppose the claim of the troops for they occupied much of the land he claimed erecting barracks, parade grounds and store houses.

The seizure of the land by the troops was not a terrible set-back for Hackley. After the events of February, 1824, Hackley consulted with several attorneys who as late as 1837 declared that his claim to the land was valid. Taking advantage of these opinions Hackley sold some land sited at the mouth of the...
Caloosahatchee River to a New York Company. In June and July of 1832 another son, William R. Hackley and George W. Murray explored the area in a small sloop named the Associate commanded by Captain William Bunce. By 1837 the remainder of the so-called Hackley Grant was vested in a company known as the Florida Peninsula Land Company and capitalized for $200,000. Shares in the company or land contained within the grant could be purchased from Augustus Steele of Tampa Bay, Lot Clark of Gainesville and four others including Robert Hackley of New York. Within a short time two important sales were made by the Florida Peninsula Land Company which resulted in the development of two illegal subdivisions. Judge Augustus Steele from Connecticut who had helped push through the territorial legislature, the act creating Hillsborough County in 1834 and was county judge, postmaster and deputy collector of customs, all at the same time, purchased 25 acres from Hackley which was lying to the North just beyond the garrison buildings and parade grounds but still part of Federal land. Since Steele was customs officer he was permitted by the military to erect a house in 1830 near the picket line on the Hillsborough River. Steele, a wheeler-dealer, proceeded to lay out in 1838 the Town of Tampa with Water Street 40 feet wide and Tampa Street 60 feet wide and sell lots. When John Jackson did the official survey in 1847 he followed the plat made by Steele in marking these two streets. First lots in the town were sold to Captain Rufus D. Kilgore who built the 12 room Tampa Hotel sited on the Hillsborough River just north of the garrison. Records indicate that lots 54 and 55 were sold by Steele to Sarah Kilgore for $150.00 apiece in 1838.

**Tampa City Born**

In October, 1838, William Saunders purchased 58 acres of land lying between Hillsborough Bay and the West bank of the Hillsborough River from Hackley for $1,300.00. Several months later this tract of land was sold to Major Donald Fraser, John Monroe and Henry Lindsey. The purchasers contacted Steele who sub-divided part of the land naming it Tampa City. In March, 1839, lots 39 and 40 fronting on the west bank of the Hillsborough River and near its mouth was sold for $60 to Bartholomew Tole, a sergeant from Fort Brooke. Other purchases included lots 35, 36, and 37 by Captain W. W. Morris for $110.00 and lot 41 by Private Thomas Hagan for $60.00. Tampa Town and Tampa City lost their holdings when the Federal Courts decided in 1838 that Hackley’s claim to the land was invalid.

Within a short time Hackley shifted the focus of his attack. Hope had risen in a different direction when Congress in 1826 passed a law which authorized a frontiersman to settle on public land in Alabama, Mississippi and the Territory of Florida, make improvements and be able to purchase the land at a minimum price. Robert Hackley began to collect proof of his possession in order to claim the land in court. Judge Augustus Steele certified on August 27, 1834 that he had known Hackley to build a house and cultivate the land. Colonel George M. Brooke testified on November 27, 1834 that he had seized the land from Hackley and one Lorenzo testified that he had seen the 16 hired men clearing the land. Accordingly on November 27, 1843 Hackley filed his claim for the land citing the pre-emption law passed in 1826. Little is known of the action taken on the claim but it probably was disallowed at the time. Hackley would die in Tallahassee in 1845 but his heirs would remember the claim.

**Andrew Jackson Order**

The government’s claim to the land rested upon an executive order that President
Andrew Jackson issued on December 10, 1830 which established Fort Brooke and its boundaries as being 256 square miles.\textsuperscript{16} The government’s claim to the land did not rest on solid ground. As early as June 6, 1828, Colonel Brooke had warned Washington that several persons had settled near the fort and were selling whiskey to the soldiers and Indians and cutting wood. By July, 1829, he admitted that he could do little about the problem for there was no civil court, and he would not use the troops to drive the intruders off until ordered by superiors. Commissioner Hayward of the United States General Land Office warned President Jackson that the Fort Brooke area had not yet been surveyed by his office and these intruders could claim land under the act of May 29, 1830. Under this act any settler who had cultivated land in the public domain in 1829 could claim up to 160 acres by paying $1.25 an acre.\textsuperscript{17} Actually some settlers had erected buildings on the land by 1829 but had not cultivated any crops or known their rights in the matter. Such settlers included William G. Saunders who opened a general store at the foot of present day Whiting Street in 1828. Other business ventures established on the government land included a harness repair and-shoe shop, laundry, blacksmithery and ship repair yard. Such practices of laying out towns on Federal land was commonplace along the frontier. Until 1844, one who wanted to build a town would select a site that had promise as a townsite, lay out the town and sell lots. Sometimes a large town was filled with inhabitants before the Indians had sold their rights to the land or before it had been surveyed or purchased from the government.\textsuperscript{18}

**Fort Brooke Intruders**

By 1838 the Federal Government became concerned with the illegal subdivision and intruders upon the Fort Brooke military reservation but action was virtually impossible. Federal law stipulated that the United States Marshal had the power to remove the intruders and Marshal Joseph Sanchez at St. Augustine had been directed twice to take action. His deputy, however, refused to remove the illegal settlers when requested by the commanding officer unless the County Judge instructed him.\textsuperscript{19} Of course, Judge Augustus Steele would not give such orders to remove people from land he had sold to them. There were so many complaints against Steele’s conduct as postmaster and revenue collector that the Secretary of War recommended his removal in 1839. After leaving Tampa when Hackley lost his bid to the Alagon grant land, Keys where he claimed Depot Key under the terms of the Armed Occupation Act of 1842. Several persons including Hackley tried to claim the Fort Brooke land under terms of the Armed Occupation Act but were denied such claims for the act stated that claims had to be two miles or more from a fort.

On January 21, 1845, Colonel William Worth reduced the Military reservation to four miles square and, after approval by President James Polk, Hillsborough County obtained 160 acres of the reservation. Colonel Worth thought he was doing only an act of kindness to the citizens of Hillsborough County when he ordered the reduction of the military base. When the legislative council of the territory of Florida in 1845 placed the site of the courthouse within the limits of the garrison, Worth protested "it was infinitely better to abandon the post and valuable buildings therefore avoiding collisions in which irrespective of the original merits, the military are sure to be the sufferers.\textsuperscript{20} 120 Although Fort Brooke was not to be abandoned for 30 years, it would steadily decline in use by the military from that time. When permission had been given to Hillsborough County officials to erect a courthouse on land formerly occupied by the troops, it was necessary to plat the town
of Tampa and sell lots in the town so that funds could be made available for erection of the building which cost $1,368. Accordingly, the sale of lots with prices ranging from $25 to $83 a lot was held on April 5, 1847. This sale would represent the first legal transaction from government to private ownership of the Fort Brooke land. The military still retained title to sixteen square miles and would use the buildings as a secondary base during the Third Seminole War 1855-1858 and at its conclusion would decommission the place. James McKay rented the military reservation land on December 4, 1860 but it was occupied by Confederates during most of the war. Since the military showed little interest in keeping the land after the Civil War, the buildings were deserted from 1869 to 1880. In 1877 the reservation was reduced to 148 acres.

Heirs File Suit

When the land was transferred from the War Department to the Interior Department in 1883 the land was available for, civilian occupation for the first time in 60 years. Most people believed that the tract would be transferred to ownership by the City of Tampa. However, with the assistance of United States Senator Wilkinson Call, a Gainesville physician Dr. Edmund S. Carew obtained homestead rights to the best tract which included a building known as the officers’ quarters and others soon filed for available tracts. When troops had occupied the reservation from 1880 to 1882 Daniel Mather and A. Ross had used a place known as the officers’ quarters as a bakery to supply bread to the troops and Carew and his wife moved into this building, the only one standing on the tract in April, 1883. This building would remain near the present day CrossTown Expressway bridge until the 1920s.

The heirs of Hackley filed a suit for the land at the Land Office at Gainesville on October 14, 1887. Many of the homesteaders had sold their property to the Florida Central and Peninsular Railroad and with the help of the railroad other homesteaders fought a legal battle with the Hackley heirs that lasted many years. In 1905 the Supreme Court ruled that since the pre-emption act was passed in 1826, it did not apply to Hackley for he had settled the land in 1823. Furthermore, he had no right to claim land that was designated a military reservation. However, a careful reading of the act passed in 1826 indicates "any person who did on or before January 1, 1825 actually inhabit and cultivate a tract of land situated in the territory of Florida which tract is not rightfully claimed by any other person ... shall be entitled to right of pre-emption." Since Hackley cultivated the land in 1823, was removed by the soldiers and the Government did not claim the land until 1830, his heirs should have received some compensation.
1  T. Frederick Davis, "The Alagon, Punonrostro and Vargas Land Grants," *Florida Historical Quarterly* XXV (October, 1946) 175-190.


7  Richard S. Hackley was born in North Carolina but had lived in Virginia for many years. In May, 1821 he was appointed Surveyor and Collector of the Revenue at St. Augustine. Adams to Jackson May 22, 1821 *Territorial Papers*, 50-52.


9  Evidence in letter from Hackley, cited in Scott vs Carew, January 3, 1905, Supreme Court Records, National Archives, Washington, D.C.

10  Disposition of George M. Brooke in Scott vs. Carew


13  Clerk, Hillsborough County Day Book, Hillsborough County from 1837, 1, 5 Copy of Hillsborough County Records in Hillsborough Historical Commission Library.

14  See 19th Congress, First Sesson, Chapter XXVII Statute passed in April 22, 1826.

15  Scott vs. Carew


17  *United States Statutes at Large,* 420.


20  William J. Worth to the Adjutant General January 21, 1845, *ibid,* 997-98.


23 See Act of April 22, 1826 as cited in footnote 14.