

Chapter 13

Texas Land Disposal

Texas alone among the states admitted to the Union after the adoption of the Constitution possessed and retained a public domain. This is because Texas, unlike the other states, was an independent republic at the time of its admission. But the interest of settlers and speculators in Texas lands began several decades before its annexation in 1845. And the story of Texas land disposal bears all the earmarks of the American system. It is a story of land engrossment, political corruption, and fraud. Concerning this, O. Henry, the noted author and a Texan, writing in 1894, stated:

Volumes could be filled with accounts of the knavery, the double dealing, the cross purposes, the perjury, the lies, the bribery, the alterations and erasing, the suppressing and the destroying of papers, the various schemes and plots that for the sake of the almighty dollar have left their stain on the records of the [Texas] General Land Office. A class of land speculators, commonly called land sharks, unscrupulous and greedy, have left their trail in every department of this office, in the shape of titles destroyed, patents cancelled, homes demolished and torn away, forged transfers and lying affidavits.¹

As early as 1827, Moses Austin, who then resided in Mine-a-Burton in Missouri and operated a lead mine under a presumed Spanish concession which was taken from him by the United States authorities, heard that the old Spanish system of granting land to colonizers or

¹Quoted from Alfred N. Chandler, *Land Title Origins*, p. 453.

empresarios was still in vogue in Texas, and he undertook a journey to Bexar, then the capital of the province of Texas. Here he presented a petition to the Mexican Government for a land grant. Through the influence of an old Louisiana acquaintance, Baron de Bastrop (who had previously received a Spanish grant on the Ouachita River), the petition was finally granted and was sent to the Spanish governor for approval. Reaching home on March 23, 1821, after a journey of much suffering and privation, he immediately began advertising for settlers on his grant but died shortly thereafter.²

Moses Austin's oldest son, Stephen F. Austin, who at the time of his father's death was in New Orleans looking for a means of livelihood, decided to carry out the colonization scheme when he learned that the Spanish authorities in Mexico had approved the grant made to his father. The grant was for a tract of about 200,000 acres on the Colorado River, about 200 miles from Natchitoches, an American western border town. Three hundred families were to be settled on the grant, after which the unappropriated land was to go to the *empresario* as a premium. It was this premium land, together with the commissions charged settlers, that was the compensation Austin was after. He advertised widely for settlers and, despite disappointments and difficulties, carried out the project.

Before setting out to establish his colony, Austin issued a letter describing his plan. The colonists were to be given land in accordance with the size of their families and the number of their slaves. They were to settle on the land and make improvements thereon within a year. Each colonist was to pay \$12.50 per hundred acres, payable in installments, in return for a survey and drawing up of papers.

Before Austin could settle his colony, Mexico threw off the Spanish yoke and he had to go to Mexico City to get a new confirmation of his

²Moses Austin, who had trekked from Connecticut to western Virginia and thence to Missouri, where he resided for several decades near St. Genevieve, became impoverished through speculation in the New Madrid Claims—certificates representing claims to land awarded by Congress to sufferers from the New Madrid earthquake in 1811. His troubles were further increased by the refusal of the Louisiana Land Claims Commission to validate his Spanish grant, on which he operated a lead mine. Becoming disgusted with the country "that ruined him," he resolved to immigrate again into Spanish territory.

grant. He remained there many months and made the acquaintance of General James Wilkinson and General Arthur G. Wavell, the latter an Englishman. Both of these ex-military men were interested in obtaining land grants. Wavell and Austin agreed to share in future Texas land grants they expected to receive.

In the meantime, other American speculators and adventurers were after Texas lands. From 1820 to 1840 this large area, occupied only by roving fierce Indian tribes, whom the Mexicans feared and wanted settlers to act as a barricade, was a lure to the land-hungry. From the swamps of Florida to the hills of Kentucky and Ohio, the sign G.T.T. ("Gone to Texas") could be found on many cabin doors. Some went to find new homes. But many were lured by the hope of land grants. Some of the wealthier ones organized Texas land companies. English translations of the Mexican colonization laws were distributed throughout the United States to awaken public interest, and glowing accounts were published regarding Austin's colony. Shares in Texas land associations and land companies were peddled to speculators in all parts of the country. Among the earliest of the Texas land companies was the Texas Association, organized in Nashville, Tennessee, about 1821. Sam Houston, destined to become the first President of Texas, was one of the original stockholders.

The independence of Texas wrested from Mexico after the Battle of San Jacinto increased the intensity of "the Texas fever." The task of distributing the unoccupied land was then transferred to the government of the new Republic of Texas, and the old Spanish policy of granting huge tracts to *empresarios*, individuals or companies who contracted to bring in settlers, was continued.

Oppressed by a heavy national debt, along with a severely depreciated currency, the new regime was in dire need of funds. And it was "land-poor." The result was that contracts were signed with numerous persons, mostly American adventurers, providing for the settlement of the Texas public domain. The contractors, who agreed to bring in a minimum number of families, each family to receive 320 acres, were to be rewarded with "premium land"—i.e., land not reserved for settlers. Some of the better known of these colonies were located in the

north-central part of the state and extended from a point southeast of Dallas, north to the Red River, and far to the west. Among them may be mentioned the Peters, Mercers, Castro, and Fisher and Miller colonies. In extent, each covered an area as large as some of the smaller eastern states of the Union. The settlers who were brought in were largely Americans, but there were also Germans and Alsations brought in by Henry Castro and the partners, Miller and Fisher.

In addition to these colonizing projects, the Republic of Texas and the state that succeeded it, anxious to increase population within its territory, offered land under a "headright" system and freely gave land as bounties to soldiers and others. After the liberation from Mexican rule, any immigrant who was the head of a family could receive a certificate for 1,280 acres, and a single man a certificate for 640 acres, provided they remained in the republic three years and performed the duties of citizenship. The amounts were reduced on October 1, 1837, to 640 acres and 320 acres, respectively. The total acreage granted under "headrights" and bounties is estimated at 36,876,492 acres.³

Another method of disposing of Texas lands was the sale of "land certificates." This was a means of obtaining needed cash by the debt-oppressed government. By an act of the Texas Legislature on December 10, 1836, the President of the republic was authorized to issue land scrip to be sold by agents in the United States for not less than fifty cents per acre. The most famous agent for this scrip was Thomas Tobey, who operated in New Orleans. This "Tobey scrip" floated throughout most of the United States and was almost as common as U.S. savings bonds are today. It was distributed during the wild era of land speculation which dominated the nation in the 1830s. As late as July 14, 1879, the state of Texas authorized further sale of land scrip at fifty cents an acre, most of the land being situated in western sections of the state. Altogether, the certificates sold represented almost three million acres.⁴

Galveston Bay and Texas Land Company

While *empresarios* and actual settlers were gradually filling eastern

³See Curtis Bishop, *Lots of Land*.

⁴*Ibid.*

Texas with immigrants during the decade between 1820 and 1830, a gigantic scheme of Texas land speculation was set on foot in the United States. This took the name of the Galveston Bay and Texas Land Company. It was organized in New York on October 16, 1830, to exploit the so-called "contracts of Lorenzo de Zavala, Joseph Vehlein and David G. Burnett to settle colonists on land in southern Texas." The region comprised the Galveston Bay district—a most desirable site—which Stephen F. Austin had endeavored to obtain from the Mexican Government as early as 1824.

The so-called "contractors" pooled their interests and, with the aid of several New York and Boston capitalists, formed an "association" to take over the rights. Three members of the association, Anthony Day and George Curtis of New York, and William H. Summer of Boston, were appointed trustees of the shareholders, to promote the fulfillment of the contracts and to obtain the approval of the Mexican Government. The Board of Directors of the company comprised several of the leading figures of the period in New York's financial circles. Chief of these was Lynde Catlin, president of the Merchants Bank—one of the prominent banking institutions in New York City at the time. Others were the Joseph brothers, who were then representatives in New York of the Rothschilds. The Joseph brothers were heavily involved in the financing of Texas land deals and were associated in this field with Samuel Swartout, a prominent New York politician, who, as Collector of the Port of New York, never accounted for over a million dollars of government funds.

Though Swartout's name does not appear among the directors of the Galveston Bay and Texas Land Company, he was undoubtedly interested. His family had started trading in Texas and carried on a shipping business between New York and Texas ports. Swartout's interest in Texas affairs continued until the financial crash of 1837, and he was one of the subscribers, along with J. L. and S. Joseph & Co., to the Texas Republic Loan floated in New York in 1836. The loan was not a success and so Swartout wrote Austin: "Nothing but lands will satisfy the lenders, and that at a low rate." He advised the republic to "let your

lands pay the expenses of the war, if you sell them only at 5¢ per acre."⁵

The Galveston Bay and Texas Land Company sent General John W. Mason of Michigan to Mexico City to get the Mexican Government's approval of the contracts. The company had already invested \$125,000 and was anxious to see some return from this investment. Mason offered to settle twelve hundred families before January 1, 1838, if the grants were approved and if the Mexican Government would permit the entry of the settlers and allow them to hold lands.

Despite these offers, the proposition fell flat. Beyond sending out fifty-seven "emigrants" as an advance guard, who were not even permitted to make a landing in Texas, nothing further was accomplished. However, in the meantime, the promoters of the company issued stock to themselves and sold "Texas scrip" broadcast. They also issued a pamphlet in which it was subtly hinted that there was some uncertainty whether the contractors' grants they had acquired could be legally assigned to others. Moreover, at the time, Mexico had passed a law forbidding further admittance of American settlers in Texas.⁶

The "Texas scrip" of the Galveston Bay and Texas Land Company, which was sold at from five to ten cents an acre, carried a claim to land but gave no title of ownership or even a pre-emption, except in the event that the number of applications from emigrants exceeded the number required. Under such condition the company would select land for scrip holders who desired to emigrate. But few of the scrip holders cared to emigrate. They speculated on a rising value of the scrip. As a writer in the *North American Review* remarked: "Such is the cupidity and blindness, that anything that looks fair on paper passes, without scrutiny, for a land title in Texas." Thus was a gigantic fraud fostered on the American people.⁷

The rapid colonization of Texas by American and foreign immigrants

⁵See *The Austin Papers*, Vol. III, p. 342. Also Dyer, *Early History of Galveston*, p. 4.

⁶See *Address to the Reader of Documents Relating to the Galveston Bay and Texas Land Company*, pp. 4-7.

⁷The Galveston Bay and Texas Land Company was not connected with the Galveston City Company, which bought land, sold shares, and developed the city of Galveston.

under the *empresario* or contract system, whereby, in return for bringing in settlers, the contractor was given a commission payable in land, was destined to bring about the loss of the vast province to Mexico. Like the Americans of the colonial period, the American-Texans became dissatisfied with "Mexican tyranny" when this tyranny attempted to restrict the system of land settlement. As already noted, the Mexican Government in 1831, wishing to curb the heavy influx of undesirable non-Catholic immigrants, issued an order forbidding settlers to come into Texas except when destined for colonies whose loyalty had been tested. This was treated by many Texans of American origin as "a scrap of paper," much like the British Proclamation of 1763 against colonial western settlement.

Through Austin's influence, however, the order was repealed, but thereafter, instead of using the *empresario* system, the Mexican Government substituted direct sales to speculators—preferably to its own citizens. Some of these so-called "Seven-League Grants" were bought up by speculators.

The object of the Texas provincial government at the time was to obtain funds for its distressed treasury. This reckless policy of disposing of the soil aroused indignation among the Anglo-Texans, and they revolted. However, as already indicated, when the Texans achieved their independence they, likewise in need of revenue for their government, used much the same methods and granted tracts, constituting principalities in size, to "contractors" and proceeded by other means to dispose recklessly of the domain for mere pittance. Land was given liberally for educational purposes—the largest grant was to the University of Texas. There were also grants for eleemosynary institutions, for internal improvements, for ironworks, and for the building of railroads.⁸ Texas, like the federal government today, now has a relatively small acreage of

⁸Until the Texas public domain was exhausted, railroad promoters were granted sixteen, in some instances thirty-two, alternate sections of 640 acres each for each mile of railroad built and put into operation. These grants, which ran to thirty-two million acres, were often illegally and fraudulently acquired, and the promoters obtained more land than they were entitled to receive. Chandler, *op. cit.*, p. 459. S. G. Reed, *History of the Texas Railroads*, pp. 129-31.

public domain left, for of the 171,000,000,000 acres in the state, not more than 5 per cent is undisposed of or unoccupied.

When the fabulous wealth of the soil of Texas, with its fertile lands and underlying mineral and oil resources, is taken into consideration, one can look back with amazement at the recklessness and waste that characterized its disposal. Today in Texas individuals and corporations own vast domains. As cattle ranges or as goat farms, as cotton or onion fields, as oil pools or sulphur deposits, these lands have gained immensely in value, creating millionaires of some and paupers of others. All the incalculable wealth involved grew up as civilization advanced. The fruits of ownership belong to a relatively few. The growth and development were the work of many.