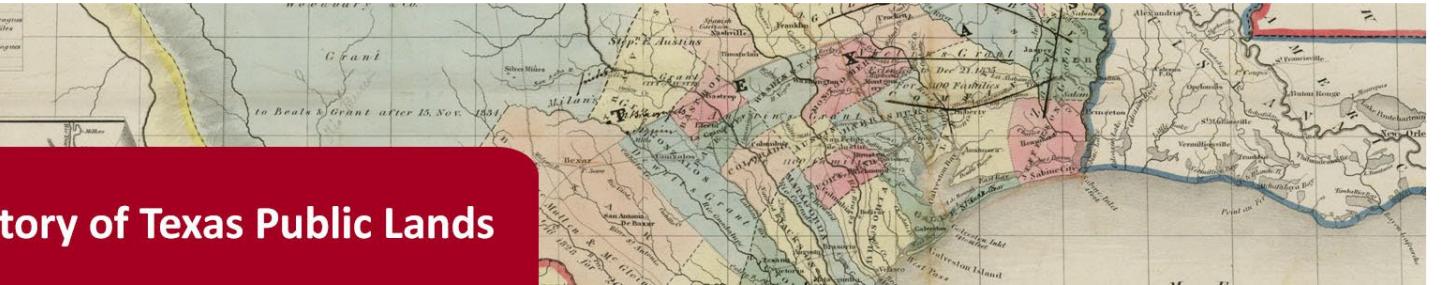


Previous & Next Pages  
do Paredes to Matamoros  
do Matamoros to Rio Grande  
do Coahuila  
do Monterrey  
do Saltillo

State Lines - - - - -  
County - - - - -  
Pecan - - - - -  
Rivers



## History of Texas Public Lands

*Understanding the importance of land in the history of Texas is essential to understanding Texas. Few Texans, however, are aware of the role that public land has played in our state's development. Land has not only furnished us valuable natural resources, it has been used to finance government operations, reward veterans, provide internal improvements and fund public education. The land myth in Texas is real.*

*The information included here traces the disposition, use and settlement of public land in Texas. Initially conceived to supplement and enhance the story of public lands outlined in Texas school textbooks, the content has been modified to appeal to a broad audience while retaining its original instructional intent. A glossary and bibliography of suggested readings are also included at the bottom of this document. Teachers may find the appendix, "Empresarios, Commissioners and Settlers: The Process of Land Distribution in Mexican Texas," particularly suited to their needs.*



### The Spanish Period

Spain claimed the land that is now Texas in 1519, when the explorer Alonzo Alvarez de Piñeda sailed along the Gulf Coast to the Rio Grande. Later, in hopes of finding mineral riches, other Spanish explorers came to Texas. But because they didn't find the quick wealth they sought, Spain ignored Texas until 1685, when France's René Robert Cavelier, Sieur de la Salle, established a fort at Matagorda Bay and claimed the area for France.

To protect its claim, Spain needed to establish a presence in Texas, but with plenty of land at home Spanish subjects in Mexico were unwilling to move to this faraway, dangerous land. The Spanish drive to Christianize the indigenous populations in its territories left the first efforts to occupy Texas in the hands of missionaries and soldiers. Beginning in 1690 missions and presidios were established in east Texas, followed in subsequent decades by others on the San Antonio River and near the Gulf coast. San Antonio, Nacogdoches, and La Bahía, the most important civil settlements in Texas during the Spanish period, developed in the vicinity of these mission-presidio complexes. The oldest surviving record of a Spanish land grant in Texas is the 1720 title to the San Jose Mission in San Antonio. This important document is housed in the Texas General Land Office.

Approximately sixty titles still remain of record from the 130-year span of Spain's active occupation of Texas. Expense, Indian hostilities, the prevalence of land use over land tenure, and long-running conflicts with the missions over land are among the factors that account for this small number of grants. The landed domain in Spain's overseas possessions was, it should be noted, royal domain, part of the patrimony of the Spanish crown itself, not the property of the Spanish nation. Hence, lawful private ownership of land required a grant from the king. To assist in granting crown lands the king delegated his authority to designated representatives in

Spain or in its ultramarine possessions. In remote, marginal Spanish Texas provincial officers (governors, lieutenant governors, presidial captains) operated as subdelegates at the base of a granting pyramid that, in theory, required nothing less than royal confirmation to complete a perfect title. The abundance of vacant land, the constant menace of Indian attacks, general uncertainty, and remoteness provided little inducement for Spanish subjects in Texas to engage in the expense and effort required to complete the formal title. It was much easier simply to place a claim for some generally described tract of land with the governor or local official and then occupy and use the land. Occupation of land ten years or longer established prescriptive rights against royal lands. In effect, when pressed *rancheros* could allege that they had been “squatting” on royal domain ten years or more as a way of establishing their rights to the land. The value of the countryside was largely in the livestock it sustained, not in the land itself. Consequently, formal grant proceedings in the province were relatively few.

Most of the Spanish grants in what was the province of Texas are in the Nacogdoches area. Surprisingly, fewer than ten titles are from the San Antonio and La Bahía (Goliad) areas. It should be noted that in some cases land initially claimed under Spain was passed down through succeeding generations of descendants and finally titled during the Mexican period. Because the Spanish recognized that ranchers needed large amounts of land for grazing purposes, a *sitio de ganado mayor* or league, as it is called in English, (4,428.4 acres) or more was granted for ranching; smaller parcels close to settlements were granted for farming. The land was measured in varas, a Spanish unit of measurement later standardized at 33 1/3 inches and adopted by the state of Texas as its official land measure. One of the San Antonio area grants was the tract set aside for the town of San Fernando de Béxar, the original name of present-day San Antonio. Town officials, in turn, sold or gave town lots and farming plots within its boundaries to its residents.

The contemporary outline of Texas bears no resemblance to the Spanish province of Tejas or to the Mexican state of Coahuila y Texas created in 1824 out of the former Spanish provinces of the same name. In 1836 the Republic of Texas foisted on its southern and western neighbors a land grab consolidated later by annexation to the United States and the Treaty of Guadalupe Hidalgo. Discussions of Spanish and Mexican Texas now generally include south and west Texas, which at the time were not part of its territory. Allowing for this fact, the largest concentration of Spanish land grants in Texas today is located in the area between the Nueces and Rio Grande rivers. What is today south Texas was then the northern extent of Nuevo Santander, a region the crown entrusted for colonization to José de Escandón y Helguera in 1746. Able, experienced and highly competent, Escandón succeeded in populating the province and established towns throughout the territory. Reynosa, Camargo, Mier, Revilla, and Laredo, the so-called *villas del norte* (northern towns), formed a strategically placed cordon of settlements along the Rio Grande. Relying on frontier families rather than on missionaries and presidial soldiers to spearhead the colonization effort, Escandón offered potential colonists the inducement of free land.

The promised land grants finally arrived nearly two decades after the establishment of the river towns. By then Escandón had been supplanted. Escandón’s long tenure at the head of the Nuevo Santander colonization venture gave ample time for grievances and accusations against him to accumulate and fester. The arrival of a new viceroy, Carlos Francisco de Croix, Marquis de Croix, provided the opportunity to ventilate the complaints. Reports and deliberations led to the appointment in 1766 of Field Marshal Juan Fernando de Palacio and José Osorio y Llamas,

advocate of the royal councils, to visit and inspect the province and implement a series of royal orders, chief among them the distribution of land at long last to qualified settlers. Escandón was recalled to Mexico City while the investigation into his official conduct proceeded.

Commissioners Palacio and Osorio arrived at Laredo on June 6, 1767 to begin the tedious task of granting land to individual colonists in more than twenty towns established by Escandón in the province of Nuevo Santander. After selecting a site for the town and mission and surveying the town's boundaries, land was surveyed and apportioned to the qualified settlers. The individual tracts, known as *porciones*, are narrow long-lots fronting when possible on watercourses, the only reliable source of water, and extending back several miles for quantity. Before departing, the commissioners left final instructions ordering the local captain or *justicia mayor* to put the settlers in formal possession of their land. The commissioners kept a careful record of their proceedings at each site they visited. The *porciones* were a gift from the king to the settlers who had taken the risk and endured the hardship of moving into a dangerous, unpopulated region. Some of these original settlers and members of their families also purchased large tracts of royal lands on the north side of the Rio Grande. The largest land grant in what is today Texas, the 601,657-acre "San Juan de Carricitos" tract titled to José Narciso Cabazos in 1793 is a notable example. The area of south Texas comprises about 170 *porciones* grants and 33 larger land grants issued by Spain. The *New Guide to Spanish and Mexican Land Grants in South Texas*, a publication of the Texas General Land Office, describes in detail the history of these south Texas land grants.

The El Paso region, which at the time was part of the province of Chihuahua, developed as a way-station from the interior of Mexico to the northern settlements of New Mexico. The first permanent settlement in this area was established in 1681 after the Pueblo Indians revolted and drove the Spanish settlers and their Indian allies southward. The communal lands granted to the towns of Isleta and Socorro date from this early period.

Until 1819, land grants in Texas were awarded only to Spanish subjects, but in 1820 Spain formally opened Texas to foreign settlement. Moses Austin, a former Spanish subject while he lived in Louisiana, responded to this opportunity. In January 1821, he proposed to bring 300 Anglo American families to Texas. This notion of a colonizer or empresario already existed in Spanish settlement laws dating from 1573. Each family who settled in the colony would receive a town lot for a house, farmland, pasture land and certain tax exemptions. Colonists were required to settle on the land and use it before being allowed to sell it. Under the terms of Moses Austin's proposal, colonists were to become loyal subjects of the Spanish king and promised to obey Spanish laws and adhere to the Roman Catholic faith. Many Americans were eager to settle in Texas under these conditions. In turn, Spain hoped that Americans "of good character" who received generous portions of land would be loyal and prevent a takeover of Texas by their countrymen. Time ran out on Spain's policy of opening Texas to foreign settlement, but the new nation of Mexico adopted its general outlines and Moses Austin's proposal lived on through the efforts of his son Stephen F. Austin.

By way of summary, Spain had claimed Texas since 1519 and had controlled it since permanent occupation began in 1716, but the crown had never achieved extensive settlement of this large area. The crown had greater success in the adjoining province of Nuevo Santander, the northern part of which would eventually come to be known as south Texas. Spain's primary focus in Texas was preventing foreign encroachment by France and the United States because

Texas served as a protective borderland of New Spain (Mexico). Partly for this reason and partly because of the destruction caused by the Mexican War of Independence, there were only 5,000 Spanish subjects living in Texas at Mexican independence in 1821. Although the Spanish did not settle Texas in great numbers, the years of Spanish sovereignty left permanent effects upon its history. The greatest economic impact of the Spanish period was the introduction of horses, cattle, and sheep into Texas. Spain land titles are still recognized as legal. Approximately four million acres of land in Texas derive their title from Spanish grants. Another twenty-two million acres are covered by the Mexican land grants discussed below. Many Spanish laws were retained, first by the Mexican government and later by the Republic and State of Texas. When the Congress of the Republic adopted English common law in 1840, it made certain exceptions to the replacement of Spanish civil law, so that Texas land laws are a combination of the two (for example, Spanish community property laws and laws preventing the forced sale of property are in effect today.) But perhaps the most important Spanish land laws that have carried over deal with submerged land. Under Spanish law, the government retained ownership of the riverbeds of perennial streams. Spanish law also provided for government ownership of submerged coastal or tideland to three marine leagues (10.4 miles) from shore. The U.S. Congress recognized this boundary in 1953, although other coastal states are limited to the three miles provided for by English common law. This gives Texas the ownership of lands rich in oil and other resources. The Spanish influence on the Texas land system has been far-reaching.

### **Texas Under Mexico**

Spanish rule in New Spain began to crumble in 1810. In that year Father Miguel Hidalgo issued his famous “Grito” that ignited the Mexican War for Independence. The struggle ended eleven years later, in 1821, with Mexico’s independence. A fundamental concern of the new nation was the colonization of its empty territory. Colonization and settlement of Texas, it was argued, would help counter Indian hostilities, create a buffer against the expansionist impulses of the United States, and contribute to the region’s economic development.

Mexico’s first stab at self-government was the creation of an empire ruled by Agustín de Iturbide, one of the heroes of Mexican independence. Faced with the myriad difficulties of organizing a new country and repairing a devastated economy, the new leaders still found time to consider the colonization issue. Stephen F. Austin, who had travelled to Mexico City to lobby for his father’s colonization project, pushed hard for the Imperial Colonization Law of 1823, as it was known, and was the only one in the end to benefit from its provisions. Austin was granted a contract under this law, the only empresario to receive one before the act was suspended when Iturbide’s brief reign ended.

In many respects the new legislation followed previous Spanish law, while increasing the attractiveness of the terms both for settlers and empresarios. The law welcomed foreign settlers, provided generous incentives, and retained the empresario system. Each settler would receive one league for grazing (4428.4 acres) and one labor (177.1 acres) for farming. Colonists were allowed two years after obtaining title to settle on the land. They were exempt from taxes for six years and had to pay only half the regular taxes for the next six years. Married settlers automatically became naturalized citizens of Mexico after residing in Texas for three years. The law provided for empresarios, colonization agents who contracted with the government to recruit colonists and locate them on individual tracts of land within a specified area. As compensation

the empresario was given free land within the colony and was allowed to collect fees from the colonists.

The leaders of Mexico generally opposed slavery, and the 1823 Colonization Law forbid the sale or purchase of slaves in Texas and specified that children of slaves born in Mexico would be free at fourteen years of age, but it did not prohibit settlers from bringing slaves with them. By allowing these early settlers to bring their slaves, Mexico opened a door to slavery in Texas that it was never able to close, even when it tried.

This generous law served its purpose. Once Austin returned in 1823 to the area on the Colorado and Brazos rivers he had selected for his colony, he had little difficulty attracting the 300 families that his contract specified. To avoid the litigation, strife, and boundary problems that Austin had observed in areas where settlers were allowed to move into wilderness land with little supervision, Austin opted for a plan that featured surveying in advance of settlement. Austin hired colony surveyors and deployed them with instructions on laying out connected surveys in specific areas. Settlers moving into the colony could consult maps showing the previously surveyed tracts of land. Among his many contributions, the surveying standards and practices established by Austin for his colony were adopted elsewhere. In fact, many of the surveying practices first followed in Austin's colony were carried over into the Republic of Texas.

The settlers received their titles from a commissioner, an official appointed by the government and temporarily present in the colony to issue titles in the government's name. The so-called "Old Three Hundred" Austin colony settlers received their titles from the hands of commissioners Baron the Bastrop in 1824 and Gaspar Flores in 1827-28. The first settlers took the preferred locations on the principal watercourses. Settlers looked for land that was well-watered, fertile, and that had a good proportion of prairie and timber lands.

Iturbide's brief reign ended in 1823 with the establishment of a federal republic. In May, 1824, congress decreed that the former provinces of Coahuila and Texas would be united to form a new state of the federation. The capital was established in Coahuila at the town of Saltillo. In August, 1824 congress enacted its National Colonization Law, giving most of the land powers to the states, requiring only that no colonies of foreigners be allowed along the coasts of the country and borders with other nations without the consent of the federal government and limiting the amount of land one individual could possess to a maximum of eleven leagues (48,712 acres). The law gave the states full authority to adopt their own colonization laws and dispose of the public lands within their respective boundaries.

The Constituent Congress of the State of Coahuila y Texas, "desiring by every possible means to augment the population of its territory," moved quickly to frame its own colonization law. The State Colonization Law enacted on March 24, 1825, provided a comprehensive set of regulations governing immigration and settlement. Foreigners were invited to immigrate and locate on generous tracts of the public domain on very favorable terms. Heads of families could obtain a league of land (4,428.4 acres) and single men were allotted a quarter-league. Those who immigrated without the assistance of an empresario within six years of the establishment of a settlement could obtain an additional labor (177.1 acres) for a family and a third of a league, instead of a quarter-league, if single. Settlers had six years to pay the nominal fee due the government, and the first installment was not required until the end of the fourth year. Colonists

were to be tax-free for ten years. The law authorized the governor to enter into six-year contracts with empresarios for the introduction of a specified number of families to be located in defined areas, commonly called "colonies" or "empresario grants," although the empresario, it should be stressed, owned none of the land and was granted specified amounts only after he had complied with the conditions of the contract. Empresarios accumulated their free premium land at the rate of five leagues and five labors for every hundred families settled. Premium lands in excess of eleven leagues had to be alienated within twelve years. Thirty-one contracts were made under this law and colonists obtained title through thirteen of them. In addition to the titles obtained through the empresario system, grants could be obtained by direct application to the governor. Colonists requesting augmentations and purchasers of land from the state applied to the governor for approval. Article 24 allowed the sale of up to eleven leagues of land to Mexican purchasers. Premium lands and lands obtained by purchase could be alienated at any time, provided the successor agreed to the original terms in the title. Other settlers were allowed to alienate their land only after having completed cultivation of it. Failure to cultivate or occupy land within six years of the date of its possession resulted in forfeiture. Land commissioners designated by the governor acted for the state in the issuing of titles and in laying out new towns. A decree issued September 4, 1827, gave commissioners detailed instructions on their duties. The 1825 State Colonization Law governed the issuance of most titles in Texas during the Mexican period and opened up the area for development and exploitation on an unprecedented scale.

Land grants obtained by virtue of the State Colonization Law were not free, although the price and terms offered by Coahuila and Texas were extremely advantageous when compared with the price for public land in the United States. At a time when the U.S. federal government was selling its land for \$1.25 per acre and requiring immediate cash payment, government dues on land in Coahuila and Texas could be had for less than 1 ½ cents an acre with a term of six years in which to complete payment. In addition to the purchase price, there were charges for surveying the land and fees payable to the commissioner, the empresario, and the clerk who prepared the documents, but even then for a total of about \$150 (something like three cents an acre), a head of household could obtain title to 4,428 acres of land.

The state of Coahuila and Texas did not have a centralized land office responsible for administering its public lands. Instead, the governor was authorized to appoint commissioners who would issue land titles, maintain land records and provide the colonists with copies, and supervise surveys. In addition, commissioners were to take the oath of allegiance from new settlers, appoint surveyors, select sites and mark the streets for new towns. Payment for performing these duties would come from title fees collected from colonists. There were three types of commissioners: some were assigned to specific colonies; some issued titles on vacant land outside of colonies; and others were alcaldes, or magistrates, of municipalities who could also grant land.

Stephen F. Austin was the most successful of the empresarios. More than 1,100 titles to land in Texas were issued to settlers accepted in his colony. In addition to his contract under the 1823 law, he secured a contract under the State Colonization Law of 1825 to settle 500 families, another in 1827 for 100 families, and one in 1828 for locating 300 families in the coastal area. Austin's colonists were generally educated settlers "of good character" who didn't live in towns but on farms and on the cotton or sugarcane plantations they established. Anyone who hoped to live in one of Austin's colonies was required first to register with Austin, stating name, occupation and former residence. The applicant also had to provide recommendations attesting to

his "Christian morality and good habits," for Austin's rules stated that "no frontiersman who has no other occupation than that of hunter will be received-no drunkard, no gambler, no profane swearer, no idler." Austin enforced these rules; he evicted several undesirable families, and he sometimes had questionable immigrants publicly whipped.

After taking an oath of loyalty to the federal and state constitutions of Mexico, the prospective colonist was issued a permit to select land and was given authorization to present a petition to the land commissioner, who represented the Mexican government. If the petition was approved, the land was surveyed and the commissioner issued a title upon payment of fees. The law required that surveyors use the vara as a standard unit. Every property line not bounded by a river or creek had to be marked, and careful notes and plats were to be made for each survey.

Another successful empresario during the Mexican period was Martín de León who, in 1824, made an agreement with the Mexican government to bring Mexican families of good moral character to Texas. In 1829, he contracted to bring another 150 families and settle them along the coast. De León located his colony on the lower Guadalupe River. The capital of the colony, Guadalupe Victoria, now called Victoria, had a population of more than 200 by 1833. Not all of De León's colonists were Mexican; some came from Ireland and the United States.

Green C. DeWitt was another of the Mexican-era empresarios. DeWitt was one of the first Americans to become interested in Texas colonization. With Austin's help, he succeeded in obtaining a contract to bring 400 families to an area west of the Colorado River. When Indians sacked the principal town of Gonzales in 1826, the settlers moved farther south where they came into conflict with de León's settlers. The Mexican government settled the boundary dispute between the two empresarios in favor of de León, and DeWitt's people returned to Gonzales. Eventually, 166 land titles were issued in DeWitt's colony.

Irishmen James Power and James Hewetson received special permission in 1828 to settle 200 Irish and Mexican families within the 10-league coastal reserve. Refugio was established as the capital of the colony. Unfortunately, conflicts over boundary lines arose with the neighboring De León and McMullen-McGloin colonies. A cholera epidemic swept through the settlers that Power brought from Ireland, killing many of them. Although 200 titles were eventually issued in the Power-Hewetson colony, many of these were issued to single men rather than families.

John McMullen and James McGloin founded another colony of mainly Irish settlers in 1828 with San Patricio as its leading settlement. Although the contract called for 200 families, only 84 titles had been issued when the Texas Revolution began.

Sterling C. Robertson was the successor to the Nashville Company, which had a contract to settle 800 families west of the Brazos. This grant was second in size only to its neighboring Austin colony. After a conflict in 1834 between Robertson and Austin, who had also secured a contract to the area, the governor of Coahuila and Texas confirmed Robertson's claim. He was made empresario, and the colony became known as the Robertson colony. By the time the government returned the land to Austin in 1835, Robertson had settled 600 families. He eventually obtained his premium lands from the Republic of Texas.

Lorenzo de Zavala, David G. Burnet and Joseph Vehlein obtained contracts to settle colonists in east Texas, but they later sold their contracts to the Galveston Bay and Texas Land

Company. This New York-based company didn't actually own the land, but that did not stop it from selling land scrip which proved worthless because it was only a permit to settle. The Law of April 6, 1830, which suspended immigration from the United States, hampered the company's efforts to place settlers in Texas. The prohibition against immigration was eventually lifted and a commissioner was finally appointed for these three contracts in 1834. About 1,100 land titles had been issued when the provisional government of Texas closed the land offices and ordered a suspension of titles in November, 1835.

Meanwhile, the trans-Nueces region, formerly part of the Spanish province of Nuevo Santander, became the northern extent of the Mexican state of Tamaulipas. Tamaulipas approved its own colonization law in 1826, but its efforts to attract foreigners to its territory were largely ineffectual. The various land laws adopted by Tamaulipas did result, on the other hand, in the sale of public land in the area between the Nueces and Rio Grande rivers to local ranchers. The Boundary Act passed by the First Congress of the Republic of Texas in December, 1836 established the southern and western boundaries of the republic at the Rio Grande, from its mouth to its source. A war with Mexico followed the annexation of Texas to the United States. Texas retained control of its public lands upon annexation and took it upon itself to confirm the Spanish and Mexican land grants in what was now south Texas after the Treaty of Guadalupe Hidalgo consolidated the Texas claim to the area. One hundred twenty-six of these grants were subsequently confirmed by the state of Texas through legislative and judicial proceedings.

Mexican land laws were very favorable to settlers and land-hungry Americans flooded into Texas between 1821 and 1836. For example, the Homestead Exemption decree of 1829 prohibited the seizure of a colonist's land by creditors; only the fruits of the land or cash could be seized as payment for debt. Land in Texas cost considerably less than it did in the United States. It's not surprising, then, that Anglo Americans came to Texas in great numbers; they soon made up the largest percentage of the Texas population, a fact Mexican officials noted with concern. Their alarm increased with incidents such as the unsuccessful Fredonian Rebellion in Nacogdoches in 1827, as a result of which Empresario Haden Edwards and his supporters were ousted from Texas.

This ill-fated rebellion was only one source of anxiety of the Mexican government. According to a report made by General Manuel Mier y Terán in 1829, "Norteamericanos" outnumbered Mexicans in Texas by 10 to one. Mexico feared that it would lose Texas to the United States. As a result, the Mexican Congress passed the Law of April 6, 1830 prohibiting further immigration from the U.S. Foreigners entering Texas "from the North" would be required to show a passport issued in their own country by a Mexican consul. Although the law cancelled all empresario contracts, Austin and DeWitt were able to receive special permission to fill their contracts.

American settlers were upset that this law prevented their friends and families in the United States from coming to Texas. Speculation in Texas lands also angered some colonists. The State Colonization Law of 1825 allowed Mexican citizens to purchase up to 11 leagues of land. In 1830, speculators such as James Bowie began buying these grants from Mexican citizens. Speculation increased in 1834 when the legislature of Coahuila and Texas prepared to dispose of millions of acres of its public domain as a desperate measure to raise revenues. Land speculation has been considered among the causes of the Texas Revolution.

Like Spain, Mexico left its imprint on Texas land policy. Mexican-period influences present in Texas today can be seen in laws such as the Homestead Act (preventing seizure of a home as payment for debts). Land titles to 22,000,000 acres issued by Mexico before November 13, 1835 are legal documents today. Perhaps most importantly for the future of Texas, the practice of selling public land to raise state revenue was firmly established during the Mexican period.

### **The Republic of Texas**

In 1835, a provisional government set up by the Anglo inhabitants of Texas ordered all the land offices within Texas closed, and all land commissioners, empresarios and surveyors to cease operations. Land titles issued after November 13, 1835 would be invalid; there would be no more Mexican land grants in Texas. The Convention of 1836 met in March to declare Texas independence and write a constitution for the Republic of Texas. The Constitution suspended the land grant system until soldiers could have an equal chance to locate their homes. It also called for the creation of a general land office to collect all land records and determine which lands were vacant and had valid titles issued by Spain and Mexico.

After Texas gained independence, the first Congress of the Republic met at Columbia and, in December 1836, passed an act defining the boundaries of the Republic. With this act, Texas claimed 216,000,000 acres (about 350,000 square miles) of unappropriated land—much of which was actually part of Mexico. The western boundary of the claim followed the Rio Grande to its source and due north to the 42nd parallel, so that it included eastern New Mexico and parts of Colorado and Wyoming. Although neither Spain nor Mexico had considered any land below the Nueces River as part of Texas, the Republic claimed its southern boundary extended to the Rio Grande.

On December 22, 1836, the Congress of the Republic passed an act establishing a general land office under the direction of a land commissioner who was to take charge of all land records. In June 1837, the Congress passed an act consolidating previous land legislation. It called for the General Land Office to open on October 1. All vacant land was the property of the Republic, and all land titles, surveys and documents were now public property and were to be given to the Land Commissioner.

The Republic of Texas had neither money nor population enough to defend itself against the Mexicans and the Indians. When the government was organized in 1836, it had only \$55.68 in the treasury. Land was the only resource Texas had, and it was used to reward soldiers, to promote settlement and to finance the operation of the government.

Following the example of other countries, such as the United States, the Republic encouraged and rewarded military service. Because Texas lacked the funds to provide pensions, however, it resorted to its public land.

Bounty grants were issued to soldiers according to the length of their service in the Army of the Republic. The first bounty act was passed by the provisional government of Texas in November 1835; it promised 640 acres to those who served in the regular army for two years or throughout the war. In December the amount was increased by 160 acres, for a total of 800 acres. A volunteer corps was also organized in December, and 640 acres was promised to men who

served for the course of the war, and 320 acres to those who served only three months. If the volunteer died in service, the land would be given to his heirs, as would an additional 640 acres. In December 1837, Congress passed a new bounty act providing soldiers with 320 acres for every three months of service (up to one year), for a limit of 1,280 acres per person.

After winning independence, Texas still needed defense against Indians. A bounty act was passed in 1840 to give men who served in a frontier regiment 160 acres of land to be located near military posts on the frontier. Because there wasn't enough vacant land available near the forts, the men were instead granted 240 acres of vacant public domain anywhere within the Republic. While a bounty as a recruiting device promised land as compensation for service, granting land to veterans as a reward for military service rendered was a donation. In 1837, donation grants of 640 acres were issued to soldiers (or their heirs) who fought at the Alamo, Goliad, San Jacinto or the Siege of Bexar, or who had guarded the baggage train at Harrisburg. Men who participated in more than one of these engagements were entitled to only one allotment of 640 acres. Recipients of the donations were prohibited from selling the land (a provision which was later repealed).

Bounty warrants and donation certificates were issued by the Secretary of War. To receive land, an applicant presented a certificate verifying service and signed by his company commander and at least one field officer. The applicant also submitted an affidavit that he had not already received land for his service. The donation certificates issued under the 1837 act were not made transferable until 1848. An 1840 bounty act for frontier soldiers prohibited the sale of the warrants during the lifetime of the recipient.

All other bounty warrants and donation certificates were transferable; the transfer of ownership was recorded on the back of the certificate and witnessed by the chief justice of the county where the sale or exchange was made. The owner of the certificate then presented it to a surveyor, who made the survey and prepared field notes.

The warrant, field notes and a plat of the survey were forwarded to the General Land Office, which checked for conflicts with other surveys. If there were no conflicts, a patent was issued and sent to the owner after a copy had been made for Land Office records.

Fraudulent grants were not uncommon under this system. Sometimes, after receiving one bounty warrant, individuals applied for and were given another one. Duplicate certificates were occasionally issued for "lost" warrants; then, both originals and duplicates were used to obtain patents.

Not all the fraud was committed by soldiers. Land certificates were often stolen and the transfers forged. Possibly one-tenth of the military grants were fraudulent or in excess of the amount owed the soldiers or their heirs.

A total of 5,354,250 acres of land was granted through bounty warrants, and 1,162,240 acres through battle donation grants issued by the Republic and, later, the state of Texas. Many Tejanos, Texans of Hispanic descent, who had fought in the Texas Revolution received military land grants. Although the Constitution of 1836 and subsequent legislation barred "those with African blood" from citizenship, the bounty and donation acts did not specify that Blacks could not receive military land grants.

There was great debate over whether the prohibition on citizenship meant that Blacks could not own land. In 1831, Greenbury Logan, a free black man from Missouri, received a Mexican land grant under Stephen F. Austin for one quarter of a league in Brazoria County. Logan served with James Fannin at the siege of Bexar during the Texas Revolution. In 1837, he petitioned Congress for land as a reward for service. Congress approved his request and he obtained a donation certificate for 640 acres and a bounty warrant for 320 acres. This set a precedent for giving donation land to other Blacks. William and Abner Ashworth, who had contributed money and supplies to the army, were given bounty land; and the widow of Peter Allen, a musician in Fannin's troops who had been taken prisoner and executed at Goliad, was given donation land in Bexar County. However, many other Blacks who petitioned Congress either were not heard or their petitions were rejected.

Texans felt that an increase in the population of Texas would raise land values, provide tax revenue and protect the frontier from Indian and Mexican raids. Therefore, the Republic used headrights and the empresario system to lure people to Texas.

To encourage the established settlers to remain in Texas during a time of instability, the Constitution of 1836 established a first class headright act. Every head of household, male or female, living in Texas on March 2, 1836, would receive a league and a labor of land (4,605 acres), while single men at least 17 years old would be given a third of a league (1,476 acres). The act excluded Indians, Blacks, anyone who had left Texas to avoid military service, and anyone who had already received the same amount of land from Mexico. Those who had received a smaller amount from Mexico were entitled to the difference. Grantees were not required to live on the land, as they had been under Mexico.

To attract new settlers, the Republic passed three more headright acts. In December 1837, a second class headright act granted 1,280 acres of land to heads of families (640 acres to single men) who had settled in Texas between March 2, 1836 and October 1, 1837. This was a conditional grant, as the grantee was required to remain in Texas for three years, perform duties of citizenship and pay surveying and other fees.

The legislature provided a third class headright grant in 1838. This grant, issued to those who arrived in Texas between October 1, 1837 and January 1, 1840, reduced the amount of land to 640 acres for heads of families and 320 acres for single men. It retained the three-year residency requirement.

A fourth class headright grant, established in 1842, extended the provisions of the 1838 act to January 1, 1842. It also required the cultivation of at least 10 acres of the tract before a final deed was issued.

A special headright was issued for military service. Soldiers who arrived in Texas between March 2, 1836 and August 1, 1836 received the same amount of land given to original colonists in a first class headright (4,605 acres for the head of a family). Civilians who came to Texas during this time received a second class headright of 1,280 acres. In May 1838, a special headright was issued to the heirs of those who had fallen with Fannin, Travis, Grant or Johnson in 1836. A third special headright in 1838 gave one league of land to veterans who had been permanently disabled through their service.

To obtain a headright grant, individuals applied to the board of land commissioners in the county of residence. Applicants could choose land in that county or in another county where land was available. (The county boards had been created in December 1837 to review all claims for headrights. A board consisted of the chief justice, associate justices and clerk of the county.) Two witnesses were needed to prove the applicant had been in Texas by the required date and to attest to marital status. The applicants paid the board \$5.00 for a certificate.

If the application was valid, the board issued a certificate for land to be granted from the public domain. The grantee chose a plot and hired a surveyor to mark it off; the surveyor's field notes were then certified and sent to the General Land Office of Texas, where they were examined and, if found to be correct, patented. The patent was signed by the President of the Republic and the land commissioner, and sent to the grantee after a copy was made for the General Land Office.

The headright system, like the military land grant system, was open to fraudulent practices. Witnesses were not always credible; but the county boards accepted nearly every application received, since the applicants were often their friends and neighbors. About 30,360,002 acres were granted through headright certificates.

To bring more immigrants to Texas, the old empresario system was adopted in 1841. Congress relinquished to the president its authority to make colonization contracts after the defeat of a bill which would have located 8,000 French colonists on the western frontier. In February 1841, a law was made allowing the president to contract with W.S. Peters and 19 associates to settle 600 colonists beyond the settled area of the northern frontier. All colonists were to come from outside the Republic (most were from Kentucky and Tennessee). Heads of families would be entitled to 640 acres, single men to 320 acres. Colonists obtained the land almost without cost; the contractor received 10 sections of land per 100 families settled, and was allowed to withhold up to half the land granted to colonists as payment for surveying the land, applying for titles, and other services. Colonists had only to build houses and cultivate at least 15 acres on their grants.

A second contract with Peters raised the number of colonists to 800, and a third contract in 1842 provided additional territory. A fourth contract, made in 1843, postponed the deadline for filling the contract by three years and extended the colony's boundaries once again. The colony eventually extended from Dallas, Collin and Grayson counties on the east to Wilbarger, Baylor, Throckmorton and Shackelford counties on the west. A major problem the Peters Colony faced was the entrance of large numbers of unauthorized settlers into the colony, since Texans with headright, bounty, donation and land scrip certificates also wanted to locate in this area. Surveyors sympathized with these people and often allowed them to register their claims. The resulting conflicts led the state of Texas to cancel the Peters Colony contracts in 1852 and grant the contractors land in the semi-arid Indian country of northwest Texas. The company brought about 650 families and granted 879,920 acres.

The 1841 act allowing the president to contract with Peters was amended in 1842 to permit him to contract with other empresarios as well. Charles Mercer, Henri Castro, Henry Fisher and Burchard Miller located colonists on the frontier or in unsettled areas as a defense against Indian and Mexican raiders. Charles Mercer received an empresario contract as a result of conflict between American and English stockholders. This contract itself caused controversy:

the grant was partly located in the Peters Colony; and Mercer was unpopular, with a reputation as an abolitionist and a speculator. In 1848, a judge ruled that the contract was invalid. The Texas legislature confirmed the colonists' claims to 691,840 acres of land, but Mercer was not able to gain any profits from the colony.

Henri Castro, a Frenchman born in Spain, secured a contract in February 1842 to settle 600 families or single men on 1.25 million acres of land west of San Antonio. Like Austin, Castro established a successful colony at little profit to himself, using more than \$200,000 of his own money to aid the colonists in any way he could. Between 1843 and 1847, Castro chartered 27 ships to bring a total of 2,134 Alsatians from France, although Texas harbors were unsafe during the Mexican War. These German-speaking farmers and fruit growers agreed to give Castro half their land in payment for settling them, but when a commissioner arrived in 1850 to issue titles, the colonists refused to give Castro the land they had earlier promised. Castro's settlers were issued 299,846 acres of land, less than 10 percent of the amount the contract allowed him to settle.

In 1842, Henry Fisher and Burchard Miller obtained a contract to locate 600 families on three million acres of land between the Llano and Colorado Rivers; settlers were to come from Germany, Switzerland, Norway, Sweden and Denmark. In 1844, the terms of the contract were altered to permit 6,000 families or single men to gain grants. In the same year, Fisher sold his interest in the colony to the Adelsverein. The Adelsverein, or Society for the Protection of German Immigrants to Texas, was composed of a group of German noblemen who hoped to send settlers to Texas because their homeland was overpopulated. The Fisher-Miller grant was situated far from the coast in Comanche territory. German families were to receive 320 acres of land in the grant and single men 160 acres. The Society eventually sent to Texas 7,380 immigrants who received 1,735,200 acres of land. Many of these people did not settle within the Fisher-Miller grant but instead located at Fredericksburg or New Braunfels, two settlements the Society established as way stations on land that it bought between the coast and the grant. However, a few Germans did make a peace agreement with the Comanches and settled upon the dry and rocky soil within the Fisher-Miller grant.

Because many Texans feared that foreigners were being given the best land, Texas repealed its empresario act on January 30, 1844. The Republic had conveyed about 4,494,806 acres of the public domain to settlers through the empresario system, the population had increased from 38,000 to about 130,000, and land prices had risen. Although tax revenue also increased as a result of the added population, Texas still had financial problems. Conflicts with the Indians were still prevalent in some areas.

One way the Republic financed the operation of its government was by authorizing agents to sell land scrip-certificates giving the owner the right to secure unappropriated land in Texas. An act passed in 1841 allowed anyone holding bonds or promissory notes issued by the Republic to exchange them for land scrip at a rate of \$2.00 per acre. Land scrip was issued to obtain loans in the United States and Europe. Between 1835 and 1841, 1,329,203 acres of land were sold, giving Texas some cash, supplies and stability for its securities in the United States.

By 1845, the Republic had evolved from a nation of large landholders into one of small farmers and merchants. When the Constitution of 1836 voided all Mexican land grants made after November 13, 1835, it also voided specific fraudulent and excessively large land grants

made before that date. Spain and Mexico had granted large blocks of land to individuals, but the Republic of Texas granted small amounts of land in order to settle as many people as possible. During its 10 years as a republic, Texas distributed approximately 41,570,733 acres of land. By contrast, Spain and Mexico together had issued land titles to about 26,280,000 acres.

Because the Republic was cash-poor, the early government was dependent upon land to finance its operations. Because of this, land records were seen as being of great importance to the government. The land commissioner, who was responsible for keeping the records and managing the distribution of the public domain, occupied an important position.

John Borden, the first land commissioner, was appointed by President Houston in June 1837. Only 24 at the time, Borden had been a surveyor in Austin's colony and, in 1836, had laid out the town of Houston with his brother Gail. He had been directed by Congress to gather all land records, which was not an easy task: Borden had neither money, supplies nor employees. In fact, it was three months before he even had an office; Borden was forced to store the records in the homes of his friends.

Some of the local land commissioners who had operated the land offices under Mexico were reluctant to give Borden their records. However, he reported in November 1837 that he had received records from all but three East Texas colonies. In December of the same year, Congress appropriated \$500 for stationery; the supplies Borden received from New Orleans were of poor quality. When the capital was moved to Austin, Borden transported 5,000 pounds of land records that he gathered by wagon. His salary as land commissioner was paid in nearly worthless promissory notes, which may have been one reason for his resignation in 1840.

Borden was replaced by Thomas Ward, who served until 1848. Ward had to work with conflicting surveys, untrained surveyors, and "a set of greedy and avaricious land speculators." Ward also headed the agency during the contentious Archive War. This event illustrates the importance of land records in Texas.

Austin became the capital of Texas in 1839. After Sam Houston was elected president in 1841, he attempted several times to have the government returned to Houston. When the Mexican army invaded and captured San Antonio in 1842, Houston saw an opportunity to achieve his goal. Enacting presidential emergency powers, he ordered the government and archives temporarily moved to the town of Washington-on-the-Brazos. Residents of Austin, protective of their city, and worried about losing the seat of government, were outraged; they feared that the president's final destination for the government was Houston.

In October 1842, the government moved to Washington-on-the-Brazos. In December, President Houston, stating that "the destruction of the national archives would entail immediate injury upon the whole people of Texas," sent a company of Texas Rangers to Austin to secretly remove the archives from the Land Office. These archives were primarily land records, but also included maps, treaties and congressional papers. During the night, the Rangers, under direction of Thomas Ward, loaded the archives onto three wagons.

After a cannon was fired at the Land Office, residents of Austin swarmed into the streets. Ward later wrote that "much excitement prevailed here. A howitzer loaded with grape was discharged at my residence. After I heard the cry of 'blow the old house to pieces,' eight shots perforated the building."

The Rangers quickly drove the wagons out of town, with a vigilante committee in pursuit. The vigilantes overtook the Rangers the next day at Kenney's Fort in Williamson County. Because President Houston had ordered them to avoid bloodshed, the Rangers surrendered the archives, which were returned to Austin. However, it was two years before the residents returned the records to the General Land Office.

Commissioner Ward closed the General Land Office for a year because the land records were essential to the Land Office and the land grant system. Without them, it was impossible to determine if land was vacant and available to be granted. To survive, the government of the Republic had to be able to grant land to pay public debt, finance operations and attract the population vital to the Republic's survival.

### **Statehood**

In 1844, Texas submitted a treaty of annexation to the United States Congress. Under its terms, Texas would have given 175,000,000 acres of public land to the United States government and the United States would have assumed Texas's debts of \$10,000,000. The United States Congress rejected the treaty on grounds that the Texas public domain was not worth \$10,000,000.

When Texas was annexed to the United States in 1845 by a joint resolution of Congress, Texas retained both its debts and its public land. Texas was the only state, other than the original 13 colonies, to enter the Union with control over its public land.

The state Constitution of 1845 recognized all valid land titles that had been issued by Spain, Mexico and the Republic of Texas and made no changes in the administration of the public domain. The state of Texas continued to use land as its primary resource. It conveyed titles to land in order to settle a boundary dispute, attract settlers, encourage internal improvements, support public education and reward settlers. Texas also sold land at low prices to pay its debts. When all land had been disposed of, the state began to develop resources on land which had been appropriated for public schools.

The Treaty of Guadalupe Hidalgo, which ended the Mexican War in 1848, confirmed Texas' southern boundary at the Rio Grande. The western boundary remained unclear until the Compromise of 1850 ceded Texas' claim to 67,000,000 acres of land in what is now New Mexico, Colorado, Wyoming, Kansas and Oklahoma to the United States in exchange for \$10,000,000 in federal bonds. This enabled Texas to pay its debts and retain 98,000,000 acres of public land.

Texas continued to grant land to settlers; more than 4,800,000 acres were granted through pre-emption acts. The first pre-emption act was passed by the Republic of Texas in 1845. Under this act, anyone who settled, lived on and made improvements on up to 320 acres of land could buy title to it at 50 cents an acre after three years. The state passed a similar pre-emption act in 1853. In an effort to ensure that the public domain was distributed to small landholders rather than to corporations or speculators, a new act the following year reduced the amount one person could obtain to 160 acres. The pre-emption act was repealed in 1856, reinstated in 1866, and continued until the public domain was depleted in 1898.

During the 1850s, land was granted as a way to encourage internal improvements and to aid the state's economic development. More than 5 million acres were appropriated for river and harbor improvements, irrigation canals and ditches, ship construction, overland roads and industries. Any land grant for an internal improvement required the recipient to have an equal amount of land surveyed and reserved for the state. But some grantees chose to receive only half of the land they were allowed rather than pay to survey land for the state.

Texas had an urgent need for transportation, both over water and land, because it was difficult and costly for farmers to move their products to market on the existing transportation routes. The state granted over 4,000,000 acres for navigation improvements on rivers and harbors. About 584,000 acres were appropriated for irrigation canals and ditches that were at least three miles long. Texas granted nearly 17,000 acres for the building of 16 ships; seven of these were river steamboats of great value to the state. Although overland roads were needed, few people applied for land granted for road construction. Texas also offered land as an incentive for the creation of industries. The state promised 320 acres for every \$1,000 of machinery installed. This land grant had no permanent effect on the long-term economic development of Texas, but 11,360 acres were granted, primarily to wool and cotton producers.

The most important of the grants for the internal improvements were those made to railroad companies. Texans wanted a railroad system because they believed that it would speed development of the state and increase land values. In 1852, the state legislature chartered eight railroad companies; each received eight sections of land for every mile of railroad track, but they also had to survey equal amounts of land. The land given to the railroad companies was to be sold by the end of 12 years.

Some Texans advocated a "state plan" for building railroads. Under this plan, the state itself would build railroads by using public land as collateral in obtaining a loan, then lease the railroads. However, the legislature wanted to use public land to induce private companies to build railroads. In 1854, the General Land Grant Law promised 16 sections-10,240 acres-for every mile of railroad track built. This land would not be granted until 25 miles of track had been laid. The companies were required to survey the land and would be given the odd-numbered sections, while the state would own the even-numbered sections. Thus, for each section it received, a railroad company had to survey an adjoining 640 acres for the state. By the time of the Civil War, only 492 miles of railroad had been completed; the Civil War delayed construction, and there were only 511 miles of track by 1870.

The Texas Constitution of 1869 prohibited land grants to railroads, but the Constitution of 1876 authorized grants of 16 sections for every mile of track laid. The land grant law was repealed in 1882 and Texas did not again provide land as an incentive for building railroads. By 1880, Texas had more than 3,000 miles of railroad track, an amount that doubled over the next decade. A total of 35,777,038 acres of land, mostly in West Texas, was granted to 43 railroad companies. Later resurveying showed that the companies had received excess land in the amount of 3,623,160 acres which reverted to the state. The railroads sold about 28,000,000 acres of their land, making profits of no more than \$1.50 an acre. The profits weren't any higher than that because of the expense of surveying the land. Also, the railroads were required to sell their land and weren't able to wait for land prices to increase.

Legislators had hoped that the grants would promote settlement, increase tax revenue, give the state free surveying of its alternate sections, and raise the value of public land. They also wanted the public land, ultimately, to be owned by small landholders rather than speculators. The railroad system probably did increase tax revenue; and the state did receive free surveying of public land, but many of the surveys were so poorly made they had to be redone. Nor did the grants lead to an increase in the value of the public land, for several reasons. Due to being forced to sell the land shortly after it was granted, the railroad companies flooded the land market with millions of acres, which actually decreased the amount of money that the state could charge for public land. Also, the railroad land and the state's alternate sections typically were not located along the railroad tracks because that land was already privately owned. The railroads did quickly sell land to private individuals as the legislature had hoped, and railroad grants contributed to the creation of a population of homesteaders.

The largest allocation of public land, 52,000,000 acres, went to finance public education. The Republic began the practice of using land to fund public education in 1839, when it allotted three leagues of land to each county for public schools. This was increased to four leagues in 1840. These county school lands, which were not always located in the counties they benefited, were to be sold to settlers in 160-acre tracts and the money from the sales invested in bonds. The interest earned from the bonds could then be spent on tuition for students. The state followed the example set by the Republic: the State Constitution of 1854 dedicated one-tenth of the public revenue to a perpetual fund for public schools.

In 1854, the legislature established the Permanent School Fund (PSF) with \$2 million left from the Compromise of 1850. Legislators intended for public school land to be sold, and the revenue to be deposited into the PSF, which would create an inexhaustible source of revenue. Only interest income from the fund would be appropriated for the state's public schools.

The Constitution of 1866 added the state's alternate sections of land from the railroad and other internal improvement grants to the PSF. It also dedicated half of the proceeds from the sale of public land to the PSF. In 1873, the legislature appropriated half of the remaining public land to the schools. Governor John Ireland later praised the legislators who passed this act, saying, "These men stood amidst the jeers and scoffs of those who were clamorous for the golden egg, and casting a glance to the distant future and seeing that this rich field could not be longer guarded...they took the only step left them to secure to posterity a small pittance of that splendid education fund...this generation had in its power and keeping a fund that should have gathered like the snow-ball as time rolled on."

Texas also established a Permanent University Fund (PUF). Land had first been allotted for a university in 1838, when the Congress of the Republic set aside 50 leagues of land to establish and endow two universities. The 1876 Constitution confirmed this grant and also appropriated one million acres of the public domain to endow "a university of the first class." The University of Texas was then established in 1881. At a time when public land was rapidly disappearing, an 1883 law stated that the public schools would divide up to two million acres of the remaining public domain with the university. All of this land was in West Texas, which didn't please supporters of the university, as they felt this land was worthless. Their criticism stopped with the discovery of oil in 1923. Today, revenues from university land are a major source of financial support for both the University of Texas system and the Texas A&M University system.

Included in the 52,000,000 acres of land appropriated for education was 407,000 acres for eleemosynary schools. An 1856 act granted 100,000 acres of land each for a "lunatic asylum," a "deaf and dumb asylum," a "blind asylum" and an "orphan asylum." School land sale acts later passed by the state also applied to these lands. By 1912, all land set aside to support the institutions had been sold.

One consequence of the Civil War was the state's relinquishment of mineral rights over land it had previously granted. When the Republic adopted English common law in 1840, it retained the Mexican legal principle that the government owned all mineral rights. In 1847, the state validated a patent on land in Hidalgo County containing a salt lake. During the war, salt was scarce in Texas and the legislature attempted to void the patent and take control of the salt deposit. As a result of the controversy this caused, the Constitution of 1869 (and, later, the Constitution of 1876) released subsoil mineral rights on unsold land. But in 1901, the Texas Supreme Court held that, unless land classification documents contained the word "mineral," the state did not retain mineral rights. In other words, the state lost the mineral rights to all school land sold before 1901—that is, 91.4 percent of state land.

Land commissioner Charles Rogan immediately suspended the further sale of school land until it was reclassified as mineral land, saving the state mineral rights to 7,400,000 acres of school land. Between 1901 and 1919, the state sold land with and without mineral rights; it also leased large tracts for mineral production. In the Relinquishment Act of 1919, Texas regained control of mineral rights on all unsold land and made new purchasers of land partners with the state in royalties, as long as the state was given at least a one-sixteenth royalty interest.

Texas continued to give land to veterans of the Texas Revolution and, after the Civil War, also began to reward Confederate veterans. After statehood, bounty warrants and donation certificates were issued to veterans of the Texas Revolution by the state Adjutant General until 1855. That year, a fire destroyed the records of warrant recipients and the muster rolls needed to prove the claims of soldiers and their heirs who had not yet received land. No more bounty or donation certificates were issued until 1857, when the legislature established a Court of Claims to check unpatented land certificates for fraud and to issue certificates to those who deserved but had not received them.

After the Court of Claims expired in 1861, no more headright, scrip, bounty or donation certificates were issued except by special act of the legislature. In 1879, many veterans of the Texas Revolution were destitute and the legislature passed a 640-acre veteran donation act to give land to veterans or their widows. Applicants had to swear before a county judge that they did not own \$500 in cash or property and that they were physically incapable of self-support. Applications were then sent to Austin, where they had to be approved by the Comptroller and a Veterans Board before the land commissioner could issue land certificates. In 1881, the donation was increased to 1,280 acres and the indigence requirement was dropped; applicants had only to furnish proof of three months' service to the Republic. Texas issued 1,278 veteran donation land certificates for 1,377,920 acres under the acts of 1879 and 1881, before the grant was repealed in 1887 due to the near exhaustion of the public domain.

The legislature began rewarding Civil War veterans in 1881 when it granted 1,280 acres of land to disabled or indigent Confederate veterans or to widows of men who had died in

service during the war. To receive a scrip land certificate, applicants had to present two credible witnesses of war service to the county court, and prove they possessed no more than \$1,000 in property. Because half the public domain was reserved for the PSF, the act required that, for each certificate, an equal amount of land be surveyed for the schools. When the act was repealed in 1883 due to the shortage of public domain, 2,068 Confederate scrip land certificates for 1,280 acres each had been issued (for a total of 2,647,040 acres). However, only 1,726 certificates were surveyed, totaling 1,979,852 acres. The rest of the certificates were annulled in 1896 because the time limit for locating the land had expired. Vacant land was hard to find, and many of the recipients couldn't afford to locate and survey the land. Most recipients sold their certificates, sometimes at prices as low as \$5.

The Constitution of 1876 authorized setting aside 3 million acres of land for a new capitol building. In 1879, the state legislature appropriated 3,050,000 acres and created a Capitol Building Board, consisting of the governor, comptroller, treasurer, attorney general, and land commissioner. The Capitol Reservation land was located in Bailey, Castro, Dallam, Deaf Smith, Hartley, Hockley, Lamb, Oldham and Parmer counties. The Capitol Board was to contract for a survey, sell the extra 50,000 acres of land that had been set aside to pay for the survey, approve architectural plans for the building, and contract for construction.

Surveying was completed by 1880, and the land to pay for the survey was sold at \$.55 an acre, for a total of \$27,750. Half of this amount was used to pay the surveyor and half was deposited in the PSF. Only two contractors bid on the project and, in 1882, the Capitol Board contracted with Matthias Schnell of Illinois to build the capitol.

Schnell then sold 75 percent of his interest in the contract to a Chicago syndicate of investors. Payment of the 3 million acres was made to the contractors in installments as the building progressed through 19 stages.

Construction was completed in April 1888; at that time, it was the seventh largest building in the world. Built of pink granite from Burnet County, it was 309 feet tall, seven feet taller than the dome of the national capitol, contained 409 rooms and 924 windows. It had cost the builders \$3,744,630, or about a dollar for every acre they received. Because land in the Panhandle was worth about \$.50 an acre, the syndicate didn't profit from the enterprise; the state, on the other hand, received a grand statehouse without paying a penny. The syndicate established the XIT Ranch on the 3 million acres it was given. The XIT, though, was not a financial success and by the end of the century it was subdivided and sold to farmers.

In 1876, Texas still had about 56,000,000 acres of unappropriated public domain and 20,000,000 acres of public school land. An influx of Southerners following the Civil War created pressure for new land. The Civil War had also left the state with financial troubles and, to lower its debt, the legislature began to sell the unappropriated public domain and the school lands as quickly as possible—thereby presenting an opportunity for fraud to be practiced on a large scale. The "fifty cent" act, passed in 1879, provided for the sale of public land in 54 West Texas counties at \$.50 an acre. Because the Constitution of 1876 reserved half of the remaining public land for the Permanent School Fund, half of the proceeds were to go to it and half to pay the public debt. Although a limit of 640 acres per person was put on this land, speculators managed to avoid this restriction.

In 1895, the legislature passed a school land sales act designed to profit speculators. It gave county boards the authority to classify land, and also reduced the price of agricultural land to \$2 an acre, grazing land to \$1 an acre. Payment could be made in 40 years at a three percent interest rate; purchasers who forfeited their land for nonpayment of interest were permitted to repurchase it within 90 days-at a lower interest rate. As a result of this act, the boards often classified all land as grazing land and sold it to friends and associates.

In 1897, an act lowered the price of agricultural land to \$1.50 an acre. In consequence, the PSF lost \$12 million. Of about 6 million acres sold, 5 million were forfeited and repurchased. In 1901, a new school land sales act directed the land commissioner to classify all school lands and supply all county clerks with lists of the unsold school land in their counties. They were then allowed to sell up to 2,560 acres to those who would live on the land for three years and make improvements.

Because the policy was "first come, first serve" clerks would advertise sales with the result being long lines at the county clerks' offices. Ranchers would often send representatives to file on as much land as possible and keep others out of the line. The "school land rush" lasted until 1905, when the 1901 act was repealed and a law was passed allowing the state to get the highest price possible for school land. This "highest bidder" law provided for the sale or lease of school land to the one who bid highest over the minimum price, set by the land commissioner. If this act had been passed 30 years earlier, the PSF would have received between seven to eight times more money than it actually received. Perhaps the greatest loss was in timber land. At the time of the 1905 act, only 31,978 of the original 300,000 acres of timber land remained. The rest had been sold as cheaply as agricultural or grazing land.

There were often problems with surveys during the 1886-1905 land boom. Surveyors sometimes wrote field notes to land they never visited, particularly when locating railroad grants. Demands for speed resulted in carelessness. One method surveyors sometimes used was to tie a rag to a buggy wheel and drive over the boundary lines, counting the revolutions of the wheel it took to arrive at the distance. And their units of measurement could be somewhat informal: "half a day's walk" or "north three cigarettes on a donkey." Most inaccurate surveys were the result of low pay, carelessness, and the threat of danger (Indian attacks were still a possibility). Then too, there was so much land available that surveyors didn't feel more exact surveys were necessary. In rare cases, inaccurate surveys were the result of dishonesty. Whatever the cause, surveys often either overlapped or had vacant areas between them. When the oil boom came in the 20th century, the inaccuracies led to numerous lawsuits and confusion over ownership.

In 1898, the State realized that it had appropriated more land than it possessed. The Land Office discovered that the Permanent School Fund had not been given all its half of the land granted since 1876. Land commissioner A.J. Baker refused to issue any more patents to land until the PSF was made whole. In the landmark decision, Hogue vs. Baker, the Texas Supreme Court upheld Baker's action and declared that there was no more unappropriated land in Texas. The state owed the schools 5,902,076.67 acres. However, the state possessed only 5,884,896.40 acres of unappropriated land. In 1900, this land was given to the school fund, leaving it short 17,180.27 acres. The legislature appropriated \$17,180.27, estimating the land's value at \$1 an acre, to the fund to balance it. With this final appropriation, the Texas land grant policy came to an end. In 62 years, Texas, as a republic and a state, had disposed of 216,314,560 acres of land.

## **The General Land Office Today**

Today, over 22.5 million acres of land remain in the Texas public domain. The Texas GLO is directly responsible for the management of more than 12 million acres dedicated to the Permanent School Fund. The growth of the oil industry in the 20th century helped change the state's land policy from an emphasis on income through the sale of land to an emphasis on income through resource development. The GLO collects nearly a billion dollars a year from income generated by state land for the PSF, making it the second-largest revenue-producing agency in Texas state government.

In 1939, the Texas legislature created the School Land Board, composed of the land commissioner, the governor and the attorney general, to award mineral leases on school land, the land dedicated to the PSF. The legislature also allocated mineral income from riverbeds, bays and submerged lands.

Although school land can be sold today under the authority of the School Land Board (which is now made up of the land commissioner and two citizens appointed by the governor and the attorney general), this is rarely done. Instead, the land is leased for resource development and the revenues earned are deposited in the PSF, which stands today at over \$7 billion. The interest earned on the PSF investments is deposited in the Available School Fund each year and distributed by the State Board of Education to every school district in Texas on a per-pupil basis. The land office also deposits in that fund fines on unpaid or late royalties, commercial leasing revenues, and Outer Continental Shelf pipeline fees. Since only interest income can be spent, the principal amount of the PSF remains intact and will continue to benefit the public schools of Texas.

In 1919, the Texas Land Commissioner was authorized to lease designated public land for oil and gas production, which now accounts for most income derived from public land. The lease terms for oil and gas production on state-owned land are set by the land commissioner and the School Land Board; the state is guaranteed at least one-eighth royalty. According to the Relinquishment Act of 1919, the surface owner acts as leasing agent for the state on privately owned land where the state retains the mineral rights, and the state and surface owner share rentals, royalties and bonuses.

Although the other coastal states own three miles of tideland each, Texas land extends three marine leagues (10.4 miles) into the Gulf of Mexico. Development of oil and gas reserves on these 4,250,000 acres of submerged lands has produced revenue of more than \$2 million for the state. Prospectors without leases pay exploration fees on a per-day basis and receive permits to survey and study the submerged land. Leases on submerged lands are awarded by the land commissioner to the highest bidder. In addition to being leased of mineral production, land is leased for hunting, grazing, fishing, and commercial development. Land trades, experimental projects and in-kind gas sales also provide revenue for the state.

Besides managing the state's public land, the Texas General Land Office also administers the Veterans Land Programs. After World War II, Texas wanted to reward veterans with land, however, there was no longer any unappropriated land to offer. Instead, the legislature created the Texas Veterans Land Board, chaired by the land commissioner and having two citizens

appointed by the governor. This board oversees the Veterans Land Program, which makes low-interest loans to eligible veterans so they can buy privately owned land or houses, or to make home improvements. Because bonds are sold to finance the program, it costs the taxpayers nothing.

State-owned land is now held as a public trust for the common good. The General Land Office maximizes revenues from public land and at the same time preserves and protects it, benefiting future generations of Texans.

### ***Glossary***

**Bonus:** a sum of money, in addition to royalties, charged by the state for the lease of property.

**Bounty:** a grant issued for the length of service in the Army of the Republic of Texas. Grantees were allowed 320 acres of land for every three months of military service, up to 1,280 acres.

**Donation:** a grant of 640 acres of land issued to participants, or the heirs of participants, in the battles of the Alamo, Goliad, San Jacinto, the Siege of Bexar or service guarding the baggage train at Harrisburg. Participants in more than one of these engagements could receive only one grant.

**Eleemosynary institutions:** Charity asylums that receive financial support from donations or gifts. Public land was dedicated to support these institutions in 1856.

**Field notes:** a record of measurements of a tract of land made by a surveyor; the legal description.

**Headright:** land grants made to immigrants as inducements to settle in Texas.

**Labor:** a Mexican unit of land area equal to one million square varas, or 177.1 acres. This amount was believed to be enough land for a family to farm.

**Land grant:** the conveyance of ownership to land from sovereignty to private ownership. Most grants are not outright gifts but are conditional upon the private party fulfilling certain obligations or paying fees.

**Land scrip:** a certificate entitling the holder to obtain a certain amount of public land.

**League:** a Spanish measurement of distance equal to 5,000 varas or 2 5/8 miles. Americans came to use the term as synonymous with a sitio, a measurement of area equivalent to 25 million square varas or 4,428.4 acres.

**Marine league:** a marine unit equal to three nautical miles or 5,556 meters.

**Patent:** the official document in which legal title to land is conveyed by the sovereignty. All patents are issued under the seals of the state of Texas and the land office, signed by the governor and the land commissioner and registered in a land office patent volume.

**Pre-emption:** starting with an 1845 act of the Republic Congress, a grant given to those who lived on vacant tracts of up to 320 acres for three consecutive years. After 1854, married men were limited to 160 acres and single men to 80 acres.

**Rental:** a fee paid annually on a per-acre basis by the private party in a state mineral lease. Rentals cease and royalty payments begin when mineral production begins.

**Royalty:** the owner's share of profits made on property by the lessee.

**Sitio:** a Spanish unit of measurement equal to 25 million square varas (4,428.4 acres). See league.

**Vara:** a Spanish unit of measurement that varied in length from region to region. Set in Texas as 33 1/3 inches long, the vara is still the official unit of land measurement in Texas.

**Veteran donation:** a grant issued to indigent veterans of the Texas Revolution, signers of the Texas Declaration of Independence and their widows who had not remarried.

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