



LOTS OF LAND

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LOTS OF LAND

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Lots of Land

FROM MATERIAL COMPILED UNDER THE
DIRECTION OF THE COMMISSIONER OF
THE GENERAL LAND OFFICE OF TEXAS

BASCOM GILES

W R I T T E N B Y **CURTIS BISHOP**

D E C O R A T I O N S B Y **WARREN HUNTER**

The Steck Company • Austin

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BASCOM GILES

Preface

I'VE THOUGHT about this book a long time. The subject is one naturally very dear to me, for I have spent all of my adult life in the study of land history, in the interpretation of land laws, and in the direction of the state's land business.

It has been a happy and interesting existence. Seldom a day has passed in these thirty years in which I have not experienced a new thrill as the files of the General Land Office revealed still another appealing incident out of the history of the Texas Public Domain.

It has long been an honest conviction of mine that at least some of those thrills should be passed on to the present generation of Texans. I have regarded my effort in the preparation of this volume as not only a gratifying hobby but a personal duty.

This book is the result. At first it was my idea to prepare a history of the General Land Office itself, but, as the material began to take shape, it seemed to me that the story was too big for such confinement. I have compiled pamphlets depicting the history of the public domain's disposition, but I wanted in this book more than recital of land facts. I wanted the color of the people woven in, some of their laughter and tears, and a framework which would make it a continuous story rather than piecemeal history.

I wanted the *story* of the land as well as the history of the land.

It is here, all of it. I consider it well done. I am proud of my part in it.

It comes at a timely moment when all Texans should be reminded of the immense land heritage which was and is theirs by the simple act of becoming Texas citizens.

This is the full story of how you got it, what was done with it, and what is left of it. It is the story of a people who won "lots of land" with their very blood, who struggled with it and among themselves for it, and who own it by a higher law than any government can enact.

BASCOM GILES

Commissioner of the General Land Office

INTRODUCTION

THE LAND was here, and lots of it. In the course of time all manner of men were to reach toward it.

It was a new country, a fabled country. Its challenge spread out to all corners of the earth, and white man and yellow man crossed every sea to reach it.

The explorer came first, of course. Then there was the colonist, the *empresario*. Then the settler bringing with him the spirit of revolution which was his heritage as an American. Then came the foreigner — the German, the Frenchman, the Englishman, the Czech.

Then a new breed of empire builder was born out of the land itself. Across Time's stage he rode in a new mode of dress, on a new type of pony, swinging a rope of hemp or rawhide and wearing a heavy blue-barreled gun at his hip.

Then finally was the swashbuckler born amid the whirls of the industrial revolution, a seeker of new horizons that no other man had ever imagined, following the same challenging trails of adventure and wealth even below the surface of the sea.

Explorer, *empresario*, settler, foreigner, cowboy, speculator, oilman, but all sought El Dorado.



Indians greeted the first Spaniards with cries of "Tejas, Tejas," which meant friendly.

And so the Spaniards named it "the land of Tejas," or "friendly land."

I

THE EXPLORER

TEXAS HAD its share in the romance and myth and fable which everywhere attended the Spanish conquest of America. In Florida the Spaniards sought the Fountain of Youth; in South America, the gilded man (El Dorado); on the west coast of Mexico the islands of the Amazons; in Arizona and New Mexico the Seven Cities of Cíbola; on the California coast the Strait of Anian.

“Likewise, in Texas, they searched for the Gran Quivira, where ‘everyone had their ordinary dishes made of wrought plate, and the jugs and bowls were of gold,’ for the Seven Hills of the Aijados, or the Aixoaos, where gold was so plentiful that ‘the natives, not knowing of any of the other metals, made of it everything they needed, such as vessels and the tips of arrows and lances’; for the Sierro (or Cerro) de la Plata (Silver Mountain), somewhere north of the Rio Grande; for the pearls of the Jumano country; and for the ‘Great Kingdom of the Texas,’ a people like the Jumanos, who had been miraculously converted by a woman in blue who lived next door to the Kingdom of Gran Quivira, who were ruled by a powerful lord, had well-built towns, each several miles in length, and raised grain in such abundance that they even fed it to their horses. . . .” — HERBERT E. BOLTON, “The Spanish Occupation of Texas, 1519-1690,” *The Southwestern Historical Quarterly*, Vol. XVI.

AT THE beginning of the eighteenth century the land of Texas sprawled, unsettled and virtually unknown, between two slowly advancing frontiers — the French outposts of Louisiana and the Spanish mission civilization seeping beyond the Rio Grande River.

Both empire-eager nations had made penetrations and overtures. The Spaniard came first — the shipwrecked Cabeza de Vaca, more concerned with finding his way home than with discovering a new empire; the gullible Coronado, marching stolidly in pursuit of Indian fantasies; the curious Pineda, dipping cautiously into every sizable bay along the Gulf coast; the luckless Garay, who could not hold the confidence of either his king or his men; and Don Juan Oñate, who cast off the humble cassock of a monk to become the protégé of Hernando Cortés.

These expeditions had their purpose. In an article for *The Southwestern Historical Quarterly* Herbert E. Bolton, authority upon the Spanish settlement of Texas, wrote:

For a century and a half before they made definite attempts to occupy the region now called Texas the Spaniards gradually explored it, proceeding step by step from the borders toward the interior, and slowly formed ideas concerning its geography and suitability for settlement. The final occupation at the end of the seventeenth century was by no means the sudden event, brought about by the chance settlement of the French on the Gulf coast, that some have considered it.

None of these expeditions left any impress upon Texas — except for Don Juan Oñate, none anywhere. The efforts of this young Spaniard, whose religious fervor waned after his marriage to the granddaughter of Cortés and his wealth increased, resulted in the establishment of settlements in New Mexico, which were temporarily abandoned a century later. Oñate crossed the

Rio Grande near the present site of El Paso in the spring of 1598, and that's all his expedition meant to Texas.¹

One of Oñate's successors as governor of Spanish New Mexico, Don Diego de Peñalosa, seems to have been the first man to regard with enthusiasm the settlement of Texas. In 1630 the custodian of the New Mexico missions, Alonso Benavides, proposed the conversion of the Quivira Indians and even appealed over the viceroy's head to the King himself. Peñalosa also carried his case direct to Spain, after publication of his expeditions into Texas received only a negative reaction from the viceroy. Receiving no encouragement in Madrid, Peñalosa turned to France, appearing in 1682 at the court of Louis XIV with his pamphlets.

By then he was ready to propose that France not only seize Texas, but all of Spanish Mexico. He could do it, he said, with only a thousand men.

Louis XIV was not convinced. He was not even very interested until, a year later, a more famous explorer asked the King's blessing and financial aid for almost the same proposal. He was Robert Cavelier, Sieur de la Salle, who had just returned from an expedition down the Mississippi River.

Peñalosa's proposal, according to E. T. Miller in *The Southwestern Historical Quarterly* (Vol. V), was to establish a colony at the mouth of the Rio Grande, seize the Spanish settlement at Panuco, and move on to conquer all of Mexico. La Salle's scheme was to settle the Mississippi River basin.

Peñalosa's idea was rejected by Louis XIV. It is not certain how much of it La Salle assimilated in his own later memorial, which the French king approved.

¹But the magnificence of his equipment is certainly worth further notation. His party consisted of a half-dozen fully equipped Catholic priests; his wife; sixteen beautiful señoritas who traveled in ox-drawn *carretas* and were the ladies of his court; 150 gentlemen-at-arms who carried swords, shields, and lances and wore armored suits; 200 foot soldiers who carried arquebusses and crossbows; 303 families of Spanish settlers; 300 converted Mexican Indians to do labor in the fields; 800 sheep; 400 extra horses; and 600 head of longhorn cattle.

Don Juan's personal wardrobe consisted of eleven pairs of satin trousers, sixteen pairs of real silk stockings, two dozen fine lace handkerchiefs, four purple and three yellow coats, two suits of plate armor and three or four of chain mail, four spare helmets, and eight very handsome feathers.

La Salle sailed from France with some four hundred colonists and soldiers in the summer of 1684 with the announced aim of establishing a settlement at the mouth of the Mississippi River. Whether or not La Salle knew he was sailing past the Mississippi into the region described by Peñalosa is subject to question. His first landing was at the Paso Cavallo on Matagorda Bay. There tragedy struck him immediately as one of his ships, the *Amiable*, was wrecked. This was the first in a series of mishaps. Next, the French naval commander, Beaujeau, fell out with the explorer and returned to France. Then La Salle's one remaining ship, the *Belle*, was wrecked when the colony was moved from Paso Cavallo nearer to the head of the bay. Finally, when the commander started overland for Canada to gain relief for his people, he was shot near the present site of Navasota by one of his own men.

The colony quickly collapsed as smallpox and the cannibalistic Karankawa Indians took their toll.

But the venture was important. Spain was aroused and inspired to speed up her schedule of colonial expansion.

Lying forgotten on the viceroy's desk were the petitions of Don Juan Domínguez de Mendoza and Father Nicolás López, who had penetrated eastward as far as the junction of the Concho and Colorado Rivers, that the settlement of Texas be undertaken. Also pigeonholed was the request of a chief of the Jumano tribe that missions be founded among his people.

But reports of the French settlement brought quick action. No less than six expeditions were sent out by land and five by sea within three years, from 1686 to 1689. An overland party commanded by Alonzo de León marched from Coahuila to Matagorda Bay. De León named the Nueces, Sarco (Frio), Hondo, Medina, and Leon (San Antonio) Rivers as he crossed them. It was De León who found the ruins of St. Louis — five or six houses, a wooden fort, a wrecked ship, a few survivors.

Accompanying the next sortie was Fray Damian Massanet, a priest who had learned many Indian dialects. Massanet established the mission of San Francisco de los Tejas near the Neches River on June 1, 1690.

De León continued on from the La Salle colony site into

Northeast Texas, driving ahead of him two hundred head of Spanish cattle, probably the first to reach the Texas interior. (A report generally considered false was that De León left a bull and a cow and a stallion and a mare at every river crossed.)

The second mission was founded in 1691 (some historians give the date as August 21, 1693) by a naval expedition and fifty foot soldiers landing at Espíritu Santo. Shortly afterward Domingo Terán became governor of Coahuila-Texas at a salary of \$2,500 per year.

Both missions were shortly abandoned and nothing more done about Texas until another Frenchman appeared. It is usually held that Spain had accomplished more in Texas than this by 1700. But, to quote Isaac Joslin Cox in *The Southwestern Historical Quarterly* (Vol. IX):

Spanish writers were wont to exaggerate the Spanish influence during the period before the French came into the Mississippi Valley. They even claimed that the province of Texas then extended from the San Antonio River to the Mississippi, notwithstanding the fact that within this space there had been no Spanish settlements and, at the most, only an occasional visit by some explorer or enthusiastic missionary.

The simple truth was that Spain was never ready to initiate Texas into her New World fraternity. All of two continents could not be occupied at once, and Spain preferred gradual, orderly expansion rather than piecemeal adventuring. With the first wave of settlers went the religion of Spain and the law of Spain, and the land they touched was a Spanish land for a long time afterward — except in Texas, where the carefully prescribed flow of her empire building was upset and hurried by foreign usurpers.

South America and Mexico had to be looted and “converted”; treasure ships had to be guarded against freebooters; an armada had to be built to replace the one destroyed in the English Channel. It is a wonder, in fact, that the Crown ever had time to be concerned at all with petitions concerning the heathen territory north of the Rio Grande.

But, though deaf to the entreaties of his own servants, the King of Spain heard and heeded each footstep of an oncoming

Frenchman. La Salle was dead and forgotten, but a second French adventurer shocked the Spaniards out of their lethargy by calmly arriving at the presidio of San Juan Bautista on the Rio Grande.

The French had been busy in Louisiana for the past decade. By 1700 they had extended their sphere of influence up the Red River as far as the present site of Natchitoches. (Louis XIV in 1712 issued a grandiose colonial grant to one Antoine Crozat embracing all of North America from the country of the Illinois Indians on the north to the Gulf of Mexico on the south, and from the Carolinas on the east to New Mexico on the west.)

The Frenchman who startled the daylighters out of the Spanish authorities was M. Louis de Saint Denis, who was dispatched by the governor of Louisiana to open up trade relations with the Spanish settlements. (Here is eloquently illustrated the difference between the attitudes of France and Spain toward the New World. The French only wanted to trade, and they didn't care with whom.)

St. Denis calmly rode into San Juan Bautista in August, 1714, with his proposal of free trade between the two frontiers. Immediately his activities were complicated by a love affair with Maria, the granddaughter of the presidio commander, and the quick furious jealousy of Gaspardo de Anaya, governor of Coahuila. Anaya had St. Denis imprisoned and threatened him with death. There are several versions of how he came to be liberated — one that Maria went to Mexico City, threw herself at the knees of the viceroy, and won her lover's life with her tears. Released he was — and married to Maria, too. One condition of his release was that he guide a Spanish expedition to the Red River. Very quickly was the decision reached to expand Spanish missions and forts to the River of the Cadodachos.

In two years, 1716 and 1717, six missions were founded east of the Trinity, one among the Adaes Indians only about fifteen miles from the French fort at Natchitoches. The inadequacy of these frontier outposts was apparent, and the Spanish decided to extend the line of mission settlements northward to the San Antonio River and to occupy Espiritu Santo (Matagorda Bay) to provide sea communications between the Texas settlements

and Vera Cruz. In 1718 Governor Don Martín de Alarcón and Father Antonio de San Buenaventura Olivares removed the San Francisco mission from the Rio Grande to a spot on the San Antonio River. There it was rechristened San Antonio de Valero in honor of the Marqués de Valero, the viceroy of New Spain. The settlement which Alarcón founded took its name after the Duke de Béjar, who later became King Ferdinand VI. (Benilla's *Brief Compendium of the History of Texas*, which has been translated by Elizabeth Howard West, lists the first population of Béjar as "fifty married soldiers, three master carpenters, a blacksmith, and a stone mason.")

Establishment of a mission and a presidio at Espíritu Santo followed in 1722.

The French, meanwhile, had not been idle. Crozat had been succeeded in his colonial grant by the Western Company, which energetically dispatched traders up the Red River. Among them was Bernard de la Harpe, whose post was located beyond Natchitoches among the Cadodacho Indians. In 1718 La Harpe moved closer to the Texas borders. Arranging a liaison with one Father Margil, he opened up clandestine trade with the Texas missions. La Harpe paid the priest a commission on all sales made through the Franciscan's instrumentality.

The Frenchman not only dared to cross the Red River, but he brazenly reported his activities to Governor Alarcón. Shocked that the Frenchman was audacious enough to open up trading connections under his very nose, Alarcón ordered La Harpe to return to Louisiana. The French trader's reply was little more than an invitation to Alarcón to put him out.

That the Spanish governor could not do. France and Spain were at war in Europe, and Alarcón could not even retaliate when the same St. Denis attacked the mission at Los Adaes on May 19, 1719.

The viceroy had no choice but to order the withdrawal of the missions and the presidial troops to the San Antonio River, and for two years the French were unchallenged in eastern Texas.

Twice they tried to take advantage of Spain's temporary helplessness. In August, 1720, Bienville dispatched a M. Beranger to reconnoitre St. Bernard's Bay. He left a guard of five men

there, four of whom perished, and returned with a substantial and encouraging report which led to a formal expedition under La Harpe to plant a colony near the scene of La Salle's venture. But the hostile coastal Indians prevented any settlement until Spain was able to regain the ground lost.

This reconquest was not only led by the Marqués de San Miguel de Aguayo but was staged at his own expense. This wealthy governor marched across Texas with five hundred soldiers and not only drove the French back across the Red River (St. Denis retreated before him, and the missions were retaken without bloodshed), but he aroused the King's interest in settling a more dependable population in this problem province.

De Aguayo left 278 soldiers to garrison the presidios at San Francisco, Concepción, San José, Ais, Adaes, and Guadalupe, then petitioned directly to the King. Texas, he advised the monarch, could never be settled by priests and soldiers, nor the French kept out by such means. He recommended that two hundred Tlascalcan families and an equal number from Galicia or the Canary Islands be settled at His Majesty's expense. The proposal was accepted. On February 14, 1729, a royal *cedula* was issued by the King of Spain providing for sending four hundred families from the Canary Islands. They were to be transported on royal galleons in groups of ten and twelve families and were to be maintained in Texas for a year at the Crown's expense.

Two years later sixteen families from the Canary Islands reached Villa de Béjar and established the Villa de San Fernando. Each family was supplied with tools and the following livestock: a yoke of broken oxen, ten nanny goats and a buck, ten ewes and a ram, five sows and a boar, five mares and a stallion, and five cows and a bull. They built flat-roofed stone and adobe houses around two plazas, and, like the padres at the missions, dug *acequias* to water their fields. (Some historians contend that the name *Texas* was inspired by the flat roofs of these first homes in the province then called New Philipenas. In Spanish *Texas* means *roof*.)

The Villas de Béjar and San Fernando became merged in time

and called after the first mission built there, San Antonio de Valero, which to Texans is better known as the Alamo.

French traders continued to infiltrate the Spanish province; but the San Fernando settlement had cost the King \$72,000, and he was not disposed to spend further money upon the development of Texas. In fact, Spain retrenched, the outposts being reduced in 1727 to only 143 soldiers.

The alert French promptly moved their fort on the Red River still closer to the Adaes, and the sparring began again. Spain struck back as Lieutenant Colonel Don Jacinto de Barrios y Jauregui established the mission El Orcoquisac on the Trinity, near the present town of Anahuac, in 1756 and settled fifty Tlascalan families there.

Very shortly, however, the Spanish had enemies nearer their home base to worry about. The Comanche Indians had appeared in Texas in 1743 and had immediately begun to heckle the Spanish missions. In 1758 the red men swooped down upon the San Saba River mission, killing two priests and three soldiers and burning the church. A royal force sent to avenge this raid was routed, and for another forty years not only the outlying Texas settlements but all of the northern Mexican provinces except Nuevo Santander were terrorized by the red men.

The French menace lasted only a few more years, for all of French Louisiana was ceded to Spain on November 3, 1762, but the Indian troubles continued until Don Juan de Ugalde crushed the Comanches in 1789.

Free of the Comanche terror, the province of Nuevo Santander, which José de Escandón had been commissioned to pacify and settle in 1746, developed rapidly. In fact, within another decade the *rancheros* were spreading across the Rio Grande, founding Camargo in 1749, Zapata in 1750, Dolores in 1751, and a settlement at what is now Rio Grande City in 1753. In 1755 Laredo was settled by Don Thomas Sanchez de la Barrera y Gallardo and three families.

Escandón and his kind pushed northward rapidly, and theirs was a civilization that would leave its impress on not only Texas but all of the West. Though other Spaniards held land titles before them — the first grant was issued in 1727 to a San Antonio

settler, the Canary Island immigrants owned land, and each mission received a subsidy from the crown — Escandón and his contemporaries were the first big landholders. They were known as proprietors, receiving a four-league grant with both civil and criminal jurisdiction on the condition that they establish a town of at least thirty families. A group of persons could realize such a grant if they founded a town at least five leagues from any other community, and if their membership numbered at least ten married men. The only encumbrance upon the title conveyed was that the land could not be sold to or otherwise bestowed upon any ecclesiastical organization. The *rancho* proprietors marked their cattle with crotched ears and brands. (Don Hernando Cortés is generally credited with fashioning the first brand used in the New World, and the Jesuit missionary, Father Kino, with establishing the first herd in Texas.)

By 1767 these thriving *rancheros* reached contiguously from Reynosa to Laredo. In the same year Rio Grande settlers were allotted *porcions* of land by the *visita* of a royal commission at Laredo, Guerrero, Mier, Camargo, and Reynosa. (The Spanish method of granting land was to issue four leagues beginning at the settler's dwelling and measuring "a league to each wind.") The size of these *ranchero* herds was staggering. In 1791 a flood inundating Padre Island destroyed fifty thousand head of cattle belonging to one cattle baron.

But while the proprietors were inching northward, the Spanish were pulling back their outposts — or trying to, that is. With the French menace forever removed, the viceroy of New Spain issued a new regulation of presidios on September 10, 1772, by which Los Adaes, the capital of the province of New Philipenas since its organization, would be abandoned and the presidio on the San Saba River removed to the Rio Grande.

There were then five hundred people living in the neighborhood of Los Adaes and Los Ais. The most prominent "citizen" was one Gil Ybarbo of uncertain lineage (he was charged by his enemies with being part mulatto) who operated an extensive *rancho* in addition to carrying on illicit trade with a French merchant, Nicolas de la Mathe. Ybarbo's voice was the loudest

in protesting against the order to abandon their homes and farms and move to San Antonio, where they were promised other lands.

Some thirty-five fled rather than leave the region. Ybarbo finally consented to the move but left his mother, sister, and sister-in-law at his ranch, "El Lobanillo," with a son and another family, by written permission of the governor.

The march to San Antonio was a dreary one. Drouth plagued the colonists for a part of the way, floods the remainder. Ten children died and were buried en route.

No sooner had Ybarbo arrived in San Antonio than he began to petition the viceroy for consent to found another colony — at the mission of Nuestra Señora de los Dolores de los Ais, which was even nearer to his ranch than the Los Adaes presidio. Permission was first granted, then revoked, and finally a site was chosen for the Adaes people on the Trinity River at Paso Thomas. In 1774 they established a town there called Nuestra Señora del Pilar de Bucareli, after the viceroy of New Spain. A census of 1777 showed a population of 347 persons, and there is some evidence that Ybarbo and Monsieur Mathe resumed their business relations. (Anyhow, the Frenchman made the citizens of Bucareli the gift of a church.)

But the western Indians were not friendly and, weary of fighting them off, Ybarbo and his followers in 1779 took matters into their own hands and returned to the abandoned mission at Los Adaes without a by-your-leave to the governor or the viceroy. No one bothered to pursue them, and Nacogdoches became a permanent settlement. It also became the gateway to Texas for the adventurous spirits already casting their roguish glances across the Red River.

Thus at the end of the eighteenth century the Spanish imprint upon the land of Texas was light indeed. Nacogdoches was there, but its people went their way heedless of Spanish dictate (or of any other law; it could not be proved that a majority of the early pioneers were horse thieves, but Nacogdoches in the early years of the nineteenth century was the best place on the North American continent to purchase a horse for cash and with no questions asked). Béjar was a pleasant little settlement sleeping

peacefully in the glorious Texas sun. The *ranchero* towns were mere dots upon the broad mesas of the brush country.

A total of ten thousand leagues of land was granted by the Crown, mostly in large tracts to the vigorous cattlemen, before revolution swept up through Latin America and across the Rio Grande. (The San Juan de Carrecitas grant in what is now Cameron, Willacy, and Kenedy Counties embraced 600,000 acres.)

The missions had been built, yes, twenty-five of them, and some of their grim stone walls still stand as reminders of that century and a half during which dust-streaked soldiers and sober-eyed padres plodded over winding *camino reals* for God and King. But the effect of the missions has likewise been over-estimated by Spanish historians. Most of them, as at Adaes and at Orcoquisac, were frontier outposts. Of the mission towns only San Antonio, La Bahía and El Paso del Norte, where the Mission Nuestra Señora de Guadalupe was established in 1680, were permanent.

The populations of the missions were never native. It became necessary for the priests to bring hundreds of previously converted heathens up from Mexico to construct their missions and till their fields for them. The red man, it is true, listened to their Latin chants and sermons but was generally unimpressed. As Owen White asks in his *Texas, An Informal Biography*:

Why should the savage trade off his own convenient belief, which permitted a brave to have as many squaws as he could trade horses for, to murder his neighbor if there was a difference of opinion, and to go naked? The alternative, as the Indian saw it, was a queer notion about some inner feeling that was supposed to make a man content with one wife (and furthermore do the manual labor instead of reposing at his ease in the shade while his squaws fetched the wood and water) and make him satisfied to toil in the fields and irrigation ditches and erect handsome houses for priests and soldiers to live in while he slept fitfully in a hovel of grass, sticks, and mud.

The Catholic priests faced another handicap. The red man had his witches and evil spirits, and from these torments the priests promised relief. Then the red man heard from the padres' own lips about the white man's hell of fire and brimstone and

usually returned to his own faith. None of the spirits he believed in were as evil as the white man's devil.

Of the missions established, San José was the largest and most impressive. Its graceful arabesques were chiseled out of stone by Pedro Huizar, a noted European sculptor who reportedly came to the New World because of a broken heart. The mission contained three faded paintings, gifts of King Ferdinand of Spain. One portrait, of the infant Jesus, was reported to be the work of Correggio.

The granary at San José usually held at least five thousand bushels of corn, and the friars had thirty yokes of oxen to help the Indian converts till the fields. Farther down the river, some thirty miles, the mission operated a ranch with fifteen hundred head of cattle and five thousand sheep and goats.²

The construction of San José required five years, and many back-breaking hours of labor. The dirt was packed inside the church by Indians until the tops of the walls were level; then the dome was laid on a mold of packed earth. Laborers carted the earth away when the church was completed.

But, by and large, Spain never attempted to settle Texas, only to guard it, to keep anyone else from grabbing it. As we have seen, maintaining a close vigilance was no easy matter. There was one menace after another. As Mattie Austin Hatcher wrote in *The Southwestern Historical Quarterly* (Vol. XXV),

The Spaniards felt compelled to be on their guard against the Indians, whom they tried to conciliate; against Spanish vassals of Louisiana, whom they really distrusted but feared to antagonize; against the French, whom they did not feel justified in definitely classing as either friends or foes; against the English, whom they kept under constant surveillance; and against the Americans, whom they feared most of all.

The latter premonition proved a wise one. Spain had held her own against the French, had maintained at least a formal authority over the Indians, was able to reduce the Louisiana immigration to only a trickle, and had completely shut the English

²The missions were usually awarded twenty-five square miles of land for agriculture and stock raising.

out of Texas. It was the American who broke through the closed door. He was on his way by the end of the century, when Nolan had already captured wild horses (and perhaps drawn his maps for General James Wilkinson) west of the Red River.

In 1804, according to Mrs. Hatcher, there were sixty-eight foreigners living in Spanish Texas, of whom fifty had been there more than three years. Thirteen of them were Americans, among them William Barr and Samuel Davenport. There were nine Frenchmen and eight Irishmen living at Nacogdoches. None of them held land titles from the Spanish, nor did Gil Ybarbo and his clan. But they were there, with deep roots in the soil, and they were never bugged, not even twenty-odd years later when a foreign *empresario* sought to evict them.

From the beginning of the nineteenth century until 1820, when Moses Austin cracked the Spanish shell and secured a colonization grant, the history of Texas was one of chaos, of filibustering, of revolution. The Gutiérrez-Magee expedition, a filibustering movement disguised as a revolution, resulted in the capture of San Antonio and the proclamation of a republic in Texas. But its tenure was brief indeed as General Arredondo swept down upon the town and levied a grim punishment upon Bexar inhabitants for their reception of the insurgents. In 1820, almost simultaneously with the arrival in Texas of Moses Austin, Dr. James Long formed another conspiracy to seize Texas from Spain and paid for his scheme with his life.

These filibustering movements were unimportant except for their swashbuckling color and the fact that they focused American attention on Texas. All of them were failures and few of their principals appeared on the Texas scene again. There were some exceptions. There was Ellis Bean, a survivor of the Magee plot, who acquired land in Texas and as commander of a Mexican troop was instrumental in suppressing a future revolutionary movement against Mexico. There were others of Magee's army who found the land to their liking and simply "squatted."

Among them was Aylett G. Buckner, who built a log cabin near the present site of La Grange and settled down to become a Texas legend. Some time later *Empresario* Stephen F. Austin

attempted to remove Buckner from his territory, but the rip-roaring Strap whipped every member of the Austin colony at least once and some twice and also felled a black bull, if legend can be believed. Austin became so fond of the aggressive character that he granted Strap formal possession of his land and appointed him a captain in the colony's militia. Records are vague on Buckner's military career, but certainly the fantastic Strap must have been able to handle a party of Indians single-handed. It was about 1822, according to best calculations, that Strap had his memorable battle with the devil. The two "fit" each other all over the Brazos country. Finally Buckner had to admit that he had met his match. The defeat seemed to have given him something of an inferiority complex, for never again did he whip Austin's colonists just for the fun of it. And certainly he wasn't himself when he was killed at the battle of Velasco by nothing more vicious than a Mexican bullet.

Of Dr. Long's filibustering expeditions, his wife remained in Texas as the most notable survivor. She was left behind with one Negro slave and a handful of soldiers to await the adventurer's triumphant return. When weeks passed with no word from Dr. Long, the soldiers returned to the United States. Mrs. Long refused to leave and heroically faced the hardships of an unusually grim winter and the menace of Indians. The night before she gave birth to a baby daughter, a gale ripped off the very roof of her cabin, and the faithful wife nursed the newborn infant on a bed covered by falling snow. In freezing weather the mother and the loyal Negro girl set lines for fish and hunted for oyster beds. All three were hale and hearty the next spring, however, when the *Lively*, the ship manned by Stephen F. Austin's colonists, touched the island. Mrs. Long, called "The Mother of Texas," lived at Richmond to a ripe old age.

Two other adventurers, Aury and Lafitte, were in Texas during the shifting tides of the Mexican Revolutionary movement, Lafitte arriving at Galveston Island on August 1, 1817, armed with authority from Manuel Herrera, revolutionary emissary to the United States, as provisional governor of the Province of Texas under the Republic of Mexico. A handful of Lafitte's pirates lived on after the colorful sea rover was evicted from the

island by a United States warship in 1821. As late as 1850, bearded derelicts who had served under him were paddling their flatboats in and out of the Galveston waterways searching for the treasure Lafitte was supposed to have left on the island.

Another band of adventurers, *émigrés* from Napoleon's court who attempted to found a colony on the Trinity River, will be treated at greater length in another chapter.

Americans were coming into Texas in this earlier part of the nineteenth century despite the vigilance of the Spanish authorities, who forbade entrance to the province without a *visa* from an official of the Crown. There were settlers from the United States around San Augustine in 1818. In a sense they were not settlers at all; they came to Texas to get away from settlements, and in another generation they were pushing on westward complaining of the lack of "elbow room." Their kind had already ventured into three similar American frontiers. Mostly anonymous, because they never bothered with the formalities of civilization such as legal titles to land and organization of townships, they were always gone before the recording devices of a marching empire caught up with them.

By 1820 the Red River was an American frontier. It was more American than Spanish. Crumbling Spain could not have held them off anyhow; the American wave would have been pouring over the River of the Cadodachos even without the Mexican Revolution.

At least one Spanish official and many Americans saw it. One of the Americans was Moses Austin from Missouri, formerly of Connecticut, who appeared in San Antonio in 1820 and rather shocked Governor Martínez by his request for a colonizing contract.

Austin had been born in Connecticut but in his twenties had ventured into Virginia to deal in lead mines. His was a background of adventure; a brother, Elijah, was aboard the first American vessel ever to round the Cape of Good Hope. His manufacturing of bullets and sheet lead did not immediately profit him, and in 1797 he secured a grant of land within Spanish Louisiana embracing the lead mines at what was known as

"Mine a Burton." His contract called for the settlement of thirty families of artisans and agriculturists but was never fulfilled.

The Spanish attitude in Louisiana toward American settlers was exactly the opposite to that in Texas. Governor Baron de Carondelet encouraged settlers from the United States to such an extent that when the United States took over the territory after the purchase treaty of 1803 there were a million and a half acres of land claimed by American settlers.

Moses Austin had become a Spanish citizen in order to secure his mining concession. For a time he realized a profit, estimating his holdings in 1812 as being worth approximately \$160,000. But transfer of the territory to the United States produced a delay in the issuance of land titles as Congress appointed a commission to pass upon all property claims, and Austin like other settlers rankled under the delay.

The failure of a bank in which he had invested heavily and big losses sustained during 1814-15 when he tried to exploit his mines with slaves leased from Colonel Anthony Butler of Kentucky resulted in his complete poverty. (Butler, like Austin, was to play a prominent part in the history of Texas.)

Moses Austin had planned the Texas colonization project as early as 1819, intending for the farm he secured on the Red River to be a relay station for immigrants and a supply base until the proposed settlers could be sustained in Texas. In 1820 Moses agreed with his son, Stephen F. Austin, that he should seek permission to establish settlers while Stephen went on to New Orleans to arrange for transporting immigrants.

Thus, in November, 1820, Moses Austin set out for San Antonio with a "gray horse, a mule, a Negro man, and \$50 in cash," according to Dr. Eugene C. Barker. With two other travelers, one seeking runaway slaves and the other requesting permission to settle in Texas, he reached San Antonio on December 23. At first Governor Martínez had no word for him except a curt command to leave the province, though Martínez had reported to the viceroy that it was impossible to protect the Texas frontier from marauding Indians with only missionaries and a handful of soldiers and that some colonization program was necessary.

Through the influence of a Baron de Bastrop,³ whom he had known in Louisiana, Moses Austin secured a second interview. This time Martínez listened intently as Austin represented himself as the spokesman of three hundred families wishing to reside in Texas. The *ayuntamiento* of Béjar was also consulted and after three days of deliberation, Martínez agreed to forward Austin's application to the commandant general of the Eastern Interior Provinces, Joaquin de Arredondo, with a recommendation that it be approved.

Arredondo consulted with the provincial deputation (a sort of federal council representing the provinces) and granted the application of Moses Austin to settle three hundred families in Texas on January 17, 1821.

Thus the Spanish guard was relaxed, and the land beyond the Cadodachos was open to those Americans of good character who would swear loyalty to the Crown of Spain and adopt the Catholic religion.

What had happened to change the Spanish mind? Perhaps many things. Perhaps, like Martínez, Arredondo despaired of ever receiving from the viceroy the influx of settlers necessary to maintain the Spanish flag over this area which everyone seemed to want except high Spanish officials. The reason does not matter. The reason, like the contract executed with Moses Austin, was unimportant. For the Spanish flag was to be shortly afterward hauled down on the North American continent, and the Tejas territory which priest and soldier had guarded so zealously was open to the march of empire.

³Bastrop had come to Louisiana as a refugee from the Napoleonic invasions. He had secured a contract from the Spanish Crown for the introduction of ninety-nine families. It had been canceled, however, because he had brought in settlers of doubtful Catholic faith. He had turned to Texas with colonization ambitions of his own but had lacked both the means and the official support to get them launched. Despite his obvious influence with the Spanish governor, De Bastrop was living in poverty at San Antonio when Austin arrived.

In his youth Felice de Bastrop had served in the "Regiment of Giants" organized by Frederick William; he was seven feet tall and of imposing appearance. Later he was to transfer his allegiance to Stephen F. Austin and serve as the first land commissioner in the first Texas colony. Historian Clarence A. Wharton called Bastrop the "godfather of Texas."

On February 24, 1821, under the leadership of Iturbide, Mexican revolutionists proclaimed the Plan of Iguala, the Mexican declaration of independence. General Juan O'Donojú, the highest Spanish authority in Mexico, provisionally ratified it on August 24 in the Treaty of Córdoba.

Texas was Spanish no longer. It was Mexican.

Precious little, except for crumbling mission walls, was left to show that Spain had been here at all. Even stubborn Nacogdoches, founded in the face of the Crown's ire, had faded temporarily out of sight; filibustering conquests, with lootings and rapine, had left it deserted. There were Béjar and El Paso del Norte and Laredo and La Bahía, or Goliad.

There were *rancheros* north of the Rio Bravo, near nine thousand leagues of them.

But nothing else. Perhaps, after all, the most important heritage passed on by Spain was the colonization contract which a dying man bequeathed to his oldest son.



When every other land rejects us,
Here is a land which freely takes us (Texas).

II

THE EMPRESARIO

HE WAS every type of man. There was one quality, and only one, that he had in common with others like him — that was a spirit of reckless investment.

He was English and Irish and Cherokee. He was a soldier of fortune who had fought in the South American revolutions. He was an enigmatic doctor of philosophy crusading for the uplift of the abused Indians. He was an arrogant Spanish don pushing northward with his wild herds and his shady haciendas.

His must have been a high spirit, for his was a play for high stakes. In the history of man this is a unique chapter, for no other land was ever so open to the gamblers of life. Upon him there were precious few restrictions and scarcely any limitations. The land of Texas, like a green plush table at any casino, beckoned all who wished to play.

It seemed certain that he would realize enormous profits. Life, the most adroit of dealers, always makes it seem so.

But he was seldom a winner. Some million acres of Texas land were meted out in niggardly reward. The settlers he persuaded to accompany him claimed fifteen times as much.

He died, broken in purse and in spirit.

M

MOSES AUSTIN never returned to the land that he had opened for future generations.* Some accounts state that he was robbed by his traveling companion; others maintain that dampened powder kept him from killing game and that he subsisted the last eight days of his journey on roots and acorns. He was nearly dead from exhaustion and exposure when he finally reached Louisiana.

He recovered temporarily, long enough to leave behind the notation that the expense of his journey to San Antonio for himself and servant, Richmond, had been \$25.78 and to record some of his plans for the proposed colony. There were already enough applications to fulfill his contract for three hundred families, and from these immigrants he expected to realize \$18,000 in fees. He planned to return to Texas almost immediately with a force of twenty-five men to survey land; to build a stockade, a house, and a blockhouse; and to plant a crop of corn. He intended to lay off the town of "Austina" at the mouth of the Colorado River, and he visualized this unfounded city as in a few years equaling New Orleans in consequence if not in wealth.

Austin had left San Antonio on January 15 without receiving formal acceptance of his contract, and it was May before he was certain that he possessed a colonization concession. By then he was sinking lower and lower. He died on June 10, bequeathing to his son, Stephen, his dream and his responsibilities in Texas.

The sober young man thus burdened with Moses Austin's vision was twenty-seven years old. After attending Transylvania College in Kentucky, he had been associated with his father in the Missouri mines. He had served six years in the Missouri legislature and had been appointed judge of the first judicial dis-

*Note: For most of his material on Moses and Stephen Austin, the writer is indebted to the writings of Dr. Eugene C. Barker. His *Life of Stephen F. Austin* and his articles in *The Southwestern Historical Quarterly* on the *empresario* era form the basis for any study of this period of Texas history.

trict in Arkansas — considerable public experience for so young a man.

In the spring of 1821, as previously noted, he went to New Orleans to arrange transportation for the anticipated flood of colonists. Penniless and friendless, he had to find work. For a time he served as assistant editor of the *Louisiana Advertiser*. Then he formed an acquaintance with Joseph H. Hawkins, a prosperous attorney. Hawkins not only took him into his office to read law but rescued him from his financial distress and evidently financed the beginnings of the colonization venture.

Learning of his father's desperate illness, Stephen left Natchitoches on June 18 to meet the escort Governor Martínez had sent to accompany Moses Austin to San Antonio and to effect a temporary government at Nacogdoches. The father was already dead. Stephen accepted further responsibility for the colony and, with a party of sixteen, journeyed to San Antonio to get confirmation from the Spanish authorities. Simultaneously several families from Nacogdoches moved into lands assigned to his father in anticipation of Stephen's success.

Governor Martínez readily recognized him as the heir to his father's concession. On his return trip Austin appraised the San Antonio, Guadalupe, Colorado, and Brazos basins and from Natchitoches submitted a rough outline of the boundaries he wished.

There were nearly a hundred letters waiting for him from prospective immigrants. To Governor Martínez in October, 1821, Austin wrote: "I am convinced that I could take on fifteen hundred persons as easily as three hundred if permitted to do so." At New Orleans he purchased the *Lively*, a small ship, for six hundred dollars (borrowed from one of his companions) and engaged a crew to sound the Gulf coast from Galveston Island to the Guadalupe, build a stockade, and plant a crop of corn. He signed a formal contract with Hawkins by which the attorney put up four thousand dollars in return for half the land and profits.

There was cause for young Austin's enthusiasm. "The colonization of Texas," stated Dr. Barker, "began at an auspicious

time." Austin's letters to newspapers calling for colonists within his concession attracted widespread interest. Like a prairie fire the report had swept that the forbidden land of Texas was finally open to American settlement.

And two other factors — the panic of 1819 and the Federal land law of July 1, 1820 — played into the hands of the colony builder. The statute reduced the minimum amount of public land which could be bought to eighty acres and set a cash minimum of \$1.25. Consequently sales fell off from over five million acres in 1819 to slightly over a million in 1820.

All seemed gold and blue. The first of Austin's settlers reached his chosen lands in the winter of 1821, Andrew Robinson and the three Kuykendall brothers in their van. The winter was the logical time to emigrate; the pioneers could make a move in these months without missing a crop. By March there were fifty men clearing fields on the Brazos and twice as many felling trees on the Colorado.

Stephen F. Austin, plodding toward San Antonio to report his amazing progress to Governor Martínez, had only two major worries: his father's outstanding debts and the whereabouts of his ship, the *Lively*.

But there was a rude shock waiting for him in Bexar. The Commandant General had not approved his plan for distributing lands to settlers and had ordered that all immigrants be settled provisionally on lands designated by the nearest *ayuntamiento* until further petitions had been approved.

Martínez could offer little help. The Governor was not even sure of his own job. For the embers of revolution set aglow by two Mexican priests had finally burst forth in violent flame and the supreme law of the land was no longer the Crown's dictates.

To Mexico City journeyed Stephen F. Austin to seek recognition of his rights as well as clarification of his authorities.

* * *

THERE WERE others in Mexico City pressing the revolution's leaders for concessions. Swiftly they had gathered there as word

of Moses Austin's contract spread to the Appalachian Mountains, to the Atlantic seaboard, and then across the ocean itself.

There was Arthur Wavell, an English soldier of fortune, a man of still military dignity and some means. There was broad-shouldered Benjamin R. Milam, a likable man and an ambitious one, if somewhat aimless of detailed purpose. There was Haden Edwards of Kentucky, a brisk, persuasive man but a restless one. There was General James Wilkinson, late of the United States Army, who had been a one-time friend, if not an accomplice, of Aaron Burr. There were two Tennesseans, Joseph Vehlein and Andrew Erwin, who professed to be agents for a rapidly formed colonization company.

There were Diego Barry and Tadeo Ortiz and Felipe O'Reilly — men unimportant to the settlement of Texas — and a coppery-faced Cherokee half-breed, Richard Fields, who was to become a principal in a chapter of Texas history which borders upon the fantastic.

There were all kinds of men. There was a diplomatic representative from the United States offering to purchase the Texas territory for \$7,000,000. There were British and French envoys, secret and official, determined to prevent just that.

But upon one thing all agreed, and they pressed hard upon the harassed and bewildered members of the Mexican Junta to gain that end.

All of them wanted Texas open for settlement.

The Junta moved slowly if not carefully. On June 3, 1822, a committee on colonization rather reluctantly recommended that two thousand leagues in the province of Texas be set aside for occupation by fifteen thousand families. Even then, though inexperienced in the ways of governments, there were Mexicans who feared encroachment by the United States. The committee reported:

The situation of Texas, its fertility and its abundant waters make it superior to any other province. . . . The advantages and its proximity to the United States aroused sometime ago the desire of that country to possess it — a desire which they will satisfy if we do not take steps to prevent it . . . the Committee cannot conceal from Congress that our neglect in this matter would bring upon Texas the fate of the Floridas.

Stephen Austin had one advantage over the other *empresario* candidates; he already had a contract. He needed to secure only confirmation of the grant to his father. According to Barker, he presented his case skillfully. From the *Kentucky Reporter* of May 5, 1823, Barker quoted concerning Austin's skill as a lobbyist: "He has effected more with that government than any other foreigner has ever been able to do; and a man of less energy, patience and perseverance could never have succeeded."

Even so, it wasn't easy. General Anastacio Bustamante, captain general of the Interior Provinces, recommended that Austin's 150 families be moved to lands around the abandoned missions of Concepción and San José. By the time Austin parried this proposal there was a new difficulty, a change in government. Agustín de Iturbide, the president, dismissed the Junta and replaced it with his carefully picked followers. Iturbide's assumption of dictatorial powers was easy to anticipate, and Austin petitioned directly to him. On February 18 Austin had what he wanted — except for another detail. By then it was as simple to foresee Iturbide's downfall as it was to predict his rise to power.

Austin stayed on in Mexico City and waited for events to run their course.

Iturbide went out, a second Junta convened, and Stephen F. Austin started all over again. On April 14, 1823, his contract was approved another time and, as this government seemed stable enough, Austin returned to Texas and began issuance of land titles to his settlers. His land commissioner was the same towering Baron de Bastrop who had befriended his father.

It can be readily imagined that the other applicants for colonization authorities watched him go in chagrin and in some disgust. They, too, had been cooling their heels a long time. They weren't through waiting around while the various juntas debated the problems and possibilities of this territory north of the Rio Grande which just about everybody seemed to want.

It was March 24, 1825, before a colonization law was enacted by the Mexican government.

Under its terms, *empresarios* (contractors) would receive bounty lands of five leagues of grazing land and five labors

of farming lands for each one hundred families settled, but no one man could introduce more than eight hundred families. Contracts with *empresarios* would be limited to six years and ruled absolutely null and void if a hundred families had not been settled before the expiration of that time limit. Families brought in by an *empresario* were entitled to a labor of land (177 acres) for farming and 24 labors for cattle raising, making a league (4,428 acres) in all.¹

Some restrictions were imposed upon the *empresarios*, such as the requirements of religion, citizenship, and protection of the frontier against Indians.

It was not the purpose of the law to hand over the land of the Tejas to the promoters. The statute provided that all families settling on their own initiative were entitled to one-fourth more land than those introduced by an *empresario*. Foreigners already living in the state could go before the local *ayuntamiento* and secure a certificate by taking an oath to observe the Federal and state constitutions and the Catholic religion. The bill also authorized the sale of land to Mexican citizens up to eleven leagues for \$100, \$150, or \$200 per league, depending upon the irrigability of the soil.

All settlers were granted exemptions from general taxes for ten years.

Apparently the Mexican government preferred individual settlers to *empresario* colonies.

But actually, because of conditions they did not anticipate, the lawmakers played into the hands of the entrepreneurs. As Barker explained:

While the intention of the legislature was certainly to encourage settlement of individuals, it proved in practice all but impossible to obtain land except through becoming a member of an *empresario's* colony. Families coming without the agency of an *empresario* were

¹The land was not an outright gift. Immigrants had to pay in three installments, due four, five, and six years from date, the following sums: \$30.00 for a league of grazing land, \$3.50 for a labor of irrigable farming land, and \$2.50 for a labor of non-irrigable farming land. Unmarried men introduced by a colonizer could receive one-fourth as much with an additional quarter-league allowed to those who married Mexican women.

expected to apply to the nearest *ayuntamiento*, who would indicate the land on which they were to settle and take the necessary steps to obtain a title; but there were a number of difficulties in the way. First was the barrier of language. The immigrant could not deal with the *ayuntamiento*. Moreover, the procedure was complicated and the *ayuntamiento* had neither the knowledge nor the means to carry it out. Finally, the greater portion of the habitable area of the province was soon covered with empresario grants, valid for six years, and no settlement could be made in them without the consent of the empresario. The difficulty of negotiating directly with the government under such conditions is well illustrated by the experience of settlers in East Texas, whose titles remained in suspense until the end of 1835.

The actual administration of the public domain was assigned to the state governments, and the *empresario* contracts were actually authorized by the governor of Coahuila and Texas. In one month he contracted for the introduction of 2,400 families.

Thus shrugging aside the warnings of Bustamante and of the *conquistadors* who slept in lonely graves from Los Adaes to San Juan Bautista, Mexico bestowed temporary authority to one-third of the Texas domain almost as fast as the governor could sign the papers.

Time has shown it to be a rash step, but Alleine Howrein, writing in *The Southwestern Historical Quarterly*, offers this explanation:

Mexico took a step which seemed at the time not only justifiable but commendably progressive, but one which shortly proved to have been a serious political blunder. This was nothing less than the opening of her doors to foreign immigrants. . . . The intent of the law seems to have been a deliberate bid for colonization from the English-speaking peoples of the north. The reason back of this was doubtless in some degree an impulsive feeling of fellowship on the part of the newly born Mexican republic for the strong and successful sister republic whose boundaries touched her own. She was grateful for the sympathy extended by the people of the United States during her struggle with Spain and for the prompt official recognition of her independent government in 1822. . . . The mistake lay in the fact that Mexico was ignorant of the nature of the people whom she was inviting within her borders. . . . Amalgamation, or even understanding, was essentially impossible between the representatives of the two races. . . . But the business of colonizing Texas was undoubtedly taken up in good faith by both

sides. The friction, easily as it developed, was neither sought nor welcomed by either; it was simply inevitable.

But at the moment we are more concerned with men without a country than with countries. The *empresarios* were that. All of them, to gain contracts, had to accept Mexican citizenship.

Theirs is a unique story. It is not a happy one. History, both contemporary and later, has been perhaps too harsh to them, all but Austin, and perhaps too gentle with him.

The fusion of all the characters who sought to build up personal empires in Texas reveals a man courageous if reckless, lonely if daring, and ultimately unhappy.

He risked much and gained little. In his own times he was to be maligned and distrusted. He died bitter and empty-handed.

THE AUSTIN COLONY

WHEN Stephen F. Austin returned from his long siege with the Mexican legislators, he found two hundred settlers within the realms of his colony. By September, Baron de Bastrop had issued 272 land titles to settlers in the first American colony, and by January, 1825, the "old three hundred" were established in Texas.

Very shortly settlers were overpouring the limits of Austin's colony as set in 1820 — from the seashore to the San Antonio road and from the Lavaca to Chocolate Bayou — and early in 1825 Austin petitioned the governor of Cahuila for further colonization authority.

This first colony became the nucleus of American Texas. San Felipe de Austin was established in 1824, the first town within the realm. Independence, Columbus, and other towns quickly sprang up. In 1822 the colony had been considerably augmented by the arrival of wealthy Jared E. Groce, a planter and capitalist of Georgia and Alabama, who had brought his household belongings and ninety slaves to Texas in fifty covered wagons. Of the 297 certificates issued by De Bastrop, only seven settlers forfeited their claims by failing to occupy and improve their lands within two years.

Except for his difficulties with the Mexican juntas, then, establishment of this colony had been a simple assignment. That was not to be the regular pattern; Austin and the Irish colonizers were to be the only successful *empresarios*. He was favored by circumstances — he was able to issue titles to his settlers in 1823 whereas no other contractor had such authority until 1825. This “jump” was a considerable one. Barker has explained:

As was natural, emigrants looking toward Texas fixed their eyes on Austin's settlements rather than those of the other empresarios. He had already the prestige of success, of knowing and getting on with the Mexican authorities. His colonists were actually receiving titles and making improvements. . . . Austin's boundaries included the fairest part of the province then known. . . . Men who had themselves no intention of emigrating wrote to Austin for reliable information which they might detail to others. The cancellation of Edwards' contract, DeWitt's troubles and the delay of other empresarios in beginning to carry out their contracts emphasized the apparently smooth-running machinery of Austin's colony.

Also much credit must be given to “the Father of Texas” for his energy and determination. In his own words, his mottos were “The redemption of Texas from the wilderness, fidelity and gratitude to my adopted country, and to be inflexibly true to the interests and just rights of my settlers.”

Austin's other contracts with Mexico: On May 20, 1825, he received authorization for five hundred families; in 1827 for one hundred families; in 1828 for three hundred; and in 1831, in partnership with Samuel Williams, for eight hundred families of Mexican and European ancestry.

Austin was able to select his settlers carefully; of the 297 immigrants in the first colony, only four could not read and write. But still he became embroiled in arguments with his settlers. For instance there was Brit Baylie from Kentucky, one of five men Austin ordered out of the colony. Baylie held the *empresario* away from his cabin door with his hunting rifle. “Is it not a fact,” Austin demanded, “that you once served a term in the Kentucky penitentiary?”

Baylie drawled back: “Tain't that I'm ashamed of. It's the

term I served in the Kentucky legislature which sits heavy on my conscience.”

The two made peace, however, and Baylie became a captain of militia and built the first brick home in Austin's colony. He died shortly after the scene described and, by his will, was buried standing up with his rifle and a jug of whisky at his feet.

Austin early banned gambling, drunkenness, and disorderly conduct within his colony. As early as 1826 he had set up a medical board providing for the examination of physicians who wished to practice their profession in his territory. Yet, meticulous though the *empresario* tried to be, the Texas pioneers were a rough lot. Barker wrote of them:

A high proportion of the early settlers owed debts in the United States, which after 1829 were not collectible by suit until the defendant had been twelve years a resident a returned traveler said he was surrounded at every turn by the inhabitants of Texas, inquiring what he had done in the United States that had made it necessary for him to seek refuge [in Texas]. . . . If one had run away from creditors only, he was regarded as a gentleman of the first water and welcomed on all hands, but if guilty of murder or high misdemeanor, they could assure him only of their protection.

Austin's fees, or charges for acquiring land titles, caused the most trouble. To us of the twentieth century they seem paltry enough — twelve and one-half cents per acre — but he faced grumbling when he returned from Mexico. Finally this dissatisfaction received the official attention of the political chieftain at Bexar, Antonio Saucedo.

While willing to accept any kind of property that would not be a dead loss to the *empresario* — horses, mules, cotton, hogs, poultry, furs, beeswax, homemade cloth, dressed deerskins, et cetera, part down and the balance in two, three, and four years — Austin insisted on payment. Most of what he received, he pointed out, would be spent in improvement of the colony, and all would benefit from it. He yielded to the extent of revising his charges slightly, but no more.²

²On October 30, 1824, Austin drew up an explicit statement of the conditions of settlement within his colony. Persons accepted as settlers

In May, 1825, Antonio Saucedo ordered a new schedule of fees for Austin's colonists, regardless of previous contracts, setting the cost of a league of land at \$127.50. At twelve and one-half cents per acre a league cost \$555.

Austin protested vigorously, pointing out the expenses and labor of the local administrations and the annual salary of \$1,000 he paid a secretary to record titles. Many of the settlers offered to pay anyhow, but Austin knew that others would refuse and that efforts to make them pay against their will would injure the colony. As a result, he relinquished his claims to the fee of twelve and one-half cents per acre. When he opened his second colony he drew up an entirely new set of charges.³

would receive a league of land of their own choice at a cost of \$12.50 per hundred acres, payable in cash, cattle, or Negroes, on receipt of title. This payment would include the cost of surveying, issuing and recording titles, and all other charges. Persons with large capital or a large family might obtain more than a league. Single men must combine in groups of ten in order to receive a league in common.

³Besides the costs of surveying, stamping paper, and paying a fee of \$30 to the state, applicants for a league of land paid Austin \$60, the land commissioner \$15, and the secretary who filed the application and translated and recorded the papers \$10. In 1829 Austin put into effect further stipulations regulating how a colonist came to Texas. Immigrants first had to file information concerning the number of members in their families, the age and sex of their dependents, their occupations, the place from which they emigrated, the date of their arrival in the colony, and certificates of Christianity, morality, and steady habits. If these papers were found satisfactory, the immigrants were given a certificate stating that they had been received by Austin as colonists. This entitled them to select for themselves any unappropriated land within the colony. For this certificate they paid \$2. Having made their selections, they presented through the secretary a formal petition to the commissioner for a title. For the clerical labors involved in this they paid the secretary \$5.00, signed a note to pay him \$5.00 more when the title was delivered, and signed a note for \$50 to Austin — \$10 payable on receipt of title and the balance within one year. In addition to these costs there was the commissioner's fee, fixed by law at \$15 for a league of pasture land and \$2.00 to \$2.50 for a labor of farming land; the surveyor's fee of \$4.00 a mile; and the cost of the stamped paper for the application, title, and certified copy. Until 1827 the original title was retained in Austin's office and a certified copy given to the settler, but, realizing the danger of losing loose sheets, Austin asked and obtained permission to record titles in a bound book. The *empresario* paid a draftsman \$5.00 a day from his own funds to plat the survey at the end of each title.

These fees were frequently never paid, as many notes still preserved with the Austin papers show. "No one was ever turned away or ever waited for his title," declared Austin, "because he was poor." Most of those who paid did so with cows, horses, mules, hogs, corn, and other produce at a price far below the market. Some cash was essential, and Austin exacted cash from those who had it — when he could.

But that was seldom. In a letter of May, 1825, Austin wrote to his sister: "My labors in this country, although arduous and in every way perplexing, will not yield me anything for some years and then not the fortune which some have supposed. I shall benefit others much more than myself in proportion — but thank Heaven I am not avaricious."

Inviting a cousin, Henry Austin, to visit him in Texas, Austin declared: "If you come here you will find me living in a log cabin — a bachelor's life — poor as to active means, no comforts around me, rather soured with the world, laboriously engaged to serve my settlers."

In another letter to his sister he described his diet as one of "corn coffee, corn bread, milk and butter," and his bachelor's household as "confusion, dirt and torment."

To his brother-in-law Austin wrote: "Nine years ago I enlisted myself as the slave of this colony . . . and I am bound in honor and duty to labor for it until all its affairs are done."

Austin's colonies were not directly affected by the Law of April 6, 1830, which forbade further American immigration to Texas. Colonists bound for either his or DeWitt's domain could still enter provided they had passports or other papers showing that they had been accepted as settlers by these *empresarios*. To facilitate this further settlement certificates signed by Austin were deposited at convenient points on the frontier where immigrants lacking passports could obtain them. Colonel Piedras, commander of the garrison at Nacogdoches, also admitted families under their bond to return from San Felipe if Austin did not receive them. At one time Austin had two hundred of these "John Doe" certificates at stations on the frontier.

Alone of the *empresarios*, Austin endeavored to found schools and encourage devoutness. He submitted several bills to the

legislature providing for the support of public schools, but none were ever approved. The matter of religion was never the problem Austin had feared, for the Mexican government paid little or no attention to how the colonists worshipped. Officially all were Catholics, but it was 1827 when the first priest came to the colony.

Since, under the Mexican law, no marriage could have been consummated without the sanction of the clergy, a number of Texas couples had entered into "provisional marriage" against the day a priest would be available. A couple "marrying" according to this arrangement went before an *alcalde* and made "bond to be married" by a priest as soon as the opportunity presented itself, then, without further ceremony, moved into cabins and started raising their families. Divorce was a simple matter under such an arrangement; it was necessary only to forfeit the bond and say "to hell with it."

The priest arriving in 1827 could stay only a short while, and there were many weddings to perform. One ceremony served for all the bonded couples. Some of the pairs being joined in holy wedlock already had children by that union, and a letter from Henry Smith describes more than one "blushing bride" suckling a babe at her breast as she stood before the priest.

Manuel y Terán, the one Mexican official who interested himself in the Texas colonies, favored freedom of religion in Texas because he preferred that to none at all, which was the actual situation. The first and only curate for Austin's colony, Father Miguel Muldoon, arrived in 1831 but stayed little more than a year, and no successor was ever named. In 1834 the legislature at Monclova passed a resolution that "no person should be molested for political and religious opinions provided he did not disturb the public order."

There were Protestant pastors quietly preaching their faith in the colonies before this resolution of 1834. Noteworthy among them was Daniel Parker, a state senator from Illinois and a Baptist. He visited Texas in 1832 and was appalled to

find no congregation of his sect below the Red River. Examining the Mexican religious laws, Mr. Parker returned to Illinois, founded the Pilgrim Predestinarian Regular Baptist Church, and moved with his entire congregation to Texas. The first public Protestant services were held on July 26, 1833.

Reverend Parker's action was clearly within the law. While Mexico prohibited the establishment of a Protestant church within Texas, the statute did not provide for interference with any religious body already established. Parker was later elected to the Congress of the Republic but was refused his seat because he was a minister.⁴

Austin's colonies grew rapidly. The census of March 31, 1828, reported 2,021 people within the *empresario's* domain. Three years later the number had increased to 5,665. Five years later 755 land titles had been issued from Austin's colonies in addition to the 310 certificates approved under the first contract. In all, Austin issued 1,540 land grants to settlers, more than issued by all other *empresarios* combined. His premium lands, if he had been able to retain them, would have made him a rich man, worth a quarter of a million at least.

He died poor, however, harassed to the end by the financial obligations of his father and himself.⁵ Furthermore, Austin

⁴Actually Parker was not a paid clergyman. He did not believe services should be conducted by a professional minister. He was also opposed to missionary work, claiming that God's chosen people were born with the desire for the Christian faith; the heathen were the children of the devil, he believed, else they would not have been in utter ignorance of the teachings of Christ.

⁵The most pressing debt upon him was the some \$6,000 owed to Anthony Butler, himself a later speculator in Texas lands. As United States minister to Mexico, Butler's determination to purchase Texas incurred the enmity of Mexican leaders. The debt was incurred by Austin while in Missouri. In 1816-17 Austin, his father, and James Bryan hired slaves from Butler to work their lead mines. The following year Austin and Butler operated the mines as partners. Butler sued Austin for money due him and received a judgment in the district court of Jefferson County, Missouri. The courthouse was destroyed by fire and the judgment went up in the flames. In 1828 Butler appeared in Texas and demanded \$6,000 in payment. Austin refused to recognize the claim in full. Writing to his attorney in March,

had agreed to share equally the profits of the Texas colony with Joseph H. Hawkins.

Hawkins had other interests in Texas besides Austin's colony; Nathaniel Cox, his trustee, estimated after his death that he had spent \$30,000 on various land schemes in the province. He died bankrupt, leaving his widow and family nothing besides the share in Austin's profits.

There is some doubt as to how much Hawkins invested in the Austin colonies, but the exact figure is unimportant since — four thousand or thirty thousand — his heirs were entitled to one-half of any premium lands Austin received. In 1831 General John T. Mason, another energetic investor in Texas lands, was appointed to represent Mrs. Hawkins. There was no litigation; in fact, Austin executed the division himself in 1832.⁶ The Hawkins heirs received their half in the name of a trustee since land could not be held by a non-resident.

The fifteen hundred settlers Austin introduced to Texas by no means represent all he did for the settlement of the new country. Besides assisting other *empresarios*, he became spokesman for the colonists in Mexico City and peacemaker between immigrants and government. After revolt came he served as commander-in-chief of the Texan army, then as commissioner to the United States to raise funds for the fledgling republic.

He was a candidate against Houston in the first presidential campaign and was the Republic's first secretary of state. He died, lonely and tired, in that office.

None of his papers record any desire to have been the first chief executive. Whatever his thoughts concerning the trend

1829, Austin said that he had paid Butler "upward of \$2,000 and had arranged the balance in three payments — in '31, '32, and '33. . . . I still owe four thousand dollars."

⁶Two other obligations of Austin's are known to latterday historians. Edward Lovelace advanced the colonist \$700 when the *Lively* was first outfitted for sailing to Texas and received 740 acres of land in return. In 1822, while awaiting action of the Mexican congress, Austin borrowed a sum of money from General Arthur Wavell. In 1826 Wavell authorized Benjamin R. Milam to act for him in settling with Austin but withdrew this power in 1832. In 1851 Wavell wrote that he had never been repaid.

of Texas — for a year or two after San Jacinto it was taken for granted that Houston would guide the Lone Star nation into the Union — he carried them with him to his grave.

Of the homage and honors paid him, the writer wishes to dwell upon one because of the remarkable coincidence involved.

In 1833 Austin wrote from Mexico to his secretary instructing Williams to purchase for him a certain beautiful tract of land on the east bank of the Colorado which he had chosen for his homesite. "I mean to go and live there," he informed Williams. "It is out of the way and will do for an academy scheme with which I can amuse myself and do good to others."

A man named Mirabeau Lamar who found this selfsame tract a few years later never knew that Austin desired it for his own. The Congress of the Republic that voted to establish the national capital above the town of Montopolis, at a spot selected by a three-man commission, was in utter ignorance of Stephen F. Austin's secret desire to locate his headquarters on the Colorado. It is doubtful if any member of the constitutional convention which set aside lands to establish the University of Texas had ever heard of this missive from Austin to Williams. No senator nor representative at Houston who voted approval of an amendment to a capital appropriation bill which changed the name of the proposed new seat of government from the "City of Texas" were cognizant of Austin's dream for his later years.

It was by coincidence alone — or divine intervention if one wishes to believe it — that the remains of the great *empresario* now rest near the very tract of land he desired,⁷ in the shadow of the university he dreamed of establishing, and in the capital city which bears his name.

⁷Austin's instructions to Williams: ". . . . Take this front on the Colorado River from the upper line of Tannehill's league to 500 varas at least above the big springs at the foot of the mountains." (Tannehill's line began on the east bank of the river about three miles downstream from Congress Avenue.) Sam Brown, the surveyor, stated thus: "Surveyed for S. F. Austin a tract of land beginning at Tannehill's upper corner on the River Colorado at a stake from which a gum elastic 8 in diameter bs n 48 e 25 vs & muskeet 10 in dia bs n 25 e 30 vs thence n 30 with the upper line of league." (Spanish Archives, English Field Notes, Book 6, p. 552, Texas General Land Office.) The land was registered in the name of José

EMPRESARIO HADEN EDWARDS

IN LESS than a month after the passage of the state law of March 24, 1825, the governor of Coahuila-Texas contracted for the introduction of 2,400 families.⁸ Had all of the adventurous men petitioning the Mexican legislature in the next decade completed their projects, Texas would have been a quickly populated province.

But of them only Austin, Green DeWitt, De León, McMullen and McGloin, Sterling Robertson, and Hewetson and Power received bounty lands. Zavala, Burnet, and Vehlein turned their interests over to the Galveston Bay and Texas Land Company, which did establish some colonists; no other effected a permanent settlement.

All contracts were in stereotyped form, expressly subject to all provisions of the colonization law. They were limited to

Maria Aguirre of Saltillo and was purchased from him by Austin. One of the three-league tracts was sold to a Mr. St. John by Williams, who had Austin's power of attorney; another was sold by John Austin; the third was also disposed of without the *empresario's* knowledge or consent.

⁸Contracts with *empresarios* other than Stephen F. Austin for the location of 8,151 families were as follows:

October 6, 1825, with Martin de León to settle 41 families; October 22, 1825, with John G. Purnell and Benjamin Drake Lovell for 200 families; March 9, 1826, with Arthur G. Wavell for 400 families; November 14, 1826, with John L. Woodbury and Joseph Vehlein and Company for 200 families; December 21, 1826, with Joseph Vehlein and Company for 300 families; December 22, 1826, with David G. Burnet for 300 families; May 21, 1827, with John Cameron for 100 families; February 19, 1828, with John Cameron for 200 families; February 23, 1828, with Richards Exter and Stephen J. Wilson for 200 families; August 17, 1828, with John McMullen and James McGloin for 200 families; November 17, 1828, with Joseph Vehlein and Company for 100 families; March 12, 1829, with Lorenzo de Zavala for 500 families; April 30, 1829, with Martin de León for 150 families; February 6, 1829, with Colonel Juan Dominguez for 200 families; February 12, 1830, with Juan Antonio Padilla and Thomas J. Chambers for 800 families; October 15, 1831, with General Vicente Filisola for 600 families; March 14, 1832, with J. C. Beales and José Manuel Royuella for 200 families.

The Cameron grant of May 21, 1827, for 100 families had previously been granted to Colonel Reuben Ross, who was killed shortly afterward.

six years, required *empresarios* to recognize legal titles already existing in the grant, and stipulated that settlers must be of Catholic faith and of good and moral character. The settlement of a hundred families called for the establishment of a town in which a school was to be maintained to teach the Spanish language and a church was to be built and properly furnished and a priest requisitioned.

Of the other *empresarios*, the most colorful was Kentuckian Haden Edwards, who secured a colonization contract almost immediately after the Mexican government had drafted its immigration laws in their final form. He had almost the whole of Texas to choose from — only Austin's grants were excluded — but he happened to choose a tract of land in East Texas that included the site of Nacogdoches.

The course of empire had not been kind to this frontier town which the vigorous Ybarbo had founded. In 1806 the population of this outpost and its surrounding hamlets numbered a thousand, but the warfare of *gachupinos* and filibusterers had left it deserted. Long captured the town twice, and Magee once; and all that remained in 1821 were ruins and a shifting, furtive handful of settlers at outs with the Spanish Crown because of the assistance they had lent revolutionists.

Part of Seguin's mission in 1821 when he went to meet Stephen F. Austin was to proclaim the King's pardon to those who had fled from their lands into the Neutral Ground and invite their return. Many took advantage of this proclamation to return to their former homes, bringing with them Americans from Louisiana and the region of the old Neutral Ground, which had ceased to exist as such after boundary adjustments. Seguin gave them a provisional government under James Dill as alcalde, and by 1825 the population of this border district was estimated at sixteen hundred.

None of them had a shadow of title to their lands, though some of the settlers were men of means. Of this frontier population Barker wrote:

Such a motley mixture of races, social classes and good and bad characters has never since jostled elbows on the stage of American

history except in the mining camps of California and Arizona — criminals of the old Neutral Ground, Spanish and French creoles, rough American frontiersmen, substantial planters accustomed to a gentler environment, and fragments of a dozen Indian tribes of varying degrees of civilization.

They were not through with revolution. Three others were to be spawned here — two to perish ingloriously, the third to sweep out in every direction until finally there was San Jacinto. One such rebellion is of no significance to this chronicle: A handful of frontiersmen protested against the inclusion of their cabins within the limits of the United States and the scope of Federal tax collectors and staged a half-hearted secession of brief tenure and no importance.

The second such movement resulted in the Republic of Fredonia.

Into history's arena as headliners in this intriguing chapter stepped four colorful characters — one perhaps a rascal, one overzealous and tactless, two unselfish and tragic. In the background lurked, perhaps never actually involved beyond the part he played in wild rumors and counterrumors, an English soldier of fortune. Uncover an imaginary heroine's bosom, throw in a rousing Missouri duel, and what else is needed for Hollywood?

Haden Edwards, a Kentuckian of some personal means, was in Mexico City seeking an *empresario* grant when Austin arrived there. On April 15, 1825, Edwards received his authorization to settle eight hundred families between the "twilight zone" on the east and the limits of Austin's colony along the San Jacinto River.

As the inhabitants of Nacogdoches had been forgiven their past sins and admitted into the good graces of the Crown — and the absolution recognized by the Republic of Mexico — Edwards was explicitly instructed to respect all "possessions with proper titles," or claims to title. The *empresario* acknowledged this obligation but in a rather lofty manner. He posted a notice in September, 1825, calling upon all claimants of land to present themselves to him for verification their titles — at their own expense. A proclamation on November 12 warned squatters

that the law recognized no preference to them and that if they did not immediately make their arrangements with Edwards their holdings would be sold to the first applicant.

There is no evidence that Edwards did not have every intention of honoring all proper claims to land within his domain, but immediately there was spirited resentment to his authority. A delegation of old inhabitants petitioned the legislature for a grant of land in the coastal and border reservations and including twenty-five leagues around Nacogdoches. These were Mexican citizens, many of them with titles to their lands which should have been on a file in San Antonio but weren't, and they naturally resented this foreigner's curt presentation of himself and his powers.

Edwards was not the sort of man to let such a challenge lie. He "promised to send in irons any man who dared acknowledge the threat to Saltillo." In the meantime he collected fees of \$520 per league from a number of settlers along the Trinity River and evicted one Ignacio Sertuche. The overzealous Kentuckian also sought to push his authority into the San Jacinto settlement, where land titles had already been issued from Austin's office by special permission of the political chief.

Thus the pot was already boiling when, on December 15, the residents of Nacogdoches went to the polls to select an alcalde. Chichester Chaplin, son-in-law of the *empresario*, opposed Samuel Norris, one of the old inhabitants. The squatters in the border reserve cast their votes for Chaplin, giving him a majority, but the supporters of Norris immediately appealed his election on the grounds that the squatters were foreigners without the right of ballot.

This was the second protest from Nacogdoches, and political chief Saucedo acted promptly. He annulled Chaplin's election, confirmed Norris' authority, declared that Edwards had no authority to demand that old settlers present their claims for his verification or to sell land, and ordered Sertuche's property returned to him. Chaplin surrendered his office and the archives of the colony only after Norris had called out the militia.

Further reports concerning Haden Edwards poured into San Antonio for Señor Saucedo's attention. Most of them were

wild rumors — Edwards had sold his colony for \$120,000; Edwards was raising an army of seven hundred men; Edwards opposed the slavery provision of the constitution.

It was true that Haden Edwards was in the United States trying to interest American capitalists in his colony, leaving his brother Benjamin in charge. The feeling between the old settlers and the *empresario* mounted higher, aggravated by the influence over the alcalde of a man named James Gaines. On May 20 the governor instructed Saucedo to inform Edwards that unless the irregularities of his administration — such as founding a town without permission, selling land, and coercing old settlers — were not stopped, he would lose his contract. But before this warning could reach Nacogdoches a second decree was issued — this time by the president — which ordered Edwards' expulsion from the Republic. The commandant of the Eastern Interior Provinces was assigned the task of eviction; he turned the responsibility over to Saucedo. The political chief, lacking the physical means to carry out such an order, pocketed the decree until November.

On November 22 forty armed men swept into Nacogdoches, seized Alcalde Norris and the captain of the militia, built fortifications, offered a reward for James Gaines, and put Norris on trial. A "court martial" found the alcalde guilty of numerous crimes and misuses of his office and "deserving of death," but imposed no punishment on him other than to bar him from ever holding office in the colony again. The insurgents appointed Joseph Durst alcalde and dispersed.

This was apparently a protest of the inhabitants against Alcalde Norris and not a demonstration in behalf of Edwards, though the leaders of the "raid" were friendly toward the *empresario*. Stephen F. Austin sought to reassure Saucedo that it was merely an incident and not an indication of protest against Mexican authority. Saucedo received this advice kindly, and though he departed from San Antonio on December 13 with a force of 110 infantrymen and 50 horsemen, he seemed to be in a lenient mood toward the demonstrators.

Rumors flew ahead of his expedition, of course, much faster

than Saucedo could travel in the mud and cold of winter. Benjamin Edwards learned that the political chief was advancing upon Nacogdoches with a strong, well-armed coterie. Instead of fleeing before the approaching force or of trusting the due process of law, Edwards dashed madly around the countryside organizing his cohorts.

On December 16, 1826, Edwards paraded through Nacogdoches at the head of some twenty-five men waving a red and white flag. The banner bore the words "Independence, Liberty and Justice." Seizing the stone house, Edwards proclaimed the Republic of Fredonia.⁹

The response among the inhabitants of the Nacogdoches territory was half-hearted. The rash revolutionist, however, swept on. He invited all Americans in Texas to rally to his standard. And he formed a strange alliance — with the Cherokee Indians — by which Texas was to be divided equally between red men and white.

Speaking for the Indians were proud, unhappy Richard Fields, part-white in color but all-Indian in heart, and Dr. John Dunn Hunter, who had been raised among the Cherokees, "liberated" by the white man, and educated in England.

The Cherokees were not natives to Texas, of course. Evicted from their lands in the South, the tribe, six thousand in number, was marched into the territory allotted them by the United States government (what is now Oklahoma). Some sixty-odd warriors, led by Fields, crossed the Red River in 1819 and took up temporary residence near Nacogdoches.

They were a more advanced race than the usual Indians. They wore cotton clothes, tended herds of cattle, and raised crops of vegetables. Many of them could speak English. Fields went to Mexico City in 1821 and presented the petitions of his people with taste and dignity. They wished a tribal grant of land and

⁹The name was probably inspired by an article in an 1804 issue of the *American Gazetteer* in which the author, Morse, proposed Fredonia as a new name for the United States. It was, claimed the writer, a "generic" name which "shall honorably distinguish our country from the rest of the world," being more eloquent of our principles than either America or Columbia.

acceptance as Mexican citizens. In return the Cherokees promised to police the frontier against the more savage tribes such as the Comanches and the Lipans.

Fields, who was a master Mason and a member of the York lodge, was respectfully received by the Mexican Congress. A grant to the Cherokees was made out on November 8, 1822, but was never consummated.¹⁰

Assignment of the territory his people wanted to Haden Edwards sent Fields stalking back to his people believing that he had been betrayed and that promises to him had not been kept.

In October of 1825 he was seeking to bring other Indians into a confederation of red men with open war against Mexico in mind.¹¹

The tomahawk might have flashed red in that Texas winter but for the arrival of Dr. John Dunn Hunter among his chosen people. Hunter had been well received in England, where he had written a book and had lectured upon the future of the red man. Barker refers to him as an "enigmatic philanthropist," but it would seem that his intentions were quite clear. He had abandoned England to devote his life toward uplifting the red man.

He persuaded Fields to hold back the tomahawk until he tried lobbying at Mexico City himself. There Hunter enlisted

¹⁰In fact, Fields must be blamed to some extent for his failure to secure recognition of his tribe and homes for them. The policy of the Mexican government was to recognize individual petitions for land. As individuals the Cherokees would have been welcomed and could supposedly have received titles to their lands after fulfillment of the usual conditions. But Fields insisted upon a tribal grant. Furthermore, he would not accept any location except where they had tentatively settled.

¹¹There were some 426 Coushattis living in their attached houses on the Trinity River about three leagues below Salcedo. They had crossed the Sabine in 1807 and some of them had been with the Magee-Gutiérrez expedition. There were 103 families of Alabama Indians who had entered Texas under conditions similar to the Cherokees, bringing with them peach seeds, the first in this region. The Alabamas had sixty-nine well-constructed houses and had reached a comparatively high degree of civilization. They planted crops, trapped for animals as well as hunted, sold dressed skins, and did a profitable business in peddling bear oil.

the aid of some British philanthropists and formed a close friendship with General Arthur Wavell, whose *empresario's* grant lay on the Red River. Hunter promised the Mexican government that the Indians would espouse the Catholic faith, take the oath of citizenship, and that Fields' newly formed confederation would turn immediately upon the troublesome Comanches.

His pleas met with the same baffling response as had Fields'. The Mexicans, in their turn, were probably resentful of the Cherokee insistence upon a tribal grant rather than individual headrights.

Hunter returned to Texas and confessed his failure. Fields declared: "I am a red man and a man of honor and cannot be imposed upon in this way. We will lift our tomahawks and fight for our land."

A small tribe of Shawnees, who had settled on Pecan Point in 1822 and received land from Mexico on April 16, 1826, and some Delawares, who had come into Texas in 1820, joined the confederation; and Fields made ready for war.

Before the Indians could complete their plans for attack — theirs was not to be a raid, but open war — Benjamin Edwards proclaimed his Republic of Fredonia and solicited an alliance with the Cherokees.

The *empresario's* appeal to other Americans who had settled in Texas brought no support; in fact, Stephen F. Austin immediately set out to raise a company of militia to assist in its suppression. Colonists generally came forward quickly with hurriedly expressed loyalty to the Mexican government and condemnation of the uprising.

James Kerr, agent of Green DeWitt, warned the Mexican authorities to act quickly in concert with the Texas colonists to put down the rebellion. And Kerr warned Saucedo: "This is a combination of men working against the nation. Hunter has said that he expected 300 English soldiers to land with Wavell. The British would like to organize a country of their own here."

Thus the intrigue developed to its climax. It was undoubtedly true that, while in Mexico City, Dr. Hunter had received verbal assurance from A. Ward, the English *chargé d'affaires*,

that his country would lend some assistance to Wavell and Hunter. Probably Ward meant only financial assistance.

Benjamin Edwards met with the Cherokee chieftains on December 20.¹² There were seven provisions of the treaty signed between red man and white. The territory of the province was divided into two parts by a line north of the town of Nacogdoches running east and west; all north of the line belonged to the Indians, all south to the white man. Hunter and Fields claimed to represent twenty-three Indian tribes and planned to enlist all others, even the Comanches, in this red nation.

Meanwhile the force of men under Colonel Mateo Ahumada was marching slowly toward San Felipe, where Stephen F. Austin had raised one hundred militiamen. The army did not reach San Felipe until January 3 and played no part whatsoever in squelching the rebellion.

Serving as agent to the Cherokees and other Indian tribes was Peter Ellis Bean, who had come to Texas with Magee and enlisted in the Mexican army after being released from prison. Bean approached Nacogdoches with thirty-five men but retreated without firing a shot when learning the strength of the Edwards forces.¹³

But Bean, who owned land near Nacogdoches, went to work on the alliance. As the man had two wives, it is not surprising that he was good enough at intrigue to stir up dissension

¹²There seems to be some variance as to who proposed the alliance, Hunter or Edwards. According to Foote's *Texas and the Texans*, the overture came from Hunter, who found the Indians on the verge of war with the settlers and diverted them into the Fredonian uprising. But historian Barker believes otherwise. Quoting Barker's *The Life of Stephen F. Austin*: "Foote was not above manufacturing this explanation to avert from his hero, Benjamin Edwards, the odium of inciting the Indians." Of another historian, E. W. Winkler, whose article in *The Southwestern Historical Quarterly* (Volume VII), furnished much of the background for this chapter, Barker wrote (*ibid.*): "He was influenced by Foote's flatulent oratory."

¹³Foote states that Edwards had only fifteen supporters when he raised the Red and White flag but that in a day or two the ranks of the insurgents were swelled by nearly two hundred colonists residing in remote neighborhoods. The historian adds that the number had been reduced to "not more than fifteen" on January 4. Apparently, after the first rush of enthusiasm, they had little real desire for a rebellion.

among the Cherokees. Two chieftains, Bowles and Big Mush, had opposed the alliance from the start and after a week's recruiting Richard Fields had only thirty braves under the Fredonian banner. When Dr. Hunter and Fields were slain by their fellow tribesmen as they slept, Haden Edwards knew he could count on no help from the Cherokees.

Benjamin Edwards, who had a gift of flaming oratory, was still confident that he could arouse the frontiersmen to a fighting pitch. He addressed squatters at Pecan Point on Christmas Day and dispatched a plea to citizens of the United States to join them.

However, his oration was more than offset by Bean's calmer, more sensible announcement on January 4. Edwards' contract had been annulled, Bean informed the settlers, because of mismanagement. The only purpose of the oncoming Mexican force, he asserted, was to evict Edwards and restore order. All grievances against Alcalde Norris would be heard.

This argument was strengthened by an offer from Ahumada to pardon all who laid down their arms and to permit the *empresario* to press any claim against the Mexican government. The adroit Bean carried his case to the settlers on Ayish Bayou and the outskirts of Trammel's Trace and quickly won them to his side by promising them grants of land.

The rebellion quickly collapsed. A detachment of thirty-five men under Laurence Richard Kenny reached Nacogdoches before the main body of Ahumada's force and captured nine prisoners. Actually there was no violence. The Edwardses made a futile effort to enlist support in Louisiana, and Fredonian sympathizers continued to issue proclamations and taunts for several months; but the location of a permanent military force at Nacogdoches removed the threat of any "invasion."

Haden Edwards claimed to have invested \$50,000 in his colony. The figure seems overlarge considering the handful of settlers that he introduced.

Ahumada, reconnoitering the eastern Texas region, learned there were 168 families in the border strip between the Attoyac and Sabine who had made improvements on their properties. He recommended they be issued land titles. Saucedo grudgingly concurred, and a land commissioner was dispatched to the

territory to investigate their claims. Thus one revolt was squelched and another born. The delay over approval of those promised titles led to Anahuac and the Turtle Bayou Resolutions, which is another chapter.

EMPRESARIOS DEWITT AND DE LEÓN

MARTIN DE LEÓN'S forefathers received a *porcion* of land from the King of Spain and followed José Escandon into the cattle state of Tamaulipas in the eighteenth century. Martin de León was pasturing cattle on the Aransas River in 1806 but suffered a temporary setback when he lost his holdings in the revolution. On April 8, 1825, he applied for permission to establish himself and forty-one families at a point on the lower Guadalupe and to found the town of Nuestra Señora de Guadalupe de Jesus Victoria.

Strictly speaking, De León was not an *empresario* but a proprietor, for his application was not in pattern with the other contractors. There was no limit upon the number of families to be introduced, no time fixed for the fulfillment of his contract, and no definitely established boundaries.

By October 24, 1825, De León and twelve of the forty-one families had settled around the new town of Victoria. Their number was increased during the winter months as the proprietor accepted sixteen Anglo-American families into his fold.

The Congress which on April 15, 1825, granted *empresario* authority to Green DeWitt of Missouri was probably in ignorance of De León's location as a proprietor. DeWitt was, himself. The *empresario*, from Missouri where he had known the Austins, had been besieging the Mexican government for three years; and some of his settlers were already in Texas in anticipation of his success.

He did not know that De León had moved into the same territory until he found the cattle town already established on the Guadalupe. There was no chance of ousting De León, or vice versa; both had legal rights to be there. But obviously

two ambitious men could not share the same territory, especially since there were no limits upon De León's expansion.

DeWitt addressed the governor requesting that limitations be imposed upon De León. The proprietor had drawn "first blood" by petitioning for lands from DeWitt. The *empresario* was forced to issue titles, for Article 9 of the colonization law had provided that in distribution of land preference should be given Mexican citizens.

DeWitt appointed Major James Kerr as his surveyor, attorney, and agent and returned to the United States to solicit settlers.¹⁴ Kerr, who had been a close friend of Daniel Boone, inaugurated settlement west of the Colorado River in 1825 by founding the town of Gonzales. (Among his companions was Deaf Smith, who was to command a troop of scouts in the San Jacinto campaign.)

An Indian raid the following spring drove the handful of colonists to a point on the west bank of the Lavaca, now in Jackson County. Kerr appealed to San Antonio for permission to issue these lands to the forty-odd colonists huddled there, but was refused. The settlers, however, stayed for another year rather than face the Indian menace, and new arrivals found them there.

By August, 1827, DeWitt had over one hundred colonists. His success attracted the ire and jealousy of De León, who probably foresaw the influx of settlers as a menace to his "free grass." Hence there was the cattleman-homesteader feud as early as 1827. De León was the physical aggressor. He started it by seizing a cargo when the ship docked at the mouth of the Lavaca. Among the supplies brought for barter by one Thomas Powell was tobacco, which was contraband under the colonization law. The Kerr colonists considered De León's action unwarranted and high-handed, but the proprietor had the letter of the law

¹⁴DeWitt attempted to finance his promotions by selling the first scrip ever issued against Texas lands. One such bill in the archives of the General Land Office reads: "This bill will be received as cash payment for \$10 on account of fees for land in DeWitt's colony. River Guadalupe, District of Gonzales, 15th day of October, 1825.

"GREEN DEWITT, *Empresario*."

on his side. He was a proprietor without territorial limits, and tobacco was not duty free.

The cargo was returned, then seized again. In the course of the wrangle De León publicly boasted that he would ride over to the American colony and return with DeWitt's head tied to his saddle. Assisting the proprietor in his persecution of the American colonists was a Frenchman, Oldivar, who sought to divide the settlers by promising Alcalde James Norton the position of *empresario* if DeWitt were evicted from the territory.

On August 29, 1827, DeWitt was ordered to move his colonists to Gonzales, and the Lavaca settlement was abandoned in December. Finally some tranquillity was effected through the efforts of Stephen F. Austin, and DeWitt partially completed his contract. De León added an *empresario's* tract to his proprietor's territory, receiving a grant for 150 families in 1829. The land allotted him lay partly within the coastal limits closed to foreigners and partly in the territory DeWitt had not yet assigned to settlers. Juan Antonio Padilla served this colony as land commissioner.

Not until 1831 was a land commissioner appointed for DeWitt's colony, and the settlers spent an anxious year in doubt as to whether or not their rights would be recognized under the Law of April 6, 1830, banning further immigration from the United States. DeWitt's colony was exempt from these restrictions mainly through Austin's influence with Terán.¹⁵ The Mexican consul at New Orleans was instructed to issue passports to DeWitt's "recruits," fifty-four families entering after 1830 and before the law was repealed.

Juan Antonio Navarro began his duties as land commissioner to DeWitt's colony in January, 1831, and Byrd Lockhart began to survey claims. Prior to that year only one title of land had been approved, for Major Kerr. Navarro's influence proved a godsend to the DeWitt colonists; the commissioner was mainly responsible for the annulment of a grant to De León for land north of the La Bahía-Nacogdoches road which conflicted with

¹⁵Austin's papers show a fatherly interest in DeWitt and also reveal his failure to meet the taxing requirements of an *empresario*. Austin refers to him as a "poor fellow."

DeWitt's claim. In fact, twenty-five of DeWitt's colonists were already in residence there, and De León's attempt to evict them gave Navarro grounds for asking that the contract be cancelled.

DeWitt's contract expired on April 15, 1831. He petitioned for an extension of time but was refused. He had introduced less than half of the colonists contracted for—Navarro had issued 166 land titles, while DeWitt had secured premium lands for only one hundred families.

De León also had difficulties with other neighboring *empresarios*. He petitioned the government to declare the Power and Hewetson grant void and did establish some settlers within the limits of the Irish colonies. As his people were Mexicans, mostly *vaqueros* tending his herds, they were given preference under the law.

The aggressive *empresario* died in 1833 during the cholera epidemic which swept Victoria.¹⁶ His colonization project was carried on by a son, Fernando. Surveyor for the colony was General J. M. Carbajal, who later figured in the wave of land speculations and scandals which contributed to the outbreak of the revolution.

Fernando de León was as imperious and as determined of purpose as his father. He did not approve of the Centralist government established by Santa Anna and was embroiled in bitter disputes with his American neighbors. (The Texans, as we shall see later, were early supporters and endorsers of Santa Anna's Plan of Vera Cruz.) In 1834 De León went to New Orleans and purchased \$35,000 worth of supplies for his colonists.

¹⁶It was a relative of De León who had the task of dealing with one of the most ghoulish characters in Texas history, Black Peter. The huge Negro seemed immune to cholera and when he appeared to request employment as city undertaker, he was speedily appointed. His fee was \$2.50 and a quart of whiskey for each body taken to the public graveyard. Each night and each morning Black Peter made his rounds, knocking at each door and shouting out the sickening cry to "bring out your dead." If there was no answer, Black Peter entered the house and conducted a thorough search. At the height of the epidemic the alcalde notified Black Peter that the town could no longer pay him. That night Peter made his rounds as usual collecting his corpses but, instead of carrying them to the city graveyard, deposited them all on the alcalde's front porch. Next morning the alcalde resumed payments. From Victoria, Black Peter went on to New Orleans to pursue his grim trade.

The ship *Anna Elizabeth* carried this cargo to Texas. Apprehended off the coast, the captain of the *Anna Elizabeth* refused to present his papers, and the cargo was seized. Among the "supplies" De León had purchased for his settlers were five hundred muskets, two pieces of artillery, and cases of ammunition.

Don Fernando and General Carbajal were placed under arrest. De León managed to escape but was recaptured when General Urrea marched into Texas in pursuit of the divided Johnson-Grant expedition in 1836. San Jacinto made him a free man, but he was immediately arrested by Texans on trumped-up charges growing out of the hatred in which he and his father had been held. Finally freed, De León left the Republic, returning after annexation to fight for his forfeited lands.

His *empresario* contract was carried on by Captain Placido Benavides. Over one hundred land titles were issued in De León's colony by Commissioner Padilla, but the same fate which dogged the heels of every Texas colonizer did not spare him; he died a poor man, leaving the fruits of his father's energies and his own vitriolic spirit to the enjoyment of others.

DeWitt's end was little better. No one can be sure to this day where the Missourian died. The lands he received in compensation for his colony passed into the hands of others with little gain to the *empresario* himself.

It was, as was the case again and again, a hard way to make a living.

THE CLOSED DOOR

IT MAY have been confusing so far to refer to a Mexican land statute which has not yet been discussed — the Law of April 6, 1830 — but a chronological organization would have been even worse. Besides, the land law in question did not affect the *empresarios* already dealt with in any detail.

In the very first debates concerning colonization laws, there was some sentiment among Mexican leaders to regard American immigration as a menace to the future of Texas — the future

under Mexico, that is. As the new republic of Mexico ventured into the realm of international affairs, that suspicion gradually mounted.

It would be impossible to estimate, without a prolonged study, how much British agents contributed to this increasing sentiment, with the actions of United States envoys in Mexico apparently proving everything the English alleged. The British *chargé d'affaires* in Mexico wrote his superior in 1825 that he was warning the Mexican government against the American squatters pushing across the Sabine and occupying land without a by-your-leave. England's interest in Texas would last until after annexation, which she did everything in her power short of actual intervention to avert.

One British motive was undoubtedly spiritual: the English opposed further spread of slavery. But another was selfish: Britain carefully and wisely played the game of empire throughout that century on all continents of the world, cautiously moving always to hold a balance of power favorable to her. The United States and England had not yet adjusted their northern and western boundaries, and Great Britain thoroughly approved of Mexico's independent status and ambitious territorial designs.

The British wanted a strong Mexico to check the advancement of the United States.

Englishmen were welcome to settle in the province of Texas, of course, and there was some immediate interest. Edmund Keene considered organization of a colony, and so did Robert Owen, the socialist leader. But neither could secure recruits from the "tight little isle." Britons were not willing to adopt the Catholic faith.

As to what extent Great Britain encouraged the efforts of various individual Englishmen we can only speculate, and one man's guess is as good as the next. But the interest in Mexico was obvious, with the French greatly concerned, too. Both nations had considerable money invested in Mexico as early as 1827.

It was quite easy for English agents to find fuel for the fires of suspicion they were trying to build. There was no attempt made by President Andrew Jackson to conceal his opinion about

Texas. In the first place, Jackson and many other Americans believed that Texas should have been included in the territory acquired by the Louisiana Purchase. They held that John Quincy Adams had signed away Texas because of sectional prejudices, purposefully "keeping down the growing political ascendancy of the South and West."

In the second instance, Jackson and his party wanted Texas and minced no words about it. On August 25, 1829, Jackson instructed Joel R. Poinsett, American envoy to Mexico, to offer \$5,000,000 for the province. It was refused.

In the same month Jackson had an audience with the same Colonel Anthony Butler who had been in partnership with the Austins in Missouri. Butler was already speculating in lands near Nacogdoches, and the arguments he advanced to the President were in line with his own personal interests. But Jackson was easy to convince that the Neches River was actually the west fork of the Sabine River, not a separate stream at all, and that the west bank of the Neches then was the boundary between Texas and the United States.¹⁷

He instructed Governor Pope of Arkansas to exercise jurisdiction over this territory until a survey could be made and a boundary settled.

In this same year of 1829 a Mexican commission which had been appointed two years previously to investigate conditions in Texas reported to President Victoria concerning its findings.

The commission, which was headed by Manuel de Mier y Terán, had received an appropriation of \$15,000 and had spent it wisely.¹⁸

Terán found the affairs of the various *empresarios*, notably Austin, in good order. He found also that, while British agents

¹⁷Reeves in his *American Diplomacy under Tyler and Polk* stated that during the Jackson administration, there were "seven years of cheap trickery in which Mexico was led to believe that the United States government would descend to any level to get Texas."

¹⁸With Terán were Luis Berlandier, a Swiss botanist and zoologist, mineralogist Rafael Chovell, José Batres, and Constantino Tarnava. The commission left Mexico City on November 10, 1827, and returned a year later.

had exaggerated the number of American squatters living in East Texas, there were a number there and that they had made themselves right at home with every apparent intention of staying.

He found them settled principally at Ais, Tenaha, Sabine, and Atascosito. There were some 178 squatters in this vicinity who had made improvements on their lands, even without titles to them.

Terán visited the only *empresario* to establish Mexican colonists, De León, and the older towns, such as San Antonio de Bexar. He noted that the Americans were building schools for their children while the Mexican settlers were not, that the immigrants from the United States were pushing their claims to land grants to the point of being exorbitant while the Mexican colonists were content with only a hillside. Texas, he pointed out, was being Americanized and at an alarming rate.

In view of these factors it is not surprising that the Mexican congress passed the Act of April 6, 1830, banning further immigration from the United States.

Article XI stated: "Citizens of foreign countries lying adjacent to the Mexican territory are prohibited from settling as colonists in the states or territories of the Republic adjoining such countries."

The act further suspended all *empresario* agreements "not already completed and not in harmony with the law."

This law was not authored by Terán, who was appointed general-in-chief of the Army of Operations and commandant general of the three eastern interior states. It embodied most of his ideas but not all; he was quite in agreement with the theory of Antonio Martínez and other officials that the Mexican government could not hold Indian forays in check without colonization. Terán did not wish to bar American immigrants completely but was anxious to keep them in the minority, on a ratio of one American colonist to three others.

He abandoned, after consulting with Stephen F. Austin, the idea of forcing the American squatters to seek new homes, to "scatter out." He agreed to grant them bona fide titles for their lands and dispatched a land commissioner (first Juan Antonio

Padilla, then Francisco Madero) to receive their claims and approve all that were just.

But General Terán quickly took what steps were possible within his limited facilities to forestall further immigration from the United States. He increased the size of the garrisons at Bexar, La Bahía, and Nacogdoches and planted new garrisons at surrounding settlements guarding the approaches to Texas not only to keep newcomers out but to prevent the spreading of colonies already established. Among the new posts thus created was one at Anahuac, where John Davis Bradburn, a Kentuckian in the Mexican service, was named commander.

The land act of 1830 brought indignant arguments from Americans already within Texas. One of the sounder protests was filed by Stephen F. Austin, who pointed out that the more desirable Americans would not stoop to an illegal entry, and thus the newcomers to Texas from across the Red and Sabine Rivers would be those plotting revolution or escaping from United States law.

But Terán would not yield. He permitted a few settlers to join Green DeWitt and a handful of Tennesseans who evaded the garrison at Nacogdoches by cutting a road around the town to join Austin's colonists. But otherwise he enforced the law to its letter. He refused to permit fifty-seven colonists sent to Galveston by the Galveston Bay and Texas Land Company to disembark from their ship, ruling that that company had violated the colonization laws and could not operate in Texas.

Unquestionably Terán had the situation correctly analyzed. But his efforts to counteract the tide of immigration from the United States with colonization schemes of his own proved futile. He was trying to cover a hole in the dyke with his own fingers.

No program of foreign colonization such as he advocated was ever adopted. While the federal government supported his belief that American immigrants must be kept out until the introduction of other colonists had placed them in the minority, nothing was done to send other settlers north of the Rio Grande.

Terán's over-all plan was to gather 450 Mexican families and place them in communities with soldiers, which would, he

estimated, in time produce a population of 800 families. He also proposed sending convict-soldiers to Texas with the promise of land grants if they became settlers after serving out their terms.

He appealed to the state governors for aid, but only three ever acknowledged his letters. One family from Matamoros moved northward with orders to locate on the left bank of the San Jacinto River as near to the port of Galveston as possible.

Another application was received, this one from Vicente Flores, a Tula schoolteacher. Since there were no colonists, Terán did not see the need for schoolteachers and rejected Flores' petition.

Terán advised the government to settle one hundred Swiss or German families at Galveston without an *empresario*, thus preventing the Galveston Bay and Texas Land Company, or the individual *empresarios* from whom the corporation had secured its colonization grants, from ever controlling this vital island.

Unable to promote foreign colonization, Terán turned to the Cherokee Indians still living in eastern Texas in the hopes of securing a tribal grant of land. He wrote on August 31, 1832, that he had selected a spot for the Cherokees and directed Governor Letonia to permit their occupation and to grant them land titles. This was never done; the Cherokees were never settled until after the establishment of the Republic of Texas, and then not for long.

Both Terán and Juan Almonte, the Texas commissioner of colonization, sought to be conscientious overseers. Terán refused to grant an *empresario* contract to Gabriel Laisne de Villaveque for six million acres, refused a permit to Tadeo Ortiz, and would not permit Power and Hewetson to establish a colony on Espíritu Santo Bay. He preferred to make no grants at all rather than to permit a colonization scheme to be launched under unsuitable conditions.

Almonte was as vigilant. Benjamin Lundy proposed a colony of free Negroes in Texas in 1830 but was advised by Almonte to settle in Tamaulipas instead.

In April, 1834, Nicholas Prouett, a mulatto who had served

with distinction in the Mexican army, sought a permit to establish five hundred colonists he proposed to recruit in New Orleans, all free blacks. Almonte rejected this application on the grounds that the proposed colonists were artisans and not farmers, and hence would not survive the Texas frontier.

Both Almonte and Terán, however, were receptive to the idea of a colony of free Negroes in Texas. This subject was frequently discussed in the United States. Abolitionists were making headway in their attacks upon the institution of slavery, and many Southerners were disposed to agree with them provided the freed Negroes were removed from the South. Numerous proposals were made for conveying blacks to Liberia, to Canada, or to Texas.

Almonte, in explaining why he had rejected the application of Nicholas Prouett, informed the minister of public relations that two conventions of free Negroes had met in the United States and endorsed the founding of a colony but were without financial means. He was not quite correct. The third convention for the advancement of free Negroes, which had met in Philadelphia in June, 1833, had discussed emigration to Texas but had not endorsed a colony there. Instead the Negro leaders had encouraged freed blacks to emigrate to Canada.

(Three free Negroes had been accepted in Austin's colony: Lewis B. Jones, Greenberg Logan, and Samuel H. Hardin.)

Of all of Terán's earnest schemes for a Mexican Texas, then, only one family crossed the Rio Grande. The Mexicans simply were not interested.

The Americans still were.

* * *

AN EARLY Texas historian, John Henry Brown, contemporary of the times, wrote of the Law of April 6, 1830: ". . . Odious in various respects, but its eleventh article, afterward famous in the popular heart of Texas, can only be classed as the second, but much the most ominous step in the misrule of Mexico, in

the series of evil deeds which finally drove the colonists of Texas into revolution and independence."

Thus thought a Texan in the early thirties, bitter, rugged, defiant. Actually, however, it was not the land act of 1830, but a series of events, which kindled the fires of rebellion in the heart of Texas colonists. There is little evidence that there were any colonists in Texas in 1829 who were plotting revolution and annexation to the United States. Exemption from taxes and the lower cost of lands, and not political intrigue, had inspired their immigration.

There were men in the United States avidly eyeing the Texas land and wondering what could be done about it, but it is doubtful if the subsequent history of Texas was affected by these musings. We shall note one in passing but with the warning that it should not be overemphasized.

R. R. Stenberg in *The Southwestern Historical Quarterly* (Volume XLI) quotes Z. N. Morrel, a Tennessean who moved to Texas:

Sam Houston was then (1829-1831) . . . among the Cherokees, pulling the wires, by making friends with all the wild tribes of the red men of the forest; thereby intending, with their aid, and with what emigration he could draw out of Tennessee and elsewhere, to set in motion "a little two-horse republic under the lone star," with the fond expectation that he would be its first president. This he had privately prophesied would be the case, in a confidential interview with his friend McIntosh . . . at Nashville, about the time Houston abandoned the gubernatorial chair of Tennessee. . . . McIntosh committed this secret to me."

That the settlers considered the law odious we have already seen; historian Brown was expressive of the prejudices of his time. But had the act been administered carefully it might have been less distasteful. As it was, garrisons sent to guard the frontier brought about an unnecessary friction which led to the first union of Americans within Texas. F. H. Turner, in his article upon the Mejia expedition in *The Southwestern Historical Quarterly*, stated that "Terán garrisoned the forts with the lowest type of Mexican soldiery, under the command, in some instances, of exceedingly insolent officers."

Those trouble-making officers were, oddly enough, Americans who had accepted service in the Mexican army.

But that is another chapter within itself, a blazing, stirring chapter. No other sequence of events was more important to the history of Texas, its lands, and the people who settled them.

GALVESTON BAY AND TEXAS LAND COMPANY

NO MORE spectacular colonization schemes were ever concocted by man than two approaches to the settlement of Texas — one by the Galveston Bay and Texas Land Company, the other by a German organization a decade later.

The Galveston Bay and Texas Land Company was an Eastern syndicate which acquired the contracts of three *empresarios* — Joseph Vehlein (for two hundred families on November 14, 1826, and for three hundred families on December 21, 1826), David G. Burnet (for three hundred families on December 22, 1826), and Lorenzo de Zavala (for five hundred families on March 12, 1829).

Vehlein was a German merchant who had built up a profitable business in Mexico City; Burnet was a veteran of South American revolutions who had come to Texas because of a tubercular condition; and De Zavala was a prominent Mexican revolutionary leader. Vehlein was to figure in Texas history no more after the transfer of his *empresario* interests, but the other two speculators were to play vital roles in the war for independence. Indeed, Burnet and De Zavala were to serve as president and vice-president respectively of the Texas *ad interim* government. Later Burnet was elected vice-president under Mirabeau B. Lamar.¹⁹

¹⁹There seemed to be few exceptions to the ill luck that was an *empresario's* fate. Perhaps it was Burnet's curt orders to Sam Houston to stand and fight that made the hero of San Jacinto a bitter enemy of the Republic's provisional president, but the quarrel between the two men over land policy certainly contributed to the hatred. Burnet was a candidate for presidency of the Republic after Lamar's administration in which he was vice-president and, at times, acting president. Houston soundly defeated him at the polls, then added injury to ignominy by refusing to honor a draft for Burnet's salary as vice-president. Congress enacted a

These three *empresario* grants formed a compact area in East Texas between the San Jacinto and Sabine Rivers, including a large portion of the territory granted previously to Haden Edwards. Burnet made several unsuccessful attempts to launch settlement, negotiating for mineral rights and organizing a mining company. Vehlein and De Zavala had done nothing with their contracts when, on October 16, 1830, all three men transferred their rights to the newly formed Galveston Bay and Texas Land Company.

A letter from John Austin to Stephen F. Austin found in the Austin papers stated:

From what I can learn it is the most extensive land company that was ever known in this or any other country, probably extending its interests throughout the province, and its board of directors is composed of the most respectable and influential men among us.

The board of directors consisted of Lynde Catlin, George Griswold, John Haggety, Stephen Whitney, William G. Buckner, Barney Corse, and Dudley Seldon. Anthony Dey of New York was president, and William H. Sumner of Boston and George Curtis of New York were trustees.

The company's articles of association stated that its stock and property were divided into one thousand shares which were transferable only on the books of the organization. The dividends, consisting of scrip denominated sitios and labors, were to be issued to the subscriber according to the number of shares held. In its advertising literature, the company very candidly stated that it expected to be rewarded for all disbursements "out of the means the contracts themselves furnished."

The pamphlet published citing the purposes of the corporation was a hundred pages thick. Texans might be interested in page 13, devoted to description of the Texas weather: "The heat in summer is said to be about as great as in New York but not as oppressive the cattle graze out all year in fact

resolution providing for payment, but Houston vetoed it and a two-thirds majority could not be raised to override this high-handed action. Burnet ended his life in near poverty, clinging to a Federal position to support himself, railing out bitterly that Texas had degenerated into "The Big Drunk's Ranch."

the whole labor of man upon a soil free from rocks and sudden hills is for his own profit and advantage.”

The articles of the association had given the company permission to issue scrip, which was permission for the purchaser to settle the amount of land specified in the certificate. The company launched the sale of scrip to defray the expenses of colonization, seemingly unaware that the Mexican government frowned upon such a practice. The Galveston Bay and Texas Land Company had no confirmation of its authority from Mexico, evidently believing that De Zavala and José Antonio Mexia, staunch revolutionists both, had sufficient influence in Mexico to gain sanction for their activities.

The law of 1830 did not discourage the syndicate, for European immigrants were still acceptable. De Zavala was dispatched to Europe to enlist settlers who would not be subject to the restrictions of Article XI. John Austin wrote in 1831 to Stephen F.: “The Galveston Bay Land Company in New York is running wild in their operations. Selling land by hundreds of thousands of acres at 5c an acre. Sending out steam machinery for mills, boats, et cetera. I fear they will do much harm by calling the attention of Govt. too much to that quarter.”

The company published in another pamphlet glowing predictions as to the outcome of De Zavala’s recruiting in Europe. He would return, their literature stated, with vine dressers; and the syndicate’s holdings in Texas would soon be the fairest land in America, raising the finest grapes in the world.

The Galveston Bay and Texas Land Company was quite willing to deal with subcontractors. Thomas E. Davis of New York contracted to settle 1,500,000 acres. General Mexia contracted for settlements along the San Jacinto and Trinity Rivers. The Union Company bought shares and sent one group of immigrants to Galveston.

The first expedition of colonists sailed for Galveston on December 29, 1830, aboard the *Angelina*. Included were overseers, workmen, and settlers, most of them Swiss. Each colonist was to receive 177 acres of land in return for two years’ labor, and to be provided with one year’s subsistence and tools. The settlers were well supplied with seed of the China mulberry and

the cuttings of every variety of grape. The Texas domain was to be an empire of silk raising and grapevines.

There were fifty-seven of these immigrants. The commandant of the Mexican garrison refused them permission to land and referred their protests to Manuel y Terán, commandant of the Eastern Interior Provinces. Terán declined to recognize the company or allow its agents to display any authority over the involved *empresario* domains. The government's permission was necessary for a transfer of *empresario* powers, he declared, and the Mexican government had not even been approached concerning this merger.

In May, 1831, Joseph Vehlein sent a memorial to congress protesting Terán's action. One representation was that the colonists turned away from Galveston Island were Europeans. (Actually, twenty of the fifty-seven were citizens of the United States.) Vehlein's appeal was at the instigation of John T. Mason, a well-known American soldier and business man who had been engaged as confidential agent for the company on April 6, 1831.

The sale of scrip continued despite De Zavala's failure to secure European colonists. In the case of *Carter versus Dey and Curtis* tried in New York, it was shown that the company and its associates sold scrip for 6,210,390 acres of land. One clerk testified that the scrip was sold for a half cent an acre; another stated it sold for five and ten cents an acre.

In May, 1832, John T. Mason petitioned Terán to permit the company to open tracts of land to settlement. Terán replied that the rights of the original *empresarios* were preserved, but that the company itself had violated the immigration laws and was entitled to no consideration.

Repeal of the law prohibiting settlers from America to enter Texas opened the way for recognition of the Galveston Bay and Texas Land Company by Texas authorities. An act of November 25, 1833, legalized the company's activities effective May 26, 1834.

Mason had secured three-year extensions of the Burnet and Vehlein contracts in 1832, and two years later received a similar stay on the De Zavala grant. An act of March, 1834, also provided for the renewal of all *empresario* grants on which the

contractors had expended \$10,000 and in those cases in which failure to fulfill all terms was due to insurmountable obstacles imposed by the Mexican legislature, and this applied to the corporation.

Thus the land company could launch actual settlement. Land agent George A. Nixon began issuance of titles in October and during 1834 issued the following amounts of land:

For Burnet's grant, titles for 209 leagues and 3 fractional parts of leagues to families and 42 titles to unmarried persons;

For De Zavala's grant, titles to 404 leagues and 32 fractional parts of leagues and 60 titles to unmarried persons;

For Vehlein's grant, titles for 303 leagues and 6 fractional parts of leagues to families and 55 titles to unmarried persons.

The total was approximately one thousand leagues. The actual number of settlers was smaller, as most of the land issued was in sizable plots.

All land operations ceased in November, 1835, by order of the provisional government. No further efforts were made at settlement, of course, until after the revolution.

The Galveston company found itself completely stymied by the Congress of the Republic, which declared that all *empresario* contracts had ceased on the day Texas declared independence. On June 12, 1837, Congress passed a law covering the claims of *empresarios*, authorizing them to institute suit against the president of the Republic and his successors in office, provided that neither aliens nor the assignees of aliens should be entitled to the benefit of the law.

The Galveston company authorized Robert Rose, its agent at that time, to enter suit.

Representing the syndicate at one time or another were Sam Houston, Thomas J. Rusk, J. Pinckney Henderson, and John C. Watrous.²⁰

²⁰It might seem strange that Houston was willing to accept a retainer from the company since it was Sam who introduced the resolution voiding not only a personal grant of three hundred leagues secured by John T. Mason but all other grants "purchased . . . under the most suspicious circumstances of fraud." Houston vigorously attacked the "unholy dictation of speculators and marauders upon human rights." In the presidential

Litigation concerning the Galveston Bay and Texas Land Company came to an end in 1848. The court ruled that alien assignees and assignees of alien *empresarios* likewise had no rights under the law and threw out the claim. Rose had memorialized for twenty leagues and twenty labors of premium lands as the result of settlement within Vehlein's domain.

The scandal over the sale of scrip was nationwide; the very characters of the trustees and directors made it so. In fairness to them, it must be recorded that they were not aware Mexican regulations explicitly forbade the sale of scrip, or that most of the purchasers paid their moneys under the understanding that possession of the scrip was tantamount to actual ownership of that much land. Such, of course, was not the case. The land was never an *empresario's* to award, to trade, to sell. He only conveyed, under specific restrictions, permission to settle within his territory and to secure land according to the due process of Mexican law.

It is impossible, of course, to know how much of such deception was deliberate.

THE ROBERTSON COLONY

ROBERT LEFTWICH and James Erwin were among the *empresario* candidates awaiting the agreement of the Mexican juntas as to a colonizing law. They were agents of the Nashville Company, which was organized in Davidson County, Tennessee, on March

campaign of 1841 he bitterly assailed Burnet's connection with a "company which has swindled by the millions."

It was in 1834 that Houston approached the company asking a fee of \$2,000 to represent their interests in Texas. Mason did not see fit to engage the hero of San Jacinto until after the war, when he wrote an associate that he had advanced Houston \$2,000. "I think," wrote Mason to Samuel Swartwout, "that he will be able to get us a commissioner from the next congress without waiting for a general land law and a regular land office." (For this material concerning Houston's association with the Galveston company the writer is indebted to Marquis James' *The Raven*.)

Swartwout was then collector of the Port of New York. He fled to Europe in 1838, leaving behind quite a reputation. He was entitled to the distinction of being the first American to steal a million dollars.

2, 1820. At first there were fifty-odd stockholders, but the number was later increased to seventy-four.

Erwin grew weary of the delay and returned to his duties in the Tennessee legislature, but Leftwich stuck it out and finally secured a contract on April 15, 1825. It was, however, an individual grant, as the colonization laws made no provisions for corporate *empresarios*.

Leftwich returned to Tennessee with his slip of paper and informed the stockholders that a matter of \$14,000 was due him for his effort and expenses in Mexico City. There is some evidence that the stockholders considered this an unreasonable charge, but Leftwich held the grant in his own name and they could do nothing but fork over. They paid the \$14,000 by assessing each stockholder \$205 and permitting original shares to be divided into as many as eight fractions. Leftwich consented to act as *empresario* in all relations with the Mexican government which could not be handled by an agent.

The president of the association, Dr. Felix Robertson, accompanied by "several gentlemen," including Sterling C. Robertson, explored the grant in 1825. Dr. Robertson did not return to Texas, but Sterling Robertson stayed on in the province to become the central figure in a bitter controversy which was not settled until 1847.

The following year found Benjamin R. Foster, W. R. Winn, and "three or four other young men of worth" in Texas to establish a preliminary settlement; but that was the season of the Fredonian Rebellion, and they returned home. A further complication arose as Leftwich fell ill. The association decided not to risk further investment until the true ownership of the *empresario* grant had been recognized by Mexico. In March, 1827, Hosea H. League was dispatched to Mexico to petition recognition of himself as *empresario* and agent of the company and to request extension of both the boundaries and the time limit. The records of the company show that at that time a total of \$22,000 had already been spent on the venture with nothing accomplished except the reports of exploring parties. Sterling C. Robertson had tried in 1826-27 to recruit colonists but with no success.

League, the new agent, had returned to Tennessee to get ten families for Austin's colony; he was not an original member of the Nashville Company. Reaching San Felipe in April, 1827, with ten families he had promised Austin, he secured his premium lands within Austin's domain and then authorized Austin with power of attorney to intercede with the Coahuila government for the Nashville Company. The governor approved a boundary extension but would not grant additional time in which to fulfill terms of the contract.

Early in 1830 Sterling Robertson began to collect scrip from other stockholders and to renew his efforts to get colonists. This time he met with encouragement. He also found a partner of some means, Alexander Thomson, and in June, 1830, they secured from the Nashville Company authority to act as its agents.

With six companions Robertson returned to Texas in October, 1830. They presented their credentials to Colonel Francisco Ruiz at Tenochtitlan and requested permission to launch their colony. Ruiz refused because of the Law of April 6, 1830.

From here on there are conflicting versions of the colony's history. According to Barker, Alexander Thomson and eight other families were stopped at Nacogdoches by orders of Colonel Piedras and notified that no American settlers would be admitted unless bound for Austin's colony. The Mexican commander offered to let Thomson go on to San Felipe de Austin and secure certificates from Austin provided the Tennesseans left their families at Nacogdoches and returned for them with the proper papers. Thomson and his followers instead circled around Nacogdoches and went on. (Their route is known as the "Tennessee Road.")

But Malcolm D. McLean, a descendant of the Tennessee settlers and a frequent contributor to historical publications, has stated they did not believe that the land act of 1830 applied to them.

The arrest and expulsion of Robertson, Thomson, and the other Tennesseans were ordered, but they were not imprisoned. "At this time," wrote McLean in a pamphlet memorializing the Reed family in Texas, "Austin was preparing to go to the state

capital to assume his duties in congress; so, when he promised to use his influence to have the families admitted, Robertson and Thomson returned to Tennessee to bring out more settlers.

"They each brought another party of immigrants in the spring of 1831," to continue from McLean, "but were surprised to learn that, instead of arranging matters in compliance with Robertson's request, Austin had informed the state government that the Nashville Company had done nothing whatever toward complying with its contract, and that orders had been issued for the expulsion of the families already introduced. Furthermore, on February 25, 1831, before the Nashville Company Contract had expired, Austin had obtained the colony for himself and Samuel May Williams."

And now Barker's version. Austin requested an extension for the Nashville Company and was refused; Terán considered the contract cancelled by the terms of the Law of April 6, 1830. Governor Viesca would not even discuss an *empresario's* contract for Robertson. Austin became alarmed over the applications from French and English companies for the Nashville Company's territory and applied for a contract himself. The Tennesseans managed to avoid arrest — with the assistance of American colonists, no doubt — until Austin secured permission for them to settle in his colony.

Terán considered the contract with the Nashville Company as being cancelled under the Act of April 6, 1830. Sterling C. Robertson requested that Stephen F. Austin use his influence either to have the agreement recognized and extended or to secure a contract affecting the territory in Robertson's name. Austin went to Saltillo and there began the controversy which lasted for sixteen years and proved a tragic chapter in the history of "the Father of Texas."

Eugene C. Barker, who has spent a lifetime poring over every matter of document and legend affecting Austin, staunchly upholds the great colonist's action in securing from Governor Viesca an *empresario's* contract for himself and Samuel Williams instead of an extension for the Nashville Company or an individual authorization for Robertson. An earlier historian, Brown,

as eloquently (but without the extensive research behind him) has championed Robertson.

Austin's version is that he requested an extension for the Nashville Company and was refused. Governor Viesca, furthermore, would not even discuss an *empresario's* contract for Robertson. Austin applied for the permit for himself and Williams because applications were before Viesca from English and French companies for the Nashville association's territory and also for the vacant lands between the ten-league coastal limit and the San Antonio Road.

(One of the Frenchmen was Gabriel Laisne de Villaveque, who was in Saltillo petitioning for two *empresario* grants embracing six million acres, including Leftwich's grant and also the territory of the De Zavala and Vehlein permits.) It was February 4, 1831, when Austin applied for a contract to settle eight hundred families of Mexican and European extraction in partnership with Williams, and their petition was approved February 25.

It is Austin's claim that he did what he could for Robertson and petitioned only in his own name when it became evident that Viesca would favorably receive the application of Villaveque.

Austin apparently surrendered the jurisdiction of this upper colony to Williams, whose financial sagacity he trusted. The land went at a rapid pace, but not to settlers. In three years over 1,250,000 acres were handed out to only thirty-one different grantees, none of whom were living in the colony. Of these grants, Williams retained control of at least a half-million acres himself. Stephen F. Austin sold his interest to John Austin for \$6,000, and the latter also plunged into speculation. One of his sales was a block of 1,200 leagues to Benjamin Smith, whom the Mexican government suspected of dealing in slaves. Certificates to locate claims for a league of land were sold at \$50 each by John Austin and Samuel Williams.

Austin did not approve of the way his partner was administering the lands of the "upper colony"; that is obvious from his papers. He wrote Williams in 1833: "Cursed be the hour I ever thought of applying for the upper colony." John Austin died

of cholera in August, 1833, and Williams was left with the management of the colony.

Robertson had not intended for a moment to relinquish the colony without a fight, but it was not until 1834 that he made any headway. In February of that year he secured from R. M. Williamson and William B. Travis, president and secretary respectively of the *ayuntamiento*, a resolution asking reinstatement of his claims. On April 2, 1834, Robertson carried his appeal to the governor. He charged that the Austin-Williams contract had "been obtained by fraud" one month and eighteen days before his company's contract had expired. He alleged that the Nashville Company had spent over \$30,000 on its project and that fulfillment of their contract terms had been delayed not only by the Mexican government itself, but by the imprisonment of *Empresario* League in Austin's colony.²¹ He charged Austin with "perfidy, wicked practices and false lying statements."

A notice by Sterling C. Robertson, dated July 2, 1834, and preserved in the Austin papers, charged that Austin "had falsely represented to the government that no exertions had been made to settle in the colony, that no families had been introduced, and that the company had abandoned its rights; and in this manner he entrapped the government into a new contract, which . . . it made with him and his partner, Mr. Williams."

Ramón Músquiz, political chief of San Antonio, upheld Robertson to the extent of ruling that a colonization company possessed the privilege or right of one year in which to fulfill its contract after the Act of April 6, 1830, and, armed with this opinion, Robertson besieged the governor. On May 22, 1834,

²¹League was charged with being an accomplice in the first homicide recorded under due process of law in American Texas. A John G. Holtham had been ejected from the yard of Ira Ingram while intoxicated. Holtham challenged Ingram to a duel and then, when Ingram refused to face him, posted notices denouncing Ingram as a coward and a rascal. Holtham met Seth Ingram, a brother, and was shot when he refused to obey Seth's orders to remove the notices. It was not clear in the September 6, 1830, issue of the *Texas Gazette*, which reported the killing, in what way H. H. League was involved as an accomplice; but League was arrested along with Ingram and held for two years under guard. Neither was ever brought to trial.

(Oliver Jones wrote one James F. Perry that the favorable decision cost Robertson a bribe of \$1,300) Robertson received complete recognition of his claims. He was granted premium lands of five leagues and five labors for introducing the first one hundred colonists, and he was given another four years in which to complete his contract. The authorization to Williams and Austin was voided. The settlers they had introduced, ruled the governor, could continue in possession of their lands but should not be counted by Williams and Austin in claiming premium acreage.

Austin was in prison during this hearing, incommunicado, and was ignorant of Robertson's movements. Williams, his partner, dispatched an attorney, a T. McQueen, to Monclova with documents and supporting testimony, but the lawyer was attacked by Indians near San Antonio and wounded. Williams next selected Juan Antonio Padilla to speak for the imprisoned Austin. Since there was a little matter of a homicide charge hanging over Señor Padilla, however, he could not appear in behalf of the Austin-Williams combine until his rights of citizenship had been restored. By then it was too late; the acting governor, Viduarri y Villasenor, had ruled in favor of the association, and Sterling C. Robertson was triumphantly advertising for colonists.

Wrote Austin's brother-in-law on December 7, 1834: "Sterling C. Robertson is cavorting about the upper colony at a great rate. He is taring up all that was done by Austin and Williams. He will hardly let the hills and rivers stand that they [Austin and Williams] have crossed with a chain."

William H. Steele was appointed land commissioner to issue titles in Robertson's colony, and by 1835 he had honored 275 certificates. They were for much smaller plots of ground than was the average in Austin's colony; none of them was for as much as a league except for the titles issued to Robertson himself.

The wrangle was not over by any means. In the first place, Williams was preparing a brief of appeal. In the second, Commissioner Steele did not respect the possessions of the colonists introduced by Austin and Williams. Even before Williams filed his formal appeal with the acting governor, Marcial Borrego, on March 31, 1835, it had been necessary to order an in-

vestigation of Steele's activities by the political chief of the department of the Brazos.

The evidence produced by Williams seemed to have quickly convinced Borrego, though he had been a champion of Robertson's cause in the previous legislature. Williams wrote to his partner that Borrego readily admitted that the government had been deceived by Robertson but said that the matter must be remedied in some way so as to save the government's face. Verbal gymnastics finally decided it — that and the return of Governor Viesca. On May 18, 1835, the legislature of Coahuila and Texas voted to return the colony to Austin and Williams. Robertson was formally notified of the ruling, and Steele was instructed to issue no more titles on Robertson's certificates.

The outbreak of the revolution, of course, relieved the governor of Coahuila from further responsibility.

On December 22, 1836, another congress, that of the Republic of Texas, took up the matter of Robertson's renewed claims. All vacant lands, Congress ruled, were the property of the nation, and all *empresario* contracts had ceased. However, a later statute permitted citizen *empresarios* to file suits against the president of the Republic for any bounty lands which might be due them.

Accordingly Robertson filed suit in the district court of Travis County in 1841 and was awarded premium lands for the establishment of six hundred families. This judgment was promptly appealed to the Supreme Court of Texas, which accepted the lower court's ruling that Robertson had introduced one hundred families prior to the expiration of his contract, but refused to approve the grant of bounty lands for 221 families because they were introduced after the provisional government closed the land offices in November, 1835.

This reversal sent the case back into district court litigation again. According to Richardson, the heirs of Sterling Robertson received bounty lands for 379 families. As did other *empresarios*, including Stephen F. Austin, he had found ways to supplement this land holding — by headright, by acquisition of eleven-league purchases, and so on. The General Land Office records show

that Robertson acquired thirty-four leagues of premium lands, a sizable estate in any man's country.²²

Perhaps the most important aspect of this controversy was Austin's involvement in land speculations. This lessened his popularity and influence with settlers rushing into Texas just prior to the revolution. Austin vigorously denied his guilt, writing: "As regards the upper colony, I have never received one cent. My name has been used for the benefit of others. Williams knows all about it."

But there was something lost which Austin never regained. The general nature of this wrangle was nothing new, not even then, and will recur again and again in this volume — small landholders leaguings together against the big one. That war is as old and as endless as time.

WAVELL AND MILAM COLONIES

BENJAMIN RUSH MILAM and General Arthur Goodall Wavell approached Texas from opposite directions. Milam, according to Lois Garver in *The Southwestern Historical Quarterly*, was trading with Comanche Indians at the mouth of the Colorado River in 1818. One of his friends was the tubercular but high-spirited David Burnet. Milam left Texas after a year but returned with the Long expedition and was among those filibusterers captured and imprisoned. Released on November 11, 1822, Milam heard of the Austin colonization project and was bitten by the *empresario* bug. He arrived in Mexico City in 1824.

Wavell preceded him to the Mexican capital by way of England, his birthplace, and Chile, where he had attained the rank of general in the successful revolutionary army. In fact, it was as a special envoy from the Chilean government that

²²It was Sterling C. Robertson, Jr. who founded the historic town of Salado, where one of the state's oldest businesses is still in operation. The "Shady Villa Inn" was founded there before the War between the States. Now it is more commonly called the "Stagecoach Inn" and is the subject of many legends, mostly false, of course.

General Wavell came to Mexico City in 1822. The Englishman quickly realized the opportunities of Texas and was among the earlier applicants for *empresario* authority, only to abandon temporarily his personal project when he effected some sort of a partnership with Stephen F. Austin. Wavell was a benefactor to Austin as well as a friend, lending the *empresario* an unknown amount of money, letting him share an apartment, and assisting him in pressing his application upon the Mexican congress.

When Austin departed for his Texas domain, Wavell sailed for Europe, convinced in his own mind at least that he had some interest in Austin's project. Wavell understood that he was to organize a company of English investors and supply the capital for Austin's colony. En route to England, his ship was sacked by pirates, and Wavell was robbed of \$1,700. He did not reach London until 1823. Evidently his company was then organized to some degree, for he wrote Austin to transmit articles of ownership and a description of their lands. No more was ever heard of the partnership except for Wavell's later assignation of authority to Ben Milam to collect from Austin and Austin's admission in his papers that he had borrowed from Wavell in Mexico City.

Wavell returned to Mexico and entered into association with Milam, who had in the meantime presented a certificate of Catholic baptism and requested papers of citizenship. In January, 1825, Milam requested sixteen leagues of land located on the southwest bank of the Red River near Natchitoches. A year later Milam secured his grant for the second colony, south of Robertson's domain between the Guadalupe and Colorado Rivers. His contract, signed on January 12, 1826, called for the introduction of three hundred families.

On March 3, Milam sold one-fourth of all the lands assigned to him — except for the sixteen leagues — to Frost Thorn, who had received *empresario* authority on April 15, 1825, for four hundred families. Milam, it is easy to see, was too much of a dealer and not enough of a doer.

After his repudiation by Austin, Wavell returned to Mexico and in his own name secured a grant on March 9, 1826, to settle five hundred families. He immediately named Milam his agent.

The two men were already partners in mining interests, one of which is said to have profited Wavell by some \$20,000.

Ben Milam found a number of settlers living within the Wavell grant, including Collin McKinney, who had moved from Kentucky in 1824. Milam appointed Major James Kerr as his attorney, returned to Mexico City to confer with Wavell, then went on to England in the hope of enlisting settlers. Often in the narrative of Texas colonization we find mention of immigrants accepted by Wavell—three hundred of them were reported by Kerr as on their way when he urged prompt action against the Fredonian Rebellion. As often, in the letters of early settlers, we find hints that the British Lion regarded Wavell's *empresario* contract with a fatherly eye, visualizing it as a checkmate to spreading American expansion. But Milam met with no success in England for reasons given before—the British hostility toward slavery and reluctance of Protestant Englishmen to adopt the Catholic faith. While in England, Milam sold his individual *empresario* rights to the Baring Brothers; but as the purchasers did not have to pay until titles to bounty lands had been issued, nothing came of this transaction.

Returning to the United States, Milam went to Louisville, Kentucky, the spawning place of more than one scheme for colonizing Texas. There he renewed his friendship with David Burnet, who had not yet transferred his *empresario* interests to the Galveston Bay and Texas Land Company. The two promoters organized the Western Colonization and Mining Company with a capital stock of \$50,000 and contracted with one Major Anderson Miller for the location of a colony on the Guadalupe River and for working several silver mines.

In the course of his trading in Mexico Milam had acquired, either in his own name or under his agent's authority, twenty-one silver mines. These, as well as the *empresario* grants of Burnet and himself, impressed Kentuckians with money to invest. Major Miller set out to raise the \$50,000 in capital stock while Milam returned to Mexico City to protect his mine interests against threatened litigation.

Major Miller did a good job of raising the \$50,000 except for one technicality which occurs again and again in this chronicle

of speculation and settlement. One of the subscribers who met in Louisville on October 29 was Porter Clay, brother of Henry. Only that day, it seemed, Clay had learned the true nature of the authorizations held by Burnet and Milam. He had thought the contracts were grants in fee for the whole territory comprised in the colony, after putting the stipulated number of families upon it. There is no evidence that either Major Miller or Burnet was guilty of spreading deceiving information. Burnet, in fact, took the floor at the Louisville meeting and clearly advised them of an *empresario's* limitation, then permitted the stockholders to withdraw their money.

It was then that Burnet turned over his rights to the Galveston Bay and Texas Land Company. Ben Milam turned his attention again to Wavell's colony. In 1829 with John M. Dorr, his clerk, and a man by the name of Belt, he opened a land office on the Red River and started surveying the Englishman's grant.

Then it was too late. Not only was the Law of April 6, 1830, passed very shortly, but Andrew Jackson had become president of the United States. We have mentioned Jackson's notion about the boundary between Texas and Mexico and his instructions to Governor Pope of Arkansas concerning the territory between the Sabine and Neches Rivers. Milam's surveying was in this zone, and Governor Pope advised Milam to cease making surveys under Mexican authority until the United States territorial claims were made clear.²³

There is no evidence that Milam did not follow Pope's advice to desist until the boundary was established, but Jackson's secretary of state, Martin Van Buren, protested to General José María Tornel, the Mexican minister in Washington, that "there was a determined purpose on the part of Colonel Milam to proceed with the survey and disposal of the tract of land in question."

Tornel communicated the protest to General Terán with the

²³The same Ellis Bean who had thwarted the Edwards-Cherokee alliance was still entrusted with the defense of the frontier. After enactment of the Law of April 6, 1830, Bean was stationed at Pecan Point to prevent squatters and adventurers from entering the territory. Governor John Pope demanded to know by what authority Bean occupied that region and requested withdrawal of the Mexican troops.

advice that Milam and Bean should be ordered out of the disputed territory. The American minister, Anthony Butler, conveyed the same request. In February, 1831, Terán instructed Milam to cease surveying and to close his land office.

The orders reached the *empresario* just as he had completed the project of making the Red River navigable as far as the upper extremities of his colony. A "raft" (collection of dead wood) had turned back boats for years. Milam purchased the steamship *Alps* in Natchez, brought it up the river, and removed the impediment. This, too, was wasted effort.

Now the tireless if rather aimless *empresario* turned his attention to his own colony. He had only a year in which to complete his contract, for his grant expired in January, 1832. Certainly he hoped for an extension, else he would not have launched colonization at such a late date. He contracted with Samuel Brents of Greensborough, Kentucky, to bring in settlers, and there were fifty-two families in his territory when the deadline fell upon him. His petition for an extension was refused, and his territory was included in that granted to a Mexican company represented by Juan Vicente Campos on May 1, 1832, for the location of 450 families.

Milam, of course, had the right of appeal. In 1835, in a letter to Richard Pryor, he stated that he had received applications from two hundred families and could have completed his contract within a year's time. However, he could not prove that the act of 1830 had prevented his fulfilling all terms, and his appeal was denied.

The settlers Milam had introduced were, of course, entitled to all rights of ownership. R. M. Williamson, who had served as Milam's agent in the lower colony, petitioned the supreme court for recognition of their claims. Talbot Chambers from near San Felipe de Austin was appointed to investigate their claims and issue titles to deserving parties.

The settlers in the Red River region were also disturbed by the lack of legal papers to sustain their occupation of lands and by the threatened inclusion of their territory within the limits of the United States. They petitioned Milam to intercede in their behalf at Monclova, temporarily the state capital, for their

titles. (Milam and Charles Burkham received a fee of \$120 for this.)

Milam took it upon himself to petition for all of the scattered settlers of Texas who had not received land titles because no commissioner had been appointed for their communities. In an appeal to Henry Smith, the political chief, Milam recommended the appointment of a commissioner-at-large to serve these isolated families. He suggested, further, that the political chiefs unite and petition Congress to permit Texans to elect seven of their fellow citizens as land commissioners.

In Monclova Milam so successfully presented the case of the Red River settlers that he himself was appointed commissioner to investigate claims and issue titles to the deserving. But he did not return to the site of Wavell's colony. There was intrigue brewing in Monclova, and Ben Milam was not the sort to enjoy the role of a spectator. As a participant in the attempt to move the capital of Coahuila-Texas from Monclova to San Antonio, Milam was arrested and kept in prison until the autumn of 1835, when he managed to escape.

It was November when he reached Texas again. He fell in with the army of Stephen F. Austin and marched with that force toward San Antonio. It was in December, of course, that he voiced the famous words: "Who'll follow Old Ben Milam into San Antone?"

He was killed in the earlier stages of the three-day fight for possession of the historic town.

Wavell's contract expired on March 9, 1832. His efforts to secure an extension were also futile. There were no land titles issued in the Wavell grant until after the revolution, and for General Wavell there was no compensation whatsoever for the moneys and effort he had expended. The Republic of Texas, after ruling all *empresario* grants void, consented to permit citizen *empresarios* to petition the nation for redress. Wavell, of course, was an alien. Nevertheless he memorialized the Congress of the Republic in 1843 and, in the following year, sought to enforce a hearing through the exertion of pressure from England.

The old Englishman died at the age of 70, nearly penniless, believing to the last that Austin, Texas, and Mexico had mistreated him.

* * *

DR. JOHN CHARLES BEALES, an Englishman seeking his fortune in Mexico, married the widow of Richards Exter and thus became half-owner of the Wilson-Exter grant of February 23, 1828, for two hundred families.

Shortly afterward Beales not only acquired Wilson's interest but plunged into three other *empresario* activities. With José Manuel Royuella he received a grant on March 14, 1832, for two hundred families; he was a leading figure in the Mexican Company which secured through Juan Vicente Campos a contract for 450 families on May 1, 1832; and in partnership with Dr. James Grant, a Scotchman and land speculator who was to play an important role in the early history of Texas, Beales obtained a grant for eight hundred families on October 9, 1832.

Exter had married a charming Spanish woman whose maiden name had been Maria Dolores Soto; Beales' union with her a year after her husband's death gained him influence in the Mexican capital and enabled him to launch a more ambitious colonization program than even Stephen F. Austin's. A year after receiving the grant with Royuella, Beales bought out his partner and thus owned exclusively two *empresario* contracts.

Both lay in the unsettled northwest, covering a large territory now in the western Panhandle of Texas, from near the site of Midland westward into New Mexico and southwestern Colorado. Certainly these were the most inaccessible of all the *empresario* tracts. Coronado had crossed this wasteland, and *ciboleros* and Comanches roamed through it; but few white men knew its nature.

In 1833 Beales dispatched Alexander le Grande, a noted civil engineer, to explore his grant and mark its boundaries. Le Grande penetrated the region as far as the Sierra Obscura Mountains and made an extensive report to his employer, which,

together with survey and maps, are still in existence and have been referred to by surveyors of the General Land Office.

Beales had realized the scope of his colonization, thus his contract in partnership with Dr. James Grant. The northwest region, he had foreseen, could not be settled immediately. The territory he acquired with Grant lay between the Nueces and the Rio Grande Rivers, bounded on the south by the Laredo and San Antonio road and extending far westward. It is apparent that Beales planned to settle this region first and then to push on into the country which only Le Grande had mapped.

Beales went to New York and organized the Rio Grande and Texas Land Company, selling certificates of stock. There were eight hundred shares, each providing ten thousand acres, besides surplus lands.

A site was selected on Los Moras Creek near the present town of Eagle Pass for the first settlement, and on November 10, 1833, Dr. Beales and fifty-nine others, mostly English, sailed for Texas. The party brought their own wagons and, purchasing Mexican oxen, journeyed on, finally reaching the lands of the intended colony on February 28, 1834.

A town was laid out and the Mexican commissioner, Fortunato Soto (the *empresario's* father-in-law and a shareholder of the Mexican Company), arrived to issue land titles.²⁴ Beales then returned to Matamoros to meet another boatload of colonists. In his absence the colonists floundered. A sustained drouth ruined their crops, and by early 1836 the last party of settlers had started hopelessly back to the Texas coast.

They were never heard of again by their contemporaries, and it was some time before anyone knew their fate. The account was pieced together years later from the garbled versions of the few survivors. Upon reaching a lake on April 2, the weary travelers gorged themselves on fish and apparently neglected to post a guard against Indians. They were captured by the red men, who slew the eleven male survivors and made

²⁴The story goes that Beales raised the flags of Great Britain and Texas over his village. If so, this was probably the only instance of an English flag flying over a Texas settlement.

captives of the women and children. Two women were later ransomed and restored to their people.

The second shipload of colonists that Beales had left to meet landed in Texas, not Matamoros, and the settlers were met "with wild stories of wars and massacres and scattered themselves along the settlements of the lower Rio Grande."

In March, 1835, Dr. Beales took out another expedition, including his brother and brother's family. The *empresario* purchased oxen and wagons at Matamoros, at Live Oak Point, and at the McMullen-McGloin settlement. He employed an agriculturist at a salary of \$1,000 to aid his inefficient settlers and further supplied them with mills and machinery.

The outbreak of the Texas Revolution halted Beales' work as an *empresario*. It was never to be resumed, for the act of the Texas Republic concerning *empresarios* and their rights declared void any contract executed by the state government of Coahuila with a foreign contractor.

Of the shareholders of the Mexican Company, only one, Judge John Woodward, was able to seek any redress from the Republic. Woodward had purchased stock in the organization and claimed, in his memorial to the Congress of the Republic, that he had 120 families ready to locate just as the Texas coast was declared blockaded by Santa Anna. He petitioned the Republic (May 12, 1836, and November 25, 1837) to grant him 100,000 acres of bounty land to reimburse him for this expense.

In each of his petitions Woodward alleged that he was not a land speculator but a colonist. However, it was brought out later that he had sold scrip in England to Samuel Iken, an Englishman. Like many trusting purchasers of scrip, Iken believed that his certificates gave him a title to 40,000 acres of land. Accordingly he dispatched a group of nearly one hundred colonists to Galveston in 1836. They landed there and, of course, had no place to go. Their plight aroused the sympathy of Galveston and Houston residents, who petitioned President Lamar to persuade Congress to grant them lands. Most of them secured individual headrights.

Woodward, who was at the time consul of the Republic of Texas to New York, incurred much criticism because of this

“deception” of Iken. He defended himself by saying that he had acquainted the Englishman with the true character of the scrip and furthermore charged that notes given him by Iken were worthless.

Beales, through the British chargé d'affaires to Texas, Captain Charles Elliott, petitioned the Republic of Texas to honor his claim, then turned to the United States Congress. The territory he had been granted with Royuella lay within the land purchased from Texas by the United States for \$10,000,000. On September 9, 1850, Beales petitioned the United States Congress for relief. Four years later he dispatched an agent, B. F. Williams, to occupy the lands he claimed, and Williams was living within the borders of Beales' grant when murdered in 1870.

There is no record of the number of times Beales sought to get his claim recognized by the United States Congress. On file at the General Land Office is a printed pamphlet entitled, “A Concise Statement of the Law and the Facts Relating to the Beales-Royuella Land Grant and Mexican Cession,” which was published November 11, 1899, by Robert L. Lindsey, attorney and title expert of Kansas City, Missouri. It was undoubtedly used in an attempt to get redress for the *empresario*.

According to this pamphlet Beales spent more than \$100,000 in his preliminary efforts to introduce immigrants. Depositions taken in Philadelphia in November, 1839, show that Beales chartered ships to convey immigrants, including mechanics and much equipment such as sawmills, and that he dispatched agents to Ireland and Germany to secure colonists in those countries.

At the outbreak of the revolution, alleges the pamphlet, Beales was in New York readying another boatload of colonists and supplies.

His attorneys maintained that by the voluntary act of Texas, one of the original parties to the contract, the condition of the grant as to the introduction of families was rendered impossible and was therefore waived. Thus the government of the United States, asserted his petition, acquiring the claims against the Texas land as well as the rights thereto, was obligated to recompense the Englishman in bounty lands.

His claim was never granted by the United States. Like that

other English *empresario*, General Arthur Wavell, Beales died bitter and resentful.

OTHER EMPRESARIOS

JAMES POWER, a native of Ireland, and James Hewetson, a resident of Monclova, contracted on June 11, 1828, with the legislature of Coahuila-Texas for the introduction of two hundred families, half Irish and half Mexican. The central government gave its permission for the colony to be located within the ten-league coastal area.

In March, 1829, the *empresarios* secured an extension of their grant southward to the Nueces River, despite the objections of De León, which have been briefly noted. One settlement, at Goliad, was already in their domain, and a condition of their contract was issuance of land titles to all families who wished to file. There were no complications in this process as in the instance of Haden Edwards; *empresarios* and established settlers apparently got along nicely.

The Spanish mission at Refugio had been abandoned for twenty years. Land claims were still outstanding, however, and the chapel itself still stood, though in sad need of repair. The *empresarios* requested permission to establish their central town around the plaza, proposing to buy the mission and to indemnify owners of the deserted lands. The central government assented on the condition that the *empresarios* would receive the former Refugio residents as colonists and award them one league and one labor of land within the mission territory. In addition the colony contractors were to provide a yoke of oxen and farming implements for those wishing to return.²⁵

The first land commissioner, Guajardo, died in 1833 and was succeeded by Manuel del Moral, then by Jesus Vidaurri in 1834. In the same year the *empresarios* received permission to admit citizens of England, Germany, and North America in lieu of the

²⁵The town of Refugio, founded in August, 1834, is the only Texas town still operating under a charter from the Republic of Texas.

Irish families provided in the *empresario* contract and were also granted an extension for three years.

The colonization proceeded with only one calamity; in 1835 two vessels of settlers left Ireland, probably one hundred of them. Cholera broke out aboard ship, and seventy of the immigrants were left in New Orleans. Trying to land on the Texas coast in a gale, the ships were destroyed and all of their supplies lost.

Though the *empresarios* were forced to accept Germans, Frenchmen, and Englishmen to meet their quota, a large number of Irish families was transplanted to the Texas soil, and their superstitions have contributed to the early folklore of Texas.

There were almost a hundred colonists in the party which landed in Copano Bay in 1830 and for a year remained at Refugio while preparations for settling them in their own domain were completed.

San Patricio, or Hibernia, was founded on June 24, 1832.

Cordial relations existed between the Irish colonists and the Mexicans. They were the type of settlers Terán wanted in Texas, and they were extended every cooperation.

In fact, at the order of the Mexican government, citizens from Matamoros staged a *banquette* for the newcomers. Led by two troops of soldiers, the Matamoros delegation marched two hundred miles, and it must have been some "shindig" with rooster fights, singing, and dancing. The spot where the two peoples met, later became the town of Banquette.

The fate of the Irish colonists in the Texas Revolution might as well be noted here. *Empresario* McGloin had imported a cannon for protection against the Indians — and, like that at Gonzales, trouble began over its custody. Rodriguez, the commander of the garrison at Fort Lipantitlan, asked to borrow it "for practical purposes." He was refused. He ordered the gun seized and the "*empresario* lashed" to it.

San Patricio was captured on February 27, 1836, as General Urrea came marching along the coast in pursuit of the divided forces of Johnson and Grant. There was no general massacre; Father T. J. Malloy was able to talk the Mexicans out of that.

But the town and schoolhouse were burned and the Irish colonists taken to Matamoros as prisoners.

They gained their release and returned to their location even before the Battle of San Jacinto, for they got in the last word with the same General Urrea.

Urrea and Filisola came marching back out of Texas on the orders of General Santa Anna. The Mexican commanders requested permission to pass through San Patricio and make an encampment there. They were refused and had to make their way around the settlement.

Banquette gained a place in Texas legend later as the home of Amanda Burks, the "Queen of the Old Trail Drivers." By mid-century the Irish lands had been converted into ranches, and many well-to-do cattlemen made their homes near the spot where the Matamoros and San Patricio peoples met.

By the outbreak of the revolution eighty-four land titles had been issued by the land commissioner, José María Balmecada.

No other *empresario* figured in the settlement of Texas. Purnell drowned, and Lovell sold his interest. Frost Thorn, who had purchased an interest in Milam's grant in addition to his own, did nothing with either. The authorization to John Lucious Woodbury and Joseph Vehlein for two hundred families was extended in 1829 but cancelled in 1834. John Cameron received two land grants, one for one hundred families on May 21, 1827, the other for two hundred families on September 19, 1828. The second grant had originally been issued to Reuben Ross, a United States speculator, but Ross was murdered shortly afterward and his territory assigned to Cameron. In April, 1832, Cameron received an extension of both contracts. A commissioner was appointed to issue titles within his domain on July 28, 1835, but the revolution stymied any efforts to launch colonization. There is no record of any bounty lands being issued to him.

Colonel Juan Dominguez, a native Mexican with a brilliant service record in Mexican military affairs, received a contract on May 6, 1829, for two hundred families but accomplished nothing toward its fulfillment.

Padilla and Chambers received a grant on February 12, 1830,

for eight hundred families, but investigation of the location showed their territory to be in Oklahoma and Kansas. It was never explored.

Vicente Filisola obtained a contract in October, 1831, for six hundred families but had taken no steps toward completion of its terms by the time of the revolution.

Stephen Julian Wilson, another American living in Mexico City, received a grant on May 27, 1826, for two hundred families. On January 2, 1833, this contract was declared as expired and the territory assigned to Beales and Royuella.

* * *

THEN, IN 1832, as if the hard-pressed *empresarios* did not have enough troubles of their own, difficulties of a new magnitude were suddenly thrust upon them.

The revolutionary fire smoldering among the settlers of East Texas was threatening to break out into a major conflagration. It behooved all holders of privileged grants from Mexico, particularly Stephen F. Austin, to suppress it if they could.

Austin himself couldn't. Not even repeal of the land law of 1830 stayed the rush of revolution's tide. Had this measure been enacted sooner, the Texas Revolution might never have flared forth. But, coming when it did, and as it did, it was too late.

We have referred to the 168 American families living within the border strip in the vicinity of the Sabine, who were obviously there to stay. It was not the first official cognizance the government had had of these uninvited residents. In 1823 it had been reported, according to Barker, that "a multitude of Anglo-American families had entered Texas under the pretext of inundations which they have suffered on the banks of the Mississippi." Saucedo sent Baron de Bastrop to inspect the territory, and the German reported that most of the settlers were Spanish Creoles. In February, 1824, the squatters presented themselves officially to the government protesting the

claim of an Edmund Quirk to sixteen leagues of land. When Ahumada came to squelch the Fredonian Rebellion, however, there had been no action on their petition.

Ahumada had another explanation for their residence in Texas — they were settlers bound for Austin's colonies who had stopped in East Texas when they heard so many confusing stories about the status of Austin's projects and had stayed there. Probably this version was correct. There were a number of Louisiana families who had moved across the Sabine, blooded Creole families, but nothing like 168. And many of those who had settled near Nacogdoches had been scattered by the various filibustering movements.

The principal border settlements were at Ais, Tenaha, and Sabine, while to the west lay Atascosito on the Trinity River. A settlement on the San Jacinto was satisfactorily disposed of by adding it to Austin's colony.

Ahumada was favorably impressed by the attitude of these squatters and by the steps they had taken toward settling the country. A translation of his report in the General Land Office states that they had laid out wagon roads and ferries, had mills for grinding wheat and corn, had five gins in operation, and had residences costing from \$200 to \$800. The year before, he stated, they had sold two hundred bales of cotton in Natchitoches. On April 22, 1828, the state government endorsed Ahumada's recommendation that the squatters be accepted as settlers who had met the requirements of the national colonization law and thus were entitled to ownership of their land.

In 1828 Juan Antonio Padilla was appointed general land commissioner for Texas, and one of his first assignments was to issue titles to the expectant East Texas settlers. Thus the chronicle of confusion and delay that led to Anahuac and to Turtle Bayou.

For some reason Padilla did not arrive in Nacogdoches until February, 1830. Before he had issued a single land title, he was arrested for embezzlement and murder and his commission was suspended. J. Francisco Madero, appointed as his successor, reached San Felipe on January 14, 1831, to take up his duties.

Nearly a year had passed since enactment of the Law of

April 6, 1830, which had left all Texas settlers in doubt as to their status and growing naturally more resentful with each passing day. Madero published a notice in the *Texas Gazette* (January 15, 1831) announcing his schedule for receiving land petitions. Immediately he was informed by Colonel John Davis Bradburn, a Kentuckian who had entered Mexican service and was commander of the garrison at the head of Galveston Bay, that such a plan was in violation of the Law of April 6, 1830.

Madero answered that he was following his authority as outlined and would proceed with his commission. On February 13, 1831, Bradburn arrested Madero and his surveyor, José María Carbajal.

The whole argument seems to have been a matter of protocol. Bradburn contended that the act recognizing the border settlers, passed on April 22, 1828, was prior to the Act of April 6, 1830, and thus annulled by the latter statute. Terán upheld him. Bradburn had been sent to Galveston Bay with orders to convince the settlers that their interests were safe and to invite them to act through him, without expense, in negotiations for their titles.

Roughly, it seemed to be a matter of whether the representative of the Federal government, Bradburn, or the state land commissioner, Madero, approved the titles.

Madero was released but made no further effort to issue certificates,²⁶ returning to Mexico after establishing the town of Liberty. Bradburn promptly annulled this action and founded, instead, the *ayuntamiento* of Anahuac.

The resentment of the settlers was quick and violent. It is easy to see their side. They had petitioned for recognition of their claims in 1824; here seven years later their right of tenure and ownership was still unsettled because of a technical issue. Adding further to their indignation were the actions of Colonel Fisher, a Serbian who had come to the United States in 1822

²⁶The account of the Anahuac disturbances is condensed from Barker's *Life of Stephen F. Austin*, certainly the most creditable authority available to any pseudohistorian. However, the files of the General Land Office show that Madero issued a score of land titles after his arrest by Bradburn, the last being on May 22.

and later had drifted on to Mexico. Appointed collector of tariff duties for Texas, Fisher ordered all vessels coming to Texas to pass through the port of Anahuac, where he had established a temporary customs office in 1831.

An incident flared up which Barker credits Stephen F. Austin with smoothing over. Revolution was almost achieved at a very premature stage; there was even the rattle of gunfire on June 26, 1832, at Velasco. Among the results of this insurrection was the removal of Bradburn and the enactment of the Turtle Bayou Resolutions, which were issued at Anahuac.

Texans considered that action was called for because Bradburn had imprisoned two settlers in an abandoned brick kiln and held both without trial. (Both were "Texian" enough to suit even J. Frank Dobie. One of them, William Travis, later won a niche in Texas legend at the Alamo. The other, Patrick C. Jack, was some customer on his own account. When challenged to a duel, Jack chose shotguns and the breadth of a dining room table as the distance.)

Technically Velasco was the first battle of the Texas Revolution. Actually there was no notion of separation from Mexico. The outraged colonists struck boldly, and backed up their physical actions with a staunch declaration. They thrust themselves into the middle of Mexico's teeming rebellion with a declaration in favor of the Plan of Vera Cruz and of the Mexican leader who proposed it.

Later, of course, Texans were not to be so lavish in their praise of Santa Anna.

Colonel Piedras (in his second experience with insurgent Americans) came marching from Nacogdoches with a force large enough to put down the rebellion, but a peaceable settlement was effected. There was no necessity for a retaliatory campaign by the government. Texas was not interested in revolution. The first bloodshed had been inspired by Bradburn's personality and the mounting uneasiness and concern at the failure of the Mexican government to issue land titles as promised. "Only at Brazoria," wrote Barker, "was there a belligerent spirit, and that was quick to feel the chill of disapproval from the rest of Texas." William H. Wharton railed at the "toryish spirit"

of San Felipe and complained that the insurgents were receiving as much opposition from their own countrymen as from the Mexicans.

Austin, the peacemaker, hurried to Mexico and was relieved to find Terán accepting the incident as merely such. Terán ordered Ugartecheá to relieve Bradburn and discussed with Austin ways of restoring peace and order. Terán's reasonable attitude might have been dictated by his political ambitions; Mexico at the time was torn between ultra-conservative Bustamante and ultra-liberal Santa Anna, and Terán was freely mentioned as a compromise candidate. On July 2, however, Terán killed himself in a fit of despondency. It is interesting to speculate upon what might have happened if this Mexican statesman had lived another decade and had actually succeeded to the presidency.

On July 6 Colonel José Antonio Mexía sailed for Texas with several hundred soldiers of the liberal army to relieve the garrisons and prevent the disorder from spreading. Mexía reached the mouth of the Brazos on July 16 and was warmly greeted by the insurgent colonists, who left no doubt in his mind that they were loyal to Mexico and supporters of the liberal party. Mexía returned to Mexico convinced that all the Texas settlers wanted was a liberal government, and that Santa Anna would give it to them.²⁷

The Mexican who styled himself the "Napoleon of the West" was definitely "in." The colonists hailed his approach to power with glee, for Santa Anna seemed to personify what they sorely needed. The Convention of 1832 was launched, not as a protest of any kind, but to draft proposals and petitions for presentation to the man of the hour, who they thought must feel sympathetic toward the Texans who had supported him. Fifty-eight delegates, representing sixteen districts, were on hand at San Felipe on October 1 for the convention. It declared the effect of Article XI of the Law of April 6, 1830, injurious to the welfare of the province. The committee on East Texas lands

²⁷The Texans demonstrated their support of Santa Anna by compelling Mexican garrisons to take an oath of allegiance to him. When Colonel Piedras refused, Texans forced him to evacuate his command.

simply asked for the appointment of a commissioner to put the settlers in legal possession of their holdings. In general, the tone of the council was expectant and respectful. William H. Wharton was elected to present these petitions to the state and Federal government, and two thousand dollars were appropriated for his expenses. His mission was abandoned when the political chief of San Antonio, Ramón Músquiz, wrote Austin that the convention had acted illegally and ordered all of its proceedings annulled.

The various letters and missions of Stephen F. Austin in the next few months make a lengthy and colorless chapter to themselves. There was no major difference between Texans and what the successful liberal party in Mexico proposed to stand for. But the same condition existed to disturb the colonists, and a disturbed man is not a reasonable one. Nothing was done. There was no attempt to suppress them; Músquiz in annulling the proceedings of the first San Felipe convention showed a sympathy for the colonists and what they asked.

The second such convention was held in 1833 from April 1-13. It had been suggested that the Texans meet in San Antonio where political chief Músquiz could observe for himself that they were meeting in dignity and with the full intent of obeying all laws of Mexico. Músquiz refused permission. The Mexican inhabitants, he answered, "were well aware of the evils that Texas suffered and knew the remedies that should be applied, but that nothing could be accomplished until peace and order were restored."

More waiting. Slowly but surely the nature of the Texans was changing. The voice of Stephen F. Austin advocating patient petition was being heeded less and less. Other voices were ringing out. One of the speakers at this April convention was a new settler at Nacogdoches, Sam Houston.

The important actions of this council were the decision that Texas should seek separation from Coahuila and its ratification of a constitution for the proposed new province. Houston was chairman of this committee. It was closely modeled upon the Massachusetts constitution of 1780, possibly because, as Barker suggests, a copy of that document happened to be on hand.

The reasons for separation were stated with force and eloquence by a committee headed by David G. Burnet. The delegates petitioned for the repeal of the Act of April 6, 1830. Appointed as delegates to argue for these proposals before the Mexican authorities were Austin, Dr. James B. Miller, and Erasmo Seguin of San Antonio. Only Austin made the trip.

General Filisola had succeeded Terán as commandant general of the Eastern Interior Provinces. Austin conferred with him in Matamoros, and Filisola seemed willing for the separation to take effect.

Austin sailed from Matamoros for Vera Cruz. The personal discomforts and the chafing delays need not be listed here. On August 12, Austin submitted the petition for repeal of the Law of April 6, 1830. He suffered from a mild attack of cholera — the Mexican capital was swept by the plague, with an estimated 43,000 cases in the city at one time. Congress voted to adjourn, then resumed session. On December 7 the most detested clauses in the land law of 1830 were removed and other concessions made to the Texans. Santa Anna opposed state government for Texas but suggested territorial organization and promised to urge reforms on the legislature of Coahuila-Texas.

Except for one letter written by Austin on October 2, the great colonist's mission was without further major incident. He dispatched the letter after an unpleasant conference with the acting president Gómez Farías. Austin wrote the *ayuntamiento* of San Antonio urging it to take the lead in effecting a provisional state organization.

The letter finally came back to Farías, and he ordered Austin's arrest. The order was executed at Saltillo on January 3, 1834.

It might seem that such an action would incite the Texans to further display. It didn't. The *ayuntamientos* of San Felipe, Matagorda, and Liberty adopted resolutions in April and May praying for his release; but they were not forwarded, and for a time no others were adopted.

There were two reasons for this rather calm acceptance of Austin's persecution. In the first place, the *empresario* wanted it so. He did not desire that his imprisonment should set off a general revolt. Second, there were Texans who opposed

Austin because of material prejudices. Sterling C. Robertson was one. There were others, many of them who simply felt a hostility for all *empresarios* and large landholders.

There is some evidence that Austin's enemies took advantage of his imprisonment to assail him.

"I must confess," Austin wrote on October 6, 1834, "that I do not believe the hundredth part of what is said about the efforts of my enemies in Texas to ruin me. . . . I begin to think that most of what is said . . . comes from persons who are either blinded by passion or prejudice or who are real enemies of mine and of everybody else in Texas and that the real object is to try and darken the North American character."

Three times the prisoner changed jails. On Christmas Day, after nearly a year's confinement, Austin was released on bail; but it was July 11 of the following year before his passport was issued. He returned to Texas by way of New Orleans.

Texas *ayuntamientos* had unanimously voted petitions for his release; and two Texas lawyers, Peter W. Grayson and Spencer Jack, had come to Mexico to argue his case. But Austin's arrest and prolonged imprisonment was no major cause for the outbreak of the revolution. When the great *empresario* returned to Texas he found that, though personal prejudices against him had abated, his influence over the colonists had waned, to some extent at least.

A letter from Sam Houston to John A. Wharton on April 14, 1835, at present contained in the Lamar papers, refers to Austin's arrest as follows:

William showed me his *card* in answer to Austin's ridiculous letter of last August from Mexico. I think he has left the little gentleman very few crumbs of comfort. I was provoked at his first letter, when he *broke into prison*, but when I read his letter of August I must confess that it awakened no other emotion in my breast than *pity* mingled with *contempt*. He showed the disposition of the viper without its fangs. The first was very imprudent, the second pusillanimous.

But, as noted by historian Ralph W. Steen, Houston made similar and even stronger statements about practically every major figure in Texas — except Sam Houston.

In any historical account there must be some conjecture if one attempts an explanation or an analysis. The motives of men who lived long ago can only be speculated upon, with every intent to be considerate of what facts are available.

Of Texas in 1833-34, of Texas and its broad domain, this can be said: the end of one era can be marked and the beginning of another noted.

The situation was definitely out of hand. Until now Austin and other *empresarios* had been able to control their settlers, and immigrants who had not made entrance under an *empresario's* bounty had been in the minority. But the Law of April 6, 1830, had proved a boomerang for Mexico. By forbidding Texas, the Mexicans had advertised it. When restrictions were finally lifted, the rush across the Red and the Sabine Rivers was more than Austin, or Mexico, could handle.

Juan Nempomunceno Almonte, dispatched on an investigation of Texas in 1834, was fearful of being seized by the colonists and held as a hostage. He wasn't. He was received politely and became convinced, after a visit to a United States fort, that that country contemplated no hostile movement against Mexico. But, in his reports to the minister of relations from February 12 to April 13, Almonte noted that since the repeal of the act of 1830 the number of immigrants was rapidly increasing. He estimated that 3,000 Americans crossed into Texas in 1834 and recommended 2,000 troops be stationed in Texas.

Among the Mexican leaders of the period there seems to have been a unanimity of opinion that the province must be reorganized and some injustices and mistakes amended. Almonte's intention was to do everything to stop any menacing operations of the colonists until the government could organize itself and devote its attention to Texas. Almonte's report was reassuring. In further letters to the minister of relations he expressed his conviction that the colonists had been misunderstood, and he urged the release of Austin as a political measure. Mexico would have undoubtedly granted Texas territorial status and rectified most of the wrongs if Mexicans could have ever established their own government on a stable basis.

They couldn't. Almonte's inspection, and his warm promises,

mollified the Texans, but very shortly the colonists were alarmed again. And with good cause. This time it was the corruption of the state government and the insane speculation in Texas lands.

It was "just one blamed thing after another." This new chapter began with the dispute between the Mexican cities of Saltillo and Monclova as to which was the capital of Coahuila-Texas. A decree of the legislature passed March 9, 1833, moved the capital from Saltillo to Monclova, where fifteen months later the permanent deputation and the executive council issued a protest against the reactionary program of Santa Anna. On July 19 the city of Saltillo, perhaps scheming to regain the capital, declared for Santa Anna, repudiated the government at Monclova, and set up a government of its own. For a time the state had no constitutional government as the cities bickered back and forth. On November 6 commissioners from the two towns agreed to submit their claims to Santa Anna and to abide by his decision. Santa Anna decreed that Monclova should remain the capital and that new elections should be held.

In this confusion began the land speculations which developed into a wild orgy.

Under all of its various land laws the Federal government of Mexico had retained the right to sell lands in not more than eleven-league lots out of the public domain to Mexican citizens. The price was \$100, \$150, and \$250 per league for pasture, unirrigable, and irrigable lands respectively. The first sale was to Juan Antonio Padilla in 1828. Ben Milam made such a purchase. But not until 1830 did there come any wholesale abuse of this law.

In that year Jim Bowie appeared in Texas with a colorful reputation behind him and considerable means as the result of his association with Jean Lafitte. (Bowie and his brother were reportedly agents of the pirate king in disposing of his stolen "black ivory." In one year they are supposed to have netted \$65,000 in commissions.) After having fought alligators barehanded, killing a man with a knife fashioned by his brother, searching for gold among the Lipan Indians, and marrying the daughter of a wealthy Spaniard in San Antonio, Bowie turned to land traffic. In 1830 he purchased sixteen such eleven-league

grants from Mexican citizens who filed for them and released them to Bowie.

The number of such purchases increased alarmingly. Ben Milam, petitioning the legislature in 1835 to grant titles to isolated families in Texas, explained that the settlers were being dispossessed by foreigners who held these eleven-league grants.

The situation was further aggravated by the enactment of land laws by the state legislature. On March 26, 1834, an act was passed providing that the vacant lands be surveyed into lots of 177 acres and sold at public auction. A limit of eleven leagues was set for any one purchaser. Terms of one-third down and the balance in one and two years were offered. Foreigners might purchase land and then have one year in which to move their families into Texas and become naturalized citizens, which was necessary for perfection of titles. The Catholic restrictions were removed, the statute providing that no one should be molested for religious or political opinions as long as he kept the peace. It was further stated in this law that no further *empresario* agreements would be entered into.

A supplementary law of April 23, 1834, decreed that after the lands "had been exposed at public sale with all of the formalities, they might later be sold to any person offering the minimum price without the necessity of again offering them at auction." The dynamite of such an act, if administration is in the hands of corrupt officials, is apparent. Barker in his article for *The Southwestern Historical Quarterly* on land speculation prior to the revolution, wrote:

Judge Thomas Jefferson Chambers, writing in 1837, declared that only by his efforts was defeated the proposal of a foreign millionaire company,²⁸ whose agent was General John T. Mason, to purchase for a pittance some twenty million acres of land on the eastern frontier. He was informed by several men, he [Chambers] said, that members of the legislature and the governor were offered large bribes to pass the measure. The governor pledged to him that he would veto the bill if it passed, but fortunately a majority of the members were honest and killed it.

Mason did get a large grant in his own name, however. It

²⁸This was probably the Galveston Bay and Texas Land Company.

was among those specifically cancelled when Texans drafted their Constitution in 1836.

A second law was passed on April 19, 1834, so that the governor might distribute four hundred sitios of land to defray the expenses of maintaining militia in the field. It was the intent of the men who drafted this bill that the land should be distributed among the militia, but by a trick in the enrollment of the statute its wording was so changed as to authorize the sale of such land by the governor. A law of April 4, 1835, clearly gave the governor this authority.

Now the executive could use the public domain to pay for the defense of the frontier. This bill had been introduced by Samuel M. Williams, Austin's partner, and John Durst. The sponsors of the legislation proceeded to join in the spoils. With two associates, Robert Peebles and F. W. Johnson, Williams and Durst obtained 124 leagues of land.²⁹

With his associates Williams became, in this year 1835, a contractor of militia. They agreed to furnish a thousand men for a year, fully armed and equipped for service. One condition was that the government was to provide food and horses, which it was unable to do. The contractors therefore claimed that they were relieved of making any return for the land.

News that General Cós had declared these land acts contrary to the federalization law and was marching upon Monclova to suppress the legislature spurred the solons to greater activity. An act of April 7, 1835, stated that "the governor is hereby competently authorized to contract loans upon the state rents for the purpose of discharging the expenses of defense." On

²⁹In addition to his land speculations, Williams was a leader in business enterprise. When he returned from Mexico with the *empresario* grant previously assigned to Robert Leftwich (mentioned in the section entitled "The Robertson Colony") Williams also had authority for himself to organize the *Banco de Comerciarly Agricultura*, which opened for business in 1835 and was subsequently recognized by the Republic of Texas. Williams also owned the first steamboat in Texas and operated the first commercial steamship line in the Republic. The bank which he founded in Galveston operated until his death in 1858, when the good will of this original institution was taken over by the banking firm of Ball, Hutchings and Company.

May 2 one Dr. James Grant, a Scotchman, was allowed to purchase a quantity of one-league certificates, supposedly five hundred of them, at \$100 each. On May 11 Williams, Peebles, and Johnson obligated themselves to supply one thousand armed men in return for four hundred leagues of land.

By no means were these all of the speculations. The Texas Land Company, a Florida organization headed by Thomas Jefferson Green and Achille Murat, invested in lands on the Sulphur Fork of Red River and elsewhere in Texas. Major Green came to Texas in 1834 with capital destined to be invested in a large amount of similar operations. Mason bought numerous eleven-league grants for himself and his associates, among whom was the Samuel Swartwout who operated with the Galveston Bay and Texas Land Company. Perhaps much of the million dollars Swartwout embezzled went into the purchase of Texas lands; certainly he contributed financial support to the revolution. Colonel Anthony Butler was actively engaged in this buying and selling.

The legislature adjourned on May 21 after authorizing Governor Viesca to move the seat of government, and the lobbyists scattered. Active at Monclova were Samuel M. Williams, Dr. Robert Peebles, Major Benjamin F. Smith, Colonel Green DeWitt, Colonel Benjamin R. Milam, Thomas J. Chambers, W. H. Steel, Haden Edwards, Jr., James Carter, Dr. James T. Parras, Dr. John Cameron, David J. Toler, and General John T. Mason.

Peebles and Johnson hurriedly issued certificates for the 400 leagues of land to 41 persons, who may or may not have ever performed anything in return. At least one of them didn't. When, after the organization of the Republic and the General Land Office of Texas, these grants were studied, it was very easy for the first land commissioner to declare one of them void. For it was made out in his own name, and he was never associated with the Monclova militia.

The Texans returning from Monclova sought in vain to convince the people that Santa Anna's orders to General Cós were a challenge to their rights. The Texans bitterly resented these land speculations of 1835. They believed that the Coahuila legislature, knowing the separation of Texas was inevitable,

had been determined to plunder Texas lands while the Lone Star domain was still under its supervision.

Of the various reactions Barker wrote: "Stephen F. Austin, writing to D. C. Barrett on December 3, 1835, said: 'The Mexicans considered the land valueless. The treasury was empty and the sale of land promised the only relief.'"

The *Texas Republican* of May 9, 1835, printed an appeal from Governor Viesca to all Texans to rally behind the state government against Santa Anna, but the editor described it as "a news item solely" and declared that he did not publish it with the view of endorsing the governor's call for troops to "sustain him and a vile congress that have bartered our public lands for a mere song." The editor published the answer of the political chief of the Brazos department in the same issue, which was as follows: "The people view with equal horror and indignation the acts of the present state congress, who have manifested a determined disposition to alienate all of the most valuable lands of Texas at a shameful price and thereby utterly ruin her future prospects."

General Cós, whose soldiers put Viesca and the legislature to flight, issued a manifesto explaining that the march on Monclova was to settle the quarrel between that city and Saltillo concerning the location of the state capital and to stop the squandering of public lands.

Perhaps some thorough, thoughtful historian will emerge in the future with a full discussion of what brought on the Texas Revolution. It is treated here only in passing, and as the disposition of the public domain affected it. In the year 1835 there was no real quarrel between Texans and the Federal government. The flare-up at Nacogdoches had been squelched, to the satisfaction of everyone except the Edwards clan. The incidents of Anahuac and Velasco had been dealt with fairly by the central authorities. The excitement of 1835 was over the land scandals. The Texans who had declared their faith in Santa Anna had as yet no concrete cause for turning against him. Their only quarrel was with the state government.

It is true that prominent Texans issued grave warnings against Santa Anna and his intent, though the only direct affront to the colonists had been the sustained imprisonment of Stephen

F. Austin without trial. R. M. Williamson's voice thundered out warnings to his fellow Texans. "You are in the midst of a revolution that threatens your destruction," he declaimed. "You are lulled to sleep in the belief that speculation alone has created the present excitement."

On July 4 the same speaker declared "the country is in danger, and no time should be lost in preparing for war." William B. Travis, later to die at the Alamo, proposed the capture of the Mexican garrison at Anahuac, and on June 30, Captain Antonio Tenorio and his soldiers surrendered and agreed to retire from Texas.

Revolution was not yet there. "Travis," wrote Barker, "was the target of severe criticism. People resented the effort to stampede them into precipitate action." Cós issued warrants for the arrest of Travis, Williamson, and others and refused to receive a peace commission until the men were delivered.

By the middle of August the Texans were more unified. A central executive committee was organized at San Felipe on October 11, and the war for independence had begun though not a single voice said as much.

As in the case of all revolutionary movements, there came a time when all were swept along in the same tide. And, whatever may have been the contribution of land speculators to the outbreak, it was not *their* revolution. It is never so.

The little man, the anonymous Texan with his plow and oxen, was caught up in this tide, and soon, from sheer press of numbers, had pushed into its vanguard. He had nothing but his prejudices, and those were secondhand. His one complaint was uncertainty, and it did not seem logical that a revolution would offer the means of satisfying his desire for security.

But he was a wary man, one who trusted no one but himself. He fought side by side with land speculators and the bitter *empresarios*, but he was not deceived by them. He knew it would be his war from the moment he launched it.

And it is not too much to say that Texans fought their war of independence with one eye on the advancing Mexicans and the other upon their land commissioners and the still-active land speculators.

In the first council meeting, as noted previously, a resolution was enacted suspending the activities of all the land offices. On November 13 the committee on public lands reported to the consultation that the land offices had been closed and that "no advantage could be taken over the soldier in the field in making his selection of lands." Such an assurance to the warriors was necessary.

On the motion of James W. Robinson, who was to be named lieutenant governor of the provisional government and was to succeed Smith when the council voted the chief executive out of office, Section 18 was voted into the plan of provisional government providing that "all sales, grants and conveyances of land illegally and fraudulently made by the legislature of the State of Coahuila and Texas, located or to be located within the limits of Texas, are hereby solemnly declared null and void, and no effect."

Article XIV of the same plan ordered all officials or persons in any wise concerned with the location of lands to cease their activities during the period of agitation and unsettled condition. It provided that suitable persons be appointed to take charge of the archives belonging to the different land offices and to hold them subject to the orders of the provisional government.

But it was one thing for the different provisional governments to order the land offices closed, another to close them. On December 4, 1835, it was complained that the "refractory commissioner" of the Nashville colony would not close his office. On December 26 Governor Smith read to the council a letter from John Forbes, one of the three men appointed to close the Nacogdoches office, that "owing to the combined and active opposition of some six or eight speculators, sustained by individuals of the United States who employ them to engross the lands that are properly the public domain, the will of the government is being thwarted."

The pressure upon the solons continued. Conrad proposed that the convention select a commission to proceed to the various land offices, investigate what they had done, determine how much land was still unappropriated, learn the circumstances attending all grants of land for greater amounts than provided

in the colonization laws, take in hand all books and records of the several offices, and bring their report and material back to the convention. The resolution was tabled.

Robert Potter on March 8, 1836, in the constitutional convention, moved that a committee inquire into the propriety of nullifying all land grants of more than one league and one labor in extent. His proposal was rejected with no official vote taken.

The first draft of the constitution was presented on March 9. Section 11 under the "General Provisions" provided that there should be a tribunal, from whose decision there should be no general appeal, for the adjudication of all land titles. No claim was to be confirmed by the said tribunal until Congress should have passed on the same, nor was Congress to act on any claim or grant which originated previously to the adoption of the constitution before the claim should have been recommended by the said tribunal.

Section 15 of the "General Provisions" also declared void "sales of land made by the legislature of Coahuila and Texas, located in Texas, and all lands, the location of which are unauthorized by law, and all grants, the conditions whereof have not been complied with; and all grants or titles issued in violation of the laws of the consultation; and all titles that may be hereafter issued unless under the authority of this constitution; and all grants that may have been antedated."

It was provided that grants secured under the colonization laws of Mexico should not be violated.

The powers of compromise were at work. The landholders and land-seekers were merging their respective interests.

Section 13 of the proposed constitution provided for the awarding of land to citizens and soldiers. On March 10 Potter again introduced a land resolution — this one providing that each citizen of the Republic be given a league and a labor of land. His measure also provided for a land tribunal to settle all title disputes and forbade all ownership of land by aliens.

Mr. Potter, an eloquent voice pleading for the rights of the common man, was not able to get this resolution passed either. Four days later he proposed that a committee of five be ap-

pointed to draft a provision for the constitution on the subject of lands. Potter, together with Childress, Carson, Fisher, and Coleman, made up the committee.

The constitution as finally adopted made no provision for a land tribunal. It declared null and void grants made by the legislature of Coahuila and Texas in 1834 to John T. Mason and other grants under the law of March 14, 1835, by which eleven hundred leagues of Texas land had been granted to sundry individuals. It declared void all eleven-league claims located within twenty leagues of the boundary of Texas and the United States, all surveys and locations made since the act of the consultation in closing the land office, and all titles to lands granted since that time. It provided for a general land office to have charge of administering the lands of the Republic.

The compromise, then, was complete. The grant made to Peebles and Johnson under the revival of the Act of April 19, 1834, was permitted to stand, though certainly not even the receptors could claim that the terms of this grant were met.

Like all compromises, this one had been necessary. The pressure upon government heads since the consultation had ordered the land offices closed had been great; neither big man nor little was satisfied. Sterling C. Robertson, pressing his claim against Austin even during the revolution, had addressed the council on December 17, 1835, saying that he was bringing colonists to Texas and wanted the land offices opened. William H. Steele, commissioner for the Nashville Company, refused to turn over his records and, while charged with contempt by the consultation, escaped punishment.

Immigrants were streaming in and continued to come until the beginning of the "Runaway Scrape," when Sam Houston started retreating at a mad pace before Santa Anna. Rumors came across the Sabine with the immigrants. Gaines was stationed at the Red River, and beyond, with an impressive force of United States troops. The Americans pouring into Texas were sure that Old Glory and Old Hickory would come right behind them.³⁰

³⁰Noah Smithwick in his *Evolution of a State* treats the possibility that deserters from Gaines' army participated in the Battle of San Jacinto.

Empresarios and large landholders viewed this prospect with alarm. In hopes of mollifying both sides, a report was issued on December 31 explaining why the consultation had closed the land offices. Immigrants were advised to settle on the public lands far enough apart to avoid trouble. *Empresarios* were assured that no law would be passed impairing their contracts. Robinson, acting governor after January, suggested the expediency of providing lands for new settlers in small plots.

As early as December 11 the consultation had voted to grant 640 acres to the heirs of any man losing his life while a member of the volunteer army. That was not enough, and commanders in the field sent back their demands that provision be made for the reward of all soldiers. The council voted 640 acres to each private and non-commissioned officer. Later this was increased according to the length of service.

Tranquillity of a sort was gained by this compromise constitution. The rights of some big landholders were solidly entrenched in Texas, and later the *empresarios* so summarily kicked out of the window were granted the right to petition for redress if they were not foreigners, nor agents of foreigners.

But the *empresario* era was over. The practice was to be temporarily revived on organization of the Texas Republic, with issuance of several contracts and partial fulfillment of at least two. These, however, were not granted with the full permission of the breed of immigrant which was then "in the saddle," and fulfillment of these contracts was thwarted at every turn.

The settler pushing along the rough wilderness roads had taken over the land of Texas, awarding only a pittance to the *empresarios* who had come before him. Quickly he provided for himself and those of his kind coming on. Heads of families arriving as immigrants prior to October 1, 1837, would receive 1,280 acres of land, a single man 640, provided they remained in the Republic for three years and performed the duties of citizenship. A later law granted 640 acres to family heads and 320 to single men who immigrated prior to January 1, 1842.

Quickly passed by the convention had been the provision "that all persons except Africans and their descendants, living in Texas on the day of the Declaration of Independence, are

entitled to a headright grant, if they be heads of families, of one league and one labor, and if a single man, 17 years or older, one-third of a league.”

The *empresarios* were shunted out of the military and governmental picture as well. Austin was shortly relieved of his command of the Texan army and sent to the United States as a commissioner, the only colonizing contractor to retain any influence. After the armistice he served a brief term as secretary of state. As a presidential candidate he got nowhere.

The settler fared very well as a soldier. At a place called San Jacinto, Houston stopped running. A flutist, Frederick Linski of Captain Andrew Briscoe's company, struck up the strains of "Will You Come to the Bower?" The song he chose seemed ill-fitted for the occasion, but it didn't matter; the strains were soon drowned by the uproar.

There were other fights. The little man, the anonymous Texan, did not win them all. But he won the last one. And he won, in the wrangles of governmental organization, at least a reprieve against the forays of forceful men who saw land as stakes to gamble for, to play a game of financial empire with.

For him it is never more than that, a reprieve. The settler took over the country he had won, and sought to parcel out its public domain fairly. Quite soon, however, his peace and security were threatened by other robber barons.



“All are land hunting, seeking sugar and cotton and stock farm lands, but are as much at a loss in their selection as children in a toy shop.”— Anonymous Texan quoted in Hogan’s *The Texas Republic*.

III

THE SETTLER

HE WAS a simple man. He was a stern man. He knew not of law, nor was he concerned with its intricacies and confusions.

He distrusted most things around him, except the lure of the open country beyond. That he knew. That he had met before, for he had been into the wilderness once. He would go again.

And come what may, he would not turn back. It was an inheritance. It was a philosophy. It was a creed.

The *empresarios* brought him — at first. He didn't like them. He didn't like their fees and their restrictions, and he came to regard them as a privileged class.

Then later he came because he heard rumors of oppression and voices raised in honest protest. He came, already committed to one side, without knowing why. He came to fight for *his* rights.

W

HEN Frederick Limski's brief historical serenade was over, a mere handful of people found themselves in possession of 379,054 square miles, or 242,594,560 acres, of unclaimed domain, an area larger than most European countries, an expanse of public lands little less in size than that still owned by the United States. In some two hundred turbulent years only about 26,000,000 acres, less than one-tenth of the total, had been disposed of; quite obviously business would have to pick up if the land was to be used for anything at all. There were some 38,000 people eager to assist in the division of that open territory. There were various opinions as to how it should be done and when it should start, with the majority favoring immediate partition. We have seen that early-day Texans were not paragons of patience.

The remainder of this volume is devoted to an account of how and when these 242,594,560 acres were distributed. We are not through with swashbucklers, with adventurers, nor with schemers by any means. We are not even through with attempts to found foreign colonies.

But for the moment, the disposition of those headright claimants is the most pressing business. David G. Burnet, president of the *ad interim* government, found it so just after San Jacinto. Mr. Burnet would have liked to have concentrated his official energies upon such matters as the disposition of Santa Anna and the organization of a permanent government, postponing for the time being the question of public lands. But the veterans of San Jacinto would not have it so. Their problems, mostly land and back pay, had to come first.

Summer was drifting on, and a homesteader should be building his cabin and clearing his land against the spring planting. It was a volunteer army, and it clamored to be dismissed and properly rewarded for its services. Throughout the summer and autumn of '36, Texas was not threatened by an invading force,

nor was it to be for five full years. The Texans who had routed Santa Anna were not the type to like drills or army discipline. They were furthermore confused by a number of factors. One was the treatment of their commander-in-chief, who had had to pay his own boat fare to New Orleans to receive treatment for his wound. The second was the appointment of Mirabeau Lamar as commander of the army to succeed Thomas J. Rusk, Houston's first successor.

To illustrate the mood of this "standing army" on July 17, 1836, the volunteers rejected Lamar as their chief. Subordinate officers had pleaded with Lamar not to present himself for assumption of his command, but he had been determined to carry his case to the ranks and hear with his own ears the refusal of the soldiers to follow him. He asked for a vote after speaking to the assembled troops. Nearly 1,500 ballots were cast against his accession to the command, while only a few were polled in his favor. He then notified President Burnet that he would withdraw.

This idle, surly army constituted a most potent "lobby." Volunteers had been promised grants of land in reward for their services; they were entitled to first-class headrights, or the same privilege as residents of Texas on the day of the Declaration of Independence. But a matter of growing concern to the veterans of San Jacinto and other engagements of the revolution was the influx of other volunteers. For example General Felix Huston had arrived with five hundred troops from Mississippi after April 21. The size of the Texan army had swelled until finally the envoys of the Republic of Texas in the United States were ordered to send no more men.

Some of Houston's veterans expressed concern that there would not prove to be enough land to satisfy all existing headright holders. As a "lobby" they heckled President David Burnet to launch the business of government on an official basis, reopen the land offices, and start issuing headrights to veterans. The government, Burnet and others, reminded the soldiers that they had been assured land by law and would receive all of their bounty acres. The soldiers countered with the reasonable argument that settlers were pouring across the

Red and Sabine Rivers and were locating their families according to the statutes permitting immigrants to settle on the public domain until a general land office was opened. These Johnny-come-latelys, growled the soldiers, were grabbing off the best locations.

Sam Houston, having recovered from his wound, returned to Texas. The soldiers turned to him as the only man they could trust, and Houston accepted their loyalty without qualms. Such became the impatience of Houston and his followers that Burnet speedily called an election, then vacated his office along with Vice-President De Zavala before the time for Houston's official inauguration had arrived.

However, it was not by Houston's hand that the organization of a land office and the issuance of titles to veterans were effected. Houston's land policies were as enigmatic as his politics. The first Congress of the Republic speedily enacted a law providing for the establishment of a land office. Houston vetoed it. The first president maintained that the business of a land office could not be properly conducted until all of the archives and records from the various *empresario* colonies had been collected. The act was passed over his veto.

The veterans forced through another concession. An act of December, 1837, supplementing and supplanting all previous land legislation, provided for the office to be open to veterans and old settlers on the second Thursday in February, and to all others six months later.

Thus the men who had fought and shed blood for the new Republic got some sort of a jump on the late arrivals. Houston opposed this, though it seems reasonable. The poor crops in the United States, however, plus the panic of 1837, had sent immigrants Texas-way in droves. The May 16, 1837, issue of the *Telegraph and Texas Register* stated:

Crowds of enterprising emigrants are arriving on every vessel and so numerous have our citizens already become that we confidently believe Houston [the town] alone could in case of a second invasion furnish an army of able-bodied men nearly equal to that now encamped on the banks of the La Baca.

Such newspaper articles did not make the soldiers, or the

original settlers for that matter, any more patient with the fumbling efforts of the new government.

The General Land Office was opened for business in February as directed, and the first commissioner was John Petit Borden, a veteran of the revolutionary army. He was Houston's appointee and the most logical man for the office. Even while Congress was enacting the land legislation over the President's veto, John Borden was engaged in indexing and perfecting the records of Stephen F. Austin's colony and, with his brother, Gail, Jr., was completing the first extensive and most comprehensive map of Texas. Borden had been sent to San Antonio to learn the Spanish language at Stephen F. Austin's expense; he could translate the Spanish documents.

He was inadequate for the task thrust upon him, of course; any man would have been. The only boundary line to his domain of which he was at all certain was the strip of coastline studded with a few would-be seaports such as Matagorda, Velasco, and Galveston. No map existed to show the limits of the various Mexican states of Coahuila, Tamaulipas, and Chihuahua except the one he had partially completed with his brother. He did not know where United States territory left off and Texas soil began, for Jackson claimed land past what Texans believed to be the limits of the United States under the Louisiana purchase. (An uprising in 1827 by settlers who believed themselves living in Texas and resisted for a time the efforts of Federal representatives to collect taxes has already been noted.)

Some unknown thousands of settlers, as well as the veterans of Sam Houston's army, were entitled to headright certificates and possession of their land. Certainly Houston had been wise in recommending postponement of a land office until the various records had been gathered and the land surveyed and platted. Then the Republic of Texas could have known just what land it had to give away and where it was. But Texans would not wait. Young John Borden bravely faced an impossible task.

Congress had ordered "all *empresarios*, political chiefs, *alcaldes*, and other persons to deliver to the general land office all titles, books, surveys, papers, documents, or other things in their possession, or charge," but this was easier said than done.

The Republic had had six seats of government in less than a year. The Mexicans had captured and burned all *ayuntamiento* seats except two.

Commissioner Borden dispatched Darius Gregg to collect the titles of the East Texas colonies with these instructions: "You will proceed to Nacogdoches where you will employ a small wagon and team sufficient to convey the archives of the different land offices east of the Trinity, together with that of Milam's colony now at San Augustine. . . ."

To San Antonio, Borden sent George W. Fulton with a letter authorizing him to "procure the facilities for the safe conveyance of the archives" with the admonition to be "particularly careful not to get them wet under any circumstances."

Some idea of the difficulties that the Commissioner and his agents had to cope with is illustrated by this complaint from George A. Nixon of Nacogdoches, dated October 4, 1837:

Some time ago Mr. Gregg presented me with a Letter addressed to Captain A. Hogkiss [Hotchkiss] requested him to Sand Down or to Deliver the Archecheves on Land Papers Belonging to Zavala, Vehlein and Burnets colloney. At the time I was sick and partley confined to my Bad and taking Medecan, and I Remaned unwell up to this time and am Now hardley abel to attend to Buisness. Too I have had 4 yong men employed in wrighting and taking an account of the papers and myself. I have Been at much Expance and troubel and Princebally owing to my Sickness and I am so week that I can hardley wright. . . .

Borden reported to Congress on October 7, 1837, that he had succeeded in getting the records of only four of the land offices. "The collection of all the archives," he wrote, "has been and is yet attended with difficulties greater . . . than was contemplated by the former members of congress; otherwise there would certainly have been some provisions made by which persons might be employed for that purpose for I am fully convinced that they did not expect men to engage in the business for the mere honor there would be attached to it. . . ."

In this report Borden stated that the records of the De León colony at Victoria had been destroyed by the Mexicans. In his next report he amended this statement, saying that the Texan

army had removed the archives. Not until 1850 did these instruments find their way to the land office.

By November 6, 1837, Borden had secured the records of the following colonies: Austin, DeWitt, Power, and Bevil's settlement. He also had secured a register from Wavell's colony on the Red River, but he had not yet received the archives of the three East Texas colonies (Zavala, Vehlein, and Burnet). Evidently Mr. Nixon of Nacogdoches was still ailing and the "4 yong men" were executing their duties at a snail's pace.

But, ready or not, here the land claimants came. In the short span of the Republic's existence a total of some thirty million acres was handed out to claimants, legitimate and otherwise.

The documents Borden had finally secured were not readily available; they overflowed into the corridors and into the basement of the capitol building leased by the Republic from the Allen brothers. The promoters of Houston had contracted to furnish suitable accommodations for all branches of government, but this was far from the case. Perhaps, like the Congress, the Allen brothers didn't realize what a cumbersome and unwieldy thing government was.

Adding to the difficulties of organizing the land office was the Houston weather. The bayous seemed to have been flooded throughout most of the capital's stay in Houston with such telling effect that one commentator reported "three or four dead bodies [of laborers] were picked up every morning, where they had laid down the night before to sleep in the open air, on the ground." (As the statement was made by a Texas solon favoring moving the capital site to Austin, the reader may temper it if he wishes.) The famous naturalist, Audubon, visited Houston in 1837 and declared that he approached the President's mansion "wading in water above our ankles."

Land was issued in the following manner: A board of land commissioners was appointed for each county by the combined houses of Congress.¹ Headright applicants appeared before

¹The Act of December 22, 1836, providing for the establishment of a land office also provided for eleven regional land offices, to be located as follows: No. 1 at the house of George Wright on the Red River, No. 2

this board, and if producing satisfactory evidence of their eligibility, were given certificates calling for the amount of land that they were authorized to receive. The applicant engaged a surveyor who was authorized to "locate" and survey the land out of the unappropriated public domain. The surveyor usually received one-third of the land for his services, and some of the early land barons amassed a fortune in this manner.²

The surveyor's field notes were then approved by the county or district surveyor and certified to the commissioner of the General Land Office, who issued patents. Land certificates for military service were granted through the secretary of war instead of by a county commission, with the same necessary surveys and filings.

The county commissioners perhaps bore the brunt of the burden. They had to pass upon the validity of all claims, in many respects the claims of their friends and neighbors. One commissioner stated that it was like being beset "on all sides by a pack of wolves." The land law itself was not very clear. In Borden's report of April 10, 1838, he stated that "claims are presented in many different ways and so very complex in their nature, that no two ordinary men are capable of deciding justly upon them."

Many of the claims were fraudulent, of course. Frauds, in

at San Augustine, No. 3 at Liberty, No. 4 at Nacogdoches, No. 5 at Matagorda, No. 6 at Washington, No. 7 in Milam County, No. 8 at Mina (Bastrop), No. 9 at Gonzales, No. 10 at San Antonio, and No. 11 at Victoria. These district offices were never put into operation, boards of land commissioners being instituted to perform the same work. It was proposed to sectionize the public domain before any certificates should be located, but this plan was abandoned due to lack of funds and the clamor for immediate recognition of headright claims.

²Among the most notable was Thomas J. Chambers, already referred to as a land speculator. Chambers made many enemies in the course of his land transactions, so many, in fact, that when he built his house at Anahuac it was with a narrow circular stairway leading up to the second story — there were no rooms on the ground floor — so that he would not be in danger of surprise visitors. However, he was eventually killed by a bullet fired through a second-story window.

fact, are still being discovered in the early issues of titles. One county commissioner wrote to Borden:

There are some individuals in East Texas who have your name to some fraudulent claims by way of recommendation, which I am satisfied is forgery. Now, my friend, as I have told you, there are not more than one dozen men concerned in fraud in Jasper County, but that few rolled it downhill with a rush.

In a later report to the legislature Borden said of these fraudulent claims:

So great have been the facilities for manufacturing them [fake certificates] that the individual holding less than 10 for a league and a labor each is considered a small operator in this line as was anticipated a great number of certificates have been reported as fraudulent, others have been obtained upon illegal testimony, others again which are most probably genuine, but not proved strictly in accordance with the law that frauds have been practiced in procuring the certificates from the Board of Land Commissioners must be evident to all, from the number issued and the quantity in the hands of one individual. In one county upwards of 350 have been issued by the new board.

One anonymous letter on file in the General Land Office reports one such travesty. It is endorsed in John Borden's own handwriting: "From Mr. Nobody — on Swindling and Rascal-catching."

A lady here — her name is now Mrs. M— — has married her third time. She drew with her first two husbands a league and a labor each and her and this M— went to Nacogdoches to get married. They arrived there at night. That night they called on Mr. Nixon and tried to get another league and labor for her as a widdow. He told them he had no right to issue to her as a widdow as she had drawn land with both her husbands. They left him and went to Taylor and made the statement that she was a poor widdow. He told them that he did not think he had any right to give her land, but finally did so. They got Mr. Hubbard to draw up field notes for a certain league as near as he could guess as he never surveyed it. They got the title of him and in the morning they married and got also one league and labor as Mr. M—.

Another letter to Commissioner Borden stated, "But, oh, the

perjury and fraud that have been practiced. May God forgive them as individuals and us as a nation.”

In a final effort to prevent fraud, Congress passed a law imposing a punishment of thirty-nine lashes on the bare back and a jail sentence of several months upon all persons convicted of fraudulent schemes to obtain land. Congress also established two land boards of traveling or general commissioners to investigate the counties east and west of the Brazos respectively.

One of their earliest reports stated:

We find many genuine and legal claims against the government that are not issued in conformity with the laws. It is much to be regretted that the law did not give more discretion to the commissioners. We could have then done ample justice to all parties and prevented future expense or trouble to the Govt or individuals.

I find some strange constructions have been placed upon the law by the different boards. . . . I would advise you by all means not to issue patents until our returns have been completed, otherwise many certificates may be patented that are not legal as it is impossible until our examinations are completed to know whether or not the same individual has procured a certificate in more counties than one. . . . Our situation I can assure you is not an enviable one . . . the sovereign people curse the law and the law makers and sometimes also your humble servant. . . .

It is not to be charged that all county commissioners lacked honesty and ability. Their lot was a hard one. One commissioner who had made an error in his report to Borden wrote the land office head as follows:

Now Sir please imagine to yourself a Board crowded with near 200 applicants on the first day of the opening of the land office and on subsequent days from 50 to 100 more and consequently having to have different clerks employed & under such circumstances I presume that you will freely excuse the above errors.

Nor, as could be expected, were the decisions of the county commissioners quietly accepted by the land-seekers. One indignant citizen wrote Commissioner Borden, “I was informed that my Brothers head write was rejected in consequence of their being too young. . . . I will make sufficient proof of their age

by mother and Aunt Nancy who knows their age better than that drunken inspector.”

Reported one county commissioner to Borden:

I was threatened in the office to have my brains blown out & my hearts blood by another . . . their desire was that I should do only as they pleased. My reply was that I should not swerve from my duty and instructions. We are a rough set. Make the best of us and if we can't have sitem or law here we will end a miserable existence I am afraid.

So many fraudulent headright certificates were issued that a sally of the times was that all of Santa Anna's soldiers had crossed the Rio Grande and obtained headrights as veterans of the Battle of San Jacinto.

And now let us study the lot of another principal in this rush for land, the surveyor. The roads were bad if there were any at all. The surveyor's pay was low and frequently in arrears, so that he seldom could afford to buy decent paper. But perhaps his worst enemies were sickness and the Indians. Letter after letter to Commissioner Borden from surveyors tells of their being laid low by rheumatic affliction, cold on the lungs, bilious fever, or just “the sickly season.”

The vacant lands lying within the settled limits were quickly taken up; headright holders as early as 1837 were going off into the uncharted regions to locate their claims. The surveyor, of course, had to go first, when he could. One surveyor wrote Borden:

My county map has been ready for sometime. But the Indians have been troublesome for some time past and the mail from this place has been stopped. I have returned a grate many surveys to the President of the Board of Land Commissioners, but he states that he is afraid to send them on by mail when times are so difficult in consequence of the Indians watching the road and killing men at every opportunity.

Another stated:

I have just received news that one of my deputy surveyors is killed by the Indians together with several other men at Parkers Fort and it is thought that two more of them probably shared the

same fate and two or three more I know are eminent danger. I have no idea that there can be much surveying done on the frontier unless Congress should make some provision for the surveyors to be guarded.³

In addition to the Indian menaces, the county boundaries had not been clearly defined by Congress, and surveyors who thought they were within their territory would often, while in the woods, meet the surveyor of another county.

Borden's load was further increased by the removal of the state capital from Houston to still another site, Austin. The new capital was built on the site of the hamlet of Waterloo, near the town of Montopolis, which was laid off by Colonel Edward Burleson in July, 1838, and incorporated on January 15, 1839. On May 11, 1838, in the House of Representatives, Thomas Hardeman of Brazoria moved, as the House began debate on a bill to locate the capital city at Eblin's league, to fill in the first blank with the name of "Austin." His motion carried, and thus the Texas capital was named after the great *empresario* and placed on the exact spot where he himself would have located it.

Workmen went to the new site in May, 1839, and launched construction of government buildings. The legislative act called for completion by October 1, which a Houston newspaper editor considered ridiculous, "unless, indeed, there should be an Aladdin's lamp at hand by whose magic spell cities and castles can be reared in a single night."

³This Indian massacre so tersely described is one well known to Texas romanticists. Several captives were taken by the Comanches in addition to those killed in this raid in 1836. Among the prisoners were Cynthia Ann and John Parker. The former grew to womanhood among the Comanches and became the wife of a chief and the mother of Quanah, the last great leader of the Comanches. She was recaptured by Texas Rangers led by Sul Ross in 1860 and restored to her people. Less widely known is the fate of John Parker. He grew up among the Comanches and was accepted as a brave. In a raid into Mexico, his party captured a young Mexican woman known to history simply as Juanita. On the way back to the Comanche lodges Parker was stricken ill and abandoned to die by his fellow braves. However, they permitted Juanita to stay with him. The Mexican girl nursed the white man back to health, married him, and they lived the remainder of their lives in the Rio Grande Valley. He never rejoined the Comanches but, like his sister, Cynthia Ann, he was not willing to return to the ways of the white man.

Borden was appointed in Austin as agent to superintend the removal of government archives and possessions from Houston to Austin. He closed the land office in Houston on September 5, 1839, and reopened it on October 8, in Austin. During those thirty-three days the Herculean task of hauling 51,690 pounds of government furniture, books, and archives belonging to all government branches was accomplished. The cost of moving was \$6,215, or \$11 per 100 pounds.

The first Land Commissioner submitted his final report on October 17. By that time only seven land maps had been turned in by surveyors, no certificates had been recommended by the traveling commissioners "east of the Brazos," and only 615 surveys had been recommended for patents by the other board.

"As far as the issuance of patents to land for headright claims," reported the Commissioner, "an event which the citizens of Texas have long been anxiously waiting for, nothing has been accomplished in this office and I fear but little of a permanent nature has been effected by the Examining Commissioners toward the consummation of that object."

He resigned his office on December 12. The turmoil in which he left the affairs of the public domain is illustrated by the first report of his successor, Thomas William Ward, who despairingly declared that "we are now in greater confusion than when the land offices were first opened."

There may have been bigger land booms in the history of mankind, but none more chaotic. The land law was inadequate, as we have seen, and the orderly execution of the duties of a general land office was impossible. Something like thirty-eight thousand land claimants, asking for over fifty million acres of the public domain, petitioned the county commissioners in a span of two years. At the time of his resignation Borden had a force of six employees and still a single office. It was like trying to stem the tide of an ocean with a wall of straw.

Perhaps the worst fault of the law was that no residence requirements were attached to certificates issued to old settlers and to soldiers. Speculators and men who made a business of locating lands went into the Indian country, far ahead of the settlements, and surveyed and secured lands along the streams.

The choicest tracts had passed into private ownership from ten to thirty years before the country was actually settled.

The "common man's victory" in the war for Texas was mostly a hollow one.

However, it was not on the frontier that land squabbles reached the proportions of a small war; it was in Shelby County in East Texas. Immigrants from the notorious Neutral Ground poured into East Texas and, operating with their usual efficiency, soon had control of the county governments.

Judges and sheriffs as well as local land commissioners paid homage to these characters, and land thieves found them receptive to offers of collusion. "The cooperation," wrote William S. Hogan, "between the land pirates and local officialdom was so effective that the security of titles in several East Texas counties became very questionable." Preserved in the Lamar papers is a letter from Dr. James H. Starr of Nacogdoches urging the Chief Executive to take particular care in the appointment of a district attorney and a judge. "I fear that great efforts will be made to secure the appointment of a corrupt man as judge . . . [as] land thieves and others who have so long reigned supreme in the adjoining counties feel that their power is passing from them, and will make a desperate effort to secure the appointment of a corrupt judge."

By 1839 the county was embroiled in a bloody feud. Friends of Charles W. Jackson and Joseph Goodbread, principals in the first killing — over the sale of a Negro slave for a fraudulent land certificate — formed into gangs called the "Regulators" and "Moderators."

The Regulators got in the first lick under the leadership of Watt Moorman, who became so flushed with early successes that he conceived the idea of overthrowing the Texas government. He sentenced twenty-five of the leading citizens of Shelby County to exile or death, which led to renewed activity on the part of the Moderators. There were about 150 men under arms in each camp. From ambushings, hangings, and general house burnings, the two "armies" turned to skirmishes. In August, 1844, President Houston proclaimed martial law and sent six hundred militiamen into Shelby County to restore law

and order. Both factions yielded quickly to the militia, and a peaceful settlement was worked out at Shelbyville. But ill-feeling cropped up again and again over the vagueness of land titles in that county.

The depression of 1837 in the United States created a brief, stimulating boom in the newly organized Republic. The era of speculation was spectacular, if short-lived. The Mississippi-Texas Land Company, formed at Pontotoc "for the purpose of trading and speculation in land in the province of Texas," was one of the earliest but was dwarfed by the New Washington Association. The latter was formed in 1834 with New Yorkers and Mexicans as stockholders. Chief investor was the same Samuel Swartwout who was prominent with the Galveston Bay and Texas Land Company, and the same General John T. Mason whose personal grant was specifically voided by the constitution. In 1838, this company had located about 100,000 acres on the Trinity, San Jacinto, Neches, and Sabine Rivers, and on Galveston Bay.

Colonel James Morgan was resident agent for the association. In his fine volume, *The Texas Republic*, William Ransom Hogan quotes a letter written by Morgan as follows:

I feel fully justified in asserting that the lands owned by the New Washington Association, from the quality of soil, peculiarity of location, well known situation for townsites & other advantages, are among the best body of lands ever Selected in any Country & must be in time of immense value.

The association's chief venture was the development of the town of New Washington, which had been destroyed by the Mexicans, and a Trinity River settlement named Swartwout. New Washington was a failure from the start. Hogan quoted the following letter from the optimistic Swartwout to Morgan:

Have you not made judicious purchases for us, fine selections of land, procured titles that are good, watched over our interests as though they were exclusively your own — why then fret about the *Flash?* [a ship belonging to the company which had sunk] Why, man, our merchants who were worth \$500,000 in cash ninety days ago can't buy a loaf of bread to feed their starving families

with. They have lost all & more, but we have lost only 12,000 out of an hundred — so huzza and the Devil take the crockery.

The New Washington Association abruptly ran out of funds. It may be only a coincidence that the colonization society found itself without further capital just about the time Samuel Swartwout's activities in New York received the close attention of the state authorities.

The township craze struck like lightning. Hogan wrote:

Scores of landholders laid out townsites and gave them fanciful names. Rival claims energetically were advanced that Columbia, Montezuma, Richmond and Nashville, as well as two different sites called Bolivar, were each the head of navigation on the Brazos River. The deed records of every county contain evidence of the dreams of town-makers that resulted in more than a survey or the erection of a few cabins at such places as Oregon, Manhattan, Dollar Point, Powhatan and Monadelphia.

Many prominent men were interested in the promotion of one or more embryo towns. Sam Houston and Phil Sublett were the chief promoters of Hamilton (in East Texas) and Sabine City, neither of which made much money for their backers. Mirabeau B. Lamar's share in a Copano Bay townsite — named after himself — was equally unprofitable, although one of his associates had hoped that the five principal backers might make a "cool half million" in six months. Anson Jones had an interest in Manhattan; Henry Smith was one of the proprietors of Aransas; William H. Wharton, John H. Wharton, General Thomas Jefferson Green, and Branch Archer were the guiding lights of Velasco; others like James Collinworth bought lots in a number of towns while they were living on credit.

The promoters were probably trying to emulate the examples of the Allen brothers, who established the mushrooming town of Houston, and of Michel Branamour Menard, who received one of the first league and labor grants honored by the Republic of Texas.

Menard's claim to the land dated back to 1834, when he had made application to the Mexican government. Immediately after the reopening of the land offices, Menard petitioned for recognition of his rights. His agreement to pay the impoverished Republic \$50,000 may have had something to do with immediate verification of his claims, though it is difficult to understand

how the Congress expected to justify this action to a later generation. In 1839, according to Hogan, "a Fayette County grand jury [returned] a true bill in a case entitled *Public Weal vs. Inconsistent Legislative Acts*. The jury argued that the land belonged either to Menard or the national government, and should have been awarded to one or the other without payment of a sum representing but a paltry fraction of the townsite's value."

The fifty thousand dollar payment cannot be classified as anything but a bribe, though technically there may be nothing wrong with Mr. Menard making a "donation" to the treasury of his country. Apparently he obtained a portion of his capital from a David White of Mobile and then organized the Galveston City Company on his own initiative. Among his stockholders were Thomas F. McKinney, Samuel M. Williams, Levi Jones, and James Love. (The man Williams seemed to be everywhere!)

Their venture was not immediately profitable. Following a severe gale in October, 1837, shares in the Galveston City Company fell to ten cents on the dollar. In 1839 the town had regained its former size and importance. Regardless of the methods by which Menard obtained his land, his company did a fine promotion job. Their improvements in the harbor gave Texas an excellent harbor which was the busiest seaport in the Republic and the state for many years.

More spectacularly successful were the Allen brothers, who supposedly launched the city of Houston because of a personal feud with the Harris family which had founded Harrisburg. The war played into the Allens' hands as Harrisburg was burned during the revolution. The Harrises never overcame this initial advantage. The Allens quickly seized upon Sam Houston's popularity to advertise their town and played upon Houston's vanity to retain the capital in their limits after Congress had voted Austin as the capital site and buildings had been constructed on the Colorado. As late as 1842 Houston was still eager to locate the capital in the town named after him. (This desire led to the "archive war," which will be discussed later.)

The Allens succeeded in spite of the handicaps of weather and flooded bayous. Town lots were selling as high as \$10,000

each before the end of 1838. To prove Buffalo Bayou navigable, the Allens hired the steamer *Laura* to chug up the muddy brackish water in 1837 and widely advertised this successful passage as proof of Houston's future as a port. (The promoters naturally did not include in their literature the captain's account of how he couldn't see the town of Houston from midstream and traveled on past it.)

Houston was so well established as a town that loss of the capital meant little to the city. The building the Allens erected as a capitol and leased to the Republic for \$10,000 per annum was made into a hotel. The present Rice Hotel stands at the exact spot.

There were other ventures, most of which failed and their promoters with them. In 1843 one William Bollaert came down the Trinity River in a steamboat. He left his impressions behind in his "Notes on Texas." He observed that, between the villages of Cincinnati and Swartwout, both now extinct themselves, "on nearly all the bluffs speculators have marked out town sites, with high sounding names — Trinidad, Carolina (formerly Bath), Rome, Pompei, and Geneva." The principal building at Carolina was unoccupied; a proprietor of a cotton gin was the only inhabitant of Rome; and most of the other towns either had never achieved physical existence or had been abandoned.

One such promotion of a township, by Colonel Edward Burleson, played its part in history under another name. Burleson founded the town of Waterloo, which shortly afterward became Austin.

Nor was speculation confined to townships; there was still the same grandiose dealing in public lands. As usual, public opinion was against the operators, but, like the weather, nothing was done about it. A number of eleven-league tracts issued by the Mexican government were handed back and forth. The fraudulent headright certificates and many of the grants to veterans were sold and resold, at gradually receding prices as the boom died out and the depression set in. Hogan quotes from a thesis by Lucy May (University of Texas) that Frost Thorn, an *empresario* who realized nothing from his contract with the Mexican government, "accomplished in land acquisitions by

legitimate means what many of the land sharks failed to accomplish under questionable circumstances." General Chambers, Phil Sublett, and Thomas Jefferson Green were other big landholders.

The common man took out his spleen at the polls, though both candidates to succeed Mirabeau B. Lamar professed themselves to be opposed to big landholders, a rather natural statement. David Burnet declared that "an excessive accumulation of lands in the hands of one or a few individuals is injurious to the public weal." His opponent was Houston, who prided himself that during his first term he vetoed all bills authorizing the issuance of land patents. In a campaign speech Houston dramatically raised his right arm and called upon "The Eternal to witness that if this hand should ever sign a patent, I hope God will strike it free from my body."

Houston savagely assailed Burnet for his connections with the Galveston Bay and Texas Land Company and avowed his own innocence of any damning speculation. Yet the records of the General Land Office show that Houston, as a partner of Philip Sublett, had eleven-league claims pending in the region of the Red and Trinity Rivers. An editorial writer for the *Texas Sentinel* charged in an issue of July 28, 1840, that Houston opposed the issue of patents because "honest settlers would get their headrights where these iniquitous claims" overspread a large tract. On January 9, 1833, Houston had obtained a grant for a league of land in Austin's colony on the west side of Caranchuhua Bayou and east of Keller's Bay, and further on May 5, 1835, secured a headright for one-fourth of a league on the west side of the bayou in Burnet's colony. The *Sentinel* editorialist charged that both grants were fraudulent, the first because Houston, who had no family except his Cherokee common-law wife in the Indian nation, was entitled to only one-fourth of a league and the second because Houston had already secured a headright.

Houston's affiliation with Swartwout's organization has already been mentioned. But the hero of San Jacinto proved unbeatable at the polls and entered upon his second term. By then the Republic had entered its darkest hours. The nation was near

bankruptcy. The Mexicans were threatening to recapture the country, and the treasury had no funds to pay for retaliatory raids upon the Indians. Houston lopped at national budgets with a heavy hand.⁴

There is no way of even estimating how many headright certificates, fraudulent and otherwise, were issued in these hectic boom years. Present records show that 36,876,492 acres of the Texas domain were issued to some 38,000 people. The reader's guess is as good as any as to how many claims were abandoned or illegally transferred.

Where did they come from? From everywhere. A breakdown of the census of 1860 revealed that Tennessee sent more people to Texas than any other state, 42,625. Alabama was next with 34,193; Virginia, Mississippi, Kentucky, Missouri, and North Carolina came next in that order.

Most of the settlers came in creaky wagons with little more than the clothes on their backs. Hogan quotes from the New Orleans *Weekly Picayune* one of the most eloquent illustrations of their miserable plight:

Nightfall and a drizzling rain drove an elderly horseman traveling a road to Vicksburg to seek shelter near a roadside fire. As he approached, he saw around it the encampment of a family "a-moving" to Texas — a very common sight in Mississippi in the year 1841. Two bodies wrapped in blankets lay close to the blaze. Near them a tow-headed boy, crying loudly, leaned against a front wheel of a wagon.

The horseman rode up and addressed him in a mollifying voice, "What's the matter, son?"

"Matter!" roared the piney-woods lad. "Fire and damnation, stranger! Don't you see mammy there shaking with ager! Daddy's gone a-fishing. Jim's got every cent of money there is, playing poker at a bit ante. Bob Stokes is gone on ahead with Nace! Sal's so corned she don't know that stick of wood from seven dollars and a half! Every one of the horses is loose! There's no meal in the waggon! The skillet's broke! The baby's in a bad fix, and it's a half mile to the creek. I don't care a damn if I never see Texas!"

⁴One economy move was to veto an appropriation bill for David Burnet's back salary as vice-president.

A NEW ERA

THE LESS than meager capital of the Republic of Texas has already been noted. The initial sum of \$55.68 was quickly supplemented by feverish contributions from many sources, including a donation of over \$5,000 from a Tennessee open meeting called by a Nashville newspaper on November 17, 1835. But perhaps the most substantial contribution of this friendly group was their choice of an agent; appointed to bring the money raised to Texas was George C. Childress, and he arrived in time to draft most of the Texas Declaration of Independence.

Such donations, while generous, were far from sufficient. The provisional government set about attempting to finance its operations, and the conduct of the war, by means of loans from the United States. Stephen F. Austin was entrusted with this assignment, along with others, and three separate "loans" were arranged before an ordinance was enacted providing for the issuance of land scrip.

The Triplett loan was arranged in January, 1836, for the sum of \$200,000, and in the same month the Republic arranged with Thomas D. Carneal and others for a loan of \$200,000.

In each of these instances land scrip was exchanged for the "notes," and scrip holders were given a six-months' priority over all land claims in which to locate their lands. The "loans," then, were more in the nature of outright contracts for the sale of public land, since that was the only security presented and since neither commissioners nor government had any reason to anticipate ability to redeem the notes in negotiable securities before the due dates. Land scrip was issued to William Bryan on December 6, 1836, with the same priority.

Neither Triplett nor Carneal advanced the sums stated in the loan. The total of both negotiations was \$20,007, which was liquidated by the grant of 40,000 acres of land for the principal and 13,357 acres as a bonus.

This was the only indebtedness incurred during the revolution which was redeemed in public lands, though in 1844 Thomas

McKinney and W. L. Williams presented a claim for \$54,408 advanced to the Republic before and after San Jacinto and received proper redress in acres of the public domain.

It was a very cheap war.

In December, 1836, the first government of Sam Houston altered its method of soliciting loans. By an act of December 10 the President was authorized to issue land scrip to be sold by agents in the United States for not less than fifty cents an acre. David White was appointed land agent of the Republic with headquarters at New Orleans and instructed to sell 200,000 acres of the public domain. Shortly afterward the President was authorized to issue scrip for 500,000 acres and send it to Thomas Toby of New Orleans, who became the most famous of the Texas scrip salesmen. An act of June 9, 1837, provided for the issuance of scrip covering 500,000 additional acres, which was mainly sold by Toby.⁵

Proceeds from these sales were to be paid into the treasury only for the redemption of Texas promissory notes. On June 3, 1837, the Republic arranged to borrow money from James Erwin with scrip as security. However, the scrip holders were prohibited from interfering with the location of first-class claims and could not make locations on salt springs or lands containing minerals. From Erwin and his associates the Republic received \$45,820 and delivered over 121,381 acres of land (18,208 acres as a bonus) in payment.

On December 14, 1837, the Congress forbade the further issuance of land scrip and demanded the recall of land agents. The New Orleans and Mobile offices were never opened again and super-salesman Toby had performed his last services for Texas. But in other instances it became necessary for Texas to issue specific amounts of scrip to meet its indebtedness. An act of May 24, 1838, authorized the President to issue scrip to pay off the indebtedness incurred by the Toby office in New Orleans.

Scrip for some one million acres of public domain was peddled

⁵It was nearly fifty years later, however, before the enterprising Toby was paid for his services. An appropriation was approved on March 30, 1881, for \$45,000 to the heirs of the scrip salesman.

by these agents of the Republic. There is evidence that the Texas government expected more to be sold. The revenues were not sufficient to meet the cost of the government, and further efforts were made to pay off debts with unclaimed lands. An act of February 14, 1841, permitted creditors of the Republic to exchange their claims for land scrip at the rate of \$2.00 per acre. Congress might as well have saved its breath.

An incidental indebtedness was paid off January 26, 1842, when the President was authorized to issue scrip for 9,600 acres of land to one George S. McIntosh for moneys advanced to the Republic.

By acts of February 11, 1850, and June, 1858, the State offered scrip to interested parties at fifty cents per acre.

In spite of the various acts, and the efforts of agents in the United States, only 1,329,200 acres of the domain were disposed of in this fashion. But according to W. M. Gouge, authority on Texas financial history, the sale of land scrip was not to be lightly dismissed.

"The advantage is not easy to estimate," he wrote in his *The Fiscal History of Texas*. "Returns were received for part of the land in necessary supplies. Another part, by absorbing some of the treasury notes and bonds thrown into Mobile and New Orleans markets, aided in sustaining the value of Texas securities in the United States."

There was another lasting effect of the scrip sales: they marked the beginning of the fiscal history of the Texas public domain. An effort was made to realize revenue from the unclaimed lands which would be expended for the benefit of the commonwealth as a whole. It was the beginning of the Texas public land business, which in the course of a century was to provide approximately sixteen per cent of all state revenues.

However, for the moment the scrip was more trouble to Texas than it was worth. The certificates became a medium of exchange, being handed around in all sorts of transactions. Certainly they contributed to the confusion of traveling boards of commissioners, bogus headrights, and forged land claims.⁶ In

⁶Of the scrip sold in New Orleans by the energetic Toby at least nineteen certificates have been perpetuated in Texas history. They were won in

1864 a guest at a Centreville inn died in his sleep, and it was necessary for the landlord to open the man's valise to determine his identity. The handbag was packed with bogus scrip and land certificates.

Some fraudulent scrip was approved on the spot by the traveling commissioners. They perhaps did as well as possible, considering their difficulties, but they set no pattern for efficiency or integrity. In one instance a title was issued to a stallion named Bordy Jolly. Children as well as slaves were accepted as witnesses.

Scrip was issued again in 1879 when the State offered land in fifty-two West Texas counties at fifty cents an acre, and in 1887 when sections of the domain were put on the market at \$2.00 per acre. A total of 1,660,936 acres was sold in these later sales, bringing the amount sold by Texas to pay off its indebtedness to 2,990,136 acres.

Of the 41,570,733 acres handed out by the Republic, the greater part went to the holders of headrights and bounties. Among the more notable Texans to secure headrights were the heirs of David Crockett and James Bowie.⁷

There were three classes of headrights: first class for immigrants who arrived in Texas prior to October 1, 1837; second class for those who arrived between October 1, 1837, and January 1, 1842; and third class for settlers who claimed land within the limits of colonies authorized by the Republic but which did not

a poker game by John A. Scott, a Mississippi planter. Believing them worthless, Scott put them away in an old trunk and forgot about them. His heirs in 1854 discovered them and found that the scrip covered land in Wichita County. When the Dallas and Wichita Railroad was proposed in 1876, Scott's heirs duly filed their scrip and located the present city of Wichita Falls.

⁷Heirs of those who died in the Alamo were rewarded with grants of land. The two feminine survivors, Mrs. Dickinson and Andrea Castanon de Vilanueva, the "Angel of the Alamo," also received some attention. Mrs. Dickinson's daughter received a state scholarship, while Madam Candelaria—as Andrea Vilanueva was commonly known—received a pension of \$150 per year for life. It cannot be said, however, that the latter gratuity was a heavy strain upon the state treasury. Madam Candelaria, who fed whiskey by the spoonful to the dying Bowie, did not receive her pension until April 13, 1891. At that time she was 107 years old.

meet the conditions of their contract. First-class headrights entitled heads of families to 1,280 acres and single men to 640 acres, provided they remained in the Republic for three years and performed the duties of citizenship. Second-class headrights entitled heads of families to 640 acres and single men to 320 acres.

Land grants of this character amounted to 36,876,492 acres. Included in this figure are the bounty lands issued to soldiers of the Texas army. The General Council granted a bounty of 640 acres to each private and non-commissioned officer in the regular army, and the amount was increased to 800 acres by an act of December 15, 1835. A resolution of November 23, 1836, extended similar grants to all volunteers seventeen years of age and above who served in the army of the Republic. On December 4, 1837, the age restriction was removed. Later land bounties were classified according to the length of service: 320 acres for three months, 640 acres for six months, 960 acres for nine months, and 1,280 acres for twelve months service or more.

Additional quantities of land were donated to permanently disabled veterans, to those who participated in the battle of San Antonio, and to heirs or legal representatives of those who fell with Fannin, Ward, Travis, Grant, and Johnson.

The total revenues of the land office during the days of the Republic are estimated at \$2,441,863.01. (In a single day in 1947 the state school fund received over \$12,000,000 from a public sale of tidelands leases.) This income was far from sufficient. Scrip had been tried and had failed. The opponent of David G. Burnet for president in 1840 had very firm ideas, if sometimes inconsistent, about disposition of public lands.

Reassuming the toga of office, Sam Houston, who could trace his ancestry back to a noble Norse knight, Sir Lord Padvina, proprietor of Hughes Town and Johnstone Castle in Scotland, took stock of the Republic's precarious plight and lopped at the expensive budget.⁸ Then he turned his attention to the matter of public lands.

⁸His veto of the bill to pay Burnet's salary has been discussed. Houston also slashed his own pay in half, to \$5,000 annually. Next he suppressed an entire category of offices that had bloomed under Lamar, consolidated

Little headway had been made in the issuance of proper land titles to some 38,000 immigrants, most of whom were living in an impoverished condition. Recognition had not yet come from England; and, having finally satisfied the demands of France and become free of the French blockade of Vera Cruz, Mexico was threatening to reconquer the insurgent province.

It seemed to Houston that colonization contracts were the only answer. In the course of his second administration he received some grandiose proposals, some of which he accepted. One he vetoed — a bill which proclaimed that the western boundary of Texas extended to the Pacific Ocean and embraced all of what is now lower California.

The romanticists have insisted through these years that Houston came to Texas as Jackson's agent to free the province of Mexican rule, and will not permit historians to prove otherwise. Be that as it may, when Houston assumed office a second time, he had despaired — for the time being — of annexation to the Union. The offer of Texas to enter the United States had been withdrawn at this stage of history, and Houston was looking across the seas with one of two purposes in mind. Either he was seriously courting European alliances, or he was playing a shrewd game to arouse pro-annexation sentiment in the United States.

France and Great Britain had recognized Texas as an independent country during Lamar's administration, and both nations had dispatched favorable envoys to Austin.⁹ These envoys were

the War and Navy and the State and Post Office departments, and reduced the national payroll from \$174,000 to \$32,800.

⁹English recognition was the most difficult to procure. Great Britain was opposed to slavery, an institution that Texans had no disposition to abolish; English capitalists had millions invested in Mexican bonds; and the British government was uninterested in recognizing a state that wished to be annexed to the United States.

One of the earliest advocates of British friendship for Texas was Lord Ashburn, who in 1837 (Adams, *British Interests and Activities in Texas*) favored British recognition on the grounds that Mexico could not possibly reconquer the revolutionists and that Texas, if recognized, might do something for British creditors.

During Lamar's administration, the President sent three special agents

to show more than professional interest in the affairs of Texas. One was to propose, in fact, that his nation maintain twenty forts in Texas.

With Houston's second administration began the second *empresario* era in Texas land history. There was some immediate opposition, and at least two contractors were directly prevented from achieving their purpose by recalcitrant settlers. But the location of these *empresario* grants bear out Houston's defense of them as "buffer settlements" between the settled portion of Texas and the Indians, for all of them called for land beyond the existing frontiers.

Of these only one was successful — the Peters Colony. The other *empresarios* introduced some 8,000 colonists; but, like their predecessors of the Mexican era, they failed miserably in their individual enterprises.

to Mexico in attempts to secure Mexican recognition of Texas independence. The first was Secretary of State Barnard Bee, who was authorized to offer the Mexican government as much as \$5,000,000 in return for Mexico's recognition of Texas independence and of the Rio Grande as the border. Bee was supported by Pakenham, the British Minister to Mexico, and by a Mr. Gordon, representative of Lizardi and Company. Much of the capital loaned to Mexico had been through this firm. Gordon sought to be an intermediary between Mexico and the Lone Star agent and proposed that Mexico grant lands to English bondholders within the territory, then accept the \$5,000,000 for the bondholders and agree to the Rio Grande as the boundary. Bee was unsuccessful in his attempts to win recognition by Mexico. His successors, James Treat and James Webb, were equally unsuccessful.

By November, 1840, the British government was convinced that Texas should be recognized. At that time several treaties with the Republic were signed, including one obligating England to mediate the dispute between Mexico and Texas. By 1841 the British were very much aware that Texas had its independence and meant to maintain it. William Kennedy, a British writer, warned his countrymen in 1841 that unless English influence was employed in raising a stable independent power in the southwestern and northwestern frontiers of the United States, a "very few years will suffice to place the whole of the territory under the sovereignty of the United States."

Captain Charles Elliott, the first chargé d'affaires, added his belief that Texas would never be reconquered and suggested that the British endeavour to promote abolition in Texas. He wrote: "I cannot help thinking that money lent to put an end to slavery in a Southwest direction in America and to give a place and position to the coloured races would render as profitable returns as money spent in fortresses and military works on the northern frontier of the United States."

On August 30, 1841, the Republic of Texas contracted with Samuel Browning, attorney for W. S. Peters, Daniel J. Carrol, and others, for the establishment of six hundred families within a period of three years. Except for the provision that the contractors were to supply the settlers with powder and ammunition, the agreement closely followed the texts of the Mexican *empresario* grants. The contract was subsequently amended on November 20, 1841, and again on July 26, 1842.

The *empresarios* were men from Kentucky, Virginia, and England. Carrol, one of the principal stockholders, was from Great Britain. Employed as agent, both in the United States and abroad, was General Charles Fenton Mercer, a Virginian who had become a respected figure in the United States.

Mercer later secured a contract in his own name and formed a separate colonization company; thus some confusion of the Mercer and Peters ventures in the reader's mind is almost impossible to avoid.

The name first used by the association was the Texan Emigration and Land Company. When Carrol and other British stockholders transferred their rights and interests to Charles F. Mercer on September 22, Peters secured a supplementary contract and reorganized his company on November 20, 1841, as the Texas Agricultural, Commercial and Manufacturing Company. From then on Peters' association was known by that name.

The limits of Peters' contract were as follows: from the south side of the Red River, the east line began at the mouth of Big Mineral Creek on Red River and ran to about ten miles east of the present site of Dallas. Counties formed out of this territory are Grayson, Collin, Dallas, Ellis, Johnson, Tarrant, Denton, Cooke, Montague, Wise, Parker, Clay, Hood, Erath, Palo Pinto, Wichita, Archer, Baylor, Stephens, Callahan, Shackelford, Throckmorton, Jack, Wilbarger, Eastland, and Young.

The association's ambition of introducing colonists from Great Britain to augment settlers from Kentucky and Virginia was not realized, for Texas showed no interest in the abolitionist feelers put out by England. But Great Britain's long-awaited recognition of Texas independence inspired Carrol and others interested in the Peters territory to renew their efforts. Accord-

ing to an unconfirmed advertisement in the New York *Journal of Commerce* in June, 1842, a contract was entered into for the settlement of 1,700 Englishmen.

In September, 1842, a Mr. Crosky, agent for the Beales interests (petitioning the Republic of Texas for approval of *empresario* holdings granted by Mexico) presented his clients' claims to Texas land to the British undersecretary of foreign affairs and pointed out that colonization of Texas by Englishmen would render Great Britain independent of United States cotton.

On December 3, 1842, President Houston signed a third supplementary contract with Peters and associates, including Charles Fenton Mercer, Thomas Jones Moore, Martin Stukely, Edward Luke, and the same Daniel Carrol. The last four partners were residents of London.

On January 20, 1843, Houston further contracted with D. J. Carrol, Sherman Converse, Charles F. Mercer, Thomas J. Moore, and Martin Stukely to introduce and settle at least 250 immigrants per year for five years on a grant near the Red River, fronting that stream for 164 miles, and including some 16,000 square miles.

These original and supplementary grants compose the domain of the Peters Colony.

General Mercer engaged P. J. Pillans of Bonham as agent in charge of surveys. Pillans employed William Hunt of Fannin County and Claxton Taylor and Thomas C. Bean of East Texas to survey the Peters holdings. Mercer, who was spending most of his time in the East advertising the colony and contacting prospective settlers, named Dr. Daniel Rowlett as his subagent.

On December 8, 1843, Mercer left New York for Texas. His departure apparently was not in line with the wishes of the secretary of the "Texas Agricultural and Mechanical Company," one E. B. Ely of Louisville, Kentucky, who journeyed to Texas immediately to meet Mercer.

What transpired is not known, but Mercer's interests in the Peters Colony ceased. Almost immediately upon reaching Texas he petitioned for an *empresario* contract in his own name.

It was not immediately granted. The commissioner of the General Land Office, Colonel Thomas W. Ward, had in his

report of 1843 added his voice to those clamoring for the cancellation of *empresario* contracts.

His report, dated November 15, 1843, stated:

. . . . The law granting lands to emigrants approved in 1841 and amendatory law thereto of the sixth congress are illegal, impolitic and objectionable on several grounds it is furthermore believed that contracts of this kind are monopolies, within the meaning of the constitution, and, if so, did they not even prejudice the rights of claimants under this government, they are illegal. The contractors may sell the benefits of their contract to monied capitalists in Europe, who, for trifling considerations, the transportation of the immigrants to this country for instance, can purchase the emigrants' lands, and thus the principal object of this government in granting these lands, which was to secure a home for the emigrants, would be at once frustrated if this system of contracting away vacant lands is considered politic, a law should be passed limiting the time within which the holders of land scrips, warrants, headrights should locate their claims.

Commissioner Ward was merely stating the grievances of holders of bounty headrights and scrip who were already knocking at the limits of the Peters Colony domain and demanding entrance.

All *empresario* contracts had been for lands then beyond the settled limits, but the frontier was spreading rapidly and the colonization grants were now squarely in the path of the migrating pioneers.

The Congress of the Republic agreed with Commissioner Ward, passing a bill which repealed the authority of the President to enter into colonization contracts under the law of February 4, 1841.

President Houston vetoed it. General Mercer, now separated from the Peters company, was petitioning for an *empresario* agreement of his own. On January 29 Houston instructed Secretary of State Anson Jones to draw up a colonization contract with Mercer.

On the following day Congress passed the act repealing Houston's authority to enter into *empresario* agreements over the President's veto, and the Texan Emigration and Land Company was barely under the wire.

This contract incurred immediate and obvious resentment. The act to abolish such *empresario* monopolies had been passed by such a majority that its enactment over the veto had been a foregone conclusion. President Houston had rushed to issue a colonization authority that the people did not want, and he did so knowing full well that the act would be passed over his veto.

The victim of this resentment proved to be Mercer, not the President.

The territory assigned the Texan Emigration and Land Company wrapped like a blanket around the limits of the Peters Colony, closing the entire region between the Trinity and the Red Rivers to individual settlers. They pushed in anyhow. Surveyors of both Peters and Mercer encountered open hostility when they sought to establish their borders as provided for in their contracts. One county surveyor, C. C. Taylor of Robertson County, defiantly ignored the orders of Land Commissioner Thomas W. Ward to respect the Peters-Mercer survey lines; he received applications from headright holders for locations within the territory allotted to the two *empresarios* and ordered his deputies to make the necessary surveys without regard for the Peters-Mercer claims.

Surveyors and subagents of the *empresarios* feared for their very lives, and the introduction of colonists was necessarily slow and hazardous. In 1845 neither contractor was able to make a single survey.

Texans called into convention in 1845 to discuss annexation to the United States also wrangled over these colonization contracts. Thomas J. Rusk, president of the convention, offered a resolution proposing such contracts were unconstitutional. R. E. B. Baylor of Fayette County advocated their annulment. James Love of Galveston County asserted that the President of any other country would have been impeached for making such an agreement with Mercer in flagrant disregard of congressional sentiment. The lone champion of the *empresarios* was Abner Lipscomb, who regarded the agreements as legal contracts the new state was obligated to respect.

But on August 20, 1845, Lipscomb presented a motion authorizing the attorney general to institute legal proceedings against

all colony contractors to determine if they had fulfilled their obligations to the letter.

George B. Erath, noted Indian fighter and surveyor, in his memoirs as edited by Lucy E. Erath for *The Southwestern Historical Quarterly*, wrote that the Republic was split into two factions over these Peters-Mercer contracts. The activities of *Empresario* Henri Castro and of the *Adelsverein* did not arouse such a resentment; headright holders were not eager to settle in the territory allotted to the Europeans. Erath's recollections indicate that Texas even then was involved in an east-versus-west rivalry. East Texans, secure in their holdings and their land titles, nodded in approval at ventures to settle the western lands in an orderly manner, particularly if the promoters promised protection from the Indians, thereby freeing East Texans of having to support with their taxes vigilant bands of Texas Rangers. Houston, economy-minded in his conduct of the presidency, favored *empresario* deals for the same reason.

Landless Texans, holders of headright certificates but still landless, were impatient with both. They wanted the open door.

Erath's papers also reveal a growing distrust of the President's intentions concerning annexation to the United States. It was charged that Houston was working with English capitalists to fill the country with Europeans so that annexation could never be passed by a majority vote.

In the closing months of 1845, Texans swept toward annexation. The legislature on May 11, 1846, in an act defining the duties of the attorney general, required him to institute legal proceedings against Mercer and Peters. Lieutenant Governor Albert Horton, who was acting as chief executive, instituted the first suit on October 11, 1846, against Mercer in Navarro County.

Presiding over the court was R. E. B. Baylor, who had vigorously denounced *empresario* contracts in the annexation convention. Baylor signed the decree of the court that the contract between Mercer and Houston was voided.

The contract of the Texas Agricultural, Commercial and Manufacturing Company was ruled incompleated at the date of

its expiration, on July 1, 1848, and all lands assigned to Peters colonists were ordered reverted to the State.

It was quickly obvious that the State had acted too hastily. Perhaps, under the strict letter of the law, the settlers Peters and his associates had introduced were not entitled to recognition from the State of Texas, but, morally, a family which had occupied its land, and improved it, was deserving of consideration. A swarm of such landholders swept down upon the capital demanding restitution. On January 21, 1850, the legislature passed an act which secured to all settlers in the Peters Colony a section or a half-section of land, as the case might be.

Peters and his associates promptly disputed the charge that the terms of their contract had not been met. Representatives of the Texas Agricultural, Commercial and Manufacturing Company presented depositions and other evidence which showed that previous to July 1, 1844, 197 families, 184 single men, 482 children, and 29 slaves had been introduced into the colony; that before July 1, 1845, an additional 221 single men, 221 families, and 609 children had been settled; that in the remaining six months of 1845 the contractors had introduced 120 families, 48 single men, and 122 children; that in 1846 a total of 415 families, 263 single men, and 1,099 children had been settled; that in 1847, 228 families, 119 single men, and 527 children had been brought in; that in 1848 a total of 230 families, 215 single men, and 455 children had been introduced.

The opinion of Attorney General Caleb Cushing approved the contractors' claim to have settled 1,411 families, 1,050 single men, and 3,294 children before the time that the contract had expired — July 1, 1848. Thomas Ward, special commissioner to investigate the bounty claims, not only substantiated these figures, but also credited the *empresarios* with an additional 179 families, 180 single men, and 269 children.

The contractors petitioned the legislature for bounty lands due them for settling 8,145 persons within the colony (one-twelfth of the population of the state at that time), and on February 10, 1852, were awarded 1,700 sections in settlement of their claim.

But Mercer's company did not fare as well. He went to the

United States after securing his contract from President Houston, published handbills advertising his domain, and sold shares in his venture for \$500 each. The first semiannual report of his association showed that shareholders were mostly from Texas, Virginia, and Florida with average holdings varying from one-half to five shares each.

Emigrants were offered as much as 320 acres of land for the payment of eight dollars to the company.

A joint Congressional resolution on February 4, 1845, had required Mercer and his associates to have the limits of their colony established by April 1, 1845, with the contract to be forfeited if this condition had not been met. The external boundaries of the territory had been marked at the time this act was passed; it was only another maneuver intended to discourage the *empresario*.

Settlement of the colony was underway by February of that year. The little town of Kingston had fifty families. A settlement west of the Trinity had sprung up under the leadership of Roderick Rawlings, pioneer patriarch and preacher. The village of Fenton had been established at the fork of the Bois d'Arc and the Trinity. By January 1, 1845, Mercer's agents had granted certificates to more than one hundred families, with more expected; the *empresario* was promoting his venture in the United States with considerable success.

A goodly portion of his energies was spent in planning ways to better the plight of his people. His papers show that he was studying the use of windmills in the open Texas plains and that he applied to the first legislature of the State of Texas for permission to remove the obstructions to navigation on the Trinity from the upper borders of his colony to Fort Houston. Also he set aside all fees received for surveys and issuance of headrights for building schools and roads.

Evidently he hoped for some German immigration, for he contacted a Mr. Sand, ex-president of the German Emigration Society, for the translation into German of a physical description and history of Texas which was circulated in that country. However, the Germans already had a colony of their own, and none answered Mercer's invitation.

On February 1, 1847, the Texan Emigration and Land Company was comprised of thirty-seven shareholders, who owned forty-two shares of stock. Mercer himself had retained the other fifty-eight. None of his associates, according to a letter he wrote to the *Alexandria Advertiser*, were not American citizens. He had dissolved connections with the Peters Colony, which included British capitalists. Still, Texans persecuted him as representing foreign investors. One of them was Thomas J. Rusk, who located a headright within Mercer's holdings without permission. Mercer did not challenge the Texas soldier.

Texas Rangers under the command of Thomas J. Smith joined headright holders in heckling the Mercer agents in 1845. A year later Acting Governor Albert C. Horton filed his suit against both the Mercer and Peters interests, at which Mercer did not appear.

An amended petition filed by the State on September 28, 1848, alleged that the correct boundary lines for the colony had never been established and asked the contract be voided under the resolution of February 4, 1845. Judge Baylor granted the State's plea on October 24, 1848.

The individual colonists introduced by the Virginian had their titles guaranteed along with the inhabitants of the Peters Colony; the legislature enacting on February 2, 1850, a law granting titles to settlers who had taken residence within the grant before October 24, 1848, regardless of whether or not they held headright certificates from the State or certificates from General Mercer. On January 24, 1852, the legislature required that the commissioner of the General Land Office issue patents to these claimants.

Mercer, tired and disappointed, assigned his interest in the Texan Emigration and Land Company on February 24, 1852, to George Hancock of Louisville, Kentucky, in return for an annuity of \$2,000. Hancock's attorneys, Thomas H. Duval and George W. Paschal, petitioned in December, 1853, for permission to file suit against the State. The judiciary committee reported favorably, but the senate voted in the negative. A similar petition was rejected four years later.

Undaunted by these rebuffs, the stockholders instructed Secre-

tary George Washington Anderson to call in old certificates and refinanced them. The company renewed its petitions without fail until 1875 when William Preston, who had acquired Hancock's interests, finally was given permission to file his suit.

Hancock filed against John J. Groos, then commissioner of the General Land Office, on March 6, 1875. Both principals died before the trial could be held, and on April 12, 1879, a bill of revivor and settlement was filed against Commissioner William C. Walsh. In this injunction petition a total of 1,376 sections of bounty land was claimed by the association.

The injunction against Walsh, forbidding the Commissioner to issue further patents until claims had been met, was granted April 12, 1879, and Preston boldly published in the *Austin Statesman* of January 28, 1882, a notice that the Mercer Colony had been reopened for settlement and certificates would be issued to qualifying parties.

Preston next asked in an amended bill that the Commissioner be compelled to issue certificates for lands of equal value, as there was not enough open territory within the original limits of the Mercer Colony to satisfy the claims. The State appealed to the Supreme Court after Judge Don A. Pardee ruled for the *empresarios*, hiring the firm of Peeler and Maxey to assist the Commissioner in its prosecution. At the same time Preston filed a countersuit.

The Supreme Court ruled upon the cases of *Walsh versus Preston* and *Preston versus Walsh* in the same sitting, refusing all rights of the plaintiff.

* * *

Houston held out an open hand to all manner of men who wished to settle in Texas. He issued *empresario* contracts, as already noted. Houston also received foreigners courteously and offered them lands and security. The Chief Executive of the Republic even offered some encouragement to Lucian Woodward of the Mormon Church. Woodward conferred with Houston in 1844 and was favorably impressed by both the Chief Executive and the land of Texas. There was no agree-

ment between Woodward and Houston; the Mormons wanted to purchase the land between the Nueces and the Rio Grande River and establish a nation of their own. We may assume that Houston suggested an *empresario's* grant instead — perhaps with an eye upon the D'Orvanne or Fisher-Miller contracts — and Woodward returned to Illinois with that report.

The death of Joseph Smith in a mob uprising resulted in Brigham Young's accession to the head of the Mormon Church. Young favored a westward trek, believing that "Zion" lay toward the Pacific, and the bulk of the Mormons went in that direction, to Utah. But at least one of the Mormon leaders insisted that the promised land lay in Texas. His name was Lyman Wight, and with a few faithful followers he left the main body of the Mormons and crossed the Red River on October 3, 1845.

They remained for a short time in Grayson County, then moved to a location on the Colorado River only a mile or so above the capital city of Austin (at the foot of Mount Bonnell). There Mormon artisans constructed the first jailhouse and secured employment on other construction jobs, including state buildings.

The Mormons prospered at Austin, but Lyman Wight was not satisfied. Victor Friedrich Bracht, a German pioneer whose writings have been edited by C. F. Schmidt for *The Southwestern Historical Quarterly*, entered in his journal on August 17, 1847, that he had that day "walked to Mormon Mills, located about a half mile from Mount Bonnell. Since they have built a fine mill on the Pedernales, they have sold this one, called the Sycamore Springs mill, for fifteen hundred dollars."

The Pedernales River site was only a mile from the town of Fredericksburg, which had been founded by Count Meusebach of the *Adelsverein*. The Germans warmly welcomed the Mormons. Contrary to the usual conception of the German immigrants, they were not versed in self-sufficiency; the Mormons taught them how to till the soil and perform menial chores.

Lyman Wight called his settlement Zodiac. Until the Elder ventured into municipal politics, the Mormons' relations with

their German neighbors were pleasant and profitable.¹⁰ The millstones which had been imported from France ground out a steady stream of corn meal, and thus dollars. The Pedernales flooded in 1850, and the milling stones were lost just about the time Elder Wight's political relations with the Germans reached the cracking point. According to legend, the Elder fasted in his cabin for three days and prayed to be enlightened as to where the stones could be found. On the fourth day he led his followers downstream to a sand bank left in the flood's wake and ordered his disciples to dig there. Of course the stones were found just where Wight had seen them in his vision.

The Elder wandered on, but many of his people stayed behind at Mormon Mill before abandoning the settlement a generation later. In the cemetery there are fifteen graves. Eight mounds are outside the cypress post walls, evidently the last resting place of non-Mormons.

Wight returned to Zodiac and died there in 1858. His is one of the graves at Zodiac tended ever since by youthful Mormon missionaries, who visit the graveyard annually. Brigham Young's threat to excommunicate all followers of Lyman Wight was never carried out.

¹⁰Wight was elected chief justice of Fredericksburg, but relations between the two peoples were strained when the Elder sought to reform the German system of voting. The foreigners clung tenaciously to their system of balloting by which the polls were kept open a week after election day, during which time the voter could cancel his ballot and cast another. A voter could change his mind, and his vote, as many times during the week as he wished.



“The land, it is no better, Carl. There are many rocks and it is all up and down, and the plow must cut through roots deeper than the trees are high. It is the air, Carl, which is the difference. It is a free air, and it does something to the heart of a man.” — Anonymous.

IV

THE FOREIGNER

HE CAME from everywhere. He was a pompous Austrian nobleman wearing a suit of chain armor and raising the flag of his country over his Texas castle. He was a German scholar singing songs and composing philosophical articles while his people suffered from hunger and cold. He was a genial Englishman generously dispensing the bounty of his "remittance." He was a sturdy Czech thrilled with the sudden ownership of land and the right to till it.

It was not the promised land he sought, not physically. His grapevines wouldn't flourish, and his olives never took root.

But he did.

He found a savage wilderness which he must conquer instead of a pleasant haven. His was a trail of misery. His children died on the way.

But he found that trail's end.

T

HE EFFORT of exiles from Napoleon Bonaparte's court to found a colony in Texas is an almost forgotten story. Their settlement at Champ d'Asile was of such brief duration, and their scheme of empire so misguided and fantastic, that it is easier to believe that they never came at all, and that the story of the fair Madeline who sailed away from Galveston on one of Jean Lafitte's sloops was just another legend built around the pirate king.

But come they did. They came amid tears and left the same way. The first tears were shed when a small sharp-eyed Frenchman refused to listen to the pleas of his brother, Joseph, and instead surrendered himself to the commander of an English warship lying off Rochefort. The brother closely resembled Joseph. The Yankee captain of the brig *Commerce*, also lying off Rochefort, would not have questioned his identity, not at least until they were on the high seas.

If Napoleon Bonaparte had used his brother's passport, as Joseph and his beaten but still loyal generals pleaded with him to do, the course of human tide through the earlier part of the nineteenth century might have followed a different pattern. Bonaparte refused, and also would not permit a General Charles Lallemand to share his exile.

Joseph, stripped of his puppet's throne in Spain, sailed for America on July 25, 1815, and for a number of years lived in the United States under a poorly concealed false identity. The loyal supporters of Napoleon also left France. A list of fifty-nine names was prepared by the French king, but before warrants were issued the intended victims were warned and provided passports and money. Among the exiles were the same Charles Lallemand, his brother, Henri, Marshal Grouchy with his two sons, and the aged General Rigaud.

The first headquarters of the French exiles was in Philadelphia, where they lived in a proud state of poverty that has contributed

to the romantic literature of our times. In 1816 the *émigrés* petitioned the American government for a grant of land and recognition of their colonization society, called "The French Emigrant Society," or "The Society for the Cultivation of the Grape and the Olive." Charles Lallemand was president.

They were granted land on the Tombigbee River in the Mississippi Territory, but their colony was short-lived. Lallemand himself never saw it. Lallemand had a broader vision; he foresaw the rehabilitation of the Bonaparte fortunes in Latin America. There is no proof that either Lallemand or the colorful Joseph Bonaparte, who cut a wide romantic swath among the belles of Maryland and Virginia, was officially connected with the "Napoleonic Confederacy," which formed a conspiracy to place Joseph on the throne of Mexico—at least both men were exonerated when the French monarch protested to the United States and the American president ordered an investigation.

Lallemand's proposed colony in Texas, he stated, was intended to be an agricultural settlement—for the cultivation of the grape and the olive. But the schooner *Huntress*, which sailed from Philadelphia under the authority of Rigaud, carried more than colonists, grape cuttings, and olive shoots. Aboard, in addition to 150 Frenchmen who had been drilled in military maneuvers by General Lallemand, were 600 muskets, 400 sabres, and 12,000 pounds of powder.

In the Gulf of Mexico the schooner was ordered to pull up by a swift-sailing vessel that proved to be of Jean Lafitte's fleet, which then was operating out of Galveston. Lafitte's lieutenant offered the facilities of the pirate base to the Frenchmen, and Rigaud accordingly changed their course and awaited Lallemand's coming on Galveston Island.

Lallemand arrived with additional colonists in March, and the company of about four hundred set out for the chosen site on the Trinity River, which was only about twenty leagues from the Gulf. A storm struck just as the *émigrés* began their journey by water, driving them back to Galveston and destroying several of the boats which had been provided by the courteous Lafitte.

When the weather subsided, the settlers went on in two groups,

a hundred by land, the rest by boats. They reached their site in early May, naming it Champ d'Asile.

Construction of the settlement went at a brisk pace. Perhaps in time the hardships of the wilderness would have dismayed the Frenchmen, but not at the start. Each man worked from four to seven in the morning and from four to seven in the afternoon on community buildings and clearings. During the remaining hours he was free to toil on his own house or garden.

Four forts guarded the circular enclosure, and eight small cannons manned it; but there was no trouble with the Indians. The red men came into Champ d'Asile and, pleased by Lallemand's mannerisms and the supply of rum, signed treaties of alliance.

At times the red men even joined the *émigrés* around their campfires, where songs were sung and some pretense of court formality was kept up. Lallemand regaled them with accounts of Napoleon's past glories.

The Frenchwomen planted flowers, a few of them in gardens, and were particularly successful at transplanting the wild Texas laurel. (Modern-day gardeners might like to ask how.) One of their favorite songs was a home-written melody, "The Laurel Grows in Champ d'Asile."

From the settlement, dated May 11, Lallemand issued a manifesto proclaiming the establishment of a peaceful colony and denying any warlike intentions. Among those to whom he addressed copies of his proclamation was King Ferdinand of Spain.

Speedy repercussions came from Lallemand's rather arrogant proclamation. The friendly Indians brought word — let's say by smoke fires — that a large Spanish force was bound for the colony to suppress it. The *émigrés* consulted among themselves. Some bolder souls favored resistance, but the majority voted to abandon the settlement. They returned to Galveston Island where Lafitte again aided them while Lallemand went to New Orleans to ask relief for his people.

While at Galveston the French were visited by an American commissioner, George Graham, who was sent to investigate

the merit of Spanish claims that a sizable force of Napoleon's followers was preparing to seize the province.

Whatever had been their original intention, there was nothing menacing about the handful of miserable people living on a buccaneer's bounty. They were impoverished, having exhausted all of their resources as well as the hundred thousand francs raised in subscriptions by the French publication, *La Minerve*. Graham reported to his superior that there was nothing about the band of homeless *émigrés* that required his government's official intervention.

By then, in fact, they were dissolving. The perfect union and harmony which had characterized their adventure was missing. Supplies were scarce on Galveston Island, and in small groups the French began to leave without waiting for instructions from Lallemand. Some of them joined Lafitte's crew. Most of them set out for Louisiana afoot, depending for a livelihood upon the game they could kill en route.

The lovely French girl who could be the heroine of a historical novel based on this chapter, Madeline Rigaud, wife of the general, returned to New Orleans in luxury. Lafitte sent her and her husband to New Orleans in a captured Spanish schooner.

A hurricane which left only six houses standing on the island and scattered Lafitte's fleet brought a tragic end to many of the *émigrés*. Rigaud died in New Orleans in 1820, an impoverished man. An inheritance of 100,000 francs left him by Napoleon Bonaparte did not come in time.

Lallemand was able to return to France after the Revolution in 1830. He was also remembered by Napoleon — for the same amount. Lallemand played a minor role in French political affairs during the next decade. For a time he was the tutor of a youth who later came to call himself Louis Napoleon, and Lallemand regaled the boy with his reminiscences of Texas.

It is pure fancy, of course, but perhaps Lallemand even confided to Louis the true purpose of the expedition which left Philadelphia in 1817. Or was it purely Louis Napoleon's own idea to set up a puppet emperor on the throne of Mexico!¹

¹The account of Champ d'Asile is based upon a volume translated by Donald Joseph and edited by Fannie E. Ratchford, which was published

PELLEGRINI'S VINEYARD

PERHAPS the reports of Lallemand's temporary colonists had something to do with the widespread belief that grapes and olives would flourish in Texas. The Galveston Bay and Texas Land Company sent its first forty-seven colonists to Texas on a ship carrying all major varieties of grape cuttings. And the citizens of Harrisburg effected a contract with a Frenchman, Snider de Pellegrini, to make the surrounding neighborhood one huge vineyard.

Pellegrini supplied much of his own capital. His colonization society had its main offices in Paris, and his plans called for the introduction of several thousand French immigrants as well as the building of a large bank, a warehouse and a store, and a seaport.

The colonizer came to Harrisburg, built a huge warehouse, announced that settlers were on the way, and invited all of the neighborhood to attend a grand ball. A boatload of immigrants did arrive, unhappy and bedraggled, but their stay in Texas was brief. Malaria and other climatic diseases took a heavy toll of them. The bayous flooded, and their grapevines were destroyed.

In a few months' time the huge warehouse was abandoned, and all that was left of the settlement was the stories of Pellegrini, "the mad castle builder."

* * *

WE ARE not through with noble *émigrés*; we are just begun. And the *Adelsverein*, or the Society for the Protection of German Immigrants in Texas, dared to dream on the same grandiose proportions, and to do more about it.

in a limited edition by the Book Club of Texas, and upon *Napoleonic Exiles in America*, by Jesse S. Reeves. Some notes published in *The Southwestern Historical Quarterly* were also studied.

The first German to advocate colonization in Texas was J. V. Hecke, who in a book concerning his travels in the New World entitled *Reisedurch die Vereinigten Staaten*, proposed a Prussian military state in Texas.

The first German colonists were Friedrich Ernst and Charles Fortran, who received headrights for a league and labor near the present site of Industry in 1831. American immigrants were forbidden under the land act of 1830, but German colonists were gladly received by Terán and Almonte. The Emigration Society of Giessen, most prominent of the early German colonization companies, received a most polite reply from Almonte when its head, Carl Follen, inquired as to the feasibility of Germans' entering Texas as settlers.

A German nobleman, Johann von Rackwitz, received an *empresario* grant in 1832 along the lower Nueces River but did not have the means to launch his project. The land finally reverted to Mexico without a single colonist being introduced.

There were two Bavarians and one German among the colonists of Dr. John Charles Beales, who arrived at Copano Bay in December, 1833, and founded the colony of Dolores in March, 1834. A few Germans were in the second wave of Beales' colonists which was stopped on the coast by a report that the Dolores colony had been destroyed.

German colonists, led by Robert Kleberg, founded the present town of Cat Spring in 1835.² And straggling German immigrants assisted in the founding of La Grange. John Moore, who had already platted the town, offered Germans stranded there by flood waters inducements to remain as settlers instead of joining Austin's colony. They accepted, and that Texas town was established in 1837.

In 1838 the society *Germania* was organized in New York to spur colonization in Texas. The organization had big plans; it chartered a brig and sent 130 settlers to Texas. They landed at Galveston on December 25, 1839, to find that port town and Houston almost depopulated by yellow fever. Most of the

²It was Robert Kleberg, according to early historians, who brought the first piano to Texas, and it was Friedrich Ernst who planted the first crop of tobacco and manufactured the first Texas cigar.

colonists returned to New York. The hardier joined the Kleberg colony at Cat Spring.

Neither *Germania* nor the Emigration Society of Giessen were successful colonization ventures, but by 1845 the German influence in Texas was considerable. A total of 7,161 immigrants from Germany had disembarked at Galveston alone. In 1843 the Congress of the Republic of Texas had ordered the laws of the nation to be published in German so as to facilitate the transition of the newcomers from Germany to Texas. On January 27, 1844, the Texas Congress had granted a franchise to "Hermann University," where courses were to be taught in both German and English.³

But the efforts of the *Adelsverein* dwarfed these other movements. It was, in fact, the most ambitious scheme of colonization launched in any country.

Though formal organization was not made until March, 1844, when fourteen German princes and noblemen met at Biebrich-on-the-Rhone, the *Adelsverein* actually began to function on April 20, 1842. Only princes and higher nobles could belong to this group, which announced as its purpose the protection of German immigrants in Texas.

The Duke of Nassau accepted the protectorate, Prince Leiningen was elected president, and Count Castell was named secretary and general manager. The society was incorporated on March 3, 1844, for 200,000 gulden (\$80,000), consisting of 40 shares at 5,000 gulden each. In view of the scope of this project it seems in good order to reflect for a moment upon the oft-repeated story that Great Britain financed this movement as a stop-gap against further expansion of the United States.

³The proposed university was to be located between Mill and Cummings Creeks, and though there was some demurring in Congress, a large land grant was issued for its benefit. The school's founders proposed to ban the sale of liquor within fifty miles of the campus. The "University" had its land; German enthusiasts tried to push through its organization. Shares were offered at fifty dollars each. The charter was annulled in January, 1846, but renewed a few months later. Shares were reduced to fifteen dollars each in the hope of attracting more subscriptions, but the trustees accomplished nothing more than the construction of a lonely two-storied building in Frelsburg.

There is evidence, more circumstantial than documentary, that the *Adelsverein* was financed to some extent by British capital. A. Siemering, one of the early settlers, has asserted that the society was organized and manipulated in the interest of England and was paid by the English government to direct German emigration to Texas, to prevent annexation to the United States, and to erect a barrier against slavery. The memoirs of Colonel Rip Ford, noted Texas Ranger, calmly advance the same conclusion. It is perhaps apropos to point out again the British interest in Texas at this stage of history. The English had come to the reluctant decision that Texans could maintain their independence from Mexico, and it was to the Lone Star Republic that England made overtures at this point of the century. Britons would not emigrate because of prejudices against slavery.

To continue this informal speculation, the nobles who founded the *Adelsverein* were related, some of them, to the British crown, for the Hanoverian monarchs were more German than English. It is also interesting to note that the *Adelsverein* was out of funds just after the announcement of Texas' annexation, and the Prince who had been its most ardent agent returned to England.

But enough of speculation. Counts Victor von Leiningen and Boos-Waldeck were dispatched to Texas in 1843 to investigate conditions and to acquire land if possible. Leiningen conferred with President Houston and was highly pleased with the results of his interview. Boos-Waldeck, in the meantime, purchased 4,428 acres of land in Fayette County (paying 54,000 gulden, or \$22,000) and established the plantation of Nassau. The two noblemen returned to Germany with conflicting opinions. Boos-Waldeck frowned upon the Texas venture, claiming that the public lands were already occupied except for the wild and uncharted frontier and that the price of lands already claimed was so high as to make the venture unattractive. Leiningen, on the other hand, was smitten with the country.

Leiningen had contacted an Alexander Bourgeois d'Orvanne who had received a contract from President Houston on June 3, 1842, to settle 1,200 families between the Medina and the Frio Rivers. The contract was to be cancelled on December 3, 1843, if a minimum of four hundred families had not been introduced

by that time. D'Orvanne promised, and Leiningen was convinced, however, that the contract would be renewed in the event of a transfer.

The association of princes evidently thought so, too, for they incorporated the German Emigration Company in March, 1844, and purchased the D'Orvanne grant on April 7, 1844. The Frenchman was appointed colonial director of the *Adelsverein*.

As agent to make preparations for the coming of German settlers, which the noblemen promptly set about recruiting, Carl, Prince of Solms-Braunfels was dispatched to Texas. The association placed 25,000 florins to his credit and gave him wide authority.

In addition to the contract of D'Orvanne, who falsely represented himself to the *Adelsverein* as a chevalier of France, the company had under consideration the *empresario* contract of Henry Francis Fisher and Burkhart Miller, who had obtained a grant from the Republic on September 1, 1843. The territory covered by the Fisher-Miller contract comprised 3,878,000 acres, which the glib Fisher represented as being all farming land.

A German himself (his real name was Heinrich Franz Fischer), Fisher had wangled a diplomatic appointment to his mother country from the Texas government and had offered to sell this grant to the *Adelsverein*. One of the duties of Solms-Braunfels was to report back to Germany upon the practicability of purchasing this *empresario* contract.

Even while the Prince was en route to Texas, with D'Orvanne as a traveling companion, the society advertised for immigrants on the following terms: every single man had to deposit three hundred gulden with the association and each family head six hundred gulden (\$120 and \$240 respectively). Transportation was arranged, and families began gathering in Bremen.

Arriving in Texas, Solms-Braunfels was assured by Anson Jones himself that the Republic did not favor annexation to the Union. Then the Prince inspected the D'Orvanne and the Fisher-Miller grants. He reported back to Count Castell that the D'Orvanne tract was occupied by settlers whose rights would have to be respected and that most of the good lands had been taken up. He inquired concerning the Fisher-Miller grant

and advised Castell not to make a deal with the two *empresarios* as the land involved was beyond the frontier in Indian-infested country.

His report reached Germany too late. On June 24, 1844, the society had purchased the rights of Fisher and Miller for \$9,000 to be paid in three separate payments.

Fisher and Miller's contract with the Republic was more than ambitious; it was almost impossible. Their grant specified that six hundred families would be established in their *empresario* holdings within eighteen months, with a total of six thousand families to be settled eventually. The time limit was March 1, 1845. The Republic promised to issue land titles after the immigrants had occupied a plot of ground for three successive years, had built a house, and had fenced in at least fifteen acres. Headrights for 640 acres would be issued to family heads, and 320 acres to single men.

A further condition imposed by the Republic was that the *empresarios* would survey the land at their own expense into 620-acre sections, with alternate sections belonging to the Republic.

Perhaps the noblemen who guided the destinies of the *Adelsverein* never realized the enormity of the task they had tackled. Not a single white man was then living in the 3,878,000 acres of the Fisher-Miller tract. There was not a single road to it nor a single fortification for defense against the Indians. The cost of surveying the plot alone was \$80,000.

In addition to their \$9,000, Fisher and Miller were to receive, under the terms of the sale of June 24, 1844, one-third of all profits from the sale of lands by the *Adelsverein*.

Notified in the autumn of 1844 that the society had bought the Fisher-Miller grant, Solms-Braunfels turned his energies toward preparations for the oncoming colonists. The brig *Johann Dethard* sailed from Bremen with two hundred families — seven hundred people in all — on November 23, 1844.

Its destination was Galveston. Solms-Braunfels appointed one D. H. Klaener as agent to receive the settlers at Galveston and conduct them to a town, Carlshafen, which the Prince was hurriedly building on Matagorda Bay. The plot of ground for

this port was purchased on December 17 and named by Solms-Braunfels for himself.

Next, Solms-Braunfels set up relay stations, for he realized that the trek from Indianola, as Texans called Carlshafen, to the Fisher-Miller lands was too long and vigorous for the colonists. He established the post of Leiningen on Agua Dulce Creek, purchasing eleven hundred acres from a man named Hatch. The second post was called Castell, at a shallow place in the Guadalupe River.

The Prince mapped out this trail with the idea of a railroad in mind. Even while the first German colonists were painfully marching into the interior, the German nobles were laying their big plans of a private railroad to conduct immigrants from Carlshafen to the Fisher-Miller grant. They were dauntless spirits. At the time such a railroad would have been the longest in the world.

Solms-Braunfels purchased another townsite, on the Comal and Guadalupe Rivers, on March 14, 1845, buying thirteen hundred acres from Rafael C. Garza and Juan A. Veramendi for \$800.

On March 21 the first German colonists arrived at the outpost, and the town of New Braunfels was established.

The intrepid Prince had built a fort and platted a township. He had also constructed a castle for himself, which he called "Sophieburg." Over its tower he raised the flag of Austria, but the banner flew there only a short time. Rangers from Austin ordered it to be lowered and the flag of the Lone Star unfurled instead.

The founding of New Braunfels was the Prince's last official act as agent of the *Adelsverein* in America. He had been succeeded by Baron von Meusebach on February 24, 1845, and had been merely awaiting the arrival of his replacement.

The colorful Prince returned to Europe. One of his last acts was to warn President Jones that annexation of Texas to the United States might mean a war with Great Britain.

Meusebach was immediately beset with financial difficulties. The company had not only spent all of its resources by August, 1845, but was in arrears to the extent of \$34,000.

Meusebach appealed to the directors for \$120,000. They sent him \$24,000 and an additional four thousand immigrants to provide for.

Moving closer to the Fisher-Miller grant, Meusebach purchased ten thousand acres along the Pedernales River, laid it out in ten-acre tracts, and thus established the relay post of Fredericksburg.

German immigrants began to pour into Carlshafen in October of 1845. By April, 1846, there had arrived 5,247 Germans in 36 ships. They were without horses and wagons, without farming equipment, and without means of providing for themselves. Meusebach contracted for their transportation to New Braunfels with the Torrey Brothers of Houston, but the Mexican War broke out that spring and the Torreys found a better customer in the United States Army. Thus the German immigrants were left stranded. Some five hundred of them enlisted with the United States Army and served with distinction in the war with Mexico.

Most of the others started toward New Braunfels afoot.

It was a sad march. It was a tragic march. Meusebach, with practically no funds, could not ease their plight. More than two hundred died on the way; and, worse still, the weary survivors contracted diseases that struck two thousand others when they finally limped into the relay towns of New Braunfels and Fredericksburg.

Directors of the *Adelsverein* had either lost interest or were in no shape to spend more, for further promotion of the *Adelsverein* was almost one man's accomplishment. Meusebach addressed letters to newspapers in Germany describing the pitiful plight of the colonists, and \$60,000 was raised by public donation.

Thus the untiring Meusebach could push on to the lands no German had yet seen, the Fisher-Miller tract. The Republic of Texas, and then the State, had extended the time limits, though the grant could have been declared forfeited as early as 1843.

In January, 1847, with three wagons, an interpreter, and only forty-five men, Meusebach crossed the Llano River and was at last in the *Adelsverein's* holdings. The Germans showed an

aptitude for conciliating the Indians; Meusebach closed a treaty with the Comanches in return for \$3,000 worth of presents by which the red men agreed to the occupation of this country by the Germans.

Under the *Adelsverein* 700 settlers were introduced in 1844, 4,304 in 1845, and 2,376 in 1846. Meusebach had finally reached the Promised Land, and the Indians had promised to permit peaceful settlement.

But the company was broke, stone broke. There were no more ships sailing from Bremen bound for Carlshafen. Moreover, the Germans who had settled at New Braunfels and at Fredericksburg were not enthusiastic about moving on. They had braved and conquered one frontier; they didn't want another.

Meusebach drove his wagons across the Llano, and that was all.

On September 13, 1853, the *Adelsverein* formally withdrew from Texas, assigning what rights it had to its Texas creditors.⁴

Actually the society had not functioned after 1847. But it is hardly necessary to elaborate upon the impress made by some 8,000 settlers reaching Texas at this stage of history. Except for the complete lack of political or military significance, no other wave of immigration was more important. The Germans recovered from their helplessness to become sturdy citizens. By the time of the War between the States they were beginning to prosper; then misfortune plagued them again. The average German settler refused to give his loyalty to the Confederacy.⁵

⁴Among the creditors of the *Adelsverein* were Fisher and Miller, who had not received their last payment of \$3,000. On August 23, 1851, the *empresarios* appeared before Commissioner Ranville H. Sherwood, claiming bounty lands in compensation for the settlers introduced by the German Emigration Company. They claimed that the *Adelsverein* had introduced and settled in Texas 1,600 families and 1,000 single men and that they, because of their judgment against the society, were entitled to 134,400 acres of bounty lands.

The commissioner of the General Land Office, George William Smyth, refused to issue patents, and the *empresarios* appealed their claim to the House of Representatives in 1852. It was rejected by an overwhelming vote.

⁵Thus resulting in one of the most tragic incidents in Texas history. In August, 1862, a party of Germans under the leadership of Fritz Tegner left their hill country homes for Mexico, some to take service in the

Three Texas counties were adjudged in revolt against that government in 1862, and the ensuing bitterness between German immigrants and Texans plagued the colonists through even the second generation.

* * *

QUICKEST recognition of the new Republic of Texas — and also the first offer of physical assistance — came from the same nation which for a time had competed with Spain for its possession. By 1838 France had not only appointed a diplomatic representative to the Lone Star Republic, but had built its own “embassy.”

The envoy, Count de Saligny, arrived in Texas on January 26, 1840, and was promptly settled in his new quarters. The “embassy” was easily the most impressive building in the new town of Austin. The furnishings and windows had come from France, and a French architect had drawn the plans.⁶

Count de Saligny promptly proposed to the leader of the Republic a colonization scheme. A personable man, in addition to serving wines and liquors and feeding his guests upon delicacies not to be found at any other table in the Republic, he soon persuaded the Congress of the Republic to consider his scheme.

The Franco-Texienne bill, which was introduced on January 12, 1841, by James Mayfield Strangers, had the support of Sam Houston.⁷ Saligny had six-foot maps of Texas printed

Federal army, some merely to live in Mexico until the war was over. On the morning of August 10 they were attacked by Confederate scouts under command of Lieutenant W. D. McRae and subjected to a merciless fire. Thirty-two of them were killed, several others died of untreated wounds, and only a few made their escape. After the War between the States the victims of this unhappy incident were honored by a memorial, marking probably the only instance in which Southerners have erected a monument to Federal sympathizers who were killed in the war.

⁶Recently there was some agitation to restore the “embassy” — which was actually only De Saligny’s residence — but the plan collapsed. The historic building, unrestored and untended, still stands in Austin.

⁷Houston is reported to have received Saligny stark naked, sitting beast-fashion on a table and gnawing a bone.

showing the French forts situated at strategic points throughout the Republic, offering Texans a cheap and sure protection against the Indians.

In return for three million acres of the public domain, in tracts lying along the rivers instead of in one location, Saligny's proposed company agreed to erect forts along the frontier and settle eight thousand immigrants by 1849. Among other favors the Frenchman asked was that imports to his colonies would be duty free for twenty years and the settlers themselves free of all taxes until 1848; the company would work all mines within the territory and pay into the Republic's treasury fifteen per cent of the proceeds; the French would have exclusive trading privileges with western settlements in New Mexico; no other settlers or companies would be granted lands within this domain for twenty years.

The bill immediately became an issue between Houston and Lamar. (Most matters of legislation did, for that matter.) Lamar countered with his Santa Fé bill, providing for an expedition to open up relations with New Mexico. According to the armistice signed with Santa Anna, the Rio Grande was the western boundary of the Republic, and therefore the Santa Fé region was within the limits of Texas. Lamar's bill simply proposed issuing an invitation to Santa Fé residents to join the Republic.

The objections to the Franco-Texienne bill are obvious; the reasons for favoring it have been obscured with the passing of time. The Republic, however, was still on a very shaky foundation. Across the Rio Grande the armies of Santa Anna were planning another invasion. The Comanche Indians had been more troublesome in this winter of 1840 than in any other. Sam Houston, moreover, had apparently abandoned any ideas of annexation to the United States.

The French offer to erect and maintain twenty forts for a period of twenty years was a tempting one.

The House passed the Franco-Texienne bill on January 23, 1841, by a vote of 20-12, and the measure was read in the Senate on January 29. President Lamar was then in New

Orleans recovering from an illness, and proponents of the legislation hoped to rush it through before his return.

David Burnet, the acting president, sent word to the Senate that he would veto the bill if passed. Saligny's champions made a canvass of the members of Congress and found enough hard-and-fast opponents of the bill to keep it from ever securing the two-thirds majority necessary to pass it over Burnet's veto. Hence the measure was allowed to die in the Senate without a vote, proponents believing it better to delay a vote until the next session than to have Burnet's threatened veto upheld.

Supporters of the act had still another reason for urging its passage. Texas sorely wanted a loan from either France or England, and Vicomte Dubvois de Saligny had hinted that passage of the Franco-Texienne bill would immediately result in a loan of several million dollars from French bankers.

Two other factors influenced the Franco-Texienne bill in 1841. One was the arrival of a French Jew named Henri Castro, who was well received by President Anson Jones and members of the Senate. Shortly after his arrival, Castro, acting as an individual but with Saligny's approval, offered to act as an intermediary between LaFitte & Co. of Paris and the Republic of Texas in arranging a loan of \$7,000,000.

The second factor was that Count de Saligny became embroiled with one of his Texas neighbors, an innkeeper named Bullock. Mr. Bullock kept pigs. The pigs wriggled through Saligny's fence and made a meal off grain he had stored in a barn for his handsome team of horses. Saligny sent his valet to upbraid Bullock, and the innkeeper thrashed the servant.

The chargé d'affaires petitioned the Republic to order Bullock to dispose of his pigs. The Republic refused even to enter into the controversy, and in high dudgeon Saligny departed for New Orleans. The Republic was brought into the squabble anyhow, for Saligny left without paying Bullock his board bill, and the doughty innkeeper demanded the Republic make good his loss. The nation did.

Saligny conducted the business of the embassy from New Orleans, leaving Castro to represent him in the matter of the Franco-Texienne bill. But Castro petitioned instead for a

colonization contract of his own and closed an agreement with the Republic on February 15, 1842. With a partner, Jean Jassaud, the Frenchman was issued an *empresario* contract for two grants of land providing for the introduction of six hundred families or single men over seventeen years of age and the right to introduce four hundred more families upon a year's notice to the Republic. Texas also granted each settlement 640 acres of free land to be used for churches.

One tract was situated along the Rio Grande from Camargo to Sal Del Ray; the other was west of San Antonio, including parts of modern Medina, Uvalde, Frio, Atascosa, Bexar, McMullen, La Salle, and Zavala Counties.

Saligny was furious when informed of this contract. He considered that Castro had betrayed him in abandoning the Franco-Texienne bill for this project of his own, and the *chargé d'affaires-in-absentia* set about crippling Castro's venture before it was even launched.

Upon returning to France, Castro found considerable opposition there to his colonies. The French government was trying to persuade colonists to settle in newly acquired Algiers and frowned upon an individual venture in Texas. It was only after considerable difficulty and unexpected expenses that, on November 4, 1843, Castro's agents had attracted a total of 114 emigrants, who set sail from Le Havre for Texas on that date.

Their plight upon reaching Texas was anything but a comfortable one. Their lands had not been surveyed; in fact, at least a portion of this grant lay between the Nueces and the Rio Grande Rivers, territory claimed by both Mexico and Texas and actually occupied by neither.

The Republic assigned the homeless colonists provisional lands near San Antonio, and Castro began the laborious task of surveying his territory. The settlers moving in on the heels of his surveyors suffered miserably. Their records show they might not have survived the first winter had not friendly Indians sold them fresh game, deer, and turkey, at low prices.

But they hung on, and the towns of Castroville, D'Hanis, and Quihi are on the current Texas maps to show for their coming.

In the first year, 558 land certificates were issued by the

Republic to Castro's colonists. Most of them met the conditions of their headrights and secured their actual titles.

The average cost to Castro of each colonist was \$30. In all, the intrepid *empresario* introduced 485 families and 457 single men for a total of 2,134 settlers.

As an individual colonist, he was second only to Stephen F. Austin in the number of families settled. But his personal fate fell in that same tragic pattern. Issuance of land titles was delayed by the General Land Office because of the unexplained disappearance of the commissioner assigned to his territory. It was June 2, 1853, before Castro was rewarded by the State for his efforts, and then with only 38,400 acres, considerably less than he claimed was due him.

By then he was bankrupt. He had spent more than any other single individual in furthering the colonization of Texas — at least \$100,000 of his own money. He had been a wealthy man when he came to Texas in 1841 and became involved with the new country, but the land allotted him in 1853 was gobbled up by his creditors as quickly as the certificates were issued. His estate was sold at public auction for only \$3,695.40 despite his efforts to evade the letter of the law by deeding over his properties to Madame Castro and two associates.

He died poor and neglected. It seems any *empresario's* obituary must be a dirge of pity.

* * *

IT WOULD SEEM that Texas had already had enough of misguided schemes, but there were more to come. Dreamers of still another breed were on their way.

There were forty young Germans who came to Texas to escape the troubles and restrictions of organized society. They had been students at the grand old University of Giessen, which was located in the province of Hesse-Darmstadt. Their favorite professor had been the famous Von Liebig. Their society was originally founded for the purpose of social gatherings, but

soon the intrepid youths hit upon the scheme of founding their own colony in Texas.

Their motto, from Cicero, was "to rest in dignity, far from business troubles" (*otium cum dignitate procul negotiis*). Their colony was named after the noted authoress, Bettina von Arnim, and their town, Tusculum, after Cicero's country home.

The cardinal principle of this settlement was to let everyone do as he pleased. Brides came over in the following year but were not at all pleased at conditions; there were no clean sheets and not even floors for the houses.

Tusculum lasted only a year or so; then the young Germans drifted into other towns. Many of them became substantial citizens of Texas. Ferdinand von Herff, a young physician whose healing powers were mainly responsible for the colony's peaceful relations with the Indians, moved to San Antonio and in 1854 performed the first surgical operation with chloroform in Texas. Jacob Kuechler became commissioner of the General Land Office, and Gustav Schleicher was a long-time legislator and successful businessman.

Another such German settlement was at Sisterdale, north of San Antonio. Sisterdale was founded by Lieutenant Colonel Zink and a number of Latin scholars, men who had decided that the quest for learning was the only important occupation in this troubled world. They were joined the next year by Prince Paul of Wuerttemberg, a famous German philosopher. Their influence upon their Texas neighbors was slight; in the first place, the Germans espoused the cause of abolition. Their newspaper, the San Antonio *Zeitung*, was also a bit too stilted in style for the Texas taste. The Sisterdale colonists organized a society, *Freier Verein*, which held a German convention in San Antonio protesting against slavery and demanding its abolition. This, in May, 1854, was certainly the first open convention of abolitionists held in the South.

Larger, but still short-lived, was the colony of La Reunion near Dallas.

Its founder was Victor Prosper Considerant, an ardent disciple of the French socialist, François Marie Charles Fourier. Considerant visited Texas in 1853 and was impressed with

the new frontier. His own means were considerable, and he secured the financial support of other socialists. By October, 1854, the funds had been raised to dispatch an agent, François Cantagrel, and an assistant, Dr. Roger, a young medical officer, to the new country to purchase a colony site and employ workmen to erect residences.

Cantagrel stopped at Cincinnati to employ laborers and to arrange for the town of Patroit, Indiana, to serve as a rallying point for immigrants going overland to Texas from New York. In the spring of 1855 Cantagrel purchased two thousand acres on the bluffs along the west fork of the Trinity River, very near to present-day Dallas. Correspondence indicates that Cantagrel would have preferred to buy another site, but the first boatload of settlers had left Le Havre on February 28, 1855, and it was essential to choose a location immediately and launch construction of buildings.

On April 26, 1855, the first French colonists arrived in Dallas. The inhabitants of that frontier town, then on the outskirts of the spreading Texas settlements, must have gaped as the La Reunion settlers arrived on foot and in ox-carts — bearded men and gaily-dressed women singing songs in a foreign tongue.

Fourier, their teacher, held that society should be reconstructed into "phalanxes," each to number 1,600 persons, and that a phalanx should live within itself. The conditions might differ between various phalanxes but must be identical for all within the same unit.

The town of La Reunion was carefully built, rows of small houses around a small square. The government was like that of democratic Athens, by general assembly. The laws were few, and only one punishment was meted out — banishment from the colony.

Though the settlers erected no church of their own, they did not deny a religion, and many La Reunion settlers went across the river to worship with the inhabitants of Dallas. Others were Catholic and held their own private services. The laws of the colony were strict concerning marriage, forbidding divorces or separations, but no ecclesiastical ceremony was required.

One of the first activities of the colony was to found a school

of vocal music, and the strains of their songs floated across the river to where a grimmer breed of men and women was pursuing the rituals of an everyday existence. In time, the La Reunion colonists joined them, for the lands had been poorly chosen, the farmers were unenthusiastic, and the terrain was poorly drained. By 1856 the colonists were drifting away.

The Frenchmen had never sought to prevent their daughters from marrying American settlers across the river, and the settlement had been completely absorbed in a generation.

* * *

IN 1850 THE English Universal Immigration Company purchased 27,000 acres of Texas land and announced an ambitious colonization program which was not only to include the introduction of farmers and stock growers, but the launching of numerous manufacturing enterprises.

The promoters were not socialists but just dreamers. The purpose of the colony was to establish that, under carefully restricted conditions, a human being might live past a hundred years. The proprietors had been influenced by the paintings and descriptions of George Catlin, the English artist who had made an extensive tour of Texas. They were assured that this was a perfect climate for their perfect existence.

In 1850 the Universal Immigration Company sent 30 families, 125 people, to lay the cornerstone of the new colony. They were led by Lieutenant Charles Finch MacKenzie and by Sir Edevard Belcher, who was special agent for the company. The immigrants left England on September 2 aboard the *John Garron* and arrived in Texas that autumn.

Their march from the coast to the lands they had purchased north of Waco was leisurely and attracted considerable attention from Texans. The colonists, particularly Belcher, were of more than ordinary means. They stopped at inns instead of camping out, and the stock of liquors Belcher had in his wagon attracted the interest and envy of male Texans everywhere.

The nobleman was also a loquacious sort, full of predictions about the future of their colony. In an interview with the editor of the *Texas State Gazette* on December 28, 1850, Belcher discussed his plans to launch manufacturing in the colony.

He shortly returned to England, leaving Captain MacKenzie to carry on organization of the colony. The town of Kent was founded in January, 1851. Of the original thirty families, five had abandoned the venture and taken up headright claims in Texas.

The tenure of the "health province" was a brief one. Few of the settlers were competent to build houses or to till farms, and very shortly they abandoned the idea of hiring laborers to perform these menial tasks. MacKenzie built a comfortable house for himself and professed still to have enthusiasm for the project as late as that summer, but other colonists wrote discouraging letters back to England, completely stalemating Belcher's plans to send over supplementary waves of settlers.

MacKenzie, who marched his hired men into the fields each morning in military formation and summoned them to meals by blowing a bugle, was among the last of the Englishmen to abandon the colony. He left in 1852, and the home he had constructed fell into ruins.

None of these English settlers, it has been established, lived to be a hundred years old.

The Wends arrived in Texas in 1854, purchasing a league of land on Rabb's Creek and founding the town of Serbin. They were of pre-German stock. Conquered by the rushes of the barbarians, they had been reduced to a slave people and their ancient country of Lusatia had been divided into two provinces. In their queer dress and with their strange language, the Wends were an object of much curiosity until they quietly took their place among Texans. In 1872 they sold their Serbin location and established the town of Giddings, where a newspaper, the *Deutsches Volksblatt*, owns the only Wendish type in America. Their settlement is still there, slightly touched by time, but still Wendish in nature. Of the eighty thousand people of this nationality, some seven thousand found a haven in Texas.

A feature of their church services was that two separate

collections were taken, one for the preacher and one for the organist.

Still in existence also, and changed even less in the rush of time, is the town of Keene, which has the only post office in the Southwest which is closed on Saturday and open for business on Sunday.⁸

It was named after a Seventh Day Adventist leader who brought his congregation here, purchased land, and built a town according to their religious ideas. Keene has no mayor, no judge, no court, no police, no jail, no newspaper.

Tea, coffee, tobacco, and alcoholic liquors are not used, nor are wrist watches. The women of Keene do not wear wedding rings or any ornaments.

Another socialistic colony late in the state's history was that founded in 1880 at New Baden by J. G. Meyer, who worked with a land company that brought in German colonists, mostly from the state of Baden.

Like the settlers at Tusculum and Sisterdale, these Germans were neither artisans nor farmers. Their colony lasted less than a year. All but about a hundred of them returned to Germany. As their venture had been well financed, they suffered comparatively few hardships.

The Norwegians appeared in Texas late in the days of the Republic when Johan Reinert Reiersen came to Austin to investigate social and economic possibilities. Brownsboro, a town almost purely Norwegian in character, had been founded in 1845, but Reiersen's was the first venture by a group. The Texas consul in New Orleans had diverted the settlers from Louisiana to his own nation.

Houston promised aid, but the Norwegians made their own way without benefit of an *empresario* grant. They bought a patent in New Orleans for 1,476 acres of land (from a holder of Texas scrip) and founded their town of Normandy. For a time it was conducted along socialistic principles, but the settlers soon abandoned their community scheme and worked their farms as individuals. Settlers were brought in from the Fox

⁸In recent years it has been the habit of the postmaster to open the post office for two hours each Saturday morning.

River Colony by Cleng Peerson, further swelling the population. In 1847 Reierson founded the town of Prairieville near-by.

* * *

THAT STRANGEST document in the history of mankind, the joint resolution by which Texas was admitted to the Union, did not alter the ownership or the future of the public domain. That was clearly the fault of the United States. Texans, worried at the size of the mounting public debt, definitely wanted the United States to assume the debt and also the lands. The Federal government did not do so because many members of Congress simply did not believe that the public lands of Texas were worth assumption of the debt. Texas, said one, was fit only for tadpoles. It was, alleged another opponent of annexation, the "Botany Bay of America."

This is no study of annexation, and there is no need of elaborating upon the decade of discussion and indecision between the proclamation of the Republic of Texas and that memorable February day in 1846 when the Lone Star Flag was gravely lowered by Anson Jones.⁹

Some mention of the terms of annexation must be made, however, for the ambiguity of the resolution has affected the story of the public domain, even to the present time. By this act the Congress of the United States accepted into statehood a commonwealth of unestablished and disputed boundaries. The resolution dismissed this very lightly with the simple statement that the State of Texas was "to be created with boundaries to be established with other governments by the government of the United States."

Certainly no more absurd arrangement ever existed among contracting parties, nations or otherwise. The territory belonged to Texas, to the party of the first part, but its limits could be established by the United States, the party of the second part! Is it any wonder that, after annexation, every boundary of the

⁹According to one semi-authentic version, the flag was seized by Sam Houston after its lowering and carried away by him.

State of Texas could be determined only after lengthy litigation and compromise?

It is not up to this volume to define why annexation was finally effected. Perhaps the threat of an alliance between Texas and England pushed the United States to such a decision; Andrew Jackson thought so anyhow. There were some who believed Sam Houston was deadly serious when he outlined in 1844 his vision for the Republic's future. European nations, he wrote to Murphy on May 6, 1844, (recorded in W. C. Crane's *Life and Select Literary Remains of Sam Houston of Texas*) would eagerly protect her existence and promote her growth to counterbalance that of the United States. California and other territories, including the northern Mexican states, would be glad of annexation for good government and protection. Oregon could easily be acquired.

It was a grandiose scheme. Texans, then and still, are sometimes that way.

A treaty of annexation sent to the United States Senate on April 22, 1844, provided for the assumption of Texas lands by the Federal government and the payment of the Texas debt. It was rejected by a vote of 35-16.

The joint resolution was adopted in 1845 and Andrew J. Donelson commissioned to present this strangest of diplomatic documents for approval or rejection by Texas. It was adopted. It was the only instance in which one independent republic, under no duress, of its own volition, and culminating an exchange of voluntary intercourse, with scarcely any limitations or conditions except the bare statement of purpose, declared itself merged within the borders of another independent republic, and was accepted as such by the party of the second part with the briefest of official recognition.

Annexation, of course, brought war with Mexico. In the discussions of the annexation resolution Texans were very much concerned that the United States would see fit to compromise with Mexico on a boundary line north or west of the Rio Grande. In personal correspondence to Texas leaders, President James K. Polk assured them to the contrary. Commissioner Andrew

J. Donelson made the same commitment, both in public and private.

The claim to the Rio Grande banks was based upon the armistice signed by Santa Anna at San Jacinto by which he pledged the withdrawal of all Mexican troops beyond the Rio Grande. Texans leaped at this opportunity to claim extension of their boundaries, and one of the first acts of the permanent government of the Republic was to declare the Rio Grande to be its western and southern boundary. Much of this land had never been included in the province or state of Texas as construed by either the Spaniards or the Mexicans. The region between the Nueces and the Rio Grande Rivers was originally a part of Tamaulipas, while the westward territory claimed was within the limits of other Mexican states.

But the Texas claim was upheld by the United States commissioners at Guadalupe-Hidalgo, and the territory between the Nueces and the Rio Grande was assigned to Texas. The Santa Fé territory, and land westward, was acquired by the United States, of course, and soldiers were sent into the Santa Fé territory to establish a military government.

Texas quickly protested, claiming the Rio Grande as its western boundary as well. On November 6, 1849, Governor Wood went so far as to request the legislature to invest him with emergency powers so that this "invasion" of Texas territory by the United States could be resisted, with force if necessary.

The result was the Texas Boundary Bill, which was approved by the President of the United States on September 9, 1850, and accepted by the Texas legislature on November 25. By its terms the disputed territory, or some 67,000,000 acres of it, was transferred to the United States. Texas was to be indemnified to the extent of \$10,000,000 in United States five per cent bonds. One half of this amount was conveyed to Texas immediately, while the other \$5,000,000 was to be paid to holders of Texas bonds and certificates when presented to the United States treasury.

The eventual settlement was not so simple, and five or six years of controversy developed over the amount of the revenue and non-revenue debt of Texas. Finally, on February 28, 1855,

Congress appropriated \$7,750,000 to Texas debtors. This sum included interest on the \$5,000,000, plus an adjustment of some costs of frontier defense.

The advantages of this transaction to Texas are obvious. The Federal government looks a little ridiculous as the situation is surveyed. In 1846 the United States did not believe all of the Texas domain was worth the debt against it. But five years later the United States paid off the debt and received less than one-third of the domain.

Texas had been attempting valiantly to exchange its lands for relief of the indebtedness. Governor Wood recommended to the legislature on November 5, 1845, that the public lands be sold. At that time Texas valued its domain at slightly less than \$12,000,000. One of the reasons for rejecting Wood's proposal was that a special committee of the first legislature had pointed out that Texas lacked even the means of surveying the lands, which would have cost an estimated \$500,000.

The \$5,000,000 received from the United States enabled the State to pay off its internal obligations and, of course, to refer outside creditors to the Federal treasury. The importance to the State's fiscal history can be stated in the language of E. T. Miller's "Financial History of Texas," a 1916 bulletin of The University of Texas:

. . . . But for the opportune receipt of the \$5,000,000 of United States bonds and the assumption of the payment of the revenue debt of the republic by the United States, the treasury would have probably been in dire straits. As it was, however, the receipt of the bonds enabled the state to pay a large and harassing debt, to endow the school fund generously, to construct public buildings, to meet the ordinary expenses of the government, to aid in the construction of railroads, and to administer the vast public domain not with a view to revenue, but so as to encourage the growth of population, the material development of the state. . . . The result was that the people of the state did not become accustomed to taxation as a method of supporting the government, and a habit of depending upon other sources was thereby fostered. . . .

THE "ROBIN HOOD OF THE RIO"

THERE WAS another result of the Treaty of Guadalupe-Hidalgo which Texas found not so pleasant. The boundaries of Texas were established once and for all as 'Texans wanted them, after the boundary bill and the relinquishment of the public debt, but the territory between the Nueces and Rio Grande Rivers and the El Paso section presented a problem both immediate and enduring. Its solution led to one of the stormiest chapters of Texas history.

We have seen that this was a cattle civilization founded by José Escandon and other proprietors moving northward with their herds. Many of them had secured land grants from the King of Spain; others had purchased eleven-league tracts from Mexico. Few of the proprietors held fast to their land when Taylor's army came stalking across the Nueces and war had begun. Most of them fled, leaving illiterate *vaqueros* to guard their herds and possessions, if they made any provisions at all. Some of them wanted to return after peace was made. All of them were free to do so. According to the treaty, their rights of ownership were intact.

The General Land Office of Texas had no records to show proper ownership of this territory. The Tamaulipas state archives had been withdrawn to Mexico and were kept there. On February 8, 1850, the legislature provided for the creation of a two-man commission to pass upon title claims in Kinney, Webb, Starr, Cameron, Nueces, Presidio, El Paso, Worth, and Santa Fé Counties. (The latter two have since disappeared from the Texas map.)

Commissioners Bourland and Miller faced an impossible task. They were to move from town to town, scheduling public hearings, inviting presentations of claims, and finally awarding titles according to the best evidence available. It can be stated without reflecting upon the motives of Commissioners Bourland and Miller that the Mexican inhabitants of this territory did not receive their just deserts. Perhaps there was no instance of

prejudice. None was necessary. The Mexicans were not prepared to present their claims to such a commission, and there is no doubt many deserving landowners of Spanish extraction were summarily ousted from their property and their lands turned over to Americans pushing in. The result was a feeling among some Mexicans that they had not been dealt fairly with by the State of Texas. There were other reasons for ill feeling between Mexicans and Texans in the border regions, of course, but this commission of 1850 left behind its substantial contribution.

Among the Mexicans nursing a grievance was one Juan Nepomucino Cortinas, who believed or purported that his family claim to a grant of land had been summarily dismissed by the commission. As is the case with every desperado, Cortinas' stature has been magnified with the passing years until he has become known as the "Robin Hood of the Rio." He was an amazing character, perhaps deserving of the legends he left behind him.

After the war with Mexico, Cortinas, his mother, and his sister moved to a ranch a few miles above Brownsville. In July, 1859, he shot a Brownsville city marshal who was allegedly abusing a former servant of the Cortinas family, escaped with the prisoner, and issued his defiance to Texas.

On September 28, 1859, Cortinas re-entered Brownsville with a force of forty to eighty men (accounts vary), took up quarters at Fort Brown, killed the jailer, liberated all prisoners in the city jail, and threatened to kill all Americans in the city. There were not over 150. Cortinas was persuaded by the Mexican consul to leave without further bloodshed.

Cortinas took up headquarters at his mother's ranch and issued a call to all Mexicans to join him in resisting Texas law. He robbed the United States mails and, according to some accounts, later delivered all of the letters. A force of twenty Americans came against him; he captured it, along with two pieces of artillery. Rangers under Captain Tobin harassed him until he was joined by forty volunteers from Nueva Leon and sixty convicts from Victoria in Tamaulipas. In the autumn of that year he had six hundred armed followers. He proclaimed

a "nation" on September 30 and raised his own flag over his mother's ranch.

In December, United States troops came to put down the "rebellion." Cortinas was attacked on December 14 by 165 regulars and 120 Rangers under Major Heintzelman and routed in a battle thirteen days later. In this engagement Cortinas lost sixty of his men and most of his arms.

The *bandito* was forced to retreat across the Rio Grande; but, undaunted, he collected his forces and established a camp at La Bolza, about thirty-five miles above Brownsville on the Mexican side of the river. He attacked a steamboat, the *Rancho*, and committed further pillages until Robert E. Lee was named to command the troops opposing him.

In 1860 Cortinas withdrew into the Burgos Mountains some forty miles in the interior of Mexico. A year later he swooped across the Rio Grande and burned the town of Roma, Texas.

Cortinas' role in the War between the States would also make an entrancing story within itself, as would his affection for the Texas Ranger captain, Rip Ford, who pursued him.

The French invasion of Mexico diverted Cortinas' attention to his own country. Following the coronation of Maximilian in 1864, Cortinas was kept busy fighting his own war in Mexico, a winning war. For a time during the War between the States Cortinas was acting governor of Tamaulipas and tried to effect an alliance with Confederate soldiers to overthrow Maximilian. In 1871 Cortinas was elected governor of the state. He was arrested in 1875 and imprisoned for two years. One version of his death is that he was killed in his sleep.

Legend may crown Cortinas with the glory of a Robin Hood, but to Texas cattlemen of that period he was a demon. The man's ambition was frankly to steal a million head of cattle. There have been all sorts of fictional versions of his rustling exploits, and perhaps he has been neglected too long by historians. A handsome man with red hair, and with a beautiful sister, Cortinas waged war upon Texans for a decade. It is held that he raided Corpus Christi and that as late as 1875 he was making occasional pillages into the King Ranch territory. He did not make all

the raids charged him, of course. The exploits, vices, and virtues of such a man are always exaggerated.

There are those historians who challenge his family's claim to any Texas tract of land; they would paint him as an out-and-out renegade. Perhaps he was. Historians and fiction writers can fight it out, or, better still, divide him equally between them. There is enough for both.

* * *

THERE WAS a lot of land left even after selling one-third of it to the United States government. Literally the state of Texas was living off its domain, for the \$5,000,000 in Federal bonds enabled the State to operate on a cash basis — and in much more lordly fashion than when Gail Borden handed the fifty-odd dollars and a few cents over to the treasurer of the nation of Texas. From this first major cash transaction came the humble beginnings of the Texas permanent school fund, which shall be discussed later in more detail. From it came the appropriation to provide a capitol building for the one destroyed by fire in 1851 . . . some say to get rid of all troublesome land records so the more enterprising land speculators could go about their business unhampered by the law.

The story of capital and capitol is too interesting to be scattered about in piecemeal fashion according to chronological development. Its beginning goes back to an incident of doubtful authenticity, but one that is generally accepted. Mirabeau B. Lamar visited a Jacob Harrell who had built a cabin on the Colorado River. While hunting, Lamar is said to have pulled up his horse, pointed to several tiers of oak-clustered hills, and declaimed: "There shall be the future seat of our empire."

It is too good a story to be challenged. But, for the formal record, five commissioners were chosen by Congress, two by the Senate and three by the House, and their eventual choice of a seat of government was the small town of Waterloo in Bastrop County, some thirty-five miles above the town of

Bastrop and just above Hornsby's settlement, or Montopolis (which has since been embraced within the corporate limits of Austin).

There were only four families living within the limits of Waterloo when it was laid off in July, 1838, by Colonel Edward Burluson and incorporated as a township on January 15, 1839. There is no explanation as to why the town was so named, though the presence of James Nicholson, an Englishman, suggests that he may have been responsible. Jacob Harrell, at whose cabin Lamar visited, was the first settler.

A condemnation suit to purchase the designated land for the Republic was filed April 3, 1839, in the Bastrop County Court. A jury of six men appraised the value of the lands. A supplementary act of Congress then directed the president to erect the necessary buildings and to move the seat of government to the new site by October 1, 1839.

President Lamar on March 21, 1839, appointed Edwin Waller as agent to superintend the construction of public buildings. The agent posted an official bond of \$100,000, then proceeded by wagon to the oak-strewn valley where, by contract, he was to build a capital city within four months' time. As has been noted, one of the Houston newspapers ridiculed the idea, asking if there was an Aladdin's lamp to swish the newly created city into existence.

The first wagonload of supplies left the store of Thomas G. Masterson at Velasco on May 24 (its invoiced value was \$594). A caravan of 160 men, 32 head of oxen, and 6 wagons left Richmond for Waterloo on May 11, 1839. Irish, German, French, and Mexican laborers were included in addition to slaves and, sometime later, Mormons.

The construction crew reached the site of Austin on May 15. They camped at the present-day corner of Sixth and Nueces Streets, erecting a stockade between Shoal Creek and what is now San Antonio Street. Rangers had to guard livestock grazing at night and also the rock-quarrying and timber-cutting parties, for the Indians resented this further intrusion upon them and continually surrounded the camp. No worker could venture out alone. General contractors for the temporary capitol were

Lewis B. Porter and Benjamin Noble; S. L. Johnson and L. W. Williams were purchasing agents. Only two buildings were painted, the capitol and the president's mansion. The latter stood on the hill now occupied by St. Mary's Academy.

Congress Avenue was the first street cleared, and the first auction of town lots was held on August 1, 1839. By an act of January 14, 1839, the land purchased was ordered surveyed into tracts of 640 acres each, then subdivided into lots of five to forty acres which were to be offered for sale after being advertised in Texas and New Orleans newspapers. Terms were one-fourth in cash with the other three-fourths payable in three equal installments within eighteen months. By act of February 11, 1854, the proceeds from the sale of town lots, not to exceed \$17,000, were pledged to the construction of a governor's mansion.

Waller located the buildings at his own discretion, asking for instructions as to the mansion but never receiving them. The capitol was located at the site of the present Austin municipal building. Waller constructed fourteen government buildings, and the new capital was ready for the Republic's use on time. The August 27 issue of the New Orleans *Times-Picayune* stated that "never in all the annals of city building has a town gone up so quickly."

It has been estimated that forty per cent of the cost of initial construction of the capital was paid for from the sale of town lots by the Republic. The remainder, the indebtedness involved, was paid from the proceeds of the boundary settlement of 1850.¹⁰

The capital city was thus quickly established. It was a thriving little town when, in 1840, Sam Houston rode into it to reassume the duties of president after Lamar's term had expired. Among the state officials to greet the Chief Executive was the second

¹⁰However, one item of expense was not figured in this early estimation. T. J. Chambers, energetic surveyor and speculator in Texas lands, claimed a portion of the land under an eight-league tract granted to him by the state of Coahuila-Texas in 1835 (for serving as a judge of a court which never convened). The Thirty-ninth Texas Legislature on March 24, 1925, inserted an item in an appropriation bill to pay Mrs. Kate Chambers and Mrs. Stella J. MacGregor (born Stella J. Chambers), the only two children and heirs at law of General Chambers, for full settlement of their right, title, and interest and any claim whatsoever against the State of Texas.

commissioner of the General Land Office, one Thomas William Ward.

Mr. Ward was more typical of early Texas than his predecessor in the land office, John P. Borden. Ward had lost a leg following Ben Milam into San Antonio. He had built the first permanent capitol building of Texas under a contract from the Allen brothers. He had lost an arm touching off a cannon in the first boisterous celebration of San Jacinto. Shortly after his inauguration he was involved in a brawl on the very floor of Congress; despite the loss of a leg and an arm he was ready for a fight. In the ensuing "archive war" he was to prove a fit running mate for Houston.¹¹

Never before or since was the city of Austin more loath to receive an incoming executive.¹² Houston had publicly made the boast that buffalo would feed again on the abandoned site of the new capital. President Houston could have had two motives for wishing the new city to die an ignoble death. One of them was financial: his investments were in East Texas. The other, perhaps, was personal. The Congress of the Republic had voted to move the capital from a town named Houston to a place named Austin.

¹¹There is considerable evidence that Colonel Ward had attacked the ponderous job before him with diligence and ability. The *Texas Sentinel* of July 28, 1841, wrote of him and his office as follows:

"This office is a large, well-arranged and most necessary department of the government. It is situated next door to the *Sentinel* office upon Congress Avenue, and, owing to our contiguity to it, we have frequent opportunity of witnessing the whole arrangement.

"Besides the indefatigable Commissioner General, there are about a dozen clerks engaged in the different duties of the office — some in translating, others in map making, recording, comparing field notes and filling up land patents.

"To walk through the ample apartments of this office, and see each of its officers, like clock work, pursuing his own special duty — it looks the very personification of industry and reminds one, to use a homely similitude, much of the complicated, yet orderly, operations of a spinning factory. The demand for land patents increases from all parts of the republic, and as soon as corrected maps from all of the counties shall be received, double the number of clerks will be necessary to supply them, for the whole country is anxious to obtain their final titles, which it is hoped will save endless and ruinous litigation."

¹²Houston won by a majority of 7,915 to 3,619.

It is on record, nevertheless, that Austin gave him a hero's welcome. Josiah Gregg wrote on December 8, 1841:

This morning the city was in a buzz making preparations to receive the chief, who was expected by 11 or 12 o'clock. About the latter hour a salute was heard (of 22 guns, I believe, of small cannon) which announced the approach of the General. He was met by an escort of the different military corps of the city and delivered, it was said, a spirited address. He was then escorted to Mrs. Eberle's and joined a most boisterous (and we might well say ravenous) crowd in a collation which had been set by the citizens for him.

Then, on December 13, Gregg recalled:

Today General Sam Houston was inaugurated President of the Republic of Texas. The audience consisted perhaps of about one thousand persons. He appeared on the stage in a linsey-woolsey hunting shirt, and pantaloons, and an old wide-brimmed fur hat. I thought in this General Houston demonstrated more vanity than if he had appeared in an ordinary cloth suit. He knew it would be much remarked, and thought it would be popular, no doubt, with the body of the people. . . .

I should say that he dwelt too much and unbecomingly on the merits of his former services and administration, of which the people generally do not speak nor so favorably as he himself. Also he bore too much severely upon the maladministration of his predecessor — this he should have left for others to have censured.

Captain William Walsh, in his memoirs entitled *Austin in the Making*, wrote:

In the election of September, 1841 Houston was elected and his known enmity for Austin caused a feeling of uneasiness in our city. Some, the more hopeful, maintained that, in view of the fact that Austin was prospering and growing more populous day by day, they felt sure that the President would do nothing to retard the settlement. He came to Austin, was inaugurated and remained for several days. Many efforts were made to get from him an expression of his views and intentions on the question, but none were successful. He left, and in a few days issued a proclamation declaring all organizations of armed men, no matter for what ostensible purpose, who were not commissioned by the President, to be outlaws, and they were to be treated as common bandits.

The excuse for this was the ill-advised and ill-fated "Santa Fé"

expedition, which, during the previous administration had been outfitted, largely at Austin, for the purpose of opening trade and communication with Santa Fé. . . . Such expeditions were condemned by a large majority of the people of the Republic, and so far as the President's proclamation was applied to them, it was heartily endorsed. The trouble was that no local exceptions were made and the local organizations for the defense against the Indians were included under the ban. The attention of the President was called to this feature and he was requested to modify it to that extent. He declined. Then a petition, signed by the entire population of Austin, was sent to him, asking that a small body of men be detailed and sent to protect the capital from the Indians. To this he answered that the Treasury was empty and there would be no funds to pay such men. To this the reply was that the citizens would outfit and support a company at their own expense and from their own citizenship without cost to the public treasury if he would commission them and thus remove the ban of banditry. To this proposition Houston made no answer, verbal or written.

This attitude confirmed Houston's opinion of Austin and his plans for its "future." Even after actual establishment of the capital on the Colorado, Houston had introduced in Congress a bill providing for an election in May, 1840, in which the people of Texas could choose between Austin and a site at the great falls of the Brazos as capital of the nation for the next twenty-five years.

His arguments against Austin were bitter. He said that in locating the seat of government at Austin, a fraud had been practiced upon the people of East Texas because they had been denied the right expressly delegated to the people to vote upon the question. He wished the matter to be settled by the people for he had found them, on the whole, worthy of trust and willing to rectify any honest mistake. Since the present location was not in the center of population and benefited no one, it was an injustice to the people living east of the Trinity to be forced to travel hundreds of miles to reach the capital. He contended that no place could less adequately accommodate a Congress; the Indians could burn the town, destroy the archives, and murder the people, if so disposed.

He dwelt at length upon the wildness of the country and the difficulty of getting provisions to a point so removed from

civilization, and although recognizing the wealth and beauty of the Colorado valley, he thought "her bags of gold and her bunches of diamonds" would be dear at the cost of being put up in this frontier city. Never had he heard of a capital being hung on an outpost, which Austin would continue to be for another half century. He went so far as to suggest the separation of East Texas in order to assert her rights, but the bill was killed.

In the campaign of 1841 Houston made his intentions plain about Austin. He would not risk his scalp "in that damned hole called Austin."

A bill introduced on January 6, 1842, authorizing the President to remove the archives to any point he deemed eligible was also defeated. Feeling ran high over the audacity of this proposal. One letter received by Houston is worth quoting:

WEBBERS PURRAY 7 January 1842

SIR OLD SAM:

We did heare that you was goin to move the seat of government and the publick papers and that you swore you would do it, and then when you come to Austin and found out the boys would not let you do it you said you never was goin to move it. Now Sam you told a dam lie for you did promise the people in Houston that you would move it and I heard a man say that you told Hockley not to bring all his servants because you would all go back soon. But the truth is that you are afeard you Damn old drunk cherokee .We don't thank you because we would shot you and every dam waggoner that you could start with the papers. You cant do it and we ax you no odds. Travis and Bastrop Fayette Gonzales can bring 1,000 men out and Ned Burleson and Lewis P. Cook have promised that you shant budge with the papers. I heard them myself and you know Burleson and Cook can make you squat you dam blackguard Indian drunk. Now old fellow if you want to try Ned Burleson's spunk just try to move these papers and old Ned will serve you just as he did your cherokee brother when he took the hat whot you give it to your Daddy Bowler You shall hear more from me when I am ready.

JOHN WELSH

Following the adjournment of Congress on February 5, 1842, the President left for Houston, blandly ignoring Section 3 of the Constitution which provided "the President and Heads of Departments shall keep their offices at the seat of government unless removed by the permission of Congress, or unless in case of emergency in time of war, the public interest may require their removal."

It was soon evident that Houston did not intend to return. His private secretary wrote him in warning:

Your friends . . . can never advise a step of that kind. Judge Brown of Nacogdoches called on me this morning and requested me to say to you, in his name, that he would prefer witnessing the destruction of the archives, to their being removed by executive orders without the approbation of the people. When the danger is apparent, and the mass of the people see it, then the time has arrived to remove them, and not before. The advice of one of your friends to just get scared and see if you don't go to Houston with more ease than could be expected, won't do. The emergency must be real.

Two weeks later the secretary wrote:

Whatever may be the faults and hazards of the present location, its removal will not be tolerated. It is surmised that some of our magnates are waiting anxiously for the arrival of the expected period for a display of their prowess and patriotism. It is to my mind plain and palpable that the removal can not be effected by executive order, unless the nation is invaded by a foreign enemy in such numbers as to make their penetration to the seat of government at least probable.

Before the storm could break, Houston was given his provocation. On March 5, General Vasquez staged his surprise raid into the city of San Antonio. On the following day the citizens of Austin formed a committee of vigilance and then requested Secretary of War George W. Hockley to declare martial law. Families were sent to more protected portions of the nation until only two dozen married and some single men remained in Austin.

The government heads followed their chief executive to Houston. The President's secretary wrote on March 6 that he had sent both public and private letters in order that they

might be secured against possible loss but begged that the archives remain in Austin until the danger of capture increased. "If an order to that effect should be premature," warned Miller, "you can well appreciate the consequences."

On the same day Houston was advised by the Secretary of War that the regiment of Colonel Jones had been ordered to protect the archives "to the knife."

Hockley was instructed by return mail to have the public archives removed to Houston by way of Caldwell, with special attention devoted to the land papers.

Hockley answered on March 16 that he had directed Commissioner Ward to make the necessary preparations. Later in the day Miller wrote the President that "the people from the Brazos to Austin have declared that they would rather take their rifles to prevent a removal than to fight Mexicans." Colonel Jones, said Miller, would ignore any orders from the War Department and would prevent removal of the archives.

Captain Walsh described the resolutions adopted by the citizens of Austin in protest and warning. Houston was asked to countermand his order. The Raven replied on March 24, "I will not remit my purpose. . . . I am the sole judge of the necessity and the time proper for their removal." A vigilance committee was at once organized to guard the archives, and a patrol was provided at Bastrop with instructions to inspect and keep from passing any wagons carrying government records.

On April 4 Houston authorized Colonel Ward to remove the archives and to report any resistance encountered. Another indignation meeting in Austin resulted in a memorial to Congress and a violent censureship of the Chief Executive.

The *Telegraph and Texas Register* of April 27, 1842, analyzed the situation:

The excitement in relation to the removal of the archives from Austin continues in the western counties. Public meetings have been held in Bastrop and Travis Counties, and the citizens almost to a man have resolved to prevent by force any effort to remove them. On the 17th inst. a rumor reached Bastrop that Col. Ward had engaged three teams and agreeable to the order of the President, was preparing to transport them to Houston. Early the next morning a party of volunteers from Bastrop and its vicinity, well armed and

equipped, rode into Austin and declared that as the archives were in danger, they should feel it their duty to resist any attempt on the part of the officers of the government to take them away.

The teamsters, finding they were likely to get themselves into difficulty, concluded that they would not risk their teams and the affair ended. These proceedings place the government in rather an awkward predicament. Without the archives little or no business can be transacted and the government becomes almost a nullity. . . .

On June 27, 1842, Houston called a special session of the Sixth Congress to convene in Houston. Of the Austin resistance to the removal of the archives, he stated that he saw no reason for yielding to the illegal resistance which had been offered to the execution of these orders by an association who constituted themselves a committee to contravene and obstruct the performance of his constitutional duty. He asked for legislative action to "subdue that treasonable and insurrectionary spirit."

Congress failed to sustain him.

Houston called another extra session at Washington-on-the-Brazos on November 14, 1842, but no business was transacted as a quorum was not present. On December 10, failing to secure congressional approval of his intentions even after a third called session, he commissioned Messrs. Thomas I. Smith and Eli Chandler to remove the archives.

"The matter of effecting your object," he instructed them, "will be left to your sound judgement and discretion.

"It would be well also to conduct your operations with the utmost secrecy . . . you might raise your men as if for an Indian excursion . . . you will report to Colonel Thomas William Ward, Commissioner of the General Land Office, at Austin, and special agent in charge of the archives, who will give you all the facilities in his power."

The *Morning Star* of Houston in its issue of January 10, 1843, printed a dispatch from its "Washington correspondent" relative to the difficulties Smith and Chandler encountered in raising volunteers.

It is currently reported at this place that orders have been given to the troops in Milam and Robertson Counties to muster into the field, ostensibly for the purpose of meeting the Indians, or to act as an escort on that occasion, but in reality to proceed to Austin and

bring from thence the archives of the nation . . . on learning the purpose for which they were intended, the troops, with the exception of some 30, refused to march.

Actually Smith and Chandler secured only about twenty men with three wagons. The force entered Austin on the night of December 30. Colonel Ward received them at the corner of Congress and East Eighth Streets. They had nearly loaded the wagons when Mrs. Angeline Eberle, who conducted a boarding house, discovered their activities. The lady touched off a cannon on Congress Avenue which was turned toward the land office. The shot crashed into the building, with little damage and no injury; but the alarm had been spread, and Smith fled with his volunteers and most of the archives. He took the Caldwell road to avoid the patrol at Bastrop.

Some twenty Austin men quickly armed themselves and went into pursuit. The night was cold and a heavy rain was falling, handicapping the loaded wagons. Smith's men and the teamsters pitched camp at Kinney's Fort, a spot on Brushy Creek some eighteen miles from Austin. When they awoke the next morning they found themselves surrounded, with the same six-pound cannon leveled upon them.

Smith offered no resistance. The archives were surrendered, returned to Austin, and there deposited with Mrs. Eberle.

Colonel Ward attempted to regain possession of the documents but, as he stated in a letter to Houston dated January 8, 1843, the citizens of Austin refused. "Many threats have been made against my person," reported the Commissioner.

In an address to the House of Representatives on January 10, Houston promised to "use no further exertions on the subject, but to leave the matter to the people and their representatives." The Chief Executive received from the Select Committee of the House such an excoriation as is usually reserved for and applied to an officer under impeachment. The Select Committee found:

1. That the country had just escaped the horrors of a civil war under the auspices of the Chief Executive.
2. That the conduct of the President in the matter was dictated by a long-settled and determined opposition to the present location of the seat of Government.

3. That the citizens of Austin neither acted as a "mob," nor were they in a state of beastly intoxication, as alleged by the President, at the time they resisted the armed forces dispatched by the Executive.

4. That the archives in their present location were safer than they would be in the keeping of the Executive.

5. That the act of the Executive in directing an armed body of men to remove the archives from the point at which the law placed them, was against the law and the Constitution, and that all persons engaged in the execution of said order were trespassers and wrongdoers from the beginning.

6. That the devotion of the government officers, about which the President expatiated at great length in praise of their attempt to remove the archives, was not a matter for encomiums on the part of the Committee.

Houston retired, neither graciously nor gracefully, from the argument. On January 24 Colonel Ward demanded the return of the documents so that the business of the land office might be resumed. In answer, the chairman of the Austin committee agreed to return the archives provided the Commissioner would "give a written pledge not to permit any portion of the archives to be secretly or clandestinely removed by the order of the President or otherwise (unless authorized by an Act of Congress)."

Houston had been squelched, but not Colonel Ward. On April 25 the Commissioner issued a proclamation that the General Land Office would be reopened at Washington. Captain Walsh wrote:

When Land Commissioner Ward packed up the archives of the General Land Office for shipment, he was quietly, but firmly, informed they could not be moved, except by authority of Congress. When this information was announced, there followed, perhaps, the most picturesque volley of profanity the world has ever heard.

Mr. Ward could go, but the archives had to remain. He went. They stayed.

It was Houston himself who ordered Ward back. The instructions were dated December 28, 1843, and expressly

ordered the Commissioner to return. The President also re-appointed the one-legged man for another term.

Ward returned. The citizens of Austin delivered the records, and there issued from the Commissioner's office a statement that the archives had been poorly protected and some incidental properties of the government were missing. Perhaps this announcement, or complaint, was merely fuel for the fire Houston tried to refan. The Executive proposed that Washington was the "constitutional capital" of the nation and reiterated his objections to Austin.

A committee appointed by the House of Representatives reported following Houston's proposal that "having examined the records and archives of the General Land Office quietly restored by the citizens of Austin . . . these records and archives had remained uninjured." The statements by Commissioner Ward, found the committee, "left no doubt that deep, designing and deliberative perjury was resorted to, for the accomplishment of most offensive and illegal object."

In February Colonel Ward returned to Austin, and the neglected land office resumed its function. On June 20 the headstrong Commissioner was married, and peace seemed to have been restored with his irate Austin neighbors. Not so Houston. In September, 1844, Anson Jones was elected president of the Republic. Houston called the Congress to meet at Washington and there, on December 9, Jones was inaugurated as president.

On January 20, 1845, President Jones approved an act which provided for the location of the seat of government at Austin. In that year, of course, the Republic of Texas and the United States were involved in the matter of annexation. Austin became the capital of the new state without opposition.

The buffalo and the red man have not returned to Congress Avenue. In fact, in the very same century the State of Texas was to erect the largest state capitol building in America and to defray the cost of its construction by one of the largest individual land grants ever made, over three million acres.

THE NEW CAPITOL

A FIRE ON November 9, 1881, completely destroyed the capitol building, the second time that the statehouse had been reduced to ashes. (No reason has ever been given for the origin of the fire.)

The Sixteenth Legislature, convening in temporary quarters in 1882, appropriated three million acres of land to be used to finance the erection of a new structure. It also created the Capitol Board, composed of the governor, comptroller, treasurer, attorney general, and commissioner of the General Land Office, to dispose of the land at not less than fifty cents an acre and to design and erect a capitol building with the proceeds.

Mattheas Schnell of Rock Island, Illinois, accepted the contract, agreeing to accept the land in payment. Twelve days later he transferred a three-fourths interest to Taylor, Babock and Company, which in turn organized the Capitol Syndicate Company. Leading investors were Charles B. Farwell, John B. Farwell, and Colonel Abner Taylor of Illinois.

At the same time the three million acres were appropriated, the legislature provided for the sale of nearly fifty thousand acres at competitive bidding to pay the cost of surveying the big tract into 640-acre sections and of meeting the expenses incident to advertising for plans and specifications and the final employment of the architect submitting the most satisfactory plan. These fifty thousand acres were sold at fifty-five cents per acre.

The original plans and specifications for the building called for the use of native limestone, of which there was an unlimited supply near Austin, and the bid placed by the Capitol Syndicate Company and the contract for construction were upon that basis. After examining the quarries near Austin the syndicate's representative and the state engineers selected the quarries at Oak Hill, some eight miles southwest of Austin, as the most satisfactory. A narrow-gauge railroad was constructed from the quarry to Austin and up East Avenue to the capitol grounds, and construction was about to be launched.

Every test of the limestone for tension, compression, and weight had shown the native rock to be only a fraction less sturdy than granite; but, after the railroad had been built and the first stones unloaded on the capitol grounds, iron pyrites were found embedded in the quarry which, when exposed to the air, disintegrated and stained the stone with rusty streaks, rendering it unfit for surface work.

A hurried search among other quarries revealed the same fault in all native limestone. Colonel Taylor, representing the syndicate, proposed the substitution of Bedford limestone for the building. The Capitol Board was determined to have the capitol constructed of native rock and rejected his proposition. Taylor demanded to be released from his bond and to be paid for his services and outlay and boarded the train for Chicago.

William C. Walsh, the land commissioner, is credited with discovering the clause in the contract which called for foundation stones 117 feet square by 30 inches in thickness, and with realizing that rocks of such dimensions could not be transported by rail from Indiana to Texas. Walsh called a hurried meeting of the Capitol Board at 9 P.M. on the same day Taylor had left for Chicago, and the board committed itself in a telegram to the syndicate's representative to "agree, if you will obligate yourself in writing to construct building according to specifications, to accept Bedford limestone in lieu of native stone." The telegram was signed by John Ireland, governor and president of the board.

The very next day Colonel Taylor returned to Austin and gave the written obligation required. Very shortly, after going over the plans, Taylor realized that the foundation-stone dimensions could not be met with Bedford limestone. He undertook to pass this over with the remark that it was unreasonable, and that the stones, of course, would have to be cut in two or more pieces so that they could be transported over railroad bridges.

The Capitol Board refused to make a concession, pointing out that Taylor had obligated himself in writing to follow the specifications to the letter. There followed a heated discussion in which Taylor charged the State officials with unfair practices. He was answered with the threat that his bond of \$250,000

would be forfeited and would be lost to him as well as the expenses already incurred by his syndicate.

Taylor promised to take the matter under advisement and to give a final answer within a few days.

Meanwhile Gus Wilke, the actual superintendent of building for the syndicate, treated unofficially with members of the Capitol Board and with them effected the following compromise:

1. That the foundation and all exterior walls and columns were to be of granite.

2. That the backing and interior walls should be of approved limestone.

3. That the state would furnish a sufficient number of convicts to overhaul the road from Austin to Burnet and to construct a narrow-gauge railroad from Burnet to Granite Mountain.

4. That the granite *in situ* would be furnished free of cost to the contractor and that the stumble block would be cut in two or more pieces.

It was Commissioner Walsh, also, who proposed a change in the specifications by which steel was used in the construction of the capitol dome instead of brick. Prominent architects from San Antonio, New Orleans, and New York substantiated his claim that the foundation would not have supported the dome had it been constructed of brick.

The use of convict labor on the capitol building involved the syndicate in an international labor dispute. The Granite Cutters' International Union in December, 1885, voted to boycott the capitol of Texas. The usual method of setting wages for granite cutters was to meet the price of the nearest competitive quarry, which was at Graniteville, Missouri, where cutters were paid \$3.50 per day. The Austin scale was set at \$4 per day.

Following the boycott by the granite cutters' union, George Berry, an agent for Gus Wilke, went to Aberdeen, Scotland, and advertised for stonecutters at \$4 a day. Eighty-six workers signed on and sailed for the United States. They were stopped at New York in the first test of the Alien Contract Law. Twenty-four of them dropped out of the venture and returned to Scotland. Sixty-two managed to make sail for Galveston but left

the ship at Newport News, Virginia, as immigrants and thus avoided detention at the Texas port.

The contract for construction of the capitol called for its completion on January 1, 1889. In July of the previous year charges were filed against the Capitol Syndicate Company by United States Attorney Rudolf Kleberg asking for \$1,000 and costs for violation of the Alien Contract Law. An adjournment was secured until after the contract had been met, when Wilke pleaded guilty to all charges and paid fines to the granite cutters' union totalling \$500.

Most of the foreign stonecutters remained in the United States and also made their individual peaces with the union.

The 3,000,000 acres exchanged by the State for the construction of the capitol building were organized into the famous XIT Ranch. There are conflicting theories as to the naming of this mammoth "spread." Some historians state the name was chosen because there were ten investors and thus the "ten-in-Texas." Another theory is that a veteran cattleman employed by the syndicate sketched out the XIT brand as one which would be most difficult to change with a branding iron.

The story of the XIT Ranch is a fascinating one. The "spread" was of such dimensions that one manager ordered a carload of cigarette papers as a winter's supply for his line riders.

It may seem that Texas paid a fantastic price for the high-domed granite building which is the largest state capitol in America and second only to the national capitol at Washington in magnificence. But not so; the Capitol Board dealt shrewdly.

The capitol building cost the contractors a total of \$3,744,630.60. At the time, the land appropriated could not have been sold for more than fifty cents per acre. The Sixteenth Legislature was in grave doubts that even that price could be realized.

Thus the State transferred to the Capitol Syndicate Company land worth no more than \$1,500,000, if that much. At the time it was granted, it could be said to be worth practically nothing, for the 3,000,000 acres lay beyond a barrier Texans had yet to cross, and was land they had yet to want.



“But cowboy, cattleman, cowpuncher
he remained himself. . . . He never dreamed
he was a hero.” — EMERSON HOUGH

V

THE COWBOY

NOW THE open land lay to the west, and it was an open land indeed. It was the plains country, and more than the Cap Rock divided it from the Texas already claimed. Nature had flung up grimmer barriers.

The surge of mankind came on, then hesitated. The man with a hunting rifle and an axe hung back.

But another man rode up, and then on. Afoot he was an unpretentious creature with his weight teetering back and forth on the uncertain balance of his high-heeled boots. But on a horse he was something else.

It was a different horse he rode, and a different saddle, and his weapon was a fantastic gun that he could discharge six consecutive times without reloading. He wore a kerchief around his neck and a high-brimmed hat and *chaparajos* which partially covered his bowlegs.

He pushed herds of cattle ahead of him, fabulous herds. He left tales and legends behind, fabulous ones.



AT THE outbreak of the War between the States some 90,000,000 acres of the Texas public domain were still unclaimed. The outer fringe of the settlements stretched from Fort Worth on the Northwest to the first tier of struggling hamlets in the Texas hill country that the *Adelsverein* had aspired to convert into a German feudal state. It was not war, nor talk of war, which caused this period of inactivity in the story of Texas and her land. The "Westward Ho!" movement had abruptly ceased even before General Beauregard's trigger-happy subordinates launched bombardment of Fort Sumter against the orders of Jefferson Davis. The clamor for free land had faded into an insignificant whisper. It lay there, still lots of it, but the only claims against it were still outstanding scrip certificates sold a score of years before by Thomas Toby and his energetic associates.

Abruptly, sharply, came this division in the history of Texas land, rising up as suddenly, and as forbiddingly, as the natural barrier which caused it — the Cap Rock. A student of the Texas domain, like the hardy immigrant pushing westward, suddenly finds that one chapter ends and another begins, and that the story of the new land and the new people is as different from the old as the country itself was different. The pioneer came to the Cap Rock, stared out over the empty space beyond, reflected a moment upon what trivial weapons he had to hurl against the challenge of this grim horizon, and decided that he had gone far enough. Some few hardy souls ventured on. For the most part they did not return.

Walter Prescott Webb,¹ shrewd analyst of the Plains country, explains this era of "indecision" in his book, *The Great Plains*:

Let us visualize the American approach to the Great Plains by imagining ourselves standing on the dividing line between the timber

¹To Dr. Webb the writer is indebted for not only much of the actual material concerning this era, but his idea of organizing it.

and plain, say at the point where the ninety-eighth meridian cuts the thirty-first parallel. As we gaze northward we see on the right side the forested and well-watered country and on the left side the arid, treeless plain. On the right we see a nation of people coming slowly but persistently through the forests, felling trees, building cabins, making rail fences, digging shallow wells, or drinking from the numerous springs and perennial streams, advancing shoulder to shoulder, pushing the natives westward toward the open country.

They are nearing the plains. Then, in the first half of the nineteenth century, we see the advance guard of this moving host of forest homemakers emerge into the new environment, where there are no forests, no logs for cabins, no rails for fences, few springs and running streams. Before them is a wide land infested by a fierce breed of Indians, mounted, ferocious, unconquerable, terrible in their mercilessness. They see a natural barrier made more formidable by a human barrier of untamed savagery. Upon the barrier of the Great Plains the pioneers threw themselves, armed and equipped with the weapons, tools, ideas and institutions which had served them so long and so well in the woods that now lay behind them. Inevitably they failed in their first efforts, and they continued to fail until they worked out a technique of pioneering adapted to the Plains rather than to the woodland . . . necessary modifications were made by the American timber-dwellers when they emerged from the forests and undertook to make their homes on the Plains. Their effort constitutes a gigantic human experiment with an environment.

It is little wonder that the homemaker hesitated on the brink of this new and strange country. He must reverse his regular order of procedure. Ahead of him lay a land in which a man must dig for wood and climb for water!

It was another twenty years — nearer twenty-five — before the General Land Office of Texas was again besieged by immigrants seeking headright grants in the empty domain. But in the interlude, which came very much like a curtain lowered at the end of one act in a drama, a “before-the-drop specialist” rushed out to enliven the performance while the setting for the feature play was being changed around. He was a man who already knew some of the answers.

He came driving herds of ladinos, or wild cattle, ahead of him. With a handful of men to assist him, he pitched a camp near the forks of a stream and let his cattle feed upon the lush, high buffalo grass, his right of tenure challenged only by the Comanches and Kiowas and other Indian tribes.

The careless chroniclers of the West, and more particularly the authors of wild West yarns, have created the impression that this restless, high-spirited character did not gallop into the spotlight until after the War between the States. Most Americans, even Texans, have been fed on this unvarying diet until the Western story has been cast into one narrow mold from which the storytellers could not veer if they wished. Publishers would not let them.

But the truth is that the cattle empire in Texas was launched as early as the eighteenth century and that Americans quickly learned from their Mexican neighbors. By the late 1850's the cowmen were moving into the unclaimed Western lands with their herds and their riders. In this era of twenty years in which the homemaker stood baffled before the perplexity of the Plains country, the cowman had his featured bit.

He stole the show, of course. By the time his specialty act was finished he had established himself as the most appealing hero of all time. No other can match his appeal, not the knights of King Arthur's Round Table nor Robin Hood's merry men, not even the American soldier heroes of two World Wars. He became the most popular character of fiction, legend, and fact with the turn of the century, and his stature increases with each passing day, until any Easterner reading this story of Texas land and people must be shocked to find him classified as only a specialty act. According to the flood of Texas "literature" he has been the whole show.

His was a good act. His was, and is, a good story. It will be a better one as it is written in the future.

His was a fleeting empire, but a colorful one. No other civilization was ever like it. None other was built on such skimpy material resources. He took a horse, a rope, and a gun. Then he crossed Nature's grim barrier and went riding on into the sunset, yielding before the "tramp of millions" but with head still unbowed.

This is not an exaggeration of the forbidding nature of empty western Texas. Mankind had recoiled before it for three centuries. The Texans who had followed the soldiers of fortune and the *empresarios* and the makers of empire across the Red

and Sabine Rivers wanted no part of this Plains country. Nothing in their past environment, as rigorous as it had been, or in their heritage, as courageous as that was, equipped them for the task of crossing the Cap Rock. Their axes and their hunting rifles were useless. In this empty land a man could not throw up his cabin with his own hand, trap for skins and hunt for deer, and plant corn in a hurriedly-hewn clearing. He could not supplement his diet with wild berries, fruits, and nuts. Wrote John Wesley Powell: "The log cabin zone moved westward until it reached the border of the plains, which it never crossed."

Man had crossed it, yes. Coronado had in his search for El Dorado, and the courage of that march has been too lightly dismissed. The man may have been a fool, but he was *muy hombre*. Zebulon Pike touched the northwestern tip of Texas in 1807, but his explorations were abruptly checked by the same jealous Spanish authorities who were always interfering with the free movements of American travelers. Two United States Army expeditions blazed trails through West Texas shortly before the War between the States, with Captain R. B. Marcy contributing maps and information concerning water holes that proved invaluable to later nomads.

These two exploring parties were the inspiration of Secretary of War Jefferson Davis, who was advocating a transcontinental railroad along the southern boundary and who eloquently pleaded the feasibility of such a project in Washington. Not all of Davis' arguments were sound. The desert, he said, would leap to life as soon as artesian wells were dug. It was Davis also who advocated the introduction of camels and who dispatched Major Wayne to Asia and Africa to purchase seventy-five of the beasts.

They were brought to Texas and stationed at Camp Verde, where they were found to be of some service but not a solution for the transportation problems of the West. They could move for days without food or water, but the rocks injured their feet. The camels that had not strayed or died during the War between the States were purchased in 1868 by Colonel Benton Coopwood of Austin. After experimenting with the animals on a freight

line to Matamoros, Colonel Coopwood finally sold the surviving beasts to a circus.

Davis had two motives behind his insistence that settlement of the Southwest and construction of a national railroad were necessary. California had become a thriving state but was isolated from the remainder of the Union in the event of a war in the Pacific area. A way must be provided, argued Davis, to defend our western territory. Another motive for the Mississippian's interest was his burning desire to see the West organized into states that were linked socially, economically, and politically with the South.

A higher law, as Daniel Webster pointed out, made such an alliance impossible.

Except for their trail markings, their crude maps, and their information about water holes, these army explorations accomplished nothing. Shortly afterward, Jefferson Davis had a new job, as president of the Confederate States of America, and the first effectual entry into the Plains was by cattlemen hunting a free and virgin range.

The itinerant cattleman was not a new order. The spread of Mexican *haciendas* over the Rio Grande, with José Escandon and Martín de León and other proprietors showing Americans the fundamentals of *rancho* organization, has been traced in an earlier chapter. The *vaquero*, too, introduced the lariat into Texas.

One problem, and only one, confronted Texans who avidly studied the methods of these proprietors. He needed a cash market for his beef. It is quite true that the great cattle boom did not come until after the War between the States, when the Kansas trail towns were built and Texans were beckoned northward, but herds of *ladinos* were moving out of Texas in every direction long before a Lone Star division raised the "Bonnie Blue Flag."

One of the earliest Texas cattlemen of stature was Taylor White, who drove a herd of longhorns to New Orleans in 1836.² The drive started the day before the Battle of San Jacinto. Hardly

²From "A Letter Book of Joseph Eve," in *The Southwestern Historical Quarterly* (Volume 18): "Taylor White moved here nineteen years ago

had the announcement of the gold strike in California reached Texas than an enterprising cattleman was bound in that direction driving his herd before him. T. J. Trimmier left Texas with five hundred steers, wintered them in a mountain pass, and reached the gold country with 498 animals still alive, though perhaps thinner and tougher. He sold them at an average of \$100 each, which represented a considerable profit as the cost of assembling the longhorns in Texas had been only \$3.00 per head. Thus Mr. Trimmier's venture netted him a profit of at least \$45,000.

In the following year numerous drovers decided to pool their cattle, and an immense caravan assembled at Fredericksburg in the spring. There were three thousand horses and mules in addition to the beeves. The hardy entrepreneurs wound slowly toward California by way of Eagle Pass and El Paso and arrived there safely in 1850.

Another version of the beginnings of the cattle drives comes from the Tenth Census, Statistics of Agriculture, and is quoted from Webb:

In 1837 and 1838 the "cowboys" gathered herds of from three hundred to a thousand head of the wild unbranded cattle of the Nueces and Rio Grande country, and drove them for sale to cities of the interior. In 1842 the driving of cattle to New Orleans began. The first shipment from Texas was by a Morgan steamer in 1848, but up to 1849 there were very few outlets for the stock, which had increased enormously since 1830. There is a report of a drive of 1500 to Missouri in 1842, but the earliest authenticated record of a business venture of that kind found was for 1846, when Edward Piper . . . drove 1000 head of Texas cattle to Ohio, where he fed and sold them. From 1846 to 1861 the drives increased. In 1850 drives began to California. The first drive to Chicago was in 1856. From the beginning of the northern drives in 1846 until the war

[an American diplomatic representative in Texas wrote in 1842] his whole fortune was three cows and calves to small ponies a wife and three children, he now owns 40,000 acres of land upwards of 90 negroes about thirty-thousand head of cattle, has sixty thousand dollars in specie deposited in new orleans, marked and branded thirty seven hundred calves last spring, and sold last fall in new orleans 11 hundred steers weighing about 1000 lbs each which he says cost him not more than 75 cents a head to drive them to market [at New] orleans and what is extraordinary he cannot read or write and has made his fortune raising stock alone."

of rebellion there was always some movement of cattle out of Texas, but it was irregular. A large proportion of the cattle driven was sold on the plains. Some cattle went into California, Arizona and New Mexico. Besides such drives there were only the shipments from the seaboard cities to New Orleans and Cuba.

These different versions of the beginnings of the trail drive may seem confusing. Probably all of them are authentic. As early as 1838 the Republic of Texas had taken cognizance of the ample supply of wild cattle available, for in that year General Rusk was dispatched into the region between the Nueces and the Rio Grande Rivers to trap ladino meat for use of the Army.³

Joseph Carroll McConnell, in his excellent work, *The West Texas Frontier*, gives this sketchy history of the early cattle drives:

Conflicting statements have been made concerning when the first cattle were moved. Certainly, the first herd was driven to other states long before the Civil War. In 1848 Dave Hunter of Boone County, Illinois bought seven or eight hundred head of cattle in the vicinity of Dallas and moved them to his home state. In 1852 Isaac Harris, not unlike several others about that time, and before, moved a large herd of cattle from Texas to California. In 1854 Cecil and Frank Brown bought one thousand head of steers, four to nine years of age, and moved them to Quincy, Illinois. These Brown cattle were rounded up at the Shackelford Ranch, about 15 miles southeast of Austin. James Bell assisted others to move cattle during 1854 from the vicinity of San Antonio to California. Frederick L. Olmsted, in his book, *Journeys Through Texas*, published in 1857, stated that he saw four hundred head of cattle which were being driven to the state of California. Olmsted also stated that cattle in 1856 were worth fifteen dollars a head in Texas and one hundred dollars in California. He spoke of a Texan buying sheep in Old Mexico at one dollar a head and selling them at twenty dollars in California, and that he cleared one hundred thousand dollars on the deal.

³Thomas J. Rusk was secretary of war during the revolution. It was he who uttered that classic paragraph outlining the strategy Texians should follow against Santa Anna.

"We are in a helluva fix," he told President Burnet's cabinet. "Let's go to the saloon, have a stiff drink and then fight our way out of it."

As the first official ramrod of the Republic's crew of "cowboys," he proved as efficient. His men erected their first cattle pens at Goliad, out of cedar posts and rawhide, and their first sweep resulted in the capture of 327 head, which were driven to headquarters.

An enterprising Texan already noted in our study of Texas land came forward with a processed meat biscuit which was received well in England and which, if properly prepared and merchandised, would have enjoyed great popularity among shipowners. Gail Borden was awarded a medal by the King of England for his contribution to mankind, but his factory at Borden was abandoned and the project reckoned a financial failure.

Borden's next experiment was not so casually received. By the time of the War between the States his process for condensed milk had made him a millionaire.

At about this time there came a sharp division in the story of the cattle kingdom. One phase must deal with the ranchmen already raising cattle for profit. They had simply followed the lead of José Escandon and the earlier *rancheros*, and their business predated the westward expansion by many years.

They were striving for markets long before the Kansas trail towns were thought of. Jefferson was a trail's end for many of them, with the ladinos being shipped by boats to New Orleans and other towns. They were also turning toward overseas buyers and experimenting with their own packing plants.

The Morgan Steamship Lines were shipping Texas beef to Cuba before the War between the States, but necessarily such marketing could assume no large-scale proportions until a process for manufacturing ice, thereby providing refrigeration, was perfected.

Among the lesser known facts about the history of Texas is that ice making originated in the state.

Dean W. R. Woolrich, of The University of Texas School of Engineering, was quoted in the *Austin American* of October 28, 1947, as stating that the first ice was manufactured by a machine invented by Ferdinand Carre, which was operated at San Antonio and later at Austin in 1863.

"During the Civil War," stated Dean Woolrich, "the Yankees blockaded the Southern supply of ice, and because of an acute need for ice in hospitals in Texas and Louisiana, a means of producing it artificially was forced upon Texas."

In 1865, according to Professor Woolrich, Major Daniel

Livingston Holden of the Confederate Army bought one of the units and set it up at San Antonio. He produced commercial ice for one season, then made radical improvements which made the Carre machine a "commercially feasible machine in the United States."

Holden is also credited by this authority with designing the first compression system used in an abattoir, which was in use at Fulton in 1871. Beef was chilled and cured for shipment to Liverpool, England.

Another Texan, Dr. Henry Peyton Howard, is credited with being the first man to transport refrigerated beef by ship. He shipped Texas beef to New Orleans in 1869.

Dr. Woolrich's research settles two contradictory claims as to the invention of ice. J. B. LaCoste, a pioneer settler of San Antonio, installed machinery imported from Europe in San Antonio in 1866 and probably operated what must be called the first retail ice plant in America. Two years later J. S. Doyle put into operation his method of making ice at Jefferson. His process was to freeze water in thin flat pans. Built up by layers and congealed into solid blocks, the ice was offered to the public for ten cents a pound.

Doyle's undertaking was a failure. It was his intention to sell railroads upon the idea of refrigerating cars for shipment of beef, but they were not interested.

The steamship owners were a different breed. Within a few years Eastern capitalists and steamship lines were endeavoring to establish Texas as the packing center of the world, and for a time, until the opening of the Chicago stockyards and the Kansas trail towns, more beef was packed in Texas and shipped via refrigerated steamers than from the rest of the United States combined.

In 1868 the Morgan Steamship Company entered a contract with the King-Kenedy and the Coleman-Fulton ranching interests by which they built the town of Rockport. The cattlemen agreed to ship \$1,000 worth of hides, tallow, bones, and hoofs every ten days. A bone mill was erected to make fertilizer, and the thriving little seaport became a cattle-product shipping center.

The reader will note that at its inception Rockport did not provide for shipping beef. For a time the carcasses were tossed into the bay, although in later years the adjacent town of Fulton, now a tourist colony, was the site of a large beef packery where beef was canned.

Meat was purchased by the packery at three cents per pound.

Other packeries were built, one at Victoria in 1868 by Eastern capitalists. The half-forgotton town of Carlshafen, where Prince Solms-Braunfels landed his German immigrants, was rebuilt into Indianola, where steamships also docked for cargoes of meat, bones, fertilizer, and hides.⁴

Indianola was a trail town until destroyed by a tidal wave in 1885. But South Texas cattlemen also pushed up the trails northward, moving through Austin and Waco. They were among the first to abandon the northern route as the introduction of barbed wire speedily blocked off their free and easy approach to the unsettled plains.

The development of these large South Texas outfits has been partially explained in another chapter; landholders expanded their acres after the Mexican War, oftentimes at the expense of the legitimate owners.

Southwest Texas was the cradle of the cattle kingdom. These ranchmen, taking up where Mexican proprietors left off, were the founders. The cattlemen pushing westward had learned their lessons from these original cow barons.

Probably the first cattle baron to emerge in the deep West was Milton Favor, who established his *hacienda* in the Big Bend Country in the early 1850's. According to Mrs. Shipman's *Taming the Big Bend*, Favor traded *peloncillas*, or sweet potatoes, and candles to the Indians for wild cattle and as early as 1849 was operating a sizable ranch in San Pablo, Chihuahua. Some

⁴The Indianola packery used the following process: the beef was cut into steaks, the bones extracted, the flesh salted and then permitted to stand for three hours. Then it was packed into cans from which the air was exhausted with a column of water and carbolic gas forced in instead. Six minutes were required for each 160 pounds of meat. The cans were then soaked for two hours in water. This was known as the Francis Stabler process.

few years later he moved across the Rio Grande and established three "spreads" near Shafer.

Each had its peach orchard, for cattleman Favor was a man who liked his peach brandy.

From out of the Big Bend country poured some of the early trail herds, but their destination was Mexican rather than American markets. Indian raids depleted the cattle supply in Mexico in the early 1860's and Texas cattlemen moved southward along the Chihuahua Trail to satisfy the demand for fresh beef. A Captain Poer drove more than one thousand head from Fort Concho to Terrazas Hacienda in Chihuahua.⁵

It is difficult to set an exact year for the beginning of this expansion across the Cap Rock into the unclaimed domain. Trimmier, Bell, and their kind were not ranchmen but entrepreneurs, speculators, gamblers. There were some, however, who realized that the supply of ladinos roaming the brush country of Texas was not inexhaustible.

There came to be a new variation of the cattle business. Wild cattle could be bought at \$2.00 and \$3.00 per head. Or, if a young man did not possess that much capital, he could form a partnership with other broke but ambitious young men and trap the ladinos himself. They could be driven west of the Cap Rock and put to feed upon rich virgin grass. Then, the following year, they could be sold at higher prices than brought by the unfattened wild longhorns.

Thus the cowman pushed across the Cap Rock. He did not own the land upon which his steers fed; he did not want to own

⁵The Chihuahua Trail has been slighted by Texas romanticists, though certainly its story was as colorful, or more so, than any of the other blazed routes. The trail ran from Chihuahua City up the Conchos to Presidio del Norte, across the Rio Grande to the present site of Presidio, up through Alamito to San Esteban and Ojo Berrendo, by way of Kokernot Springs to Fort Davis and Fort Stockton, and on to San Antonio. Many legends of lost treasure can be directly associated with this trail since heavy shipments of silver bullion by *carritos* and wagons came out of Mexico and into Texas over it. One of the most colorful of the freighters was August Santleben, who has recorded some of the excitement of his life in *A Texas Pioneer*. Perhaps the last shipment of silver over the Chihuahua Trail was the biggest. In 1876 Santleben brought out \$350,000 worth of silver bullion and 40,000 pounds of copper, consigned to Heick Brothers at historic Indianola. Santleben's commission on this delivery was \$17,500.

it. John Chisum operated such a "spread" west of Fort Worth in the 1850's. Oliver Loving was operating in such a manner in Palo Pinto and Jack Counties in 1856.

The cowman solved the problems of the forbidding frontier which had beset the pioneer with an ingenuity unparalleled in the story of mankind. For fuel he employed buffalo chips. In lieu of a log cabin he employed a dugout roofed with sod and lined with skins. Water was always a problem, as it is now, but this early cowman camped at a stream or a waterhole and permitted his cattle to fan out from this nucleus in all directions. For a time this worked, until there were not enough waterholes to accommodate all who pushed westward.

The Indians, the Comanches and the Kiowas, were to present a menace for years to come, but the invention of the six-shooter had given the Texan an advantage over them. The Colt revolver is worth more than casual mention in the development of Texas. Perhaps no other single factor so affected the development of the Southwestern frontier. Walter P. Webb wrote:

Imagine a battle between the Texans and the Comanches before the advent of the six-shooter. The Texan carried at most three shots, the Comanche carried twoscore or more arrows. It took the Texan a minute to reload his weapon; the Indian in that time could ride three hundred yards and discharge twenty arrows. The Texan had to dismount in order to use his rifle effectively at all, and it was his most reliable weapon; the Indian remained mounted throughout the combat. Apparently the one advantage possessed by the white man was a weapon of longer range and more deadly accuracy than the Indian's bow, but the agility of the Indian and the rapidity of his movements did much to offset this advantage.

But once the Texan had his six-gun, it was a different story. Samuel Colt, a New Englander, patented his invention in England in 1835 and in America the following year. In 1838 a New Jersey company was manufacturing his repeating revolver — a six-chambered gun of .34 caliber. The bulk of the company's orders came from the Republic of Texas.

S. M. Swenson, a prominent Texas merchant and later a pioneer cattleman, brought the first revolvers to Texas and called them to the attention of Sam Houston, then the president of

the Republic. The United States Army rejected their use, but in 1842 a Texas Ranger captain, Samuel H. Walker, was sent to New York to confer with Colt about manufacturing weapons for his organization. Walker had some suggestions to make — a trigger guard and a loading lever. The inventor gratefully accepted these suggestions and produced what was known as the “Walker Colt.”

In the hands of Texans the six-shooter became a terrible weapon. A clash between Indians and Rangers on the Peder-nales River on June 8, 1844, saw the red men routed by a blistering hail of fire. They were on the run thereafter, until there was no place to go.

Thus armed, usually with two revolvers, the Texas cowman pushed on into the heart of the Indian country.

The Indian was to hamper the ingress of plowmen and home-makers until later in the century, but the “cow outfit” rode stolidly ahead. The cowboy could fight a grimmer war than the hoeman, who was slower to adopt the six-shooter and to acquire skill with it. Besides, the squatter had a wife and family to be concerned about. Few line riders were married. The homesteader lived alone on his section of land; the cowboy might ride alone, but there came a swift vengeance from his *compadres* if he were ambushed. Furthermore, a lone rider was no easy quarry. He was mounted, and the horse under him was a good one. Even if caught by surprise and “winged” he could make a run for it.

This immigration onto the open plains was a small movement before 1860 but continued throughout the War between the States, or at least until Federal troops under U. S. Grant successfully split the Confederacy in twain by capturing the Mississippi River. A historical student of this century who is unaffected by Southern illusions and delusions finds it hard to express glowing admiration for the strategy of the Confederate high command. There was never a time during the war when there was not enough beef available in Texas to feed the Southern people, yet the Southerners permitted Grant and Admiral Farragut to execute their dividing movement while the elite of the Dixie troops fought bitterly to hold Virginia.

Texans drove herds toward Vicksburg and New Orleans in the early years of the war, many of them. The cow entrepreneurs, who were already in the strange, dangerous business of capturing ladinos and taming them to trail drives became beef contractors for the Confederacy. Through 1861 and 1862 they prospered, for the Rebel army paid them \$20 per head, and the cost of assembling a herd in South Texas never ran more than \$3.00 each. But this payment was naturally in Confederate money, and by 1863 the Texas drovers were not so eager for cattle commissions.

Texas aspired to be the arsenal, granary, cotton factory, and packing plant of the Confederacy. Munitions plants were built at Anderson and at other points, a packing plant which was constructed at Jefferson slaughtered and dressed four thousand head of cattle before its capture by Yankee troops in 1864,⁶ and the state government made numerous appropriations to encourage the weaving of cotton cloth. When the surrender came, there were large quantities of provisions stored in Texas despite the ever-increasing flow of cattle and cotton into the mushrooming border towns of Matamoros and Bagdad, where European agents bid eagerly for smuggled cotton and cattle.

The trite magazine and novel formula of the Confederate veteran returning to find his fields in waste and turning in desperation to the cattle business is erroneous in another way. The land beyond the Cap Rock had quickly produced its own breed of man. He was not a typically hot-blooded Southerner, loyal to the tradition of Richmond and South Carolina beyond all reason. We have noted that the German population was predominantly loyal to the Union. The cowman was neutral. He was a man in love with a new horizon. Grim necessity had made him discard the weapons and implements of the land he had left behind him, and he cast off the prejudices as well.

There was already developing a Texas breed. Captain Richard King, plying his boats along the Rio Grande River but thinking more and more of what a United States Army

⁶The packery was operated by J. B. Dunn under contract with the Confederacy. Four hundred and forty thousand pounds of Iberia salt were shipped to the plant by the Confederate government.

officer had advised him about the future of Texas, was one of them. The army officer was Colonel Robert E. Lee, and his opinion was that the broad flat Texas country was destined to be a cattle paradise. With his partner, Mifflin Kenedy, Captain King was soon involved with his land holdings and sold his freighting boats.

John Chisum was another, and Oliver Loving, and Charles T. Goodnight. For a time Chisum was one of the Confederacy's most zealous cattle contractors. But he put his money right back into cattle and moved the excess to graze, first in the Palo Pinto region, then into the Concho country as neighbors began to plague him. For these men there was a quick adjustment when, as far as their business was concerned, the Confederacy collapsed economically in late 1863.

By then the "California Column" had marched into New Mexico, and Yankee garrisons at Sumter, Stanton, and Sill and Indian tribes protected on their reservations offered markets that not only paid off in gold but were nearer to cattle feeding grounds.

Loving drove the first pasture-fattened herd out of Northwest Texas in 1858, crossing the Red River and following the Arkansas River to the present site of Pueblo, where he wintered his cattle. In the spring he moved them to the Platte River near Denver and sold them out to meat-hungry miners. Loving became bankrupt on Confederate money after contracting with the Confederate Army; by 1863 the \$20 per head received for cattle did not enable a contractor to assemble another herd.

From 1865-1870 Texans drove herds to New Mexico and Colorado, opening the Goodnight and Loving Trails. By 1870 there were many big outfits in West Texas—the Lovings, Daltons, Lynns, Taylors, Beevers, Slaughters, Hittsons, Curetons, Claytons, and many others.

Undoubtedly the aftermath of the War between the States spurred the development of the ranch civilization. The cotton plantation was ruined. A soldier abruptly ordered out of the ranks is at loose ends, especially if his is a conquered country and is undergoing the agony of an oppressive reconstruction. Good "hands" were easy to hire. Ambitious cattlemen turned

eager eyes upon Missouri, then the western terminal of the Northern railroads.

Now the pulp writer may come in with his usual pattern. Guerrillas roaming through Missouri and Arkansas began to hamper the herds until the risk of driving cattle through this territory became greater than the chance of profit. Most of these herds were bound for Sedalia, Missouri, which offered rail facilities to St. Louis and other cities, but an added hazard proved too much for Texans. Armed mobs began to meet the herds with all possible violence, opposing their passage under the pretext that the longhorns would bring Texas fever among Northern cattle.

A paragraph from *Prose and Poetry of the Livestock Industry* illustrates this opposition.

The Southwestern Missouri roads leading to Sedalia were the scenes of the worst of the work of these outlaws. . . . When outright murder was not resorted to as the readiest means of getting possession of a herd of cattle, drovers were flogged until they had promised to abandon their stock, mount their horses, and get out of the country as quick as they could. A favorite scheme of the milder-mannered of these scoundrels to plunder the cattlemen was that of stampeding a herd at night. This was easily done, and having been done the rogues next morning would collect as many of the scattered cattle as they could, secrete them in an out-of-the-way place — much of the country being hilly and timbered — and then hunt up the owner and offer to help him, for an acceptable money consideration per head, in recovering his lost property. If the drover agreed to pay a price high enough to satisfy the pirates, they next day would return with many, if not all, of the missing cattle; but if not, the hold-ups would keep them, and later take them to market and pocket the entire proceeds.

The Texans turned westward, reaching the southern boundary of Kansas, then turning eastward when they were far enough north. These trail herds usually connected with the railroad at St. Joseph, Missouri, and ended up in the newly built Chicago stockyards.

In 1866 some 260,000 head of longhorns reached the market via this route, but so great had been the risk and expense that Texas cattlemen generally had not profited from their ventures.

Into Texas in the following year came representatives of an Easterner named J. G. McCoy, who invited cattlemen to drive their herds to a new town, Abilene, Kansas. McCoy was a live-stock shipper in Illinois. He conceived the notion that there should be a strategic point where the cattle trail from Texas would intercept the railroads pushing west. McCoy decided to build such a town.

The cooperation of the railroads was necessary, of course. The president of the Missouri Pacific ordered McCoy out of his office; the executive of the Kansas Pacific showed little interest. Finally McCoy signed his contract with the Hannibal and St. Joe Railroad, which gave reduced rates from the Missouri River to Chicago. (McCoy, writing in his *Historic Sketches of the Cattle Trade of the West and the Southwest*, stated that this one incident made Chicago, rather than St. Louis, the meat-packing capital of America.)

Abilene, when Mr. McCoy first approached the citizens with his idea of a trail town, was anything but an impressive hamlet. The saloon keeper supplemented his income by tending a colony of prairie dogs and selling them to Eastern tourists as curiosities. But soon things were humming. Within sixty days McCoy had built stockyards, pens, and loading chutes for three thousand cattle. Then his agents spread out to issue Texans a cordial invitation to make Abilene their headquarters.

The first longhorns to come snorting into the trail town from Texas had been driven into the Indian territory by a man named Thompson and sold there to Northern cattle buyers, who moved them on to Abilene. On September 5 the initial trainload of Lone Star beef was shipped from Abilene to Chicago.

In the autumn 35,000 cattle were shipped out of Abilene. In 1871 the number had increased to 700,000. From 1867 to 1871 a total of 1,460,000 Texas longhorns poured through the town McCoy had built.

As the railroad moved on, so did the trail towns. There were Ellsworth and Dodge City and finally Hunnewell. For fifteen years, Texas cattlemen pushed northward with their herds, shipping over four million longhorns to the mushrooming Chicago stockyards.

Most of them moved along the historic Chisholm Trail, about which so many stories have been written that almost every cattle route out of the Lone Star State has at one time or another been known by that name. Furthermore, the very name itself has been confused. Some called it the "Chisum" trail after John Chisum. According to the best authorities, it was named for Jesse Chisholm, the son of a Scotch father and a Cherokee mother.

D. F. McCarthy wrote in the *Frontier Times* (January, 1927) that the mystery of the Chisholm Trail was cleared up by Captain Henry Spekes, who drove the first herd up in the spring of 1866.

Jesse Chisholm, for whom the trail took its name, was an Indian trapper and trader, and had an extensive ranch and a trading post at Council Grove, on the north bank of the North Canadian River, a few miles west of the site of Oklahoma City. The winter preceding the arrival of Captain Spekes at the North Canadian had been an unusually profitable season for trapping and hunting, and, as a result, Chisholm had collected great piles of fur pelts, beaver and otter, deer, elk and wolf skins, and many buffalo hides, which he hauled to Kansas City the following Spring.

Arriving at the crossing of the North Canadian a few days after the Chisholm wagon train had departed from Council Grove, Captain Spekes, in view of the plain wagon trail that now lay ahead of him, cut deep into the soft prairie soil, followed it up to its junction with the Santa Fé Trail, and thence over the latter to the Missouri River. It was thus that the historic Chisholm Trail came into existence.

This pioneer herd was driven from Southern Oklahoma, and, led by two Indian guides, beat out its own trail to the North Canadian. Other herds followed shortly in the wake of Captain Spekes, and, soon the Chisholm Trail for several years became the one great highway and outlet, from the Texas and Oklahoma ranges, for practically all the cattle driven north from the Texas and Oklahoma ranges to the railroad terminals then being established in Kansas, of which Abilene was the dominating center.

So extensively was the Chisholm Trail used by Texas and Oklahoma stockmen that the Santa Fé Railroad later paralleled it with steel rails from Wichita, Kansas to Fort Worth, Texas, a distance of nearly four hundred miles.

Jesse Chisholm was born in East Tennessee in 1806 . . . his mother was a Cherokee whose sister, the beautiful Talahina Rogers, was reported to have married General Sam Houston.

This boom, and the trail towns, lasted until 1871. "Prices were particularly good in 1870," wrote Webb, "with the result that the drive from Texas in 1871 was the greatest in history — seven hundred thousand head going to Kansas alone. . . . But in 1871 the market conditions had changed, and the drovers found almost a complete reversal of the situation of the year before. There were few buyers and they were reluctant rather than eager purchasers. . . . The drive from Texas in 1872, therefore, was only about half of what it had been in 1871. . . . In Texas the situation in 1873 was bad. . . . A single firm of shippers lost \$180,000 in three weeks. One stockman took his cattle to Chicago and could not get enough money for them to pay the shipping expenses."

There were other factors. Barbed wire had been invented. The railroads were pushing westward, and the enormous "Mississippi and Pacific Reserve" had been opened to settlement. The free-grass days were numbered.

It was a hectic period. The cattle outfits which had established themselves in the open domain had done so by sheer force. A tallying law enacted on November 13, 1866, had further added to their difficulties.

To quote from J. Evetts Haley's book on Charles T. Goodnight:

As soon as the war ended, leaving us all disfranchised, carpetbagger courts came in and took possession of our affairs. These fellows at once saw their opportunity and passed through the Legislature what they termed the "tallying law." (On November 13, 1866) This law seemed to assume, first, that you were a cattleman, and second, that you were an honest man. It will be remembered that cattle emigrated many miles from home for want of attention. This law permitted anybody who wanted to put up a herd of cattle to go out on the ranges and gather anything he came to, and have the herd tallied by an inspector appointed by a carpetbagger court. As a rule these inspectors were the most unreliable men who could be picked, and if you would make it to their interest you could tally, by miscalling the marks and brands, in any manner you wanted. All the individual had to do was to take this tally and record it in the county courthouse, then move the cattle wherever he pleased, pretending that he would pay for them whenever he returned. This was rarely done because the *driver could never find the owner*, and after this had continued for a few years nearly every courthouse in the cattle-raising sections of the State

was burned. This obliterated the tallies on record and settled the count.

Most chroniclers of the range country's growth have made no separate divisions between the sheep and cattle industries. None actually is needed, for both accounts fall into the same pattern, particularly as concerns the disposition of the public land. With some explanation, then, the author can leave the remainder of their story as one, whether the cattlemen like it or not.

There is indeed little to tell. The historians and fiction writers have shown as much prejudice as the cowman who leaped up from his church pew and stalked away in high dudgeon when the preacher started reciting, "The Lord is my shepherd." He wanted nothing to do with a divinity who tended sheep.

There was justification for his prejudice, of course. Sheep left nothing behind them as they moved along the free open range. Cattle would not graze for several seasons where sheep had been driven.

The sheepman was at a disadvantage from the start. First, there were no wild flocks that he could simply appropriate for his own. Second, a flock of sheep was generally under the supervision of a lone herder and his dog, while the cow outfit moving up to challenge for the open country numbered several hard-riding, hard-shooting men — the gimlet-eyed type, of course.

They simply chased him off the range they wanted. The conflicts of the seventies and eighties have perhaps been over-estimated; the big sheep ranches were not born until the railroads had pushed through, giving them an outlet to markets. Smaller herdsmen had ranged the plains unchallenged until the years just before the War between the States, but they were mostly individual entrepreneurs. Sheep could not be driven to market like cattle, or at least never were.

The free-grass days of the sheep industry in Texas can be compared to the beginnings of the cattle industry in the south and southeast portions of Texas.

Very shortly, western Texas was divided between cattleman

and sheepman. The very nature of the country made that simple. The sheep and goat men retired into the hilly regions lying south of the Plains, there building up, in country where cattle were always in the minority, an empire of their own.

Market outlets were at San Angelo, Del Rio, San Antonio, Kerrville, Rocksprings, and Comfort. Goats fed on the more hilly ranges, sheep on the plains. By the end of the nineteenth century, Texas had become the sheep and goat center of the world.

Like their haughtier but not more prosperous cousins, the sheepmen turned to the use of windmills, barbed-wire fences, and blooded stock. The "Cashmere shawl" goat was introduced in February, 1849, by Dr. James B. Davis, who imported seven females and two males from Turkey. R. Williamson later brought eight head of these blooded animals to the Texas ranges. In 1857 George Wilkins Kendall, who established the New Orleans *Times-Picayune* and was the first noted war correspondent, introduced Merino bucks into the hill country around Boerne.⁷

Another noted sheepman and pioneer in pure-blooded stock was Arthur G. Anderson, founder of the Hat A Ranch near Fort Stockton. In the early 1870's he drove a flock of French Merinos from California, requiring two years for the drive. He later developed the Rambouillet as being the breed best adapted for the Texas climate and conditions.

* * *

BY THE EARLY 1870's, shrewder ranchmen were taking cognizance of the onmoving settlers and the two inventions which would

⁷Kendall accompanied McCulloch's Rangers to the Mexican War and set up the first post relays for transmitting news. His most notable scoop was his printing of the terms of the peace treaty a full month before the text of that document had been received in Washington. He also accompanied the ill-fated Santa Fé expedition and was imprisoned for a time in Mexico City. He died on October 21, 1868, at Boerne, where he had built his home and launched sheep raising on a large scale.

enable the homesteader to survive beyond the Cap Rock — barbed wire and the windmill.

Barbed wire had been invented in 1874, and Webb states:

Rumor came to the ranchman that some cattlemen were fencing land and that some were even foolish enough to buy land. Perfectly absurd, he thought. Then he thought again and decided that, to make sure of water rights, he had better homestead the quarter section on which the ranch stood. This was not an expensive procedure and soon was out of the way. Then one day it was reported that a new outfit was coming into that part of the range and would try to "horn in" along the river. Better get a little more land. So he bought up and down the stream until his money was gone. Then a shrewd trick occurred to him; he had his cowboys homestead a quarter section each, with the understanding that he would reimburse them as soon as cattle went up or when he sold. He paid the cowboys what they were out, and in this way he acquired the water front up and down stream as far as he desired or could.

Except for the invention of barbed wire, the days of free grass might have lasted forever. Certainly no struggling homesteader could afford to import lumber, and no other fences were practical. Hedges of bois d'arc and other growths were employed in the Middle West, a natural fence that cost very little; but no hedge would grow in western Texas.

The nester who attempted to till his soil without the protection of a fence found longhorns stomping all over his cotton and corn, and even pushing curiously against his dugout or cheap frame habitat. If he depended upon a spring or creek for water, he found the water hole despoiled by cattle.

The Department of Agriculture in 1871 estimated that the cost of enclosing 640 acres of Western land with a fence was \$1,280, and for 40 acres \$320.

A fence, then, cost more than the land.

From the same report comes this discussion of the homesteader's plight:

When a score of young farmers "go west" with strong hands and little cash in them, but a munificent promise to each of a homestead worth \$200 now, and \$2,000 in the future, for less than \$20 in land-office fees, they often find that \$1,000 will be required to fence scantily each farm, with little benefit to themselves, but mainly for mutual

protection against a single stock-grower, rich in cattle, and become richer by feeding them without cost on the unpurchased prairie. This little community of twenty families cannot see the justice of the requirement which compels the expenditure of \$20,000 to protect their crops from injury by the nomadic cattle of their unsettled neighbor, which may not be worth \$10,000 altogether.

The problem of fencing was widely discussed in Texas newspapers of the time. The *Galveston News* estimated in 1873 that fencing on a single improved farm of 640 acres would cost \$3,840, and that the expense of fencing for an entire county would total \$2,304,000. This would not be the end by any means, for a plank fence would last only ten years and must be continuously repaired.

Experiments were made with hedges, particularly osage-^aorange, but without success. A letter-writer to the *Galveston News* in 1878 stated:

If we are to depend upon the old method of inclosing our fields and pastures, . . . millions of our most valuable lands will lie idle for many years to come. Substitutes of many varieties have been offered but with little success. Plank does very well, but soon rots, and, remote from railroads, is too costly.

Is it small wonder, then, that railroads intending to pay further cost of construction by selling their subsidy lands had to be financed, and that the free-grass cattleman regarded his a natural heritage, to be challenged by no man? ✓

The barrier to Western development still held.

Then, on December 30, 1879, an advertisement in the *Galveston News* announced that Sanborn & Walter had been appointed manufacturers' sole agent for the State of Texas of Glidden's Patent for steel barbed fence wire, with main offices in Houston and branch depots at Dallas and Sherman.

And, in the following year, an enterprising salesman named John Warne Gates invited all interested cattlemen to witness a free show in San Antonio. The enterprising Gates, later to become a fabled character known as "Bet-a-Million," fenced off the Alamo Plaza and challenged cowmen to let their wildest longhorns try to escape from the first Texas wire "corral." Some

took up the challenge. Others came to watch. The barbed wire held off the ladinos.

Barbed wire was nothing new. The records of the United States Patent Office showed that prior to 1881 there had been issued 1,229 fence patents. The first was issued in 1801. But principal credit for development of the "devil fence" belongs to J. F. Glidden, a farmer of De Kalb, Illinois. He made his first barbed wire in 1873 and sold the first roll in 1874.

One account of how he invented the fencing was that Mrs. Glidden wanted some flowers protected from dogs and asked her husband to stretch wire around her beds. Since the dogs paid little heed to the plain wire, Mr. Glidden then placed short pieces of wire about the plain wire, forming barbs.

If so, Mrs. Glidden's was a historic flower bed.

A machine went to work under power on April 19, 1876, producing wire at the rate of about seventy barbs a minute. The invention achieved quick popularity. In 1874 there were only 10,000 pounds manufactured and sold; by 1876 the total had increased to 2,840,000 pounds, and by 1878 to 26,665,000.

No other state was affected any quicker, or more drastically, than was Texas.

To quote Webb again:

The story of the effects of barbed wire is one that has not been and cannot be adequately told. Its effect on the cattleman has been partly told. The advent of barbed wire was an important factor in the decline of the cattle kingdom. It brought about the disappearance of the open, free range and converted the range country into the big-pasture country. It sounded the death knell of the native longhorn and made possible the introduction of blooded stock. With barbed-wire fences the ranchman could isolate his cattle and, through segregation, could introduce blooded stock. Barbed wire put an end to the long drive, made the cattle trail a "crooked lane," and forced the cattleman to patronize the railroads whether he wanted to or not.

He did not like it. He fought it off. Then he bought barbed wire himself and employed it to his own advantage. He fenced off water holes and fenced in grass which had never belonged to him except by his right of conquest and occupation.

The ensuing "barbed-wire war" was as often at the instigation

of the cattleman as of the nester. An article by Harry Hubert in the *Dallas News* of April 2, 1924, recalls the fervent wish of one ranchman that "the man who invented barbed wire had it all wound around him in a ball and the ball rolled into hell."

W. S. James in his excellent volume, *Cowboy Life in Texas*, explains the anger of the cattleman at the damage to his livestock:

The first thing that especially aroused the indignation of the stockman relative to barbed wire was the terrible destruction to stock caused from being torn first on the wire, and the screwworm doing the rest — this was especially the case with horses. When the first fences were made, the cattle, never having had experience with it, would run full tilt into it, and many of them got badly hurt. . . . Some man would come into a range, where the stock had regular rounds or beaten ways, and fence up several hundred acres right across the range and thus endanger thousands of cattle and horses. After the first three years of wire fences, I have seen horses and cattle that you could hardly drive between two posts, and if there was a line of posts running across the prairie, I have seen a bunch of range horses follow the line out to the end and then turn.

The same author wrote of the new-fangled fencing:

When I saw a barbed-wire machine at work manufacturing it and was told that there were thousands of them at the same work, I went home and told the boys they might just as well put up their cutters and quit splitting rails and use barbed wire instead. I was as confident then as I am today that wire would win . . . and that between barbed wire and railroads the cowboys' days were numbered.

There were literally thousands of incidents in the "barbed-wire war" of the early eighties. Some of them contribute richly to the literature of Texas, such as the destruction of a barbed-wire fence belonging to a Mr. Foote in Tom Green County and the theft of some of his Shorthorn cattle, including a fine bull.

The following morning Mr. Foote found a note nailed on his front gate.

"If your bull you would hunt for," the night raiders had written the ranchman, "then call at the first ranch this side of hell and brand him when you get him."

It is estimated that in 1883 and 1884 alone the destruction

of barbed-wire fences in Texas involved a loss of more than \$20,000,000.

The State was forced to intervene. On October 15, 1883, Governor Ireland called a special session of the legislature to convene on January 8 to consider and provide a remedy for the wanton destruction of fences.

After a month of debate the legislature passed a law dealing directly with fence cutting. Wanton fence cutting, along with grass firing, was made a felony punishable by imprisonment of from one to five years. The law prohibited the erection of fences without leaving gates at every three miles linear measure. It was made unlawful to fence in the land of another without the consent of the proper owners. The legislature appropriated \$50,000 to enforce this law, and the Rangers were sent out to stop the night raiders. They did. However, it was another score of years before the last complaint against fence cutting was filed in Texas courts.

The problem of fencing had been solved, but the shortage of water remained to baffle the tide of humanity eager to push on over the Cap Rock. Most of the choice water holes and all-weather streams were in possession of cattlemen, in legal possession for the most part, by 1880.

The optimistic notion of Jefferson Davis that artesian wells would end the arid conditions has been mentioned. But the series of experiments conducted by the United States on the Staked Plains were miserable failures. Water lay under the ground, yes, but much deeper than in other sections of the country, from 50 to 250 feet. Power pumping plants had not been effected, the usual rope and "moss-covered bucket" was too slow and burdensome, and the hand pump was completely inadequate.

The windmill was the answer. Webb states that the windmill was introduced into Texas by cattlemen, though first extensively used by the transcontinental railroads. But it was the farmer who found it a godsend.

Credit for first proposing a wind pump belongs to John Burnham, a pump mechanic, and as early as 1854 they were

being manufactured in Connecticut. The large-scale manufacture of windmills began in 1873. Chief customers were the railroads. The earlier designs were changed to adapt the mill in size and operation to the needs of the small farmer and stock raiser for the pumping of water.

Cheap fencing, ample water, cheap land! The same type of Texan who had swallowed up the *empresario* and the filibusterer went moving over the Cap Rock in the same grim fashion. The General Land Office of Texas was again operating at a furious pace. During the four-year period from 1879 to 1882, certificates were issued by the land office to a total of 46,493,913 acres.

Never had the public domain gone so fast. In four years almost twice as much land was taken up as had been handed out under both Spain and Mexico.

Much of this went to railroads, true, but by no means all. Settlements leaped up, as evidenced by the fact that in these same four years a total of 1,328,400 acres of the domain were reserved for the benefit of free public schools of unorganized counties.

Other lands were sold. The legislature in 1879 had passed the "Fifty-cent Law" providing that unappropriated lands in West Texas counties and scrap lands in older organized counties were reserved to build the state capitol, to pay the public debt, and to increase the endowment of the public schools. A minimum price of fifty cents per acre was set. Less than \$6,000 was received from such sales in the first year this law was in effect.

The land still wasn't worth that much.

Half of the proceeds of such sales was to go to the school fund, half to the retirement of the public debt. Cattlemen and land speculators took a fuller advantage of these bargain prices in 1881 and 1882, creating a sizable land boom.

In 1882 the legislature repealed all laws granting land for the construction of railroads, canals, ditches, and so on. In the following year all public lands were withdrawn from sale until the land laws could be completely revised.

Such a drastic step was necessary. The commissioner of the

General Land Office had reported that the amount of grants exceeded the available public domain by 7,814,695 acres.

In language of the times, the land speculators had gone "hawg wild."

From the *Permanent School Fund of Texas*, published by the Department of Research of the Texas State Teachers Association, comes this analysis of land speculations in these four years:

Industrial enterprises and land speculation were highly stimulated in 1882 by the introduction of new railroad systems into the state. Times were good and prosperity had returned; get-rich-quick schemes were numerous, and land speculation offered a fruitful field. Every possible abuse under the "Fifty-cent Law" and the imperfect land laws made their appearance by 1882. The "Fifty-cent Law" was designed to secure revenue as quickly as possible, whereas the laws controlling the sale of school land had a double purpose of securing revenue and of promoting the social and economic development of the state.

The provisions of the law protecting the settlers were evaded through the use either of borrowed names or the names of members of the immediate family in making application for more land. This was a common practice, and vast tracts of land were acquired, in a few cases, ranging from 10,000 to 1,000,000 acres. These enormous estates were acquired by wealthy individuals and corporations for the purpose of establishing vast ranches or for speculation.

It was during this period that the "ranch empires" came into existence. Some of them were fenced, had windmills, and were operated in a businesslike manner.

As the cattle business boomed, cowmen expanded their holdings. Webb stated that by 1876 the cattle industry was recovering from the panic of three years before.

During the last four years of the seventies, the cattle business expanded on a steady or rising market. A well-matured Northwestern ranger would bring about \$60 in the Northern markets and a Texas steer was about \$50. . . .

Then came the great boom of the early eighties. It was a time of golden visions in a blaze of glory that led on to the riotous feasting on the rim of the crater of ruin—a brief era of wild extravagance in theory and practices. There were many contributing factors to explain the boom; and, given the boom, the collapse was inevitable. . . .

So cattle prices rose steadily; there was a market for all that could be raised; and, besides these incentives, there was something fascinating about a ranch, about riding over the green pastures on spirited horses and watching a fortune grow. It was generally conceded that the Western ranchmen and cowboys were a rough set; but they took life, hard enough in itself, with a zest that made it look attractive to the outsider. To be a cowboy was an adventure; to be a ranchman was a king. . . .

As a result the whole world (that is almost literally true) stamped to get a ranch while ranches were to be had. Easterners, Englishmen, Scotchmen, Canadians and even Australians flocked to become ranchers, to the amusement of the cowboys and to the disgust of the ranchmen, to both of whom cattle-raising was just an ordinary way of making a living on horseback rather than just on the ground or in the office building. . . .

The wildest stories of fortunes that could be made went the rounds. The English newspapers reported that yearlings could be bought at \$4 or \$5 a head, could be fattened at the cost of another dollar and could be sold at from \$60 to \$70 net.

Webb refers readers of his *The Great Plains* to Baron von Richtofen's *Cattle-Raising on the Plains of North America*, which was published in 1885. In Chapter XIII, on "Instances of Profits Realized," Richtofen cites one case where an Irish servant girl accepted from her employer fifteen cows instead of \$150 in back wages. In ten years she sold out her herd to her master for \$25,000. Webb adds:

By the summer of 1882 men were coming into the West from all parts to buy ranches and herds of cattle by the tally book count. English and Scottish syndicates entered the lists and had many representatives in the country to look after their interests.

The effect of these investments by British and Scottish syndicates is far more important than it would first seem. It was in 1875 that shipping of American beef to Great Britain on a large scale began. Two years later the magazine, *Scotsman*, sent a staff member to investigate possibilities of investment in American ranches. Great Britain dispatched two commissioners in 1880 to study the West. They reported that the average profits on cattle investments were 33.3 per cent.

The result was a rush of foreign syndicates into the West,

including Texas. Here are some of the Texas outfits owned by British and Scottish interests:

The LX Ranch, which contained about 290,597 acres. The affairs of this "spread" were never in very good order. Its foreman or manager by very adroit practices built up a herd of his own worth \$70,000 in the three years he represented the British and Scotch interests.

The Box T Ranch, some 200,000 acres, which was owned by Canadians, the Dominion Cattle Company.

The RO Ranch, some 300,000 acres, which was organized by the Rowe Brothers from England — Alfred, Vincent, and Bernard.

The Rocking Chair Ranch, of some 150,483 acres, which was organized in 1883 by a group of English noblemen with Baron Tweedmouth and the Earl of Aberdeen as spokesmen. They purchased 253 sections of land and stocked it with 15,000 cattle, dividing the territory into "estates." Texans sneeringly referred to it as the "Nobility Ranch" or the "Kingdom of Remittance Men." The Earl and his lady were frequent visitors among their "people." The Texas towns of Tweedy, Shamrock, Wellington, and Aberdeen reflect the influence of this foreign investment.

A ranch of lesser size was operated for a time by the Earl of Aylesford, the seventh to bear his title and an intimate friend of Edward VII. The Earl arrived in Big Spring with a party of servants in 1883. Finding the Cosmopolitan Hotel full up, the Earl bought the hotel. The next day he purchased a ranch and started construction of a mansion.⁸

The Matador Ranch was operated by the Matador Cattle Company, which was formed in Dundee, Scotland, in 1883. The

⁸However, it is doubtful if the Earl should be included among these more serious investors. Obviously he did not come to Texas to make money, but to spend it. A two-acre fenced pen was required for his hunting dogs, and in a short time the dog pen was the only spot around the mansion which wasn't littered with empty whiskey bottles. The Earl was quite a drinker. On one of his sprees the Britisher purchased the main saloon in Big Spring for \$6,000 and dispensed drinks himself to all comers, on the house. On Christmas Eve the Earl threw a big Yuletide party to which the whole countryside was invited. It was the last big blowout for the Englishman, whose annual allowance was \$50,000; he fell ill and died two weeks later.

backers of this outfit, which once boasted 1,000,000 acres, were linen manufacturers.⁹

The L. E. Ranch, which contained approximately 200,000 acres.

The Prairie Cattle Company, which had a range of some 1,200,000 acres.

The Diamond Tail Ranch, of about 150,000 acres.

The Bar X Ranch, of some 100,000 acres.

The XIT Ranch, partly financed by British capital, which had some 1,000,000 acres.¹⁰ As this land was granted in return for the erection of our present state capitol, it is dealt with more fully in another chapter.

The American Pastoral Company of Dundee, Scotland, which on August 1, 1884, purchased 187,141 acres.

There has been little detailed research into the activities of foreign capitalists in the cattle country, and these are random notations from perusing what valuable books have been written on the development of western Texas (particularly *Short Grass and Longhorns* by Stanley Vestal). There were other English investors, such as John George Adair, and British capital was lent to American cattlemen. Notable among the loan agencies was the Texas Land and Mortgage Company, which was organized in England but operated a branch office in Dallas.

The Christian Colony in Donley County will be dealt with more fully in another chapter. Its founder, L. H. Carhart,

⁹It was to the Matador that Murdo Mackenzie finally came as manager. A native of Scotland, trained in raising sheep, Mackenzie quickly became one of the most enterprising of Western cattlemen. When he left the Matador, it was to head the Brazil Land, Cattle and Packing Company in South America, which was the most fantastic cattle venture of all time. The owners purchased some 10,000,000 acres of wild South American country, divided it into four sections, and operated it along the organization of the King Ranch, which Mackenzie studied thoroughly before leaving for Brazil. This "spread" was many times bigger than any which ever existed in Texas; the King at its zenith included about 1,250,000 acres. Thus Texans cannot claim that the biggest ranch in the world was in Texas. However, the biggest ranch was patterned after a Texas outfit, a Texas-trained manager ran it, and to make it work Mackenzie had to return to Texas and employ several ex-Rangers to be his own police force.

¹⁰The Capitol Syndicate Company received 3,000,000 acres from the State of Texas for building the present capitol. About 2,000,000 acres were sold and the remaining acreage organized into the XIT Ranch.

was also manager of the Clarendon Land Investment and Agency of England, which operated a sizable "spread."

(It was the town of Clarendon, a devout community, which furnished the courts of Tascosa, the near-by cattle boom town, with a means of punishment for thorough recalcitrants. When an offender went too far at Tascosa, he was sentenced to ten days in Clarendon. That was the nearest thing to solitary confinement for a cowhand who liked his likker that they could imagine.)

Considering the size of the outfits known to be foreign-owned, an estimate that approximately five million acres of Texas land were purchased in this decade by foreign capital does not seem at all rash. It was a land rush within itself, and of no mean proportion.

In addition to the foreign investors, native cattlemen were buying in the piecemeal fashion previously alluded to. However, there was still open range in 1880, though not as much as the General Land Office had issued certificates for. The land legislation of 1882 and 1883 placed the remainder of this unclaimed public domain within the province of the public schools and the state university. The details of such a disposition of the Texas land will be set forth later. Here the chief concern is what effect this legislation had upon the free-grass barons.

The law called for competitive bidding for grass leases at a minimum price of four cents an acre. Though the price seems trivial enough, it was a blow to the cattle king. Mostly it nettled his pride. He had to send to Austin to renew each year a rental of what he, with his queer philosophy, considered his by all moral right.

It was the beginning of the ranchman's feud with the legal formalities of orderly existence. It cannot, by any means, be said to be a sharp climax. The cowman was, is, and will always be a pretty sharp customer. It took more than that to phase him.

There was practically no competitive bidding. The bigger outfits had divided the range among themselves, and no man was fool enough to challenge their right of tenure by filing leases on their range. The state law in Austin might say the range belonged to the man who posted the highest bid, but

there was another law which said it didn't. Those individuals who believed that they had a legal right to bid more than the minimum price on a stretch of grassland already occupied by an outfit suddenly found the climate very unhealthy for them.

The cowman yielded to the extent of bidding four cents an acre and filing payment—at least most of them did. A report the following year (1884) showed that some cattle barons stonily ignored this latest “foolishness” of the legislature.

But they did not bid against each other. The State Land Board in 1884 decided that since there would be no competitive wangling the price must be increased. The board decided to lease no more state land at less than eight cents per acre.

Immediately the cowman fought back. One of his representatives was the eloquent Temple Houston, son of the equally eloquent Sam, and a man fit in every way to wear his father's boots.

In this same year the State Land Board sent out commissioners to report on how the lease laws were being obeyed. General Henry E. McCulloch reported back that some eighteen million acres of Texas land were being used by cattlemen without payment of proper fees. Another commissioner, W. T. Gass, reported that five million acres of land were illegally enclosed by barbed-wire fences in the Panhandle section alone.

It was a crisis for the cattle baron. The cost of his grass was doubled and, furthermore, the State was showing every inclination of enforcing the lease laws.

The bigger cattlemen were willing to lease at the price of four cents an acre, which they considered the legal price. Charles T. Goodnight, according to biographer J. Evetts Haley, was ready to concede that the day of free grass was over. Furthermore, he professed himself as glad of it.

It was Goodnight, with Buck Walton and W. B. Munson, who stormed into Austin in an effort to browbeat the land board into accepting a lease renewal at four cents per acre. The trio secured \$100,000 in cash from an Austin bank, loaded it in a wheelbarrow, and hired a husky Negro porter to wheel the fortune up Congress Avenue to the capitol.

This chapter in frontier history was known as the "free grass war." In its course it involved a stormy political campaign in which Frank Willis of Montague sought re-election as district judge of the Thirty-fifth District, which was created in 1881. The district embraced the entire Panhandle and part of the Indian Territory, twenty-seven counties in all. According to one of the cattlemen, Judge Willis "stood about as much show as a stump-tailed bull in flytime."

The legislature granted some relief, passing a law providing for five-year leases at four cents an acre. Goodnight himself was charged with violations of the lease law and personally confronted Attorney General Templeton. According to historian Haley, the Attorney General wished a compromise and Goodnight answered:

"Not a God-damned bit! I'd see you in hell first, farther than a wedge would fall in twenty years."

From the same source comes fragments of further dispute between this leader of the cattlemen and the land board, which shows the intensity of their feelings.

The board refused to accept Goodnight's payment of four cents an acre, and Goodnight informed the group that he would stand on his legal rights.

"You cannot legislate for me," he declared. "I was on the frontier carrying a gun when I should have been in school. I served the state as a Ranger for four years. I put in my life to make this a free country and haven't been paid a cent for it. Now, if this Board can legislate for me," he glared at the Governor, "I'll leave your damned State."

"Where will you go?" one asked.

"Russia," he spit out. "It's the next meanest place I know."

"You'll have to pay," came the answer.

"Before I pay the lease, I'll see you all in hell," he swore.

There was some justification for the cowman's anger at having his fences declared illegal. In some instances he was not attempting to fence *in* land but to fence *out* drifting cattle. Goodnight believed that if his fences were removed, the Canadian drifts would eat out his range each winter. In 1887 there were still some 3,500,000 acres of public school land pastured

or fenced illegally, and the practice was not completely wiped out until 1900.

The collapse of this decade of boom started with the drouth of 1883, and the downward trend of cattle prices continued for two years, until the golden years were over. The lease might have hastened the crisis but did not bring it about.

Through the early eighties the more astute ranchman was preparing for change. Webb wrote:

He now had a system of pastures — summer pastures, winter pastures, bull pastures, pastures for blooded stock, and others for range cattle. Along the fertile river valley, fields were opened up on which hay and other forage crops were grown to supplement the range.

[As he began to study the “blamed land laws” which he hated] his business acumen asserted itself. Why not establish a town site on the ranch and sell off a part of his pasture? . . . The town was named for the ranchman. A bank was opened, of which he became president and chief stockholder.

Some of the histories of these towns are worth noting. Matador is on a school section that had not been patented when it was selected as the townsite and future county seat. Under the law a patent could not be issued until an affidavit had been filed in the General Land Office showing that the site was occupied by a town with at least twenty business establishments. To meet this requirement, cowboys of the Matador Ranch opened the required number of places of business, although most of them were literally in the wide-open spaces without even a roof. A few cans of food, borrowed from the ranch storehouse, constituted a grocery, and so on. The patent was granted though the only substantial place of business was a saloon.

The founding of Sonora was less colorful for the time being, but not for long. It was not a popular town, as the first deeds carried the stipulation that whiskey could not be sold on the premises. Finally the clause was accidentally omitted, and a saloon was opened. Two years after the town was founded, the residents learned that, through an error in surveying, the town was not located on land granted by the State but on land

owned by a New York firm. The residents literally had to buy their own holdings.

By 1885 any number of such towns dotted the western Plains. Washburn, Panhandle City, Amarillo, and other towns had been founded. Tascosa, the daddy of 'em all, was still roaring strong.

It was some place. The fiddler in Tascosa was named "Snake" Thomson, and he had another claim to fame besides his prowess with the bow. He brewed his own whiskey and got his nickname because he claimed he put snake heads in it to make it strong.

Thomson provided his own protection against playful cowhands who wanted to annoy him while fiddling. He built a platform at shoulder height and beside it drew a line in charcoal on the whitewashed wall, which he surmounted by a printed legend to the effect that anyone whose lead flew above the mark must be prepared to meet a reprisal fire from Thomson's Winchester.

In lieu of a prison, law violators were tied in Jack Ryan's saloon, before the practice of sentencing them to ten days in Clarendon went into effect. One such prisoner was Jack Martin, who was bound tightly on a December evening in 1881. However, Jack's arms were left free, and during the night he tore his blanket into shreds and formed a rope. With this improvised "lariat" he lassoed whiskey bottles from the shelf behind the bar and enjoyed his night's imprisonment very well, thank you.

The legends of Tascosa are too many even to list here. Bat Masterson, Pat Garrett, and Billy the Kid hung out there. And it was at Tascosa in 1883 that some two hundred cowpunchers staged a historic strike. Their attempts at negotiation resulted in the discharge of some fifty of their number, and the strikers turned to rustling. Imported gunmen were brought in by the ranchmen with orders to kill the "labor agitators" on sight. Four cowboys were killed and several wounded in an open gun battle at Tascosa.

The Plains towns bobbed up, one after another. Canadian was founded in 1885, and three years later the first rodeo was

staged there with bronc riding and steer roping as the main bill of fare. There had been impromptu "matches," of course, but the Canadian event was the first official contest held under written rules and formal judging. A Negro, George Washington, captured first money in the bronc riding. (There was no ten-second bell for the broncobusters. The outlaw had to be ridden until it stopped fighting.) Another Negro cowboy, Albert Phillips, finished second to Jack Ellison in steer roping.

Gail was founded about the same time, named after the inventor of condensed milk. Its history among frontier towns is unique in that there was no conviction of a law violator in its courts until 1932, when a jury convicted a resident for bootlegging. The town has no bank, no theater, no railroad, no hotel, no doctor, no preacher. Visitors are welcome to sleep in the jail, the only key to which is in the custody of the owner of the town's only cafe.

Deaf Smith County was organized in 1885, and its first election was held in the shade of a haystack. The official canvass showed "two Democrats, two Republicans, and a sheepman."

The grass lease laws, on top of the panic of 1885, just about finished the cattleman as a baron. There were still ranches, of course, and are now, but, quoting Webb again:

The collapse of 1885 converted ranching from an adventure into a business which is today carried on with as much system as farming or manufacturing. The longhorns have become so rare that a movement has been started to gather a few of them on a ranch and preserve them as a relic along with the buffalo.

The introduction of blooded stock and experiments in breeding can be traced back prior to the War between the States, when the first blooded stock — the Durham — was brought to the South Texas country. But far more important to the Texas ranchman was the introduction of Herefords. While J. L. Driskill & Sons had imported sires on their Cimarron Ranch as early as 1880, W. S. Ikard of Henrietta is generally credited with bringing the first Herefords to Texas. Ikard saw them at the Philadelphia Centennial in 1876 and shortly afterward purchased a number of bulls. He had a purebred herd by 1885.

The Hereford promptly became the basic beef breed of the cattle industry in Texas, although other strains are employed. Except in the Gulf regions, however, where the Brahma is predominant, the "white face" is king.

The hump-backed Brahma, the sacred cow of India, was known in America before the War between the States but was not introduced to Texas until 1866. A South Carolina physician, Dr. J. B. Davis, imported a bull and two cows from India in 1849. An anonymous Englishman visiting on the Barrow plantation in Louisiana observed that the low salty marshes were unfit grazing ground for anything but Brahmas and shipped Mr. Barrow three bulls from Australia.

In 1866 Colonel Shannon brought the first Brahmas to Texas and started crossbreeding them with his range cattle near Galveston. At that time Texas cattlemen were experimenting with the Durham strain. The variances of the Durham and Brahma breeds proved practical on the Gulf Coast and in South Texas.

J. A. McFaddin of Victoria started the first Brahma grade herd, from a purebred *Bos Indicus* cow and bull he purchased from the Hagenbeck Circus in St. Louis.

However, it was not until 1905 that introduction of the Brahma in Texas was seriously considered. The effect of these early breeders was negligible, and it was next to impossible to obtain a blooded animal. In 1905 the Honorable James A. Wilson, secretary of agriculture, visited Texas and was quickly persuaded by Brahma enthusiasts that this strain of cattle would answer the problems of the Gulf Coast—low marshes, mosquitoes, and damp climate. Wilson's trip to Texas had been inspired by a desire to launch a tea-raising experiment, which was a failure. But he lent his office to the introduction of Brahmas.

A. P. Borden, a Texan, was dispatched to India to import blooded Brahmas. His task was not an easy one. Not all of the hump-backed cattle are considered sacred by the Hindus—only those bulls that had been designated by priests as supernatural. The Zebus, or the non-sacred beasts, were of the poorer quality, however, and Borden was not satisfied with them.

He traveled thousands of miles through India seeking owners who would sell their finer animals. Near Agra an upper-caste Hindi who owned a husky bull Borden was anxious to secure offered to sell any of his wives but not his bull. Finally Borden assembled fifty-one head of various breeds and colors and loaded them on a ship at Bombay.

His troubles were not yet over. The entire consignment was held in quarantine for six months at New York and then condemned to slaughter. The inspectors claimed the cattle had the Surra disease.

Borden pleaded and stormed in vain. Finally he carried his case to President Roosevelt, who intervened. Borden reached Texas with thirty-three head. From this nucleus has developed the various crossbreeds, of which the Santa Gertrudis is the most famous.

The Brahma speedily acquired a domain of his own, not as large in scope as that of the white-faced Hereford, but strictly his own. The sturdiness of the *Bos Indicus* has enabled Texans to convert islands off the Gulf Coast into ranches.

The Brahmas have acquired a reputation, too, and an un-savoury one. They are used in rodeos, and there is a prejudice against them among commission buyers.

But at least one Texas cattleman, Tom O'Conner, loved them for their spirit. "I like to see a steer," he would say, "that can look a man in the eye and not waver." O'Conner told his sons, when he felt he was slipping away onto another range, to round up a big herd of Brahmas near the ranch house so he could hear them bellow as he left.

The longhorn steer as a meat animal was extinct by the turn of the century. But he, like his colorful range master, lives on in tradition. No Texas author has done a better job of preserving their legends than J. Frank Dobie.

He was tamed, this wild longhorn. He had been some "critter." According to Colonel Dodge, an ardent hunter and explorer, "the domestic cattle of Texas, miscalled tame, are fifty times more dangerous to footmen than the fiercest buffalo."

The man who drove him north was tamer, too. He was no longer a swashbuckling man throwing his loop hard and fast

and dealing high, wide, and handsome. His agitation for a mile-wide strip of land that cattlemen could use as a trail to Northern markets (said to have been first proposed by Captain Richard King) was wasted.

He had some fight in him left. For another thirty years he charged forward each time a tract of school land was offered for sale or lease and sought to elbow homesteaders out of his way. But these were the snarls of a dying lion. By the end of the eighties the "old man wasn't what he used to be." In the words of Webb:

The original ranchman had practically retired from business, maintaining a desk at the bank, riding his horse and hitching him at the accustomed place, despite the growing town, and acting as a sort of general adviser and oracle of the community. A few cattle were driven in and shipped, and there was talk of branding and round-ups, though the oldsters understood that the meaning of the terms had changed. The life of one man spanned the rise and complete transformation of the ranch; it spanned the rise and fall of the cattle kingdom.

He was fenced in. He didn't like it. He still doesn't. But the open range no longer exists except in the highly embroidered yarns which comprise over fifty per cent of the world's reading matter. It will live on there a long time, perhaps forever. The "hawk-eyed men" wearing "sardonic smiles" and "rolling smokes" while staring "gimlet-eyed" at "sneering villains" are no passing fancies with lovers of colorful adventure stories.

There is no point of opposing such outlandish inconsistencies as the colorful regalia worn by a cowpuncher, the grandiose actions, the unprecedented bravery. The cowboy has been taken up by each generation and slightly modified to taste. There is no telling what the conception of him will be a hundred years from now.

Except that, unless the yarn spinners betray him altogether, whether in worn denims and plain boots or in silken shirts and gleaming footwear, he'll always be a "humdinger."



“Along advancing railroads washed that restless tide of immigration symbolized by the man with the hoe.” — J. EVETTS HALEY.

VI

THE SPECULATOR

HIS WAS a bold gamble. Perhaps the only reason he experienced any measure of success was that he never realized the risk he took.

In his memorials, in his appeals for bounties to support the magnitude of his projects, he referred to himself as an “empire builder.”

He wasn't. He was just another man taking cognizance of a new frontier and moving in to appropriate what man has always valued most — land.

In time he was to make good his boast that he would span uncharted regions with ribbons of steel. Along these ribbons towns were built and an empire came to be, as empires slowly and inevitably come. He thought his reward was magnificent at the time, but it wasn't. The effort took out of him all that he had.

He left a story — scrawled on a hotel register, etched faintly across a Texas canyon 321 feet deep.

But those who followed in his wake wrote the more lasting story and reaped the full harvest of what he had sown.

T

HE SIMPLE statement that the State of Texas granted a total of 32,153,878 acres of its public domain as subsidy to railroads should be staggering enough.

That is a territory bigger than most states in the Union and larger than many countries of Europe.

In the course of two centuries the governments of Spain and Mexico awarded only 26,280,000 acres in *porcions* and *empresario* tracts. The thousands of settlers streaming into Texas in the nineteenth century and bidding for free land under the various homestead acts received only 36,876,492 acres. A handful of railroad companies were awarded almost as much and with few restrictions and little expense.

It seems like, at this writing, a fantastic plundering of the public domain by Jay Gould and his resourceful kind, who were another type of *empresario*, another breed of speculator. But actually such was not the case. A study of the circumstances shows that in this instance, as in most others, what seems at first inspection a wanton waste of public land was in actuality a wise appropriation. None of the lands granted were worth over fifty cents an acre at the time; in fact, the domain tendered to the railroads fell far short of that in intrinsic value. Twice the unclaimed land of Texas was offered to any and all takers at fifty cents per acre, and very few were interested.

Thus the emphasis on the amount of land granted to railroad companies is misleading. Actually, in terms of dollars, the encouragement of transportation cost the state considerably less than \$15,000,000. That was more than repaid to the citizens of the Lone Star domain by the increase in valuation of the alternate sections of the public domain which were surveyed by the railroads (though poorly) and in time became the foundation of Texas' public school and university wealth.

The problem of transportation has been an acute one with every fledgling civilization. The land of Texas, sprawling unknown and untamed, offered more problems than most.

In addition to its subsidy for railroads, Texas had awarded some 4,088,640 acres of the public domain for improvements in irrigation, drainage, preliminary construction of two national highways, and other miscellaneous services.

Texas rivers were of far more service to travelers in the beginnings of the nation and state than at present, when there is practically no traffic upon them. All the state's bigger streams were employed in navigation at one time or another, even rivers which today seem so insignificant that one wonders how any kind of a freight or passenger boat was ever persuaded to float down them.

In the account of Ben Milam's rather pathetic effort to organize General Arthur Wavell's colony, his labors to clear the Red River of a "raft" which had collected with the years was noted. In the 1840's, light-draught steam vessels were coming up that stream to Red River County in Texas, and other small boats were moving westward from Shreveport to Port Caddo, on Cypress Bayou. By 1845, passenger boats were pushing on as far as Jefferson.

This was not a de luxe means of transportation by any means. Hogan quotes in his *The Texas Republic* from an 1840 newspaper one traveler's experience aboard one of these pioneer vessels:

The ship was the *Concord* but, according to the passenger, "she should be named *Discord*, for the firemen abused the mate, the cook fought the steward, the mosquitoes waged war on the passengers, and the passengers are not yet done cursing mate, firemen, steward, mosquitoes — in fine, the boat and all connected with her. A more miserable, dirty, slow moving, improvident chicken thievish craft never walked the waters . . . it excites my spleen to think of her."

As early as 1829 there was a steamboat plying the waters of the Rio Grande, when any — the *Ariel*, owned by Henry Austin, cousin of the great *empresario*. In 1833, settlers in Austin's colony took up a subscription to encourage a steamboat captain to bring his ship to Texas and operate on the Brazos. A ball was held in celebration of the vessel's arrival on January 8, 1834, but the festive spirits were slightly dampened when the craft stuck on a sand bar.

Freight boats chugged back and forth on the Brazos between Brazoria and the coast as early as 1843, and settlers along Buffalo Bayou used water transportation to good advantage. In promoting the town of Houston the Allen brothers widely advertised it as a "seaport." To prove same, the entrepreneurs engaged the *Laura* to steam up the bayou and dock at their new "metropolis." The enthusiasm of that ceremony was reduced also. The captain of the *Laura* steamed right past the cluster of huts without recognizing it as the "city" the Allens were advertising so lavishly. The Allens later paid the captain of the *Columbia* \$1,000 to steam up the channel to their "port."

Samuel M. Williams, the enterprising secretary of Stephen F. Austin, founded a steamship line in 1845, and traffic between Galveston and Houston was steady. One boat was capable of carrying eleven hundred bales of cotton. Passengers were transported for \$1.00 and cotton for 37½ to 50 cents per bale.

Probably the earliest trip up the Trinity was by the *Branch T. Archer* in 1838. Settlers of the forgotten town of Cincinnati contributed land and cash to subsidize the vessel's regular operation.

The steamer *Ellen Franklin* (or *Frankland*) launched commercial operations on the Trinity in 1843, sailing beyond the present site of Dallas. The skipper of that vessel declared that the Trinity was navigable until within sixty or seventy miles of the Red River. In the same year a Mr. and Mrs. Houston cruised up the Trinity as far as Dallas.

An English steamship company successfully operated boats between Galveston and the upper Trinity until 1850. Most historians have established 1860 as the last year of commercial navigation on the Trinity, but a joint resolution of the Texas legislature in 1893 stated otherwise. According to the solons, as late as "1873 as many as seventeen boats were running on the Trinity, coming within 30 miles of Dallas," and that "as late as 1868 a vessel landed at the foot of Main Street in Dallas."

Professor Charles S. Potts, author of a bulletin issued by the University of Texas entitled "Railroad Transportation in Texas," stated that the Trinity was regularly navigated to Liberty and

some seventy-five miles upstream. The same authority wrote that steamboats plied up the Rio Grande as far as Rio Grande City. Rankin's *Texas in 1850* stated that the stream was "navigated by steamboats to the distance of about 500 miles."

Navigation on the Colorado River was impeded by a "raft" some fifteen miles above Matagorda. Congress incorporated two companies to clean out the stream, but neither did the job. Still the *Kate Ward* somehow managed to reach Austin in the summer of 1845, and keelboats and flatboats plied the Colorado regularly. They hauled their cargoes to the "raft," where they were unloaded and hauled overland to Matagorda.

Texas sought as late as 1856 to depend upon navigable streams for transportation. In 1852 a bill was introduced in the senate appropriating some \$250,000 for river improvements. Four years later this work was begun under an act appropriating \$315,000 for the clearing of rivers and harbors.

By 1858 eleven such projects had been approved by the state engineer, the governor, and the comptroller. The cost of river dredging and canal building was paid out of the United States bonds Texas received under the Pearce Bill. Thus, indirectly, allotments of the public domain were made to encourage steamboat navigation also.

River navigation came practically to an end after the War between the States. The streams clogged up; sandbars shifted; and, though the *Texas Almanac* states that 60,000 or 70,000 bales of cotton were shipped via the Sabine channel alone to New Orleans and Galveston in 1858, river improvements on a large scale were never attempted again. After the war a few attempts were made by private concerns to clear the rivers and revive steamboat transportation, but they were not successful. By 1870 the rapid development of railroads removed any further incentive.

So far as early Texas roads were concerned, there weren't any. There were only dusty trails in dry weather and quagmires in wet seasons. Some stagecoach lines were in operation as early as 1837, but it took a hardy soul — or a desperate one — to depend upon such a means of transportation. Two Mississippi entrepreneurs, Starke and Burgess, opened a stage line from

Houston to Austin via Washington in the fall of 1839. Their schedule called for a three-day trip, and passengers were expected to lend a hand with fence rails if the stagecoach became stuck in the mud, which it frequently did. The fare in 1844 was \$15 plus six cents per pound for baggage, in excess of thirty pounds.

The rivers presented a complex problem. Ferries were installed at strategic points with rates set by the county commissioners, usually \$1.00 for each wagon and twenty-five cents for a man and a horse.

But in 1846 Nashville, on the Brazos River, had no ferry, and Hogan states that travelers paid for the privilege of swimming their horses across by the side of a canoe.

Two national road projects were approved by the Congress of the Republic of Texas, but neither was completed. The only "highways" were those provided by the various counties, and probably the less said about them the better. Still, stagecoaches pushed valiantly through the mud and sand, at a usual charge of ten cents per mile for each passenger.

The *Texas Almanac* of 1860 listed thirty-one separate stage lines that were then in operation, with the firm of Sawyer, Risher and Hall controlling sixteen of them. According to an article in the San Antonio *Daily Herald* of August 8, 1866, this firm was believed to be the biggest mail contractor in the United States. It owned lines in Louisiana as well as Texas, used one thousand horses and mules, and had a regular payroll of three hundred men.

Two long distance stage lines crossed Texas prior to the War between the States. One stretched from Sherman to Fort Smith, Arkansas, where a connection could be made to St. Louis — a four and one-half day trip without a stop if the weather was good. A southern branch led from Sherman to Fort Concho on the Concho River and connected there with the San Antonio-San Diego line.

The latter stagecoach operation was one of the most ambitious in America. The route covered 1,476 miles (the Southern and Pacific Railway engineers closely followed it), and the contractor, one J. E. Burch, provided semi-monthly deliveries

of the United States mail for an annual subsidy of \$149,000. The one-way fare with all incidental expenses borne by the company was \$200. One reads in the *Texas Almanac* of 1859 that the stages were arranged so that passengers could recline comfortably and sleep while traveling.

Among the stagecoach entrepreneurs of early Texas was colorful Ben Ficklin, whose name was commemorated for a time by the county seat of what was then Concho County. It is said that Ficklin founded the town because residents of San Angelo objected to the conduct of his stage hands. When the county was organized, Ficklin took steps to establish his stagecoach stop as the county seat. He imported a clerk of the Federal district court, fed and bribed the official, and had sixty-five Mexican employes naturalized as American citizens. They voted en masse to move the county seat to Ben Ficklin.

The town was washed away in a flood in 1882, and the seat of county government returned to San Angelo.

The Republic of Texas was appropriating land and money for the improvement of transportation facilities as early as 1838. The two attempts at road building by the nation were futile. One known as the "Northern Military Road" was to stretch from the Red River to the Nueces. By an act of January 21, 1841, a parcel of land twenty-four miles wide, twelve miles on each side of the proposed highway, was set aside and the first homestead grants provided for in this domain. Heads of families could acquire 640 acres and single men 320 acres. Five years' occupation and cultivation of a portion of the land were necessary for completion of title.

This 1841 legislation marked the beginning of the homestead policy in Texas and preceded any such development by the United States government by a full twenty-five years.

The "Central National Road" was authorized on February 5, 1844, providing for a subsidy of 160 acres per mile to be granted surveyors, commissioners, and contractors. It was supposed to be a "turnpike" extending from the Trinity River near the mouth of Elm Fork to the Red River opposite the mouth of Kiamiasha Creek.

The specifications show what little was expected of a "high-

way" in 1844. The road was to be thirty feet wide, with bridges half that width, and all stumps were to be cut within twelve inches of the ground. Though the road was never constructed, the records of the General Land Office show that 27,116 acres of the public domain were granted for preliminary surveys and isolated bits of construction.

Even Sam Houston, no man to favor squandering the public wealth, favored governmental encouragement of transportation. When Houston removed the seat of government from Austin in 1842 during the "archive war," he gave as one of his reasons the excessive cost of transportation.

"During the last year," he declared, "the expense to the government for transportation to the city of Austin, over and above what it would have been to any point on the seaboard, exceeded seventy thousand dollars, and the extra cost of the transportation of the mail, aside from all other expense and inconvenience attending its remote and detached situation, amounts to many thousands more."

He had other reasons, as we have seen. Old Sam was never caught without an answer.

Early freighting was mostly confined to ox wagons. Mexican drovers and their lumbering *carretos* vied with American teamsters for traffic to the coastal towns. This rivalry led to the so-called Cart War in 1857 when the people of Colorado County were thrown into a panic by the discovery of what seemed to be a well-matured plan to produce a slave uprising. The Mexican teamsters were accused of being in the conspiracy, and lawless whites attacked their wagons, killing their oxen and seizing their merchandise. It was necessary for Governor Pease to order out the militia to restore order.

The railway history of Texas began almost simultaneously with the organization of the Lone Star Republic. No later scheme was more grandiose, nor more impossible, than the first organization of a transportation corporation—the Texas Railroad, Navigation and Banking Company, chartered on December 13, 1836.

By the terms of incorporation, Congress conferred upon the company the "right of connecting the waters of the Rio Grande

and the Sabine, by means of internal navigation and railroads, from and to such particular points of connection as may be agreed upon and selected by said company, with the privilege also of constructing such branches, either by canals or railroads, to connect with the main line above named, as may be agreed upon and determined by said company."

The ambitious organizers, then, proposed to construct a complete system of river, canal, and rail transportation facilities, including a main line across the entire Republic from east to west. In addition, the company was to have "banking privileges," which at that time meant the right to issue its paper notes as money as well as to receive deposits and make loans. No limitation was placed upon the amount of such currency which could be issued.

It was an ambitious notion at any time; in 1836 it was almost unbelievable. The population of the Republic, scattered over an area larger than New England, was less than 50,000, and there was not a dollar in the national treasury. The incorporation figure of \$5,000,000, of which \$1,000,000 was to be paid in before the banking operations could begin, would have constituted a sizable proportion of the nation's public and private wealth. Furthermore, the act of incorporation provided for the increase of the capital stock to \$10,000,000.

The nation was to receive a bonus of \$25,000, two and one-half per cent of the net profits from the railroads and canals, and one per cent of the dividends from the "bank." Moreover, the corporation was to transport free of charge the troops and munitions of war belonging to the Republic. The company was given certain rights of domain, which meant that the incorporators could take possession of the public lands one-half mile on each side of the right of way and pay for them at the minimum price per acre.

The organizers of the Texas Railroad, Navigation and Banking Company were Dr. Branch T. Archer, James Collingsworth, T. J. Green, T. F. McKinney, A. C. Horton, A. C. Allen, and Mosely Baker. All of them had participated in the struggle for independence. They were "Texians," though Green and Allen

had immigrated with the evident purpose of speculation, not mainly "to fight for their rights."

There was little or no immediate opposition to the petition of these men for a charter, and organization was effected with very little popular protest. Then, suddenly, legislators and citizens alike began to realize what the Republic of Texas had done. The influential *Telegraph and Texas Register* led an editorial assault upon the promotion.

Our condition is now such [July 29, 1837] that if we should continue blind to our duty the fairest portions of our republic will gradually pass from our possession, and this vast institution, like a devouring monster, will commense the tremendous work of ruin; swallowing league after league, as planter after planter becomes entangled in its mighty toils; and at length county and county recedes into its capacious maw, until finally liberty takes flight from what was once Texas — the land hallowed by the sacred blood of a thousand martyred heroes.

Charges of corruption were hurled back and forth in the Texas Congress as solons angrily debated the company in the summer of 1837. *The Telegraph and Texas Register* reported one senator as declaring that not an honest man was connected with the passage of the measure through Congress. (May 30, 1837). Sam Houston was such a frequent target for abuse that he felt it necessary to explain his connection with the Texas Railroad, Navigation and Banking Company to the United States Senate in 1854.

It would have been interesting to observe whether Messrs. Green, Allen, *et al* could have put their tremendous project into operation. Considering the difficulties ahead of them, theirs was a more ambitious scheme than the ill-famed *Crédit Mobilier*. Even in 1836, before the pattern of organizing a railroad company had been well formed, the Texas association had the right idea — of selling stock, thereby employing funds other than their own, and of accruing a personal profit from the resale of the public lands acquired from the state and nation.

But there was little or no response to their advertisements of preferred and common stock, and the promoters quietly folded up their dreams and retired before the fury of public

opinion. By 1838 the company was alive only as a political boomerang, and it was another two years before actual construction on a Texas railroad was begun.

The first road to launch actual laying of track was the Harrisburg and Brazos Railroad, of which one Mr. A. Briscoe was the leading spirit. Mr. Briscoe contracted for the purchase of three thousand cross ties and in March, 1840, attempted to hire sixty slaves for menial work. The *Houston Morning Star* reported in that year (May 6) that "a large number of laborers are at present engaged in throwing up the track and preparing it for rails at an early season, and a greater number will soon be employed," but no track was completed before 1851. The name of this line was changed to the Harrisburg Railroad and Trading Company in the following year.

In 1840 was organized the Buffalo Bayou, Brazos and Colorado Company, which pioneered the railroad industry in Texas. Its promoters failed to secure the necessary capital prior to the Mexican War, and the project was abandoned until 1847, when General Sidney Sherman stepped into the picture. He secured assistance from Northern capitalists and in 1850 petitioned the state legislature for a charter. The president of the company was Jonathan F. Barret, with General Sherman and other prominent pioneers of Harrisburg, Houston, and Galveston as stockholders, among them Hugh McLeod, E. A. Allen, and W. J. Hutchings.

The proposed route was established and surveyed in the spring of 1851 and construction launched. Track laying was begun in 1852, the same year that the first railroad locomotive was shipped to Texas. It was called the *General Sherman* after the railroad's organizer.

By August 1, 1853, twenty miles of track were completed and the first passenger train chugged as far as Stafford's Point, where a barbecue was staged in celebration. By 1855 the road had been completed to Richmond on the Brazos, a distance of thirty-two miles from Harrisburg. In 1859 the road reached Eagle Lake and the following year offered service as far as Alleyton, a distance of eighty miles.

Modern rail travelers would probably shudder at the ordeal

of passing over this railroad's crude bridge across the Brazos. A cheap pile structure spanned the stream, only six feet above the water at low stage. The middle sections were removable on flat boats to permit the passage of steamboats and other craft navigating the river.

The second Texas railroad was the Houston and Texas Central, which was originally incorporated on March 11, 1848, as the Galveston and Red River. The original plan was to build the road to the Red River. Houston was approved as the southern terminus by a special act of the legislature in 1853, when grading began. Work went slowly for three years, the road reaching out only twenty-five miles by 1856. By 1860 the steel ribbon had advanced to Millican. The War between the States interrupted building, of course.

It was on the Houston and Texas Central that the first railway wreck in Texas was recorded. A fence rail tossed carelessly or maliciously across the rails caused the *Ebenezer Allen* to leap off the embankment, pulling three passenger cars behind it. The locomotive was tearing up the track at the fantastic speed of twenty miles per hour when the accident occurred. None of the seventy-five passengers were seriously injured. The early history of this line was replete with accidents until a *Galveston News* editorial writer labeled it the "Starmaker."

Another important railroad built prior to the War between the States was the Galveston, Houston and Henderson Railway, which was incorporated on February 7, 1853, and by 1858 linked Galveston and Houston. Crossing of the bay was made by a steam ferry plying between Galveston and Virginia Point until a bridge was completed in the summer of 1859 and direct transportation between the two cities was available.¹

¹The story of the Galveston Causeway is a fascinating one. In 1857 the people of Galveston voted \$100,000 in municipal bonds for the construction of a bridge 10,000 feet in length. Built by a Mr. Carvin of New Orleans in 1859, the bridge was later destroyed on October 3, 1867, by a hurricane. Repaired at a cost of \$67,000, the bridge was in operation again on June 25, 1868. Tipton Walker contracted for this rebuilding, receiving twenty-five per cent of the gross earnings of the causeway until January 1, 1875, for his work. This turned out to be a bonanza for him as the receipts of the causeway averaged \$400,000 annually, paying him \$100,000 per year for use of a bridge that had cost him only \$67,000 to repair. It

Other railroad lines launched before the War between the States were the Galveston, Houston and Henderson; the Washington County Railroad; the Houston Tap and Brazoria Railroad; the Texas and New Orleans; the Eastern Texas; the San Antonio and Mexican Gulf; the Indianola Railroad; the Southern Pacific; and the Memphis, El Paso and Pacific Railroad.

By 1862, when war forced a postponement of all construction, fifty companies had been chartered by the State. Only eleven companies, however, had begun construction, and the total mileage was 492.

Most of these lines had been assisted by large grants of land and by loans from the permanent school fund — after 1856 an amount of \$6,000 for every mile of line constructed and opened for traffic. In February, 1853, the legislature passed a statute for the regulation of the embryo industry. Freight cars could not be put ahead of passenger conveyances; locomotives had to be equipped with bells of at least thirty pounds in weight and had to sound an alarm continuously beginning at least eighty rods before reaching any crossing; and engineers were not to be intoxicated when sitting at the throttle.

Eight sections of land were appropriated for each mile of track laid and opened to traffic.

Even with such incentive, railroad construction lagged. The financial plight of the Harrisburg line was typical of the difficulties confronting a corporation. Until 1860 it had paid out \$1,209,000, of which \$311,700 had been received from sale of capital stock. The citizens of Colorado, Fayette, Bastrop, Travis, and Wharton Counties had donated \$24,000. The appropriation of 588,800 acres of land by the State of Texas had been sold for \$106,800, or about 18 cents per acre. A loan of \$420,000 had been extended from the permanent school fund.

was, of course, a poor deal for the railroad.

In 1892-93 the county of Galveston constructed a steel wagon bridge across the bay at a cost of \$191,986. This bridge, containing ninety steel spans of eighty feet each, was an engineering marvel of its time. It was swept away in the hurricane of September 8, 1900. In 1907, Galveston citizens again voted a special tax to pay for a causeway. The contract was let on July 5, 1909, to the J. F. Blodgett Construction Company of Kansas City. The present causeway, built at an initial cost of \$1,500,000, was completed in 1911.

Thus less than half of the \$1,200,000 had been received from land bounty and state loans.

But as trivial as this period of preliminary railroad construction might seem, the State of Texas had by 1862 turned over approximately 2,500,000 acres of its public domain to fledgling railroad units.

Interest, however, was centered mainly upon the encouragement of a transcontinental line. This agitation was national in scope and sectional in issue. At the time, throughout the 1850's, Southern and Northern politicians were scrambling for control of the rapidly developing Western territories. A transcontinental line through the Northern states to California would, it was felt, weld those Westerners to the North; a Southern line, extending through Texas, would bring about a political alliance with the South.

United States Army surveys ordered by Secretary of War Jefferson Davis provided the first penetration of the unknown western Texas domain by Americans. Cattlemen found them useful, though railroad builders did not get around to following their maps for a score of years.

The State of Texas on December 31, 1853, issued a most cordial offer to any railroad corporation launching a transcontinental project to traverse the Lone Star domain. An act of the legislature called for the construction of a railroad from the Mississippi River to the Pacific Ocean, which would start not north of Fulton, Arkansas, run along the thirty-second parallel through northern Texas, and reach the state boundary at El Paso. The act provided that a right of way three hundred feet wide would be donated by the State and twenty sections out of the public domain would be appropriated for each mile of track completed and opened to traffic.

The State imposed the restriction that the rails had to weigh not less than sixty-four pounds per yard. Governor Hansbrough Bell was instructed to advertise for contractors in not less than twelve out-of-state daily newspapers. Capital stock of the corporation was placed at \$20,000,000, and the company was to be required to deposit \$300,000 in money or securities as a guarantee that fifty miles of track would be built within

eighteen months. The public lands acquired had to be sold within six, eight, ten, and twelve years, one-fourth by each deadline.

There were no immediate takers.

Governor Elihu Pease and other statesmen advocated a state-owned railroad system. In November, 1851, a convention met in Austin and recommended a plan for state ownership which was submitted to the legislature. This provided that \$3,000,000 would be set aside as a permanent improvement fund with five thousand acres to be awarded for every mile of track laid.

The legislature did not act upon this recommendation, nor upon a plan recommended the following year by a Galveston convention, over which W. R. Smith presided. This proposal — to set aside 50,000,000 acres of the public domain for improvements and for building a trunk line at state expense from Galveston to the Red River, together with three branch lines — did not merit a vote of the legislature.

Spokesman of the "state plan faction" Elihu Pease declared in 1855 that the "experiment of inducing corporations to build Texas railroads has failed. Only one of the 37 companies have any material accomplishment to report."

The Governor proposed that the State convert \$1,400,000 of the United States bonds received in the Pearce Compromise and 100,000,000 acres of the public land into a permanent improvement fund, and also levy an ad valorem tax of 15 cents per \$100 of valuation. The State, urged Pease, could use its credit to borrow \$13,000,000 with which to build 800 miles of railway lines. The roads would increase land values, pointed out Pease, until this fifteen-cent tax would not be burdensome. He proposed a state convention to amend the constitution to this effect.

The Democratic convention adopted the "state plan" over the bitter protests of Sam Houston. In November, 1855, Pease sent a message to the legislature urging adoption of the amendment. The House committee on internal improvements favored the bill, but a majority of the solons did not.

Introduced in opposition to Pease's plan was the "iron policy." By this plan 75,000,000 acres of the public domain were to be

sold and the proceeds invested in railroad iron which would be loaned to main trunk lines. The railroads would pay six per cent interest for use of the rails. Proponents of this scheme estimated that a sum of \$200,000,000 could eventually be raised and 4,000 miles of railroad iron provided for builders.

Neither plan was adopted. It is interesting to observe how time has proved the folly of both plans. Pease proposed to appropriate 100,000,000 acres of the public domain, while the advocates of the "iron policy" would have set aside 75,000,000 acres.

It is also interesting to point out that had Pease's proposal been enacted into an amendment, there would have been no permanent school fund nor state lands today. A grant of 100,000,000 acres would have exhausted the public domain.

Other acts for the encouragement of a transcontinental railway were passed by the Texas legislature between 1848 and 1855. On February 9, 1850, the Texas legislature authorized the government of the United States to build a road from the Gulf Coast or the Mississippi River to the Pacific, offering alternate sections along a twenty-mile zone if the proposition were accepted before March 4, 1851.

Then a railway corporation, the Texas Western, filed a claim for the "Mississippi and Pacific Reserve" which had been set aside by the legislative act of December 31, 1853. The company then sold its rights to the Atlantic and Pacific, of New York, through agents Robert J. Walker and T. Butler King, for a cash payment of \$600,000. The act setting aside the reserve and right of way had provided that \$300,000 must be deposited with the State of Texas as a guarantee that fifty miles of track would be laid within eighteen months. The Atlantic and Pacific offered stock in the Sussex Iron Company of New York and the Mechanics Bank as security, which the State refused.

The Atlantic and Pacific dissolved, and the Vicksburg and El Paso Railroad Company was organized. It also failed to meet the terms of the act. The legislature removed the forfeit feature, and the Vicksburg and El Paso was reorganized on August 16, 1856, as the Southern Pacific.

Work was begun in 1856 on a branch from Marshall to Caddo

Lake, and by February 10, 1858, twenty miles of track had been laid.

There is evidence that the Southern Pacific zealously intended to push its tracks westward and was delighted with its "state contract." President George Yerger reported in April, 1857, that there would be millions of dollars to distribute from the 8,000,000 acres of public lands, as the estimated cost of the line was \$20,000,000 and the land was valued at \$40,000,000.

He was optimistic, of course, even erroneous. The line would cost a lot more, and the land would bring a lot less.

Only the Southern Pacific constructed any track after the outbreak of the War between the States, and that amount was trivial. However, the general destruction of railway lines which took place in the South did not occur in Texas. As there was no marching back and forth of attacking and counter-attacking armies, little destruction was necessary because of military strategy. Only two of the eleven railroads functioning were destroyed. Two others were abandoned because of accompanying financial hardships but not because of marauding troops.

The Eastern Texas Railroad and the San Antonio and Mexican Gulf Railroad were destroyed, but not by Federals. The iron of the Eastern Texas was torn up by Confederate military authorities and employed in building a fort at Sabine Pass. The San Antonio and Mexican Gulf was pillaged by Confederate troops under General Magruder, but was rebuilt by the Federals in 1865-66.

In 1869, light cars were pulled on this line by mule power. The line was sold in 1870 to satisfy a claim of \$45,000.

By 1870 there were only 711 miles of track in operation. Grants of land totaled over 7,000,000 acres, and \$2,576,000 had been loaned to builders out of the permanent school fund.

None of the railroad companies were in a solvent condition. The warning of Governor Pease in 1853 that "the active capital in the hands of our citizens is insufficient to insure railroad construction" had been borne out. "It cannot be disguised," Pease had continued, "that the population and business of the state are not such at this time as to promise the return of an

immediate profit on the amount that may be invested in such enterprises.”

But the possibility of long-range profits still attracted Eastern capitalists, who could perhaps never accept the fact that the bounty lands offered had an immediate value of only a few cents per acre. As the weak fell by the wayside, the strong grew stronger, gobbling up subsidiary lines, until by late in the 1870's there were two main lines pushing westward across the state.

The Southern Pacific was organized first, a corporation entirely different from the one which had acquired rights to the “Mississippi and Pacific Reserve.” It accomplished a sizable growth as C. P. Huntington, T. W. Pierce, and others interested in a Southern transcontinental line merged four Texas railroads with their main line and began construction of new tracks in 1874. On March 1, 1877, the road from Harrisburg to San Antonio was open. By 1880 the Southern Pacific had built eastward from the Pacific Coast to El Paso and work was underway to close the gap of 525 miles lying between San Antonio and El Paso.

The Texas and Pacific Railway had been formed by the consolidation of the Memphis, El Paso and Pacific Railway, the old Southern Pacific Railway which had secured rights to the “Mississippi and Pacific Reserve,” and the Southern Transcontinental Railway. Authorization to these companies to sell their interests and consolidate with the Texas and Pacific Railroad Company was granted by the legislature on March 3, 1871. At the same time \$6,000,000 in bonds were granted to the Southern Pacific and Southern Transcontinental Companies to “secure the speedy construction” of a railroad across the state. This act was passed over the veto of Governor Davis, but lands were later substituted for the bonds.

In March, 1872, the name of the company was changed to the Texas and Pacific Railway Company. The road was to extend from the eastern border of Texas to the Pacific Ocean. Congress offered the promoters twenty sections of land for every mile built in California and forty sections for every mile of track laid across Arizona and New Mexico.

Under Colonel Thomas A. Scott of the Pennsylvania Railway, the new line launched construction in earnest. In 1873 the main line was opened from Longview to Dallas, a distance of 124 miles, and a celebration was staged in that city as the first locomotive steamed into what is now the "Deep Ellum" section. A feature of the ceremony was an address by John Bryan, who had arrived in Dallas on horseback only thirty years before. The Jefferson branch from Marshall to Texarkana, a distance of sixty-nine miles, was opened in 1874, and two years later the main line reached Fort Worth.

There it bogged down. It was necessary to refinance the project, and thus Jay Gould came to Texas. In addition to the grants of land from the State and the Federal government, Gould wangled donations from towns and cities along the proposed route. By no means was this original with the New York financier, but he was more demanding than most, and more stubborn to compromise.

Still preserved is his bellicose threat to the town of Jefferson, which refused to meet his price. Registering at a hotel there, Gould signed his name in his usual fashion, with a line drawing of a jaybird, and scrawled underneath: "If the people of Jefferson don't pay for having my railroad pass through their town, it will be the end of Jefferson."

The town of Jefferson, the hub of Texas commerce — it is estimated that prior to the War between the States one-fourth of the entire trade of the state passed through this city — took up Gould's challenge. Jefferson citizens built a narrow-gauge railroad west through Sulphur Springs to Greenville, and later to McKinney. They built a sawmill, an iron foundry, an oil refinery, and a wagon factory. But it was a losing battle. From a claimed population of twelve thousand in 1870 the town declined to two thousand within a decade and continued going downward.

The race between the Texas and Pacific and the Southern Pacific had been going on for ten years, with the latter almost certain to win. But Gould was no man to take such a costly licking. On November 26, 1881, he dropped into a New York

hotel to pay a call upon Collis P. Huntington, chief financier of the S-P.

Both companies had wanted to follow the route of the old San Antonio-San Diego stage line west of El Paso, and each had been offered grants of land by Congress for track laid in New Mexico and Arizona.

The Texas and Pacific was building westward, starting from Marshall. The Southern Pacific was strewing track through the desert at a furious pace, building from San Francisco.

For a time the race was even. El Paso was almost half-way, and it seemed that the Texas and Pacific would reach there with its Texas track about the same time the Southern Pacific came in from out of the New Mexico desert.

But Huntington got control of the Galveston, Harrisburg and San Antonio line, noted before, and when the Southern Pacific reached El Paso there was only a gap of 525 miles between the S-P terminals and a complete victory over Jay Gould.

Gould did not give up easily, though it was obvious he was beaten. Huntington was building eastward from El Paso and westward from San Antonio at a rapid rate while Gould's tracks had just reached Big Spring. The resourceful Jay brought suit in the courts of Texas, New Mexico, and Arizona claiming that the Southern Pacific companies had constructed their lines along the right of way granted by Congress to the Texas and Pacific Company and that these Southern Pacific roads were therefore the property of the Texas and Pacific Railway Company.

It was the stall of a desperate man, of course. But it was wiser for Huntington to compromise than to fight through to the death. The two empire builders met in New York and made peace. The agreement between the two financiers resulted in the pact between the Texas and Pacific and the Southern Pacific which still is in effect.

The Texas and Pacific released all claims to the lines laid by the Southern Pacific in New Mexico and Arizona and conveyed to the Southern Pacific all franchises west of El Paso and all lands in California and the two territories mentioned. In return, Gould secured a "right to a perpetual joint use" of the tracks of the Southern Pacific from Sierra Blanca westward

in return for "payment therefor six per cent per annum, semi-annually, upon \$10,000 per mile and one-half of the cost of maintenance, renewals and taxes." The railroads belonging to the two companies west of El Paso were to be operated as "one continuous line" and gross earnings divided in proportion to the distances hauled by each.

The directors of the Southern Pacific ratified that agreement on January 27, 1882. Gould built his line westward to Sierra Blanca, where a union was effected on January 1, 1883.

Huntington continued the construction of the "Sunset Road" from El Paso to San Antonio. The eastward and westward lines met 247 miles east of the former city on January 12, 1883. A silver spike was driven into the ground by Huntington himself. The first passenger train from San Francisco reached San Antonio on February 2 with the initial freight shipment arriving four days later.²

²The picturesque high bridge across the Pecos Canyon was not constructed until 1891. Before its completion trains crossed the canyon by means of two tunnels, one 1,502 feet and the other 1,425 feet in length, and a short low-water bridge.

At the time of its construction the Pecos High Bridge, 321 feet above the river and 2,180 feet long, was the highest and longest railroad bridge in the world. It was built of wrought iron.

The original structure carried the Southern Pacific's traffic until the outbreak of World War II, when a second bridge was completed, built of medium carbon steel. The old span will be destroyed during 1949.

It is doubtful if the new bridge will ever have as much colorful history connected with it as did the old structure. A young Del Rio woman, Miss Patty Moorhead, rode her horse across the old bridge about the turn of the century. Jimmy Doolittle flew an airplane underneath its span in March, 1921. Only one suicide is recorded from its high vantage: a young woman boarded a passenger train in June, 1917, and leaped into the river below when the train stopped and several passengers walked out on the bridge to gaze down at the majestic canyon.

Also associated with the old bridge is a seldom-told anecdote about Judge Roy Bean. Ten workmen were injured in a fall during its construction, seven of them dying before Bean could arrive from his judicial headquarters at near-by Langtry to hold an inquest.

The "Law West of the Pecos" pronounced them as having died from the effects of their fall. Then he turned to the three victims of the accident who were still alive and pronounced the same verdict over them.

"These men aren't dead, Judge," protested one of the onlookers.

"They look like they're gonna die to me," Bean declared, "and I ain't about to ride up here just to hold another inquest."

Other leading railroads growing out of mergers were the Santa Fé; the Rock Island; the Missouri, Kansas and Texas; the San Antonio and Aransas Pass; and the Colorado and Southern systems.

In his message in 1874 Richard Coke stated: "The policy of Texas has been, since 1850, to encourage the construction of railroads by granting land subsidies. The wisdom of the policy has been indicated by the results." The land grant policy for railroad construction was written into the law after the adoption of the Constitution of 1876. During the next few years forty-two new railroads were chartered.

By 1882 the State had made provision for granting about four times as much vacant land as it had. Donation certificates were outstanding for some eight million acres more land than was left. Thus the law offering aid for railroad companies was repealed on April 22, 1882.

The State issued certificates for a total of 77,080,720 acres of subsidy lands to railroads, almost half of the public domain. Sixty-seven companies were chartered prior to 1882, but only nineteen constructed lines and only twelve of them received grants of land. A total of 38,800,000 acres was patented by these companies, but title to only 32,400,000 acres was actually completed.

At that, it was a sizable chunk. The territory granted railroads was bigger than the state of Indiana.

The railroad surveyors were required under later laws to survey an alternate section for the State, and it was felt that this service would partially recompense the land funds for the grant. But it was necessary to resurvey most of the sections at an expenditure of \$200,000.

* * *

THE DISPOSAL of these lands is, as far as we are concerned, a more important story. Under the conditions of the grants the corporations were required to dispose of the land within

less than twelve years. The purpose of the State was to encourage building of railroad lines, not to permit the establishment of a railroad empire. These lands were supposed to be turned into money and the revenues spent upon building additional railroads.

That was not easy to do. That was why it was necessary for Eastern financiers to invade the field. The railroads averaged only approximately eighteen cents per acre from lands sold prior to the War between the States, and even at that the demand was so small that a company simply could not keep going from its land subsidies.

Thus it was necessary for the moguls to adopt a "rob Peter to pay Paul" policy. The capital advanced to span the western part of Texas with the ribbons of steel was in the nature of a loan which was, in turn, secured by the subsidy lands. Before the expiration of the time limit imposed for the sale or transfer of the lands, the sections were, on paper at least, the property of another corporation.

For instance, the lands allotted to the Texas and Pacific Railway Company had been transferred by the deadline to the Texas and Pacific Land Company. Some three million acres of the public domain had been "sold" by the Illinois and Great Northern Railway to the New York and Texas Land Company.

There were abuses, of course. It became necessary for the State to adopt further legislation to make sure the allotted land was sold and not withheld in a dummy corporation for further speculation. But it is obvious that the financing of a railroad must be several years ahead of that road's construction. It was the speculation in sections lying along a completed track which enabled the builders to go ahead with their construction. The land sold in the vicinity of Big Spring paid for the completion of the Texas and Pacific track from Toyah to Sierra Blanca, and so on.

These 32,000,000 acres of Texas land, surveyed neatly into sections (if not too accurately), were sold in part to ranchmen, but mostly to small landholders. The "homestead era" in Texas came after the railroads, and closely in their wake. Only some 4,847,136 acres of the public domain were allotted to home-

stead petitioners by the State itself. Between the first ingress of the American into West Texas and the repeal of the state land laws in 1882 the domain was handed out at a rapid pace, and the railroads got eight sections to the homesteader's one. One-half of it, of course, was reserved for the public school fund.

The land companies formed by the various railroads repeated the experiments of two previous Texas eras, flooding the United States with their pamphlets depicting Texas as a land of "milk and honey" and offering quarter-section, half-section, and section "farms" with small down payments and comparatively liberal terms.

The farmer or homesteader who had been turned back by the physical barrier of the West was encouraged to push onward.

The days of grandiose schemes of colonization were not over by any means, but in this period such ventures played a relatively unimportant part. As in the years from 1835-1840, the center of the stage was held by anonymous individuals. From 1880-1900 some five million acres of West Texas land were sold by the Texas and Pacific Land Company alone. It was sold in small plots of 160 acres, in sections, and in town lots. Much of it was purchased by cattle barons, but there is no way of arriving at the exact quantity.

The beginnings of Texas towns showed that a sizable amount of this subsidy domain was bought by settlers timidly venturing into the new country. The Texas and Pacific Railway stretched out to Colorado in 1881, to Big Spring shortly afterward, and then pushed on to effect its historic junction with the Southern Pacific. Towns sprang up in its wake.

Of the colonization ventures, those of Paris Cox and L. H. Carhart were the most successful. Cox, leader of a party of Quakers, purchased eighty-two sections of land in Lubbock and Crosby Counties in 1879. The Quakers were successfully established there two years later.

Carhart, an ardent Methodist, visualized a Christian colony while speaking from the pulpit of his church at Sherman.³

³It was at Sherman, in 1857, that inhabitants of the town tore down their courthouse to find out whether or not an old gray duck had her nest under

The scheme was born when Carhart financed the construction of a new church by buying and selling land scrip. He launched his colony at the junction of Carroll Creek and Salt Fork in 1878 in partnership with his brother-in-law, Alfred Sully. Nineteen patents were secured the first year, and Clarendon, the town so cordially disliked by the Tascosa cowboys, was founded a year later. It was named in honor of Carhart's wife.

The enterprising preacher also profited as a cattleman and business man, managing the Clarendon Land Investment and Cattle Agency.

Many of the homestead grants, to some three million acres in this period of settlement, were forfeited. The records of the General Land Office show many an example of forfeiture which is amusing despite its grimness.

There was the Easterner who came to Austin to get field notes and directions for finding his homestead grant. About a month later he returned.

"Did you locate your land all right?" asked the land office clerk.

"Yes," sighed the Easterner, "and you can have it back. I never could get over it. All I could do was to lean up against it."

The explanation of a German homesteader who likewise forfeited his headright has become a part of Texas folklore. "De vedder out here," he said, "I do not like at all. De rain he was all vind and de vind he vas all sand."

Wagons limping back from West Texas in 1886 and 1887 told their pathetic story of the drouth-plagued region. Some of them painted signs on their vehicles explaining their fate, such as "In God we trusted; went West and got busted."

Another stated: "Last fall came from Racking Sack, got sorry and now go racking back."

One forfeiture was reported to the General Land Office by

the building. The temporary lack of a courthouse proved no problem to the sheriff. The following morning his duty required him to post a legal notice on the courthouse door. He dug the door out of the debris, propped it up, and posted the notice. It was held to be a legal summons as it was not clearly stipulated by the law that the courthouse door had to be affixed to the courthouse.

a neighbor. The headright holder had just disappeared, leaving behind on his dugout door the following notice: "250 miles to nearest post office; 100 miles to wood; 20 miles to water; 6 inches to hell! God bless our home! Gone to live with wife's folks!"

The drouth raged through 1886 and 1887. The Houston and Texas Central Railroad ran an extra car daily with two large water tanks from Albany, and water was sold by the bucket or barrel. So numerous became the forfeitures of homestead certificates that special land laws were enacted limiting the restrictions upon settlers. The railroads were forced to offer the same leniency.

Finally, in 1887, it rained. It was, as Texans say, a "public rain." The homesteaders came doggedly back. They were a tough breed, as the cattlemen will testify.

Stanton was founded by monks who established a small Roman Catholic colony of German immigrants. It was called Mariensfield until the railroad pushed up, and beyond. Quanah was established, and that municipality promptly invoked an unprecedented statute to determine a voter's place of official residence. A man was eligible to vote, ruled the aldermen, where he had had his laundry done for six consecutive weeks. Ochiltree was established close to the Oklahoma boundary, but was to enjoy only a brief existence. In 1919 the citizens of that town hitched tractors to their residences and places of business and moved the whole "shebang" a few miles to found the new town of Perryton. Holliday was founded where the first flock of Karakul sheep were turned loose on the Texas ranges.⁴

A contributing factor to this advancing settlement was a persistent belief that the country would "grow more seasonable." "This misconception," to quote Webb, "grew out of two facts: the first is that men hope that rainfall will increase, and this

⁴These sheep were brought to Texas through the intervention of Theodore Roosevelt, who requested the aid of Czar Nicholas of Russia. Cossacks brought a consignment of the rare animals across the Bokhara frontier to St. Petersburg. The Bokharian natives considered the sheep sacred, and only the Czar's intervention enabled the Texans to secure a small herd. The pelts of the newly born Karakuls are commonly called Persian lamb and are valued as high as \$2,500.

hope is father to the thought that it *has* increased; the second is that we have precipitation cycles which last over a number of years."

There were all sorts of theories advanced as to how the rainfall in West Texas would increase once the area had been settled. The plowing up of land, it was argued, would hold the moisture, increase evaporation, and make precipitation possible. Growing crops would have the same effect. And there was the notion that the smoke ascending from the settlers' cabins would form clouds, and rain clouds at that!

The railroads, knowingly or otherwise, assisted in this optimistic deception. Agents for the land companies advanced the theory that rain would be produced by electricity from the telegraph wires and by electric currents generated from the rails.

One idea still seriously considered is that tree planting will produce additional rainfall, though no venture of the United States government has been inspired by such a motive.

And then, of course, there is the most stubbornly advanced of all arguments, that the explosion of guns and powder discharges will produce rainfall.

A civil engineer, Edward Powers, according to Webb, proposed this latter theory as early as 1871 and inspired a petition before Congress for appropriations. In 1880 a patent was issued to General Daniel Ruggles for making rain by explosions in the clouds. Appropriations by Congress were actually made — some \$19,000 — and rain-making experiments were staged in Texas under the supervision of Major R. G. Dyrenforth. The mock battles were staged at San Antonio and at Midland in the summer of 1891. A little rain fell in both cases, but the experiments were considered failures. The officer who conducted them acquired the name, as far as Texans were concerned, of Major "Dryhenceforth."

Other experiments were conducted by C. W. Post, the cereal king, and by officials of the Texas and Pacific Railway who decided to stage a mock battle at Thurber in 1911 in the hope of ending a long and serious drouth.

Recently, of course, inhabitants of the arid regions have been

agog over the possibility of making rain by means of dropping dry ice among the clouds.

But there is much more to say about Post and his efforts to cause rain.

The Cereal King was the last man to attempt the establishment of a Utopian colony in Texas.

In March, 1906, he purchased 225,000 acres of land in north-west Texas for \$750,000 and dispatched a caravan of workmen and supplies into the plains. It was quite a procession. Supplies were shipped by rail to Big Spring and from there hauled on in twenty-four big wagons, painted red and green, which were drawn by seventy-two giant mules. Post arrived in 1908 to personally supervise the buildings.

Fifty houses had been built in the "capital" of his colony, which was named after himself, by July, 1908. Post ordered all business houses to be two stories high, 160 feet square, with eight stores to be located on the first floor of each. After the construction of a spur from the Santa Fé Railroad in 1910, erection of the model farmhouses went on at a faster pace.

Post divided his territory into 160-acre homesteads and made ready for the expected rush of colonists. A house was built on each plot of ground — neat bungalows on the California pattern, with a bathroom and a kitchen sink in each. Elevated cypress tanks provided running water for each farmhouse. Three-acre orchards were fenced off and all kinds of fruit trees planted.

By 1913 the homesteads were ready for sale. Post offered them to immigrants of proven good character at one per cent down, the balance due in fifteen years. For two years the project had been advertised extensively. The town of Post was nearly completed — the site had been landscaped, a bank opened, and a telephone company organized with lines strung out to the vacant houses. The cost of the municipal water works had been \$250,000. Post's payroll during these years of primary building had averaged \$9,000 per month.

It was a great and grandiose effort. The thoughtful colonist had spared his people all the hardships of pioneering. The farmhouses were ready, even to coal oil stoves. By all logic

every dugout in the Plains country should have been deserted by homeseekers swarming into Post's colony.

But they weren't. Hundreds of inquiries had been received, but in 1913 only three applicants showed up at the model colony. All were rejected because investigation into their past showed them to be habitual drinkers.

Undismayed, Post plunged into experiments to prove that the Llano Estacado could be made into a fairyland. Water, he was sure, was all that was needed. He was convinced that the use of high explosives would bring about rainfall. This was no new theory; other men had advocated such experiments, basing their beliefs on the increases in moisture when heavy cannonades are rocking a region in time of warfare.

Post spent \$50,000 on his rain-making experiments. He erected thirteen firing stations over his domain from which explosions set the plains to quivering.

Kites were built to carry two pounds of dynamite, each with five-minute fuses. The first attempt to produce rain — on June 8, 1911 — was a miserable failure. Post renewed the experiments with heavier charges of explosives. In September of the same year three thousand pounds of dynamite were fired off in fifteen hundred shots, and a good shower fell.

Of the twenty-one "rain battles" staged, the results of eighteen are available. Thirteen produced no rain, two were followed by sprinkles, and three efforts were rewarded with substantial downpours.

Hoping to find a commercial market for its products, the Du Pont powder company donated several loads of explosives to the experiments.

In 1914 Post believed that he had conquered the aridness of the Plains region. He raised the price of his homesteads to \$20 per acre and advertised his guarantee against drouths.

He died in May of that year, and none of his heirs were interested either in continuation of the model community or in further efforts to make rain.

The Cereal King's touch is still apparent in the town of Post, as many of the business houses he planned still stand. The cotton textile factory he designed is also still functioning.

Farmers haul their cotton to the gin, where the lint is sucked up by machinery. The cotton emerges at the other end in the finished form — cloth ready for the market.

Several such idealistic projects have been treated. It is the final ironic touch that the one successful communal colony in Texas was not founded as such. The town of Danevang, near El Campo, was established in 1894 by Danish immigrants, but it was not until 1904 that the settlement assumed its cooperative pattern.

A plague of leaf worms destroyed most of the crops that year, and the hard-hit farmers pooled their resources in a fight against the infestation. This worked so well that they extended the community plan to other phases of their business life. The Danevang Cooperative Society was founded in that year and now operates not only community stores but cotton gins, a fire insurance company, a telephone system, and a machine shop. The only private enterprises in the twenty-eight square miles of the colony are two grocery stores and a filling station.

And in the last twenty years the cooperative society has paid dividends of over \$200,000!

Perhaps there is a moral, perhaps not.



“There was a roaring like all Hell had broke loose, and then the derrick went sky-winding, and there she came spouting. . . . I ran out and let it fall all over me and I hope to tell you that’s the purtiest rain I ever got caught in.” – Anonymous

VII

THE OILMAN

THE CHALLENGE of the land was still there to stir the hearts and minds of men.

It was no longer an unclaimed land. It was a land mapped and crisscrossed by roads and dotted with towns.

But man found a new frontier, as man always will, and in the wake of the cowboy and the hoeman came another reckless, adventurous soul, with a coarse, profane word on his lips but with a friendly gleam in his eye.

He, too, knew danger and hardship and uncertainty. Like an earlier pilgrim, he fashioned his own tools as he went along.

Through mud and sand, across rivers and under them, through timber and plain, he strung his miles of heavy black pipe. In a courthouse yard, in a swamp, on the bald prairie, he drilled his wells. Order came with amazing swiftness out of the chaos such an energy created, for he was not a man who liked to be kept waiting.

Man at last — some men — found El Dorado.

IT is impossible to date man's first use of oil as a fuel to drive his engines. It would seem, without much documentary proof in support, that experiments with oil as motor fuel began almost simultaneously with the development of the steam engine and its revolutionary effects upon transportation.

Certainly daring Mississippi River steamboat captains were experimenting with "rock oil" fully fifty years before Colonel Edwin L. Drake drilled the first oil well in Titusville, Pennsylvania, giving birth to the petroleum industry. Almost as soon as man mastered the use of a steam-driven boat, and of a motor-propelled locomotive, he realized the limitations of wood as a fuel.

The first steam-powered ship to cross the Atlantic, the *Savannah*, was reduced to the status of a sailing ship because, if the vessel carried enough wood to gut its engines, then there was not enough space in the hold for a cargo. The same was almost true of steamboats navigating the inland waters.

The beginning of the petroleum industry in Texas was both small and vague. George W. Kendall, the founder of the New Orleans *Times-Picayune* and the *Texas Sheepman*, received a profit of some sort from a little-known oil investment before 1860. Just after the War between the States, Dick Dowling and a partner executed a drilling lease, which Houston newspapers described as a ridiculous venture. Dowling, the boy hero of Sabine Pass, died in a yellow fever epidemic that same autumn. Apparently his business deal died with him.

The first commercial use of oil in Texas can be established as early as 1867. In that year Amory Starr and Peytone F. Edwards were hunting in Nacogdoches County. Finding the oil-tainted waters known to the natives as "oil springs," they dug shallow holes at the edge of the branch and let the holes fill with oil during the night. In the morning they skimmed the oil off the surface and used it as harness oil.

Steamboat captains plying the Texas rivers probably used such natural resources as did their contemporaries on the Mississippi River. Oil-soaked logs were probably used as early as 1840 by skippers seeking to coax more speed out of their straining engines.

There was some commercial production of crude oil in Texas as early as 1887, when a small pipe line was laid near Nacogdoches. But the birthplace of the Texas industry may be placed at Corsicana, where the city employed a drilling crew in 1894 to augment the town's water supply with additional wells.

They didn't find water; they hit oil instead. They brought in petroleum at slightly over one thousand feet, and it seems that the Corsicanans were slightly upset over this unexpected development. There was no market for oil; the newly discovered well was only a nuisance.

But there were a few people in Corsicana who could guess at the potentiality of this new fuel. They formed a company, interested Eastern capital in their enterprise, and drilled for oil close to the municipal well.

Then on Christmas Day, 1898, fires were lighted under the stills in a refinery constructed at Corsicana, and the refining industry was born also. The refinery was built by J. S. Cullinan, a Pennsylvanian. Production of oil in the Corsicana area had increased to 65,000 barrels daily by 1897. Cullinan really gave the fledgling industry an impetus. He arrived in Texas and offered to purchase 150,000 barrels of crude oil at fifty cents a barrel.

At least two other refineries predate the Corsicana venture; plants were built at Sour Lake (one hundred barrel capacity) and at Neodesha (five hundred barrels). Neither was permanent, nor profitable.

Yet this traffic in oil around Corsicana was no real indication of what was to come. It took the Spindletop discovery at Beaumont in 1901 to launch the oil industry in all of its hell-for-leather glory.

The citizens of that Texas city were "in the dumps" that January. The mayor and one of the aldermen had just returned

from Chicago with a trunkload of unsold improvement bonds. Beaumont's city plan was a financial failure.

Then, on January 10, a deafening roar resounded along the Gulf Coast. From a near-by hilltop tons of heavy pipe were hurled skyward and, preceded by a shower of water, rocks, and sand, an incredible stream of oil shot two hundred feet into the air and deluged the countryside with black, greasy crude oil.

Spindletop had blown in.

By night the news had been flashed around the world. A Texas gusher was flowing at the rate of 75,000 to 100,000 barrels daily. Furthermore, the discovery was in a tidewater town where cheap and ready transportation was available.

News like that spread fast. In Pennsylvania, in the Midwest, in New York, all kinds of men heard the story. And again it was the story of "Gone to Texas."

A new breed came to challenge this new frontier.

Beaumont was the first "tough town" — and no Kansas boom city at the end of the long cattle trail could claim more. Ham and eggs sold for a dollar; rooms were impossible to get, and cots were rented for \$5.00 a night. The chief of police warned people to walk in the middle of the street after nightfall and to "tote guns."

"And tote 'em in your hands," he added, "not on your hips, so everybody can see you're loaded."

Among the most colorful of the soldiers of fortune flocking into Beaumont was James Roche, an Englishman. He obtained options on oil production, and negotiated a sixty-day option on a forty-acre refinery site — all with nothing down. Then he traded these papers to the Hogg-Swayne Syndicate, which soon reorganized into the Producers Oil Company. This was the beginning of The Texas Company.

A new type of legend came out of Texas. There had been Strap Buckner, he of the fists which could fell a bull; and Davey Crockett, laying Mexicans in piles around him before he went down; and Ben Thompson, who cut off a Yankee captain's ear and routed a convention of cattlemen; and Bob Slaughter, riding over three hundred miles to save his father's ranch. Now spread tales of native wealth like the yarns which

the imaginative Indians had spun for the greedy interest of the conquistadors, except that these were true.

In Beaumont lived Frank Yount, a rice thresher. As Spindletop began to wane, Yount decided to go into the drilling game. The Sour Lake basin was supposedly dead; five hundred derricks on the hilltop were as still as granite markers in a country graveyard.

Then on November 14, 1925, Spindletop roared in again. In 158 days the Rio Bravo Oil Company produced more than 2,000,000 barrels of oil from an area of less than two acres.

And ten years later rice thresher Frank Yount sold his oil interests for the magnificent sum of \$41,600,000.

There was Ranger — wherever men talk of oil, they spin yarns about Ranger. The war was on in Europe, a world war. But when the McCleskey well gushed in on October 21, 1917, the village of Ranger — population of 800 — was so engulfed with newcomers that war nor anything else mattered . . . except oil.

Very shortly the West Texas village had mushroomed into a town of 30,000 people. Within two years' time a total of \$200,000,000 worth of petroleum was produced within a 40-mile radius. The peak production was 22,380,000 barrels in 1919.

Nothing was ever like this. Ranger merchants lost \$750,000 in one year on worthless checks. Millionaires were made overnight. One imaginative newly rich had a horror of being buried alive. As soon as he had leased his land for \$200,000, he built a cemetery vault equipped with a telephone so that, if he regained consciousness after burial, he could telephone for aid.

There were no water facilities to provide for such a rapid immigration. Drouth struck. Automobile owners drained their cars at night, sometimes locked the fluid in a safe, then replaced it the next morning. Thirsty men would otherwise drain the radiator and drink the contents.

To Ranger came many well-known men — Tex Rickard, Jess Willard, Rex Beach, Lew Wentz, Jake Hamon, and T. B. Slick. Everywhere men became millionaires, then paupers, then legends. Along rutted, truck-torn roads drove such oil-hunters as A. T. Jergens, the personification of an adventurous Texas

breed, who went up and down and up again and who still looks upon every mesquite-covered hill as "wildcat country." He has changed from a "Model T" to a Cadillac, but in no other respect.

The first production in the Wichita Falls area had been in 1911, when the Clayco No. 1 Putnam roared in near Electra; but it was not until 1918 that the restless surge of humanity descended in great numbers. Hotels were inadequate, and rooming houses forced their guests to sleep in relays. Sidewalks became stock exchanges. Fronts of buildings were knocked out and spaces roped off as hundreds of new oil companies were organized on the spur of the moment.

Oil had been found on the range of W. T. Waggoner as early as 1902, but the cattle baron would "have no part of it."

"Damn the oil!" he roared. "I need water for my cattle."

But Waggoner couldn't hold them back. He had fought off homesteaders — to a draw at least — but these invaders came on as hard and fast as any of his cowhands had ever struck.

A woman's "instinct" is generally credited with launching that field.

She was the wife of L. S. Fowler, who owned a modest farm near Burkburnett. Drillers approached Fowler and negotiated a lease. The oilmen wanted to drill on another spot, but Mrs. Fowler convinced them that she knew where the oil was.

In July, 1918, the well roared in. Within two weeks there were sixty companies drilling on small leases; in three months' time two hundred tests were drilling in the townsite itself, with not a single dry hole reported. Walter Cline was said to have profited \$3,500,000 in a few months. The Fowler holdings netted the farmer's family \$1,500,000, qualifying Mrs. Fowler as at least one woman who was justified in telling her husband, "I told you so."

Oil seemed to be everywhere. The heavy trucks carried their drill stem across the Cap Rock. The Baker No. 1 blew in on November 16, 1925, and the following day ambitious promoters were cutting out the streets of a new town. Surveyors hurried ahead of the graders. The following day the sale of town lots began. The first purchaser pledged himself to start construction

of a business building on the lot within one hour's time. Thirty minutes later he had carpenters working on a filling station and a cafe.

The population of McCamey reached ten thousand in a very short time. Again the most precious commodity was water, worth more than oil.

The need for law enforcement officers was obvious in McCamey before the town promoters got around to building a jail. One Texas Ranger represented the law and chained his prisoners to a stout post. The story is told that several husky roughnecks who were once chained pulled up the post and dragged it after them to the nearest saloon.

The oil rush spread out from McCamey like a hungry prairie fire. Booming up came Monahans, which for years was a supply center for near-by ranches until the Winkler field was brought in. The region around this prairie town has another claim for distinction: it is claimed that fleas from the Monahans desert country are vastly more robust and more easily trained than insects from other regions.

Oil was discovered near Big Spring in 1928. One of the overnight millionaires, a ranchman, built a hotel named after himself as a monument to his memory. Another was the widow of a cattle king who shortly afterward broke into the news because of her dealings with some astute confidence men who persuaded her that they knew the location of buried treasure. They "got to her" for a considerable amount.

At Talco, which boomed from a population of 140 in 1935 to more than 5,000 a year later, the cashier of the little bank was so rushed that he handled large deposits by tying a string around each roll of bills, marking it with the name of the depositor, and tossing it into the corner to be credited later.

"Black Lightning" struck Luling in 1922 when Edgar B. Davis, a former New Englander, hit pay dirt. Davis amassed a fortune of over \$12,000,000 and became one of the most generous benefactors in history. He divided much of his fortune among his employees and established the Luling Foundation Farm with a \$1,000,000 endowment.

But it was not over yet; it had just begun. In East Texas,

not far from where the frontier was opened, C. M. "Dad" Joiner drilled in 1930 on the little sandy farm of Daisy Bradford.

His was a pauper's venture and also, in the eyes of more experienced oilmen, a foolish one. Two dry holes failed to discourage Joiner. He traded shares in his lease for used pipe casing and was his own driller. He persuaded a banker from near-by Overton to lend him some money. The banker became more enthusiastic and finally worked as a roughneck on the night shift while his wife prepared meals for Joiner's crew, who didn't own an automobile between them.

The hole was more than 3,400 feet deep when oil shot over the derrick top on October 3, 1930. The Daisy Bradford No. 3 had tapped the biggest pool of oil in the world.

This was a frontier where the sky was the limit. One day in 1930 Colonel E. A. Humphries, the "king of the wildcatters," agreed to deliver 33,333,333 $\frac{1}{3}$ barrels of oil for a price of \$50,000,000. This princely deal was in the headlines during the Teapot Dome scandal, for the men with whom Humphries dealt were Harry F. Sinclair, Robert W. Stewart, James E. O'Neil, and H. M. Blackmer. Sinclair was arrested along with Secretary of the Interior Albert M. Fall, and Colonel Stewart was ousted from the Standard Company of Indiana.

According to the statement of the Department of Justice, the men with whom Humphries had contracted had arranged for the Sinclair Company, the Standard Company of Indiana, the Prairie Oil and Gas Company, and the Midwest Refining Company to rebuy this production from a dummy Canadian corporation called Continental Trading Company, Ltd., for \$1.75 per barrel.

Vernon was something, and so was Tascosa in the days when that town's justice of the peace sentenced law violators to confinement in Clarendon. These oil field boom towns were rough with a capital "R." In every new field was "The Bucket of Blood," the dance hall where everything went. Broken beer bottles served as weapons instead of six-shooters. There was no courtliness about this breed of man; he did not entertain qualms about striking down his foe from behind.

McCamey was something, too, and Gladewater and Longview,

and Mirando City and Conroe. The magnitude of this thirty-year rush has never been fully appreciated. Its story has never been adequately told.

The oilman had gone everywhere in Texas by 1930, and in the same high, wide, and handsome way.

It was an ugly story to those who lived it, but they didn't think so; they loved it. Probably no hardier breed of man ever lived. They plunged into pools of swirling oil to strap saddles on leaking lines. They walked into icy water waist-deep bearing three-hundred-pound joints of pipe on their shoulders. They stood, hushed and awed, while wild wells blew skyward, blasting good buddies to smithereens. They dumped millions of dollars worth of fire preventives into burning craters. They grabbed meals where they could find them, in tin cans or not at all. They slept in their cars or on truck beds for days at a time. The man "on steady" always had a dollar for drifters pouring in from other fields — from a town that was something only a short while ago to a new town where board shacks were renting for \$100 per month and garbage was dumped into alleys and left to stink and rot.

It was a madness; a calm man could not have stood it. Yet all who came close to it were caught in its wave and dashed back and forth.

Then, of a sudden, the oilman was as tamed as his rugged cousin, the cattleman of the open range days. Many things tamed him; but, as in the instance of the cattle baron, it took a glutted market to actually "put the quietus on him."

The lid was partially clamped on this restless surge of humanity early in the 1930's when the price of crude oil dropped to five cents a barrel, when wide-open wells brought their owners more headaches than dollars. The bottom was hit, as in the case of cattlemen who found themselves floundering after the collapse of the 1880's.

A new breed of "rustler" brought on governmental regulation. Oil thieves had begun to tap pipe lines in East Texas, diverting the flow into their own "jackwater" refineries. The field had been overdrilled — sixteen hundred producing wells in an area thirty-two miles long and about thirty miles wide. In Kilgore

three different wells had been drilled on a single fifty-foot lot.

All was chaos as crime ran rampant and honest oilmen were powerless to act. Governor Ross Sterling, an oilman himself, declared martial law in August, 1931, and all oil operations were suspended for three weeks while the State government investigated conditions. The control of the oil flow was given to the Texas Railroad Commission, which instituted a system of proration. All wells were choked to a daily flow of 225 barrels.

This offered only temporary relief. Then the thieves were busy again, tapping more pipe lines, running "hot oil" that produced over the quota.

The same situation existed over the nation when Franklin D. Roosevelt became president. One of his first acts was to call a conference of governors from all oil-producing states. To these men he suggested governmental control of oil production.

This step Texas refused to take, and is still opposing. The answer of T. H. McGregor, appointed by "Ma" Ferguson to represent Texas, was quick and emphatic.

"Until Hell freezes over," he said, "Texas will resist any effort on the part of the United States to interfere with its oil business."

Roosevelt thought he could handle this dissension without much difficulty. Unless Texans agreed to Federal control of pipe lines and railroads under interstate commerce laws, the Federal government would bar Texas-produced oil from transportation in interstate commerce.

Texas' answer was to notify East Texas producers to open up a certain number of wells, let them flow at full tilt for six hours, and report the results. In just six hours a total of six hundred thousand barrels of crude oil was produced, and the price over the nation dropped. Roosevelt yielded—for the time being.

Then the N.R.A. was established, and Federal authorities sought to regulate oil in Texas under the provisions of this act. Lawyers representing the Federal government popped into Texas courts with their charges and their demands for arrests.

Considerable space has been devoted to how cattlemen on an earlier frontier interpreted laws to suit themselves. The

twentieth-century frontiersman, the oilman, was equally rough and ready. Illegal operators were fined \$1,000, but the excess production was permitted to enter interstate commerce. The fines came to be accepted as part of the overhead.

The Federal government next promulgated a code for the petroleum industry, which would have shackled the Texas freebooters. When the approved list of regulations reached the office of General Johnson, however, the code had been neatly and mysteriously amputated. Then, before the Texas barons could be brought under control of the N.R.A., that bureau was declared unconstitutional by the Supreme Court.

Roosevelt wanted a special law giving the United States government the right to handle oilmen, but the Texans had another trick up their sleeves. Such a bill had to be introduced in Congress. As speaker of the House there was Sam Rayburn, from down Bonham way, and presiding over the Senate was heavy-browed John Nance Garner, with white-haired Tom Connally rising up to let the world know that he would filibuster such legislation until Kingdom Come.

The efforts at Federal control were temporarily abandoned. But the State of Texas, now that it had asserted its independence, tightened its regulations.

But the wild, reckless spirit was already shackled. Time had done it, together with the inevitable demands of every community for order and a systematized industry. Figuratively speaking, the oilman put up barbed-wire fences and turned to Herefords. The days of an open range were over.

* * *

INTO THE unclaimed public domain, the open country, the oilman stormed. There was not much of it left. What remained was the property of two permanent school funds — one for the University of Texas and the Agricultural and Mechanical College of Texas, the other for the public free schools.

Some order had been effected in the disposition of this

domain — slightly over 29 per cent of the original 170,000,000 acres of land — by 1900. The cattlemen had been brought under control and the intricacies of a grazing lease solved to just about everyone's satisfaction.

These two appropriations of the public land stand as the wisest and fairest of any. Some 2,221,000 acres were allotted to the University of Texas and Texas A&M, while a total of 42,400,556 acres were transferred to the public school fund.

Either fund was larger in September, 1948, than the entire wealth of the State of Texas before the War between the States. Both exceed \$100,000,000. The result is obvious — Texans pay less taxes for the support of their public schools and state university than any other people in the Union.

As early as 1823 Stephen F. Austin proposed that Mexico establish a general system of education, and in 1832 Texans petitioned the state of Coahuila-Texas to donate land for the purpose of establishing primary schools.

Four *sitios* were granted in 1833 for a school at Nacogdoches, the first such appropriation. The constitution of the Republic of Texas made it a duty of Congress to provide a general system of education. In his first message to the Third Congress in 1838 Lamar stated:

Education is a subject in which every citizen, and especially every parent, feels a deep and lively concern. . . . It is admitted by all that a cultivated mind is the guardian genius of democracy, and while guided and controlled by virtue, the noblest attribute of man. It is the only dictator that free men acknowledge, and the only security that free men desire.

The first actual legislation by the Republic to aid schools was passed on January 26, 1839, providing for grants of three leagues to each county for establishment of public schools and fifty leagues to two colleges. A year later the amount for each county was increased to four leagues.

First assistance to private higher institutions was the grant of four leagues of land to DeKalb College in 1839. A year later Rutgersville College received a like amount. The policy of encouraging private institutions continued for several years

— including a grant to the proposed Hermann University, where courses were to be taught in both German and English.

The state constitution continued the policy of four-league appropriations and furthermore provided for setting aside one-tenth of the State's annual revenue from taxation as a permanent school fund.

A state school system was proposed by Elihu Pease in the gubernatorial campaign of 1853, when \$2,000,000 of the United States bonds received under the Pearce Compromise were set apart as a "special school fund." Two years later it was voted to lend money from this fund to the railroads. A total of \$1,476,000 had been loaned to six companies by the outbreak of the War between the States.

In 1860 Governor Sam Houston in his address to the legislature proposed further land subsidies for the public schools. He stated:

The nucleus of a complete system exists already; and we have in our public domain the means of strengthening it until its capacity will equal the demands made upon it as our population increases. No better use can be made of the proceeds of the sale of the alternate sections of land reserved to the state for any cause, than to apply the same to this fund.

However, prior to the War between the States, the public school system of Texas was a pauper system. The interest on the school fund was appropriated through the county court to teachers who claimed tuition of indigent children, and no money was paid the teachers unless a certificate was produced signed by two responsible paying patrons stating that the children reported were actually indigent.

The Constitution of 1869 reaffirmed the school endowment of all funds, lands, and other property set apart for support of the public schools and furthermore provided that "all sums of money that may come to this state from the sale of any portion of the public domain . . . shall . . . constitute a part of the school fund." This act was modified in 1873 to provide that "only one-half of the public domain of the State of Texas, or so much thereof as can be" belonged to the schools.

But even with all this legislation conveying millions of acres of land to the public school fund, precious few dollars in actual revenues had been derived. Prior to 1860 the school income from its domain was only around \$55,000. Some \$80,000 were realized during the War between the States, but between 1870 and 1874 the school income amounted to only \$6,903.02.

All of this revenue was derived from sales, of course; the legislature had provided no other way to turn the vacant lands into money. Governor Coke told the Fourteenth Legislature that he could "not see the practical wisdom of keeping the almost entire school fund of the state locked up and lying dormant in unproductive lands." The result was the legislation of April, 1874, providing for the sale of alternate sections comprising 23,100,000 acres of school land at not less than \$1.50 per acre, payable one-tenth cash and the remainder in nine equal installments at an interest rate of ten per cent.

Preference in purchase was supposed to be accorded actual settlers, who were limited to 160 acres each, but the usual speculator appeared to outwit the statute makers. Much of this domain offered for sale was valuable timber country. The unscrupulous dealer could acquire possession of land by making the first payment, strip off the timber, and then abandon the wasted country.

The Constitution of 1876 tightened somewhat the restrictions upon sales of school land, although the delegates still followed Coke's admonition that "the great landed endowment of the public schools has been hoarded long enough; its treasures should be unlocked to the enjoyment of the present generation, and to their relief from taxation." The Constitution set aside for the schools "all the alternate sections of land reserved by the state out of grants . . . to railroads . . . or of any nature whatever . . . and all sums of money from the sale . . . of the same shall constitute a perpetual school fund."

Though Governor Roberts recommended to the Sixteenth Legislature that the public school lands be disposed of more rapidly, the principal of the school fund mounted very slowly. The price of \$1.50 per acre was considerably higher than that charged by the expanding railroads, who were eager to sell

their subsidy lands in order to finance further construction. The State at the same time was busy approving homestead applications and scrip locations. This marked the beginning of the land boom discussed in a previous chapter, when over 46,000,000 acres of the domain were assigned in a brief period. The school revenues from 1875-1879 amounted to \$202,538.62, a considerable increase over any previous four-year period but still short of what the schools should have been realizing from such formidable holdings.

In 1879 was passed the "Fifty-cent Law," already discussed as one which cattlemen found to their liking — if they could like any law. Counties were organizing rapidly, each receiving four leagues of land for local support of schools. This constituted a sizable disposition of the domain within itself. In one four-year period 300 leagues, or 1,328,400 acres, were reserved for the benefit of free public schools of counties organized or yet to be organized.

Between all these demands, the land ran out. In 1882 the commissioner of the General Land Office informed the legislature that the land grants exceeded the available public domain by 7,814,695 acres. The natural result was the legislature's swift action in withdrawing all lands from sale until an audit and revision could be made.

Under the constitutional stipulation that one-half of the public domain belonged to the schools, the permanent school fund should have received custody of 29,767,790 acres. But there was an immediate shortage of nearly 6,000,000 acres. The special commission appointed to adjust the "bankrupt" land system reported the recovery of 1,440,701 acres from internal improvement agencies which had failed to meet the contracts and that also there were available over 4,000,000 acres in unsurveyed and unappropriated domain. (No more impressive testimonial of the size of the Texas public lands is available. So big was the total that an error in calculation of 4,444,195 acres passed unnoticed for years!)

Another 1,722,880 acres were available in lakes, bays, rivers, and submerged lands reserved to the State. However, the State was still caught short to the extent of over 2,000,000 acres.

The government did not possess the funds to make good that deficit at a price of \$1.00 an acre, or of any fraction thereof, for that matter. In part settlement the school fund received all unsurveyed and unappropriated public lands, including any scrap lands, and the rather insignificant cash settlement of \$17,180.

There was no longer any public domain of Texas. The story of a lot of land from here on is a record of the income accruing to the public school and state university permanent funds out of the administration of their allotted acres. The public school land continued to be sold, at a quickening pace for a while. Statutes of 1883 and 1887 provided for more careful reclassifications and imposed more restrictions upon purchasers. Nearly 12,000,000 acres were sold under the provisions of these two acts; however, 65 per cent of the buyers defaulted.

Though we have seen how Goodnight and his kind opposed the revised lease laws, income from rentals gradually mounted — over \$81,000 from 1880-1884 and six times as much in the next four-year period. By the turn of the century, the school fund realized about \$500,000 annually from grass rentals.

The "timber thefts," as noted previously, were stopped by a law of 1887 which set a minimum of \$5.00 an acre upon classified timberlands, and by an investigation in 1899 which resulted in the arrest of numerous illegal operators.

There were a few more chapters in the blazing rivalry between cattleman and homesteader as laws of 1901 and 1905 slightly altered the conditions of land sales. One important change was that a would-be buyer filed his application with the county clerk instead of with the commissioner of the General Land Office. By the terms of the statute the preference was given in a sale to the occupant of the land. But the cowman knew how to get around this.

At Big Spring he rode his crew into town and built a long chute from the street to the county clerk's office, which he guarded vigorously. On the day of the sale the nester had filed no petition, and so the land was sold to the first claimant, the cowman.

Such incidents occurred all over West Texas. The most

famous of the "land rush battles" was staged at Gail in 1904 when five sections of school land were put on the market.

The county authorities, after one look at the two "armies," took what seemed to them to be the only possible step. They compelled nesters and cowboys to deposit their guns in a barrel and then let them fight it out to see which side would reach the county clerk's window first. The farmers got into the courthouse first, and it was up to the waddies to toss 'em out.

In mock gallantry and high spirits, both sides prepared for the fracas. The cowboys wore blue, the hoemen red. The first rush found the farmers being forcibly ejected. However, they came storming back with reinforcements and tossed out the cowboys before the land sale could be completed.

To realize the proportions of this brawl, it is only necessary to note that 225 men participated in it.

Three sections of land were put up for sale at Gail three days later. This time the cowboys, having recruited from near-by counties, had the advantage in numbers—175 to 125. The hoemen were routed, and the three sections were added on to one of the sprawling neighboring "spreads."

In the first ten years of the twentieth century, the school fund realized nearly \$8,000,000 from these land sales. At the same time nearly \$4,000,000 were paid in by cattlemen conforming to revised lease laws.

However, the era of leased grass was also coming to an end. There was land available for lease in 1925, when the last revision of lease laws was made by the legislature, and there still is, at an annual rental of five cents per acre payable in advance for not more than five years. But the income dropped from around \$450,000 annually between 1905 and 1909 to insignificant amounts in recent years. The commissioner of the General Land Office reported only 12,084 acres under lease in 1932.

Then came the oilman, willing to pay, eager to pay. But first it had to be determined just what below-the-surface rights the State owned. All of a sudden, what was below the ground was worth more than what was above it.

ORIGIN OF TEXAS' MINERAL POLICY

THE ASSIGNATION of mineral rights to Texas land cannot fall into one orderly pattern. The State's mineral policy comes from several sources — from the Spanish and English systems, from practices popular in the United States, and from Texas experiments with the royalty system.

Under Spain and Mexico all minerals belonged to the sovereign, and the Republic of Texas acquired these rights to 27,000,000 acres at the Battle of San Jacinto. For four years the Republic operated its domain under the Spanish civil law system, and thus land grants in that period were made under the same conditions — all minerals were the property of the Republic. But in 1840, little realizing the confusion they were causing future generations, Texans adopted the English common law as the basis for interpreting property rights.

The first agitation over mineral properties arose over what we consider a mere commodity today — salt. To a pioneer, salt was often the difference between existence and starvation. Each family procured its own. The early history of Texas reports caravans trailing to and away from El Sal del Rey Lake in Hidalgo County, a salt lake whose disputed ownership has been one of the most important conflicts of our times. El Sal del Rey was situated on a grant of seventy-one leagues issued by the King of Spain to Juan José Balli. The Spanish and Mexican authorities accepted the salt deposit as a natural property and distributed it widely throughout Mexico by means of wagon trains.

Texas did not acquire title until 1862, when the privations of the War between the States were setting in, and the State was concerned about not only the preservation of its own people but also the assistance of other Confederate states. A joint resolution ordered the governor to take possession of the deposit.

A glance at history shows why Texas was laggard in placing

claims. None of this land was settled in 1840 when the Republic abandoned the Spanish civil law system for the English common law practice. The title to it was among those approved by the special commission of 1852, which was discussed in relation to Juan Cortinas, the border Robin Hood.

In 1866 the constitutional convention undertook to return the salt rights to the surface owners. The resolution read: "Resolved, That the state of Texas hereby releases to the owner of the soil all mines and mineral substances that may be on the same, subject to such uniform rights of taxation as the legislature may impose."

Evidently the purpose of the convention was merely to establish the ownership of one salt deposit. But the resolution was not so worded. As it was worded, it was the most expensive bit of legislation ever passed by any law-making body. It would be ultra-conservative to say that this ordinance cost the State of Texas a billion bucks. Probably, in time, the figure will be much higher.

This ordinance was brought forward in the constitutions of 1869 and 1876 practically without alteration. It has been disputed in courts by representatives of the school fund and other agencies and will probably continue to be a source of confusion and litigation. In 1912, in the case of *Cox versus Robison*, the Supreme Court of Texas ruled that the relinquishment provision was retroactive and not prospective. The effect of this decision was to release minerals not only in the land which the State had granted prior to the Constitution of 1876, but prior to 1895 because of a statute enacted in that year.

Another dispute over the ownership of a salt lick arose in 1877 to call attention to the inadequacy of the mineral laws. The town of San Elizario is one of the oldest in Texas, having been founded in 1682 when the Pueblo revolt drove the Spanish missionaries out of New Mexico.

Some ninety miles northeast of the town were salt lakes that, while not so productive as El Sal del Rey, did supply that precious commodity for settlers and some even for exportation.

One Charles H. Howard, realizing that the salt lakes were a part of the public domain, filed for a headright and then

located his claim there. For nearly two centuries the salt had been free to all who hauled it away, but Howard stopped this. The land was his, he claimed, and the salt was his. He set a price and stuck with it.

Immediately there was a tide of opposition. Settlers threatened to take salt without payment. Howard appealed to the sheriff, and two Mexicans were consequently arrested for trespassing and taking salt illegally.

A mob stormed the town, broke open the jail, and seized both Howard and the sheriff. Confronted with the prospect of being lynched, Howard put up a \$12,000 bond pledging to relinquish all claims to the salt and then left the country.

He didn't stay long. He reappeared in El Paso, his gun in hand, and killed Don Luis Cardis, an Italian politician who had instigated the mob demonstration. With several associates, Howard then returned to re-establish his claim over the salt lakes.

Major John B. Jones of the Frontier Battalion of the Texas Rangers had no choice but to offer protection to Howard when the salt entrepreneur demanded it. But not even the Rangers could hold back the indignant settlers. Jones, Howard, McBride, and others were attacked by vigilantes and, after a siege of several days, finally surrendered. In the battle, Howard, McBride, and one John Atkinson were killed.

The Rangers were given their horses and permitted to depart.

BELOW-THE-SURFACE RIGHTS

THE FIRST LAW providing for separate mineral rights was passed in 1889. According to this statute claims of 21 acres could be located at \$25 per acre, and lands containing coal, iron, oil, gas, et cetera, could be purchased in lots of 160 to 640 acres at \$20 per acre if located within 10 miles of a railroad, and at a price of \$10 per acre if farther from a rail line.

It is obvious at once that framers of this statute had no idea how much mineral wealth lay under the surface of Texas. Receipts from leases under this provision amounted to only \$50,905.77.

In 1905 the commissioner of the General Land Office was authorized to fix a minimum price of \$25 per acre on mineral land. Two years later came the first statutes providing for double classification of land and stipulating that land could be sold for agricultural and grazing purposes and the mineral rights specifically reserved.

Perhaps that was the most important single step in adjusting the land laws of Texas to meet the new emergency created by the discovery of oil.

Leases are still made that way, although regulations pertaining to leasing of school-owned lands have been revised again and again. The pattern was set and has been strengthened.

The University of Texas and its associated schools became rich in 1923 when two courageous oilmen brought in the Santa Rita. They had named their well for the Saint of the Impossible, and for a time it seemed they had named it correctly. Frank T. Pickrell and Haymon Kruppt had leases on some four hundred thousand acres of University land but had to sell off several blocks to finance their drilling. The well blew in from a depth of more than three thousand feet on May 27, 1923.

Oil-producing properties were found among the public school holdings, and receipts for its permanent fund soon caught up with University of Texas revenues. The development of facilities for drilling the tidelands and submerged lands spurred up the public school endowment.

Leases for both public school and University of Texas acreages are sold at public auction in Austin. Bids for public school properties are submitted in sealed form and opened by the School Land Board, of which the commissioner of the General Land Office is chairman. The University of Texas sells its leases by the old-fashioned method, with an auctioneer and oral bidding.

Remembering that once there were 170,000,000 acres, there seems to be little left. But the dwindling amount of public land is worth more and more money with each passing year. The story isn't through by any means.

Present day oilmen, a colorless lot compared to some of the rugged pioneers, but still ambitious, still restless, are looking

out toward the Gulf of Mexico, and to the seas beyond. How deep can men drill for oil? That breed has solved every problem with which it has been confronted. It seems reasonable to suppose that they will go on developing tools and theories and manufacturing equipment which will enable them to pursue their Coronado's quest to the very edge of the continental shelf itself.

Then where is the end of this story of a lot of land? Where does Texas leave off? In 1947 the Supreme Court ruled that submerged lands off the coast of California could be declared the property of the Federal government, that Federal rights transcended states rights.

It seems inconceivable that such logic could be applied to Texas, to the land that was once a Republic, that has for more than a hundred years managed the affairs of its own domain — with some mistakes and some inconsistency, but with more acumen than displayed by the Federal land bureaus. To most Texans the despairing wails of their State officials have seemed like the famous cries of "wolf, wolf" from the bored young shepherd tending his flock. But an attorney general of the United States has formally carried to the Supreme Court his challenge to Texas' claim, and the menace to the tidelands properties may well be as formidable as such men as Bascom Giles, Beauford Jester, and Price Daniel claim.

If so, and the heritage of history and proof of the past can be set aside, the story might as well end here for all time. Perhaps no iota of propaganda should be included; perhaps none is necessary. The previous pages may list all the arguments which could be offered that Texas entered the Union "like a bride arrayed for the altar and . . . not as a humble suppliant."

Certainly there is sufficient proof that Texans found a lot of land between the Red and the Rio Grande Rivers, won it, held it, and disposed of it. Perhaps there are stronger proofs of ownership.

But until such are advanced and recognized under a conception of property rights Texans cannot fathom — nor perhaps peacefully accept — there is still lots of land belonging in unique,

historic fashion to people who love it with a strange loyalty which has been the one common trait of all breeds of men who came to conquer and who remained to be shaped into a common mold.

And, like his predecessors, the Texan of today is something, too.

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