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## WHEN TEXAS OWNED NEW MEXICO TO THE RIO GRANDE

By F. S. DONNELL

TEXAS declared its independence of Mexico on March 2, 1836. On December 19th, the congress of the Republic of Texas defined the boundaries as extending south and west to the Rio Grande and northward from the source of that river to the 42nd parallel, the eastern and northern limits coinciding with the western boundary of the United States as laid down in the treaty with Spain in 1819, and reaffirmed by treaty with Mexico concluded January 12, 1828, Mexico having in the meantime gained its independence from Spain.

In 1837, George S. Park, a Texas trader who was living in Santa Fé, wrote to the president of the Republic of Texas that, if Texas would open up a trade route to Santa Fé, the people would welcome the chance to join with Texas and sever all connection with Mexico.<sup>1</sup> In 1839 Governor Manuel Armijo of New Mexico reported the danger that the people of New Mexico would assist in the establishment of Texas control in that department.<sup>2</sup>

In 1840 William G. Dryden, John Rowland, and William Workman were appointed commissioners for the Texas Republic in New Mexico and were authorized to explain to the people of Santa Fé the plans for opening a trade route

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1. W. C. Binkley, "New Mexico and the Texan Santa Fé Expedition," in *Southwestern Historical quarterly*, xxvii, 88-89.

2. *Ibid.*, 91.

from Austin to Santa Fé; and in the following year the Texas Trading, Mining and Immigrating Company was organized for the purpose of establishing trading posts and carrying on trade with the Mexicans and Indians in the northwestern part of the Republic of Texas.<sup>3</sup>

In June of 1841 a party of about 300 left their camp near Austin and started for Santa Fé; with them were three new commissioners who had been appointed by President Lamar of Texas, Richard F. Brenham, William G. Cooke, and José Antonio Navarro, who were to join with Mr. W. G. Dryden to negotiate with the people of New Mexico. According to the story of this expedition written in 1844 by Mr. George Wilkins Kendall of the *New Orleans Picayune* who accompanied the party, its object was entirely peaceful and they did not expect any opposition either from Governor Armijo or from the people of New Mexico. They entered New Mexico at a point northeast of the present town of Tucumcari and marched in a westerly direction to the town of Anton Chico.<sup>4</sup>

Instead of the welcome they expected to receive they were met by Mexican troops under command of Captain Damasio Salazar and on the promise that they would be allowed to return to Texas surrendered all of their arms. This promise was not kept. They were taken prisoners, and twelve soldiers were brought forward in order to shoot them all. One of the Mexican officers, Don Gregorio Vigil,<sup>5</sup> protested against this and the soldiers were withdrawn; yet a few days later, two of them, Messrs. Howland and Baker, were shot. From here they were sent as prisoners to old Mexico, and it was not until June 13th, 1842, that those who were left were released and allowed to return to their homes in Texas.<sup>6</sup>

3. *Ibid.*, 95.

4. For a full account of this trip see Geo. W. Kendall, *Narrative of the Texan Santa Fé Expedition*; and Thos. Falconer, *Letters and Notes on the Texan Santa Fé Expedition* (F. W. Hodge, ed.)

5. Kendall, *op. cit.*, I, 286-287.

6. Except Jose Antonio Navarro who was a Spanish subject and was held longer. See *Bancroft's Works*, vol. xvii (Arizona and New Mexico), 323.

In 1843 the Texas government authorized Major Jacob Snively to lead an expedition to the northwestern part of Texas to stop the traders on the way to Santa Fé from crossing what Texas claimed as her territory. On April 25th a party of 200 men left Georgetown, Texas, and marched to a point on the Arkansas river where the Santa Fé trail crossed that river, camping about ten miles south of Dodge City. Hearing of this expedition, Governor Armijo organized a force of 500 men and left Santa Fé May 1st to protect the traders after they crossed the river. An advance force under Captain Lobato met the Texas troops and in the battle which followed a number of the Mexicans were killed and the rest captured. When Governor Armijo learned of this defeat he made haste in retreating to the protection of Santa Fé. Before the Texans had a chance to follow up this victory, Captain St. George Cooke, with a company of 196 United States troops, who had guarded a caravan from Missouri came on the camp and forced the Texans to surrender, although they were in territory claimed by Texas. Later Captain Cooke was tried by court martial for this action, and although he was acquitted, the United States paid Texas for the guns and ammunition which had been taken from the Texas party.

For a number of years after Texas had declared her independence efforts had been made to join with the United States,<sup>7</sup> but it was until 1845 that, by resolutions passed by congress and ratified by the legislature of Texas, this was settled, and on December 29, 1845, the Republic of Texas became the State of Texas.

In 1846 came the war between Mexico and the United States, and General Kearny in command of a force of United States troops started on his march to Santa Fé. At Las Vegas on August 15th, 1846, he issued a proclamation to the people in which he stated: "I have come amongst you by orders of my Government, to take possession of your

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7. For reference to efforts made by the United States to acquire Texas between 1829 and 1835 by purchase or otherwise, see T. M. Marshall, *A history of the western boundary of the Louisiana Purchase* (California Univ. Pub. History, vol. 2), pp. 86-112.

country, and extend over it the laws of the United States. We consider it, and have done so for some time, a part of the United States. . . . We come amongst you as friends—not as enemies; as protectors—not as conquerors. We come among you for your benefit—not for your injury. Henceforth I absolve you from all allegiance to the Mexican government, and to General Armijo. He is no longer your governor; I am your governor. I shall not expect you to take up arms and follow me, to fight your own people who may oppose me; but I now tell you, that those who remain peaceably at home, attending to their crops and their herds, shall be protected by me in their property, their persons, and their religion; and not a pepper, not an onion, shall be disturbed or taken by my troops without pay, or by the consent of the owner. But listen; he who promises to be quiet, and is found in arms against me, I will hang.”

On August 18th, the advance force of his army reached Santa Fé about 3 p. m. and the entire force arrived by 6 p. m. On August 22nd he issued another proclamation in which he stated that it was his intention to hold the department, with its original boundaries on both sides of the Rio Grande. Apparently General Kearny's statement in his Las Vegas proclamation, that “we consider it, and have done so for some time, a part of the United States,” was based on the claim of Texas that its boundaries extended to the Rio Grande.

On January 5th, 1846, as shown in Report No. 126, 1st Session 34th Congress, the land commissioners for the republic of Texas issued the following certificate for 640 acres of land as a “head right” to one Simón Prado, to wit:

Republic of Texas  
County of Bexar 640 acres. No. 169, 2d class.

This is to certify that Simon Prado has appeared before us, the board of land commissioners for the county aforesaid, and proved according to law that he arrived in this republic previous to the 1st of October, 1837; that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen, and having never received a certificate for the quantity of land

for which he applies, is entitled to six hundred and forty acres of land.

Given under our hands at the city of San Antonio, this fifth day of January, A. D. 1846.

DAVID MORGAN,  
Chief Justice and ex-officio President Board of Land Commissioners.

THOMAS WHITEHEAD,  
JAS. B. LEE,  
Associate Commissioners.

Attest:

THOS. H. O. S. ADDOCKS,  
Clerk County Court, and ex-officio Clerk Board Land Commissioners.

In 1850 a survey was made of the tract he had selected, designated as No. 38, in section No. 15, situated on the table lands or plains between the Rio Grande and the Pecos River, which survey was recorded in Book A, No. 5, page 367, of the county records.

It was not quite as easy, in those days, to make surveys as it is now, as the field notes show that it was started at the crossing of the Rio Grande at El Paso and the line run 209 miles and 1625 vares north, thence 25 miles and 900 vares east. The tract located was one of the salt lakes in the Estancia valley known as "La Salina."

The report of the Committee on Private Land Claims on U. S. Senate Bill 240 which asked for confirmation of title to this land states:

By act of Congress of the Republic of Texas, approved December 19th, 1836, the western boundary of Texas was declared to extend to the Rio Grande. By a map prepared under the direction of the War Office, from the most reliable authorities, in 1844, the Rio Grande, also, is laid down as the western boundary of Texas. After the annexation of Texas to the United States, this government recognized the boundaries of Texas, as defined by the said act of Congress of the republic of Texas, approved December 19, 1836. So that, at the date of the certificate from the board of com-

missioners to the period beyond the time of the location and survey by the proper officer, this land, covered by the said location and survey, was within the territory belonging to Texas, and was subject to location and settlement under authority from said State.

We find, then, that a location and survey had been made upon the public lands of Texas, and that the said Simon Prado, or those claiming under him, only required the patent, to which he was legally entitled, to give a complete title to such tract of land. This patent the State of Texas would have been bound, in good faith, to have issued, and would have done so, undoubtedly, but for the short period elapsing between the survey and the passage of the act of Congress, approved September 9, 1850, by virtue of which that part of the territory of Texas, in which this tract of land was situate, was relinquished to the United States.

That this government is bound by law and good faith to confirm such inchoate titles in a territory acquired from another power, which such power under the laws, usages and customs thereof would have confirmed, had such territory continued in their possession, is a question so well settled, both by the laws of nations and the decisions of the Supreme Court of the United States (see 4 Peters, 512; 7 Peters, 87; and 10 Peters, 330), that your committee do not deem it necessary to discuss the question.

The government of the United States, by virtue of said act, approved September 9, 1850, having become possessed of the territory in which the tract of land is situate, is therefore bound to confirm the title of the petitioner, to the same extent as the State of Texas would have done, had she continued in possession thereof.

The committee have therefore directed me to report a bill confirming the title, so far as the United States is concerned, and saving the rights of any third parties, and respectfully recommend its passage.

No action was taken at this session of congress and it was not until October 1st, 1888, that an act was passed confirming the title.

On August 16th, 1847, the Texan land commissioners issued certificate Number 444 to Andrés Flores in the same form as the certificate to Prado, the survey being made in

September 1849, and filed in Book A, No. 5, page 257, of the county records at San Antonio. This tract also covered a salt lake, known as the "Salina de San Andrés," located between the Sacramento and Organ Mountains. The exact location was in what is now Township 12 South Range 6 East, about 15 miles west of the town of Three Rivers.

A bill to confirm the title was introduced in the United States Senate (number 454) and under date of February 3, 1857, the committee made a favorable report on same,<sup>8</sup> the wording of the report being about the same as the report on the Prado claim.

This bill met the same fate as the one to confirm the Prado claim, but the efforts to secure favorable consideration were continued and on June 6th, 1878, an act was passed ratifying the claim.<sup>9</sup>

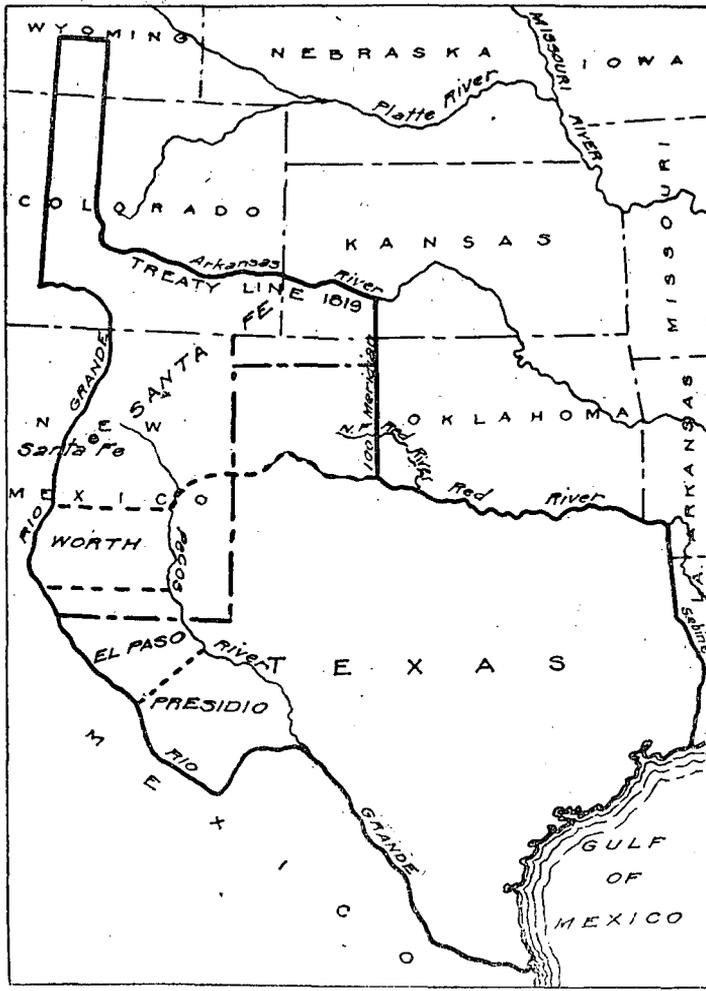
The full records of these claims are on file in the office of the Surveyor General in Santa Fé, New Mexico.

In 1850, the Texas legislature authorized the division of the lands between the Pecos and the Rio Grande, together with part of its territory east of the Pecos, into four counties, and Mr. Robert S. Neighbors (who was a United States Indian agent at El Paso) was appointed commissioner with full power to extend the civil jurisdiction over these counties. One of these counties, Presidio, was entirely within the present limits of Texas; the second, El Paso County, was partly in Texas but took in a strip of New Mexico; the third ran from the northern limits of El Paso County to a line starting near the present town of Belen and running due east to the Pecos River; the fourth, Santa Fe County, took in all of the northern part of the territory claimed by Texas. This included the present Panhandle of Texas, part of Colorado, and a strip north to the 42nd parallel in what is now Wyoming. An excellent map of these counties is given in Binkley.<sup>10</sup>

8. Report no. 350, 3d session, 34th congress.

9. Statutes at large, vol. xx, p. 537.

10. W. C. Binkley, *The Expansionist Movement in Texas, 1836-1850*, at page 178.



Both of the Texas counties were organized but when Mr. Neighbors reached Santa Fé he ran into trouble.<sup>11</sup> On June 17th, 1850, President Taylor, in a message to the senate, notified congress that Robert S. Neighbors, styling himself commissioner of the state of Texas, had gone to Santa Fé with a view to organizing counties in that district under the authority of Texas, and, while he (President Taylor) had given no order to the military officers at Santa Fé to hold possession against the authority of Texas, and he had no power to decide the question of boundary, that in his opinion, the territory into which Mr. Neighbors had gone was actually acquired by the United States from Mexico and has since been held by the United States and ought so to remain until the question of boundary shall have been determined by some competent authority. Before any action on this subject could be taken, President Taylor died and was succeeded by President Fillmore.

On August 6th, 1850, President Fillmore notified the senate that he had received a letter from the governor of Texas, stating that a special commission had been sent to Santa Fé, with full power and instructions to extend the civil jurisdiction of the state over the unorganized counties of Presidio, El Paso, Worth, and Santa Fé, situated on its northwestern limits and that the military officers employed in the service of the United States stationed at Santa Fé interposed adversely with the inhabitants to the fulfillment of his object in favor of the establishment of a separate state government east of the Rio Grande and within the rightful limits of the state of Texas.

Among other comments in this letter of the president to the senate are the following:

These four counties which Texas thus purposes to establish as being within her jurisdiction extend over the whole of the territory east of the Rio Grande which has heretofore been regarded as an essential and integral part of the department of New Mexico, and actually governed

11. W. C. Binkley, "The Question of Texan Jurisdiction in New Mexico under the U. S., 1848-1850," in *Southwestern Historical Quarterly*, xxiv, 1-38.

and possessed by her people until conquered and severed from the Republic of Mexico by the American arms.

If any civil posse armed or unarmed enter into any territory of the United States with intent to seize individuals, to be carried elsewhere for trial for alleged offences and this posse be too powerful to be resisted by the local authorities, such seizure or attempt to seize is to be prevented or resisted by the authority of the United States.

No government can be established for New Mexico, either State or Territorial, until it shall be first ascertained what New Mexico is and what are her limits and boundaries. These can not be fixed or known till the line of division between her and Texas shall be ascertained and established; and numerous and weighty reasons conspire, in my judgment to show that this divisional line should be established by Congress with the assent of the government of Texas.

In a case like this, surrounded as it is by many cogent considerations, all calling for amicable adjustment and immediate settlement the Government of the United States would be justified, in my opinion, in allowing an indemnity to Texas, not unreasonable or extravagant, but fair, liberal, and awarded in a just spirit of accommodation.

Both congress and the state of Texas acted promptly on the recommendation of President Fillmore, and the Act of Congress passed September 9th, 1850, to establish the northern and western boundaries of Texas; and the relinquishment by Texas of all territory claimed by her exterior to said boundaries, was accepted by the Legislature of Texas on November 25th, 1850.<sup>12</sup>

In return for giving up her claims, Texas was to receive ten million dollars in United States bonds, running for 14 years, with interest at 5%.<sup>13</sup> Under this act but \$5,000,000 in bonds was issued to the State, as by the act of February 28th, 1855, it was provided that the creditors of Texas should be paid in cash, and the amount to be paid them was increased to \$7,750,000.<sup>14</sup> On November 1, 1926, according to the figures given in Bulletin 817 issued by the

12. *Laws of the Republic of Texas*, vol. I, p. 133.]

13. 9 Stat. L. 447.

14. 170 Stat. L. 617.

Geological Survey, there were still outstanding \$19,000 face value of these bonds. Including interest paid by the United States, the total cost of this settlement was \$15,496,447.77.

With the ratification of this agreement by the legislature of Texas, ended all claims of the state of Texas to 124,000 square miles of land which is now parts of Colorado, Wyoming, Kansas, Oklahoma, and New Mexico. However, Texas still had an area of 265,896 square miles left and is the largest state in the Union.