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**SPANISH LOUISIANA LAND POLICY: ANTECEDENT TO THE  
ANGLO-AMERICAN COLONIZATION OF EAST TEXAS,  
1769-1821**

*by Light Townsend Cummins*

Land hunger played an important, if not unique role in the westward expansion of the United States from the era of the American Revolution to the closing of the frontier late in the nineteenth century. Historians of the United States from the time of Frederick Jackson Turner in the 1890s to the present have understood the overwhelming influence that the desire for land has worked on the nation's development. Much of the historical literature regarding this phenomenon, however, suffers from an historiographical deficiency because it is written from the national perspective of the United States. There is a tendency on the part of some frontier historians to approach the expansion of the United States as if the Anglo-American pioneers moved westward into a territorial vacuum.<sup>1</sup>

Such was not the case historically and especially so in considering the Anglo-American settlement of Texas in the 1820s. The westward movement of Anglo-Americans into East Texas was a continuation of an earlier migration into Spanish Louisiana and the Mississippi Valley.<sup>2</sup> Historians of colonial New Spain and the hispanic frontier of North America, of course, always realized this historical truism, and much of their work reflects this relatively more sophisticated understanding of the process.<sup>3</sup> History written from the perspective of the Spanish frontier in North America clearly shows that Spain manifested consistent land policies throughout her vast colonial region which, late in the eighteenth century, ran from Florida westward to California.<sup>4</sup>

This fact gives rise to an essential question largely ignored by historians of Texas; namely, was Spanish colonial land policy in Louisiana itself a major contributing factor to the westward movement of the United States into Texas during the 1820s? Surprisingly, no historian has systematically examined the land policies implemented by the Spanish governors of Louisiana as motivations for the later decrees which permitted Anglo-American settlement in Texas. This essay compares the land policies of three pivotal Spanish administrators: Alejandro O'Reilly, who implemented the basic land policies in Louisiana which Spain thereafter would follow in Texas; Esteban Miró, the governor of Louisiana whose land decrees set in motion the first large influx of Anglo-Americans into the lower Mississippi Valley and Gulf coast during the 1780s and 1790s; and Manuel Gayoso de Lemos, whose Louisiana Land Decree of 1797 became a model for Texas Governor Antonio María Martínez, whose dealings with Moses and Stephen F. Austin began the *empresario* era in Texas.<sup>5</sup> This essay will show that all three Louisiana administrators followed similar policies which brought similar results. These policies were first implemented in Spanish Louisiana, starting with a decree of General O'Reilly in 1770. Further refinements provided by Louisiana Governors Miró and

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Gayoso set into common practice the procedures later followed in Spanish Texas. In a larger sense, Spanish Louisiana land law and the legal methods by which ownership of land holdings evolved to individuals served as a direct contribution factor to encouraging the westward movement of Anglo-American settlers. Hence, Spanish colonial land policy as first implemented in Louisiana had a direct impact on the Anglo-American settlement of East Texas.

Alejandro O'Reilly began the process. He is best remembered to history as the stalwart Spanish general who firmly established Spanish control in New Orleans in 1769, just over a year after the revolt which drove Antonio Ulloa from power after Louisiana's transfer from French to Spanish sovereignty following the Seven Year's War.<sup>6</sup> Born in County Meath, Ireland, in 1723, O'Reilly had emigrated to Spain as a small child with his Roman Catholic family. He enlisted in military service, served in the Hibernian regiment, and earned many distinctions during his military career, including the undying admiration of his monarch, King Charles III, whose life he had saved during a riot in Madrid in 1766. O'Reilly embarked upon a career of service in the Indies early in the 1760s when he helped restore Spanish control at Havana after the British occupation.<sup>7</sup> The general was chosen to reestablish Spanish government in New Orleans in 1769. He arrived there on July 24 in command of over 2,000 troops. Although never the governor of Louisiana by appointment, O'Reilly spent almost two years in the province while he successfully planted the flag of Spain firmly in the lower Mississippi River Valley.<sup>8</sup> "He reorganized the governmental structure of the colony along Spanish lines," as one historian has noted, "created a Cabildo for New Orleans, instituted the Spanish legal system, extended Louisiana's trade to Cuba and certain Iberian ports, established a militia, organized military defenses, set guidelines for relations with the Indians of the area, and promulgated regulations for awarding land grants."<sup>9</sup>

It was in this latter activity that O'Reilly might have had the greatest lasting impact on the hispanic frontier in North America. His land regulations of 1770 changed the nature of Spanish land holding in the northeastern provinces of New Spain. Previously, land policy in New Spain had rested on historic Castillian influences which were based on the granting of land by the king for certain traditional reasons, none of which assumed the purpose of such grants was to devolve public land to private ownership for economic reasons. Instead, based on the provisions of *Siete Partidas* and the *Leves de Toro*, Spanish monarchs for almost three centuries had awarded grants of lands to royal subjects in the concept that land was a reward for royal service or for merit.<sup>10</sup> The *adelantado* and *encomienda* grants of sixteenth-century New Spain rested on such assumptions. By the seventeenth century, the legal classification of the various categories of land in New Spain also reflected the assumption that private ownership of land was tied to the personal beneficence of the monarch for actual or potential merits and services rendered by the grantee.<sup>11</sup>

By the mid-eighteenth century, the need to settle the northern frontier of new Spain made for a radical change in policy. Starting with the frontier settlement of Canary Islanders in Texas during the 1730s, land policy began to reflect a new motivation: attracting individual inhabitants by the promise of household-based grants made to family units. The formal agreement of a potential settler to inhabit the land granted by the monarch was itself deemed a sufficient enough service for the crown to warrant the grant. This became policy in 1754 when royal instructions to the viceroy of New Spain implemented new regulations which had greater similarity to methods employed in British America than to earlier practices in the Spanish Indies.<sup>12</sup> Basic decisions regarding land law were transferred from Spain to regional commanders in the Indies. In particular, the power to make and confirm grants of land was settled directly on Spanish governors, who now had the power to set policy in keeping with the needs of their districts.<sup>13</sup> In many cases, the ultimate purpose of the grant became the giving of land as an inducement for settlement by individual holders.

General O'Reilly used the regulations of 1754 as the basis for a policy of land granting that would be repeated at important junctures during the remaining decades of Spanish colonial control in Louisiana and Texas. On February 18, 1770, General O'Reilly issued a formal proclamation outlining the procedures and regulations to be followed in granting land to settlers in Louisiana.<sup>14</sup> This proclamation did something no previous Spanish land decree had done. It attempted to blend the Spanish legal system into that of another nation: France. This was a necessity because grants of land already had been made by the French in Louisiana. As the general himself noted, the decree came as a result of "diverse complaints and petitions, which have been addressed to us by the inhabitants of Opelousas, Attacapas, Natchitoches, and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means of the inhabitants." For such reasons, the expressed purpose of O'Reilly's decree was a "new regulation which should fix the extent of the grants which should hereafter be made."<sup>15</sup>

The twelve provisions of O'Reilly's decree became a model for all subsequent decrees issued by Spanish administrators along the hispanic frontier of North America, including Texas. Among its important and new features was the fact that grants of land would be made to heads of households based on the size of the family unit. As well, O'Reilly provided for a relatively easy method of survey and grant registration, and required that grantees make improvements on their land to obtain permanent title. The general even anticipated the role which livestock raising would play. "All cattle shall be branded by the proprietors," the decree noted, "and those who shall not have branded them at the age of eighteenth months cannot thereafter claim a property therein."<sup>16</sup> Taken as a whole, O'Reilly's decrees put Spanish administrators at the provincial level in the land office business for the first time, a role they would continue for decades thereafter. Although O'Reilly did not have Anglo-American settlers in mind when he wrote his decree, its

provisions represented a liberality of land granting that would not be seen in the United States until the Homestead Act of the 1860s. It is little wonder, then, that the Louisiana Land Decree of 1770 would eventually attract the attention of Anglo-American settlers as they pushed westward into the Mississippi Valley. This was so because grants of land in Spanish Louisiana, under the provisions of this decree, would be free of cost financially, while public lands in the United States in the decades after the American Revolution had to be purchased.

If Alejandro O'Reilly was the author of Spain's land granting policy for the final decades of the northern frontier in New Spain, Louisiana governor Esteban Miró became the first administrator to use it for attracting large numbers of Anglo-Americans into the region. Miró, who had a long career in the Indies, had a basic understanding of land as an inducement to settlement.<sup>17</sup> Born in Catalonia in 1744, he had served in the Zamora regiment early in the 1760s, then came to New Spain in 1762 where he saw service in the Corona Regiment until his transfer to O'Reilly's Algerian command in 1775. He came to Louisiana in 1778 as the commander of the Fixed Louisiana Regiment, serving as aide-de-camp to governor Bernardo de Gálvez. Miró became governor of Louisiana on January 20, 1782, and served in that position until 1791, when he was replaced by the Baron de Carondelet.<sup>18</sup>

Starting in the mid-1780s, Miró faced the problem of integrating into Spanish Louisiana large numbers of Anglo-Americans who had resided prior to the American Revolution in the former British province of West Florida, captured by General Bernardo de Gálvez. Now a part of Spanish Louisiana, Miró turned to the O'Reilly land regulations as a mechanism for including these residents in his province. In so doing, he embarked on a plan which would make possible the continued residence of Anglo-American landowners on their British-era holdings and, at the same time, provided a foundation upon which later Anglo-American settlement would occur. Spain, anxious to populate the territorially-expanded province of Louisiana with colonists, already had experienced difficulty inducing Iberian immigrants to the lower Mississippi Valley. This was due to financial problems in underwriting a trans-Atlantic migration of Spanish subjects and the unwillingness on the part of individual hispanic colonists to relocate in Louisiana, which many of them saw as an isolated, economically backward, and undesirable place of potential residence. Hence, Louisiana needed loyal settlers who might come from any acceptable quarter. Anglo-Americans, under the proper circumstances, would meet this need. Such a realization prompted a proposal from Governor Miró in 1785 which permitted British-era residents to retain their holdings. They could become loyal Spanish subjects by taking an oath of allegiance to the King of Spain and adopting Roman Catholicism as their publicly-professed religion. Implementation of this plan began during the spring of 1786. Miró created two parishes that covered the former British Natchez District. Each parish received a priest, a military commandant, and a detachment of troops for the protection of the parish.<sup>19</sup>

The Anglo-American settlement of Louisiana accelerated as this policy was quickly applied to new settlers who wished to enter the province as permanent residents. Such efforts were hurried along by the ambitious schemes of Pierre Wouves d'Arges, a Frenchman who had fought in the American Revolution. D'Arges appeared at the Spanish court in 1787 as the author of a scheme to import approximately 1,500 Anglo-American settlers into Louisiana as a loyal buffer zone population. Although d'Arges offered his proposals as his own ideas, they were in fact those of Governor Miró, with whom he had discussed the proposal during a visit to New Orleans the previous year. The Frenchman argued that Anglo-American settlers would be a defensive force and an economic boon to Louisiana.<sup>20</sup> As one historian noted, Spain "reasoned that the colonists, assured of their property and free commerce, would adhere to a government that dispensed such advantages."<sup>21</sup> Hence, a royal order of February 18, 1787 revised O'Reilly's land decree of 1770 to meet the needs of this defensive settlement of Anglo-Americans.<sup>22</sup>

Although d'Arges' plan brought no settlers into Spanish Louisiana, Estevan Miró adopted the royal order of 1787 into a successful land-grant policy that brought hundreds of Anglo-Americans into the province during the following decade. Miró's decree of April 20, 1789, which implemented the loyal order, made clear the requirements by which immigrants could receive land grants in Louisiana. "They will not be molested on religious matters," he noted, "although no other public worship will be permitted to be publicly exercised than that of the Roman Catholic Church."<sup>23</sup> Most importantly, he ordered that "land will be granted gratis to them at their arrival in proportion of the hands, or faculties each Family should have." The governor guaranteed that each settler would be able to bring his personal property into Louisiana free of duty or taxation. Finally, grants of land would be made to settlers on "the condition they shall at the same time take the due oath of allegiance & bound themselves only to take up arms in defense of this Province against Whatsoever enemy who could attempt to invade it."<sup>24</sup>

The Baron de Carondelet, Miró's successor as governor of Louisiana, continued this policy. Within a few weeks of becoming governor, the Baron recommended to his superiors in Spain that additional Anglo-Americans be encouraged to migrate to the province. He felt that these new settlers should be enticed by liberal commercial policies and a great degree of religious toleration, in addition to being given free lands. In an effort to accelerate this process, Carondelet turned for the first time to *empresarios*, or land agents, as a way to encourage additional immigration.<sup>25</sup> In the mid-1790s, he supported the unsuccessful colonization project of the Frenchman, the Marquis of Mason Rouge, whose grants reflected the policies first implemented by General O'Reilly. Other immigration agents followed, including Joseph Piernas, Luis de Vilemont, William Murray, the Baron de Bastrop, George Morgan, and Moses Austin. All of this activity caused Thomas Jefferson to remark: "I wish a hundred thousand of our inhabitants would accept the invitation. It may be the means of delivering to us peaceably what may otherwise cost a war."<sup>26</sup>

The closing years of Spanish control in Louisiana therefore witnessed the final codification of the land policy which would, in the next generation, provide for the settlement of Texas in the 1820s. Little difference can be found between the instructions of 1797 for the settling of Anglo-Americans in Louisiana and the provisions for the grants later made to Moses and Stephen F. Austin. The 1797 Louisiana instructions, issued by Governor Manuel Gayoso de Lemos in 1797, required that all grantees be Roman Catholic in faith: "Those who do not conform to this rule," the promulgation noted, "are not to be admitted." Grants would be made to family units, while unmarried individuals had to receive special exemptions. Each head of family would receive 200 arpents of land, while an additional fifty would be added for each dependent. Gayoso's instructions also provided that "immediately on the arrival of a new settler the oath of fidelity shall be required of him." Provision also was made for the importation of slaves, provided they were "lawfully and wholly the property of the emigrant."<sup>27</sup>

The Louisiana Purchase of 1803 averted the need for the potential war feared by Thomas Jefferson, but the Anglo-American migration which started in Spanish Louisiana continued into Texas during the first decades of the nineteenth century. After almost two decades of filibustering from the United States, Martinez, governor of Texas early in the 1820s, moved to permit an orderly Anglo-American migration into Texas. In so doing, he adopted the land granting policies and the legal stipulations which had originated earlier in Spanish Louisiana. A native of Jaen in Spain, Martinez had a distinguished career of military service which began in 1785. Like Miró a generation before, Martinez also had served in the Zamora regiment. A highly decorated military hero, Martinez became governor of Spanish Texas in March 1817.<sup>28</sup> By late in the 1810s, the problems of filibustering had worked a subtle change in Spanish Texas. Administrators were willing to look with greater favor upon the potential settlement of any groups who would maintain loyalty to the Spanish king. It was at this time that Moses Austin appeared at San Antonio. The story of his success is well-known.

Austin, a former resident of the St. Louis area of Spanish Louisiana, already had received a Spanish land grant in the 1790s from the government at New Orleans.<sup>29</sup> He knew the basic legal system to be employed in such matters. In his initial contact with Martinez, Austin had little success until the intervention of Filipe de Neri, better-known by his fabricated noble title as the Baron de Bastrop. Neri, or Bastrop, also had earlier experience with Spanish Louisiana land grants, having received title to a huge grant early in the 1790s.<sup>30</sup> Bastrop interceded with Martinez on Austin's behalf, with the result that the governor made a generous grant to the Anglo-American. On January 17, 1821, Moses Austin received permission to settle 300 families in a 200,000 square mile area. This grant, approved by Joaquin de Arredondo as the political chief of the *Provincias Internas* at Monterrey, contained specific qualifications that the settler should meet:

Therefore, if to the first and principal requisite of being catholics, or agreeing to become so, before entering the Spanish territory, they also add that of accrediting their good character and habits, as is offered in said petition: and taking the necessary oath, to be obedient in all things to the government; to take up arms in its defense against all kinds of enemies; and to be faithful to the King; and to observe the political constitution of the Spanish monarchy; the most flattering hopes may be formed, that the said province will receive an important augmentation, in agriculture, industry, and arts, by the new emigrants; who will introduce them ... .<sup>31</sup>

The untimely death of Moses Austin on June 10, 1821, saw this grant devolve to his son, Stephen F. Austin. As heir, he went to San Antonio late in the summer of 1821, where he had conferences with Governor Martínez.<sup>32</sup> Young Austin secured from the governor a renewal of the colonization contract given earlier to his father. Thus began the legal Anglo-American settlement of Spanish Texas.<sup>33</sup> Although the independence of Mexico would bring Martínez's land policy to a quick end late in 1821, the basic outlines continued under the colonization laws of Augustine de Iturbide and the government later instituted by the Constitution of 1824.<sup>34</sup> By their content, these Mexican decrees also showed the Louisiana influence of the O'Reilly decree of 1770, Miró's policies of the late 1780s, and Gayoso's regulation of 1797.

These Spanish land policies favored Anglo-American expansion because of their rather unique accommodations to the needs of the westward moving settlers from the United States. The fifty years between the land decrees of Alejandro O'Reilly and the Austin colonization contracts negotiated by Antonio María Martínez were ones of overwhelming change all along the northern frontier of colonial New Spain. Governmental reorganization, economic dislocations, revolutionary movements, and the westward press of the Anglo-American frontier became historical hallmarks of great change during this era. One rather remarkable constant, however, remained almost unchanged across the course of these turbulent years: Spanish land-grant policy. A liberal policy of granting two hundred arpents of land to heads of households, an only nominal requirement of Roman Catholicism, the requirement for minimum improvements on the land grant, and the taking of a loyalty oath constituted the main requirements for settlement. Contrasted to this was the fact that land in the United States had to be purchased by the holder. These Spanish policies favored Anglo-American expansion because of their rather unique accommodations to the needs of westward moving settlers from the United States. Given this observation, the historian may be tempted to note that Spanish Louisiana land policy was a motivating factor, if not an outright cause, of the Anglo-American westward movement, rather than a reaction to it. As such, it resulted in the arrival of Anglo-American settlers in East Texas during the 1820s.



## NOTES

<sup>1</sup>Ray Allen Billington, *Westward Expansion: A History of the American Frontier*, (New York, 1974), pp. 15-23.

<sup>2</sup>Light T. Cummins, "The English Frontier," in *Comparative Frontier History*, edited by José Sanchez. (Albuquerque, 1992), p. 134. Cummins, "Texas Under Spain and Mexico," in *A Guide to the History of Texas*, edited by Cummins and Alvin A. Bailey, (Westport, CT, 1987), pp. 1-6. For background on the Anglo-American settlement of Spanish Louisiana as a prelude to expansion into Texas, see, Mattie Austin Hatcher, *The Opening of Texas to Foreign Settlement, 1810-1821*, (Austin, 1927); Hatcher, "The Louisiana Background of the Colonization of Texas, 1763-1803," *Southwestern Historical Quarterly* 24 (Spring 1921), pp. 169-195; William S. Coker, "The Bruins and the Formulation of Spanish Immigration Policy in the Old Southwest, 1787-1804," in *The Spanish in the Mississippi Valley*, pp. 61-71.

<sup>3</sup>Donald Worchester, "The Significance of the Spanish Borderlands to the United States," in *New Spain's Far Northern Frontier: Essays on Spain in the American West, 1540-1821*, edited by David J. Weber, (Albuquerque, 1979), pp. 1-16.

<sup>4</sup>The best recent example of this viewpoint may be seen in David J. Weber, *The Spanish Frontier in North America*, (New Haven, 1992), Weber discusses a common land policy and notes that "Spanish officials also adopted an innovative immigration policy for its most endangered border provinces." p. 280.

<sup>5</sup>Early work noting the similarity of Louisiana and Texas land policy was undertaken by Mattie Austin Hatcher in the 1920s, although little has been done by scholars since. See Hatcher, *The Opening of Texas to Foreign Settlement, 1801-1821*. More recent work on the Louisiana-Texas connection, although not in the area of analyzing land policy, may be seen in Odie B. Faulk, "The Penetration of Foreigners and Foreign Ideas into Spanish East Texas, 1793-1816," *East Texas Historical Journal*, 2 (October 1964), 87-98.

<sup>6</sup>Bibanio Torres Ramirez, *Alejandro O'Reilly en las indias*, (Seville, Spain, 1973); José Montero de Pedro, *Españoles en Nueva Orleans y Luisiana*, (Madrid, 1979), pp. 25-30; David Ker Texada, *O'Reilly and the New Orleans Rebels*, (Lafayette, LA, 1970), pp. 35-52.

<sup>7</sup>Jack D. L. Holmes, "Alexander O'Reilly, Colonial Governor, 1769-1770," in *The Louisiana Governors*, edited by Joseph G. Dawson III, (Baton Rouge, 1990), pp. 49-52.

<sup>8</sup>Light T. Cummins, *Spanish Observers and the American Revolution*, (Baton Rouge, 1992), p. 13.

<sup>9</sup>*Spanish Observers*, p. 14.

<sup>10</sup>Guillermo F. Margadant S., "Mexican Colonial Land Law," in *Spanish and Mexican Land Grants and the Law*, edited by Malcolm Ebricht, (Manhattan, Kan., 1989), pp. 85-95.

<sup>11</sup>"Mexican Colonial Land Law," p. 87.

<sup>12</sup>"Royal Regulation of 1754," No. 4. *American State Papers: Public Lands V* (Washington, D.C.: Gales and Seaton, 1860), pp. 655-657.

<sup>13</sup>"Royal Regulation of 1754," p. 655.

<sup>14</sup>"Regulation of O'Reilly," No. 26. *American State Papers: Public Lands V*, pp. 729-30.

<sup>15</sup>"Regulation of O'Reilly," p. 729.

<sup>16</sup>"Regulation of O'Reilly," p. 730.

<sup>17</sup>Caroline Burson, *The Governorship of Don Esteban Miró* (New Orleans, 1940).

<sup>18</sup>Montero de Pedro, *Españoles en Nueva Orleans y Luisiana*, pp. 44-50, Gilbert C. Din. "Esteban Rodriguez Miró," *The Louisiana Governors*, pp. 61-64.

<sup>19</sup>Gilbert C. Din, "The Immigration Policy of Governor Esteban Miró in Spanish Louisiana," *Southwestern Historical Quarterly*, 73 (October 1969), pp. 157-58. Miró's colonization plans are also detailed in Light T. Cummins, "An Enduring Community: Anglo-American Settlers at Colonial Natchez and in the Felicianas, 1764-1810," *Journal of Mississippi History*, 55 (May 1993), pp. 133-154.

<sup>20</sup>Din, "The Immigration Plans of Governor Esteban Miró," pp. 160-61.

<sup>21</sup>"The Immigration Plans of Governor Miró." p. 160.

<sup>22</sup>Royal Order, August 23, 1787, Archivo Histórico Nacional, Sección del Estado, Legajo 3889. This legajo contains most of the correspondence dealing with Miró's land policies in the 1780s.

<sup>23</sup>"Miró's offer to the Western Americans, April 20, 1789," in Lawrence A. Kinnard, ed., *Spain in the Mississippi Valley, 1765-1794*, Part II. Vol. III of *Annual Report of the American Historical Association, 1945*, pp. 270-71.

<sup>24</sup>Gilbert D. Din. "Spain's Immigration Policy in Louisiana and the American Penetration, 1792-1803," *Southwestern Historical Quarterly*, 76 (January 1973), p. 255.

<sup>25</sup>"Spain's Immigration Policy in Louisiana," pp. 257-58.

<sup>26</sup>Light T. Cummins "Colonial Louisiana," in *Louisiana: A History*, 2nd edition, edited by Bennet H. Wall, (Chicago, 1992), p. 57.

<sup>27</sup>"Instructions of Gayoso for the administration of posts and the distribution of lands," No. 26, *American State Papers: Public Lands V*, pp. 730-31.

<sup>28</sup>Odie B. Faulk, *The Last Years of Spanish Texas, 1778-1821* (London and the Hague, 1964), pp. 36-37.

<sup>29</sup>David Gracy, *Moses Austin: His Life*, (San Antonio, 1987), pp. 93-94.

<sup>30</sup>*Moses Austin*, pp. 210-02.

<sup>31</sup>Antonio Martinez to Moses Austin, February 8, 1821, in *Establishing a Colony*, edited by David Gracy, (Austin, 1970), pp. 33-34.

<sup>32</sup>Eugene C. Barker, *The Life of Stephen F. Austin: Founder of Texas, 1793-1836: A Chapter in the Westward Movement of the Anglo-American People*, (Nashville, 1925), pp. 43-57.

<sup>33</sup>*The Life of Stephen F. Austin*, p. 55.

<sup>34</sup>Thomas L. Miller, *The Public Lands of Texas, 1519-1970*, (Norman, 1972), pp. 15-20.