



## The Establishment of the Texas General Land Office

*Excerpt from Catalogue of the Spanish Collection, Part One*

After the Texas Revolution, land was on the minds of all settlers in Texas. For many, land was the driving force behind coming to Texas, and that resource needed to be administered by the newly formed government of the Republic of Texas. The newly-independent government retained many of the features of the Mexican system of colonization and land distribution, with a few major changes, the biggest of which was consolidating control and supervision of the land granting system into a single agency, the Texas General Land Office. The act of December 22, 1836, creating the Land Office, ratified and confirmed valid Spanish and Mexican land grants and gave its chief officer, the commissioner, responsibility for collecting the records pertaining to these grants. Section 5 of the law stipulated that the commissioner was to take charge of “all the records, books and papers, in any way appertaining to the lands of the republic, and that may now be, in the care or possession of all empresarios, political chiefs, alcaldes, commissarios [*sic*], or commissioners for issuing land titles, or any other person; and the said records, books and papers shall become and be deemed the books and papers of the said office.”<sup>1</sup> A supplementary act approved June 12, 1837, made it the duty of any person holding titles, surveys, books, papers, or other records related to the lands of the republic to deliver them to the commissioner upon his application in person or to his order in writing, subject to heavy penalties for failure to comply.<sup>2</sup>

A letter from Henry Smith, secretary of treasury, dated June 28, 1837, notified John P. Borden of his appointment as commissioner of the General Land Office and encouraged him to assume the position as soon as possible. “It is important to the Govt. that you enter on the [duties] of your office immediately in order that the public archives be collected and properly

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<sup>1</sup> Gammel, *Laws of Texas*, 1:1276-1277.

<sup>2</sup> *Ibid.*, 1:1324.

arranged as the law requires,” Smith wrote.<sup>3</sup> Borden accepted the appointment on July 3 and remained in Houston organizing the task of collecting the land records until July 22.<sup>4</sup>

The land system initially adopted by the Republic was to all intents a continuation of the previous one. The most notable changes were in the manner of administering the land granting process. An integral part of the new system was the protection of the rights of landowners holding under valid titles from Spain and Mexico. Borden understood the critical need to collect the titles and plats showing the location of the land to which those rights attached in order to avoid patenting new surveys on previously titled land. This became his first priority as commissioner.

After going to considerable trouble to find out the situation of the archives of the several land offices and pledging to become responsible for part of the expenses in transporting them, Borden dispatched agents with letters requiring delivery of the land records, while Borden himself returned to Peach Point to finish arranging the papers of Austin’s colony.<sup>5</sup> On July 21, Borden instructed Darius Gregg to proceed to Nacogdoches and take delivery of the archives of the land offices east of the Trinity, together with those of Milam’s colony at San Augustine in the possession of Bartholomew Manlove.<sup>6</sup> Obtaining the Milam records was easily accomplished. Manlove delivered the records to Gregg at Attoyac around August 19, and Gregg transferred them to Borden the following month.<sup>7</sup> Reporting on his other efforts, Gregg wrote Borden on September 22 that Charles S. Taylor and David Huffman were ready and willing to deliver the papers agreeable to the commissioner’s order but that George Antonio Nixon was not. Gregg had arranged with Taylor to receive the records of the *ayuntamiento* of Nacogdoches from Huffman, together with Nixon’s when he was ready, and to transport them along with Taylor’s own records to Borden in Houston.<sup>8</sup> Nixon, for his part, wrote to Borden explaining that ill health had prevented him from attending to business but that he had four young men employed in

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<sup>3</sup> Henry Smith to John P. Borden, June 28, 1837, “Early Letters Received,” Reel #1 (microfilm), TGLO.

<sup>4</sup> John P. Borden to Grayson, July 3, 1837, *Texas Treasury Papers; Letters Received in the Treasury Department of the Republic of Texas, 1836-1846*, 4 vols. (Austin, 1955-1956), 4:24; John P. Borden to Irion, July 23, 1837, 2-9/4.10, Inv. 802, Archives Division, Texas State Library.

<sup>5</sup> John P. Borden to Asa Brigham, July 26, 1837, *Texas Treasury Papers...*, 4:27. Borden’s stay at Peach Point was brief. A letter from James F. Perry indicates that he left that place for Houston on August 2 to assume his duties as commissioner; James F. Perry to Emily Perry, August 2, 1837, James F. and Stephen Samuel Perry Papers, Series A, Correspondence, Vol. V, Records of Antebellum Southern Plantations from the Revolution through the Civil War, Series G, Part 1, The Center for American History, University of Texas at Austin.

<sup>6</sup> John P. Borden to Darius Gregg, July 21, 1837, “Letters Sent by Comm. of General Land Office then at Houston,” Vol. 1, p. 2, TGLO.

<sup>7</sup> Bartholomew Manlove to John P. Borden, August 19, 1837, “Early Letters Received,” Reel 1 (microfilm), TGLO; Darius Gregg to John P. Borden, Sept. 22, 1837, “Early Letters Received,” Reel 1 (microfilm), TGLO.

<sup>8</sup> Gregg to Borden, *Ibid.*

taking account of the papers and making duplicates of them and that it was his intention to bring the papers to Borden himself.<sup>9</sup> Several months elapsed before Taylor and Nixon finally delivered their records.

Capt. George W. Fulton was more expeditious. On August 24, 1837, Borden gave him letters addressed to Joseph Baker requesting the land records of Béxar.<sup>10</sup> On October 7, 1837, reporting to Congress on his efforts to collect the records, Borden indicated that through the “indefatigable exertions” of Capt. Fulton he now had possession of the Béxar land records.<sup>11</sup>

In August 1837, Fulton informed Borden that he had learned of a quantity of papers belonging to the land office in Victoria, presumably the De León colony papers, which he could collect if invested with the necessary authority.<sup>12</sup> Nothing came of Fulton’s offer. In fact, Borden advised Congress in October that the enemy had destroyed the papers of De León’s colony and that a Mr. Dougherty [O’Docharty] had carried off the archives of McMullen’s colony and said, “the Americans shall never again take possession of them.”<sup>13</sup> In a later report Borden informed Congress that the De León records had actually been destroyed by the Texian army, but that a few had been preserved by Plácido Benavides, who would probably deliver them upon his return.<sup>14</sup> An attempt to obtain the field notes in the possession of James Kerr, one of the surveyors for De León’s colony, failed. Kerr wrote Borden that he considered the notes his own private papers and was using them to create a “true and perfect” map of all the surveys in Victoria County.<sup>15</sup>

Borden labored under severe limitations. Money had not been appropriated for collecting the records and he did not have a room for an office or a safe place to hold them. Andrew Ponton was at Houston and had tendered the DeWitt papers, while James F. Perry had the Austin papers at Peach Point ready for immediate delivery. The lack of space forced Borden to delay receipt of the records. The same limitation kept him from sending for Robertson’s papers,

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<sup>9</sup> George A. Nixon to John P. Borden, October 4, 1837, “Early Letters Received,” Reel 1 (microfilm), TGLO.

<sup>10</sup> John P. Borden to Capt. Fulton, August 24, 1837, “Letters Sent by Comm. of General Land Office then at Houston,” Vol. 1, p. 4, TGLO.

<sup>11</sup> John P. Borden to Congress, October 7, 1837, “Letters Sent by Comm. of General Land Office then at Houston,” Vol. 1, pp. 8-9, TGLO.

<sup>12</sup> G. W. Fulton to John P. Borden, Aug. [?], 1837, “Early Letters Received,” Reel 1 (microfilm), TGLO.

<sup>13</sup> Borden to Congress, October 7, 1837, *op cit.*

<sup>14</sup> John P. Borden to Congress, November 6, 1837, “Letters Sent by Comm. of General Land Office then at Houston,” Vol. 1, pp. 10-11, TGLO.

<sup>15</sup> James Kerr to John P. Borden, September 20, 1837, “Early Letters Received,” Reel 1 (microfilm), TGLO; Kerr and Edward Linn completed a connected map of Victoria County surveys in 1838, Map Collection, Map T.1.7, TGLO.

besides the inclemency of the weather and the difficulty of finding someone to undertake the mission with no certainty of remuneration. Borden implored Congress to supply the means required to do his job. He was convinced, he wrote, that Congress "did not expect men to engage in the business [of collecting the archives] for the mere honour there would be attached to it..."<sup>16</sup>

A month later, on November 6, 1837, Commissioner Borden sent Congress an update. Having been provided space for his office in the makeshift capitol, Borden received the first large influx of records, the archives of Austin's, Dewitt's, and Power/Hewetson's colonies and Commissioner George W. Smyth's records.<sup>17</sup> Andrew Ponton delivered DeWitt's records October 10;<sup>18</sup> John Hadnot received Smyth's papers for Borden on October 28, along with a schedule of the records, and was paid \$114 for bringing the archives to Houston from Bevil's Settlement;<sup>19</sup> and James Power delivered the Power/Hewetson archives on November 1, 1837.<sup>20</sup> Borden also noted receipt of a register for Wavell's colony.<sup>21</sup>

Delivery of the Austin colony records to Borden at the Land Office completed their long peregrination. Robert Peebles, who had transported the records to Fort Jessup, returned with them in mid-September 1836. On October 22, Stephen F. Austin informed Stephen H. Everitt, chairman of the Committee of the Senate on Public Lands, that Peebles was bringing them to Columbia, where Austin hoped to prepare the report on his activities as empresario requested by the committee.<sup>22</sup> Austin appointed Gail Borden, Jr. to help prepare the report for the Senate, and Borden continued this task at the request of James F. Perry, the administrator of Austin's estate, following Austin's death on December 27, 1836. To facilitate this work the papers were conveyed to Perry's Peach Point Plantation, where Robert D. Johnson, Moses Austin Bryan, and John P. Borden assisted in arranging the records.<sup>23</sup> Perry submitted his report to the Senate on

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<sup>16</sup> Borden to Congress, October 7, 1837, *op. cit.*

<sup>17</sup> John P. Borden to Congress, November 6, 1837, *op. cit.*

<sup>18</sup> Receipt for titles and documents belonging to DeWitt's colony delivered by Andrew Ponton, October 10, 1837, GSC Box 4, Folder 3, Spanish Collection, TGLO.

<sup>19</sup> Receipt for records delivered by George W. Smyth, October 28, 1837, GSC Box 4, Folder 4, Spanish Collection, TGLO; Borden informed the legislature that had he been authorized to pay his agents the archives could have been collected much sooner, Borden to Congress, November 6, 1837, *op. cit.*

<sup>20</sup> Schedule and receipt of archives of Power's colony, November 1, 1837, GSC Box 4, Folder 7, Spanish Collection, TGLO.

<sup>21</sup> Earl Stanley Williams sent the register, which now goes by the title "Wavell's Register of Families," to Borden from the Red River District; Earl Stanley Williams to commissioner of the General Land Office, September 18, 1837, "Early Letters Received," Reel 1 (microfilm), Letter No. 1, TGLO.

<sup>22</sup> Gail Borden, Jr. to S. F. Austin, September 19, 1836 in Barker, *The Austin Papers*, 3:431; Stephen F. Austin to S. H. Everitt, October 22, 1836, *The Austin Papers*, 3:437.

<sup>23</sup> James F. Perry, by his attorney Gail Borden, Jr., to the Senate and House of Representatives, draft of letter, n.d., Box GSC 4, Folder 22, Spanish Collection, TGLO.

November 3, 1837, noting that the Austin colony records had already been transferred to the Land Office.<sup>24</sup> Borden was no doubt grateful for the work done in arranging the papers of Austin's colony and preparing a connected map of the surveys located there, particularly in light of the jumble of records in need of organization that he already had in his custody and the mass of additional records that soon followed.

On December 21, 1837, Charles S. Taylor delivered his papers and the land records of the *ayuntamiento* of Nacogdoches to the Land Office, and toward the end of January 1838, George A. Nixon delivered the titles issued by him under the Burnet, Vehlein, and Zavala contracts. Borden indicated that all these records were in great confusion when received and described the records of the *ayuntamiento*, in particular, as "a mere mass of Spanish documents the contents of which were unknown until they were examined in this office."<sup>25</sup>

Empresario Sterling C. Robertson turned in the titles for land in his colony on January 26, 1838.<sup>26</sup> Earlier Borden had dispatched Robert Henry to collect records of this colony thought to be in the hands of Ann Cavitt, Thomas Barron, and John Goodloe Warren Pierson.<sup>27</sup> Henry obtained from Mrs. Cavitt a record book with surveys and several lists but nothing from Barron or Pierson.<sup>28</sup> Some of the records related to the land granting process in Robertson's colony never were delivered to the General Land Office and are now in the Robertson Colony Collection at the University of Texas at Arlington.<sup>29</sup>

The hasty collection and confused state of the archives was one of the many obstacles enumerated by Commissioner Borden in his report on the Land Office to the Legislature on April 10, 1838. "In the meantime, - he wrote - there has been no lack of business in the office from the disorganized state in which many of the archives were received, to organize and arrange which has taken much time and trouble, and thereby caused much delay in giving the necessary

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<sup>24</sup> James F. Perry to Senate of the Republic of Texas, Called Session, Second Congress, November 3, 1837, 100-1354.39, Inv. 13976, Archives Division, Texas State Library.

<sup>25</sup> Receipt for Taylor papers, Box GSC 4, Folder 8, Spanish Collection, TGLO; John P. Borden to Senate and House of Representatives, April 10, 1838, "Letters sent by Comm. of General Land Office then at Houston," Vol. I, p. 95.

<sup>26</sup> McLean, *Papers Concerning...*, 16:336.

<sup>27</sup> John P. Borden to Robert Henry, "Letters sent by Comm. of General Land Office then at Houston," Vol. I, p. 15, TGLO.

<sup>28</sup> Robert Henry to Ann Cavitt, receipt, GSC Box 4, Folder 5, Spanish Collection, TGLO; Robert Henry to John P. Borden, November 7, 1837, "Early Letters Received," Reel 1 (microfilm), No. 15, TGLO.

<sup>29</sup> McLean, *Papers Concerning...*, 16:59.

instructions to the proper officers connected with this Department.”<sup>30</sup> A few months later, on November 7, Borden reported that the records were still incomplete. The records of De León’s and McMullen/McGloin’s colonies had not been received and it was nearly impossible to form a correct idea of the situation of titled lands in these colonies.<sup>31</sup> The work of arranging the records had progressed sufficiently, however, to print a list called *An Abstract of the Original Land Titles of Record in the General Land Office* (Houston, 1838). The list provided the name of the grantee, date, quantity, and general location of the tract.<sup>32</sup>

As if the press of duties was not already enough to test the resolve of any good and able individual, activities were disrupted in 1839 to move the seat of government from Houston to Austin. Borden was appointed to superintend the move. He closed the Land Office in Houston on September 5 and started the journey on the tenth. Borden supervised the hauling of furniture, books, and archives belonging to the Land Office and eleven other government offices. The Land Office opened in Austin on October 8, 1839, in new log cabins built for the purpose at the southwest corner of Pine (now Fifth Street) and Colorado. There Borden again took up the monumental task of overseeing the distribution of the public lands with the assistance of a translator and five clerks.<sup>33</sup>

Articles 33 and 34 of the act of December 14, 1837, entitled “An act to reduce into one act, and to amend the several acts relating to the establishment of a General Land Office,” recognized the obvious importance of having a competent translator connected with this office.<sup>34</sup> The efforts to gather the records in Spanish would have meant little without someone able to read and translate the critical information they contained. Thomas G. Western applied for the position on December 16. As references he listed President Sam Houston, Gen. Thomas J. Rusk, Anson Jones, Joseph Baker, and John J. Linn.<sup>35</sup> He got the job.

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<sup>30</sup> John P. Borden to Senate and House of Representatives, April 10, 1838, *op cit.*, p. 98.

<sup>31</sup> John P. Borden, “Synopsis of the situation of the archives of the several colonies and other portions of Texas as appears from the records of the General Land Office up to the present time Nov. 7, 1838,” “Early Letters Sent,” Vol. II, p. 177, TGLO.

<sup>32</sup> *An Abstract of the Original Titles of Record in the General Land Office. Printed in Accordance with a Resolution of the House of Representatives, Passed 24<sup>th</sup> May, 1838* (Houston: National Banner Office-Niles and Co., Printers, 1838). The Pemberton Press printed a facsimile edition in 1964 with a preface by Mary Lewis Ulmer.

<sup>33</sup> Bascom Giles, commissioner. *Report of the Commissioner of the General Land Office, 1938-1940* (Austin: Von Boeckmann-Jones Co., n.d.), p. 36.

<sup>34</sup> Gammel, *Laws of Texas*, 1:1415.

<sup>35</sup> Thomas G. Western to John P. Borden, December 16, 1837, “Early Letters Received,” Reel #1 (microfilm), TGLO.

Reports prepared by Borden in 1839 and 1840 indicate success in ordering and arranging the records he had collected. In response to inquiries from the Legislature, Borden was able to provide a detailed review of titled lands in Texas, their origin, nature, and status.<sup>36</sup> Certified copies of titles (*testimonios*) deposited by individuals gave some idea of the titled land in areas where the originals were not available. *Testimonios* of 51 titles in De León's colony reached Borden, along with 9 from the McMullen/McGloin colony and a few from alcaldes of Goliad. Borden thought that the original McMullen/McGloin and De León titles were lost or destroyed and reiterated his fear that conflict with new surveys would be difficult to avoid.<sup>37</sup> John W. Smith and Juan N. Seguín sent in a few more titles from Béxar, and interested parties deposited evidence of the titles they had obtained. Borden struggled valiantly with the multiplicity of problems that plagued the new land system but finally resigned on December 12, 1840, soon after the beginning of his second term, stating simply that circumstances rendered it necessary to retire from the situation he occupied in the government.<sup>38</sup>

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<sup>36</sup> John P. Borden to Robert Potter, Chairman of the Committee on Public Lands, November 21, 1840, "Early Letters Sent," Vol. 3, pp. 100-104, TGLO.

<sup>37</sup> John P. Borden to Robert Potter, Chairman of the Committee on Public Lands, December 2, 1840, "Early Letters Sent," Vol. 3, pp. 108-111, TGLO.

<sup>38</sup> John P. Borden to Mirabeau B. Lamar, December 12, 1840, "Early Letters Sent," Vol. 3, p. 113, TGLO.