

R E P O R T  
REGARDING THE QUIETING OF TITLES  
TO UNIVERSITY LANDS IN McLENNAN COUNTY

Act approved March 6, 1875. S.B. 506; Ch.51, p. 65, G. 8, p. 437.

This act provided that owners of University land purchased in McLennan and Hill Counties shall not be compelled to pay until title to said land was settled.

Reports of Attorney Generals of Texas - for 1876-1877-1878  
of H. H. Boone, pp. 6-7 (Miscellaneous Business)

These reports call attention to the bringing of suits in the Federal Court at Austin in 1873 by owners under the Joachin Moreno Grant against settlers in possession holding under sales by the State; recall the passage of the Act of March 6, 1875, amending present sales acts to provide that settlers in McLennan and Hill Counties should not be required to meet their payments until titles are quieted; set out that application was made to Attorney General to intervene in litigation on part of State; that the Attorney General declined on the belief that, if Attorney General had authority, the Attorney General did not believe it to be to State's best interest because, if the State refrained, it would not be bound by the judgments; and they stated that authority rests with Legislature to make provision for testing title and that, if titles were not quieted, the settlers money should be returned.

January 14, 1879, H. J.; pp. 59-60 -- S.J., pp. 57-58 -- Governor O. M. Roberts message to 16th Legislature, Regular Session, January 14 to April 24, 1879.

This message calls attention to certain sales in McLennan County in which the title of the State has been called into question by recent decisions in U. S. Court at Austin and states that money and interest on sales should be refunded where title is adjudged null and void.

H.J.R. 21; No. 5, p. 187; G. 8, p. 1487 - Approved Feb. 19, 1879.

This resolution authorized Attorney General to institute suit to establish title to University lands in McLennan and Hill Counties.

February 19, 1881 - H.J., p. 149; S.J., p. 125.

In this bill drawn up by Attorney General and Judge Clark of the firm of Clark & Dwyer, Waco, Texas, recommendation was made as to best mode of disposing of subject. It was submitted to Legislature and referred to Judiciary Committee. (Became a law.)

March 22, 1881 - H. J., p. 293; S. J. 251-2.

Here the Governor informs Legislature that Clark and Dwyer of Waco had been employed to bring suit to establish title as between State and Claimants under the Moreno Grant to University lands in McLennan and Hill Counties; that there are about 14,000 acres involved; that under a previous law the purchasers of these University lands had been relieved of paying for these lands until titles were quieted; that it was to States best interest and that of the settler that title be quieted by adjudication; that because it was impracticable for the Attorney General to bring suit in McLennan County, the firm of Clark and Dwyer had been employed. He submits a letter from Attorney General to himself and a contract and recommends that appropriation be made to provide necessary money to pay Clark & Dwyer and other expenses.

S. B. 290, Ch. 73, p. 76, G. 9, p. 168 Approved as law on March 30, 1881.

This S. B. 290 replaced original bill to protect titles (See Page 199) and authorized Governor and Attorney General to employ competent council to protect titles by bringing suits and by using other means necessary to establish title.

Attorney General's report for 1882 - J.H. McLeary, p. 21.

This report sets out that cases Nos. 3501, The State of Texas vs. Jennie Lewis, and 3502, State vs. John Barrett, at last report pending in District Court of McLennan County brought in accordance with joint resolution of February 19, 1879, to remove cloud from titles and to establish title in the State to the University lands in McLennan and Hill Counties, were removed by defendants into U. S. Circuit Court at Waco, Texas.

Attorney General's report for 1884 - J. D. Templeton, p. 7.  
(U. S. Courts)

This report informs that the suits are still pending

(For further information regarding progress of suits see 2nd Biennial Report of Board of Regents, 1886, pp. 55-56; 3rd Report, 1888, pp. 5-6--7; 4th Report, 1889, pp. 6-7.)

McLennan County Land Suit compromised June 17, 1889; Vol. 12, p. 542.  
(Dept. of Attorney General)

Letter from Atty. Gen. J.S. Hogg to Land Commissioner, R.M. Hall -  
December 9, 1889, Vol. 13, p. 68\* (Letter Book Vol. 51, p. 114,  
Department of Attorney General.)

This letter calls Hall's attention to the fact that purpose of the Act of March 6, 1875, was not to suspend sales nor payments but merely to suspend during period of litigation the State's rights to compel and enforce payment upon such sales; that sales made to settlers, after the Act of March 6, 1875, became law and before the termination of the suits, were legal and valid even though settler at the time application was made did not send in payment as required under the Act of 1874; that upon the payment of the principal plus interest, settlers would be entitled

\*The Reference to Vol. 13, p. 68 is not clear hence the reference in brackets is to another source at which the letter may be found in Attorney General's office.

to patents; that settlers whose payments had been refused, when tendered, would not be liable for interest on amount tendered since date of tender.

Message of Governor Ross - Jan. 15, 1891; H.J., pp. 36-37; S.J., pp. 16-17, to 22nd Legislature, Reg. Sess., Jan. 13 to April 13, 1891.

This message recites provisions made to protect University titles in McLennan and Hill Counties to some 14,000 acres adversely claimed under the Joachin Moreno grant which claim is anterior to Independence of Texas but was not filed in McLennan County until 1871; the employment of Clark & Dwyer to defend States title; the bringing of suits in District Court of McLennan County against certain occupants, among them, The State of Texas vs. Jennie Lewis; that the Attorneys for the State had reported that after such action, Martinez Del Rio and brother, natives of Mexico, but claiming to be subjects of Great Britain had entered their appearance as landlords of defendants and had petitioned for removal to U. S. Circuit Court at Waco; that District Judge had refused removal of case so the real defendants, the Rios brothers, had filed a transcript of proceedings in the U. S. Circuit Court at Waco; that this court had refused to remand and had retained jurisdiction; that upon the law and evidence taken and on file, it was their opinion that the Moreno Grant had superior title under our own decisions; that said Attorneys had reported said suit could be compromised by a division of lands in dispute, if such was desirable; that the proposition had been submitted to him (Governor Ross) and the Board of Regents and that with the Regents advice and consent the matter had been compromised vesting the title by appropriate decree in the State to 6,750 acres of these lands.

H. J. R -7-p. 265; G. 10, p. 1319 - 25 Legislature, Jan. 12 to May 21, 1897.

In this resolution the Legislature ratified and approved the action of the State's attorneys in compromising State's claim for University lands in McLennan County. Became law - H.J. 1443; S.J., 984.  
(Sets out State recovered 6,533 acres and claimants under Moreno 7,022 acres.)

Prepared by Louise C. Harwood  
March 22, 1950.

MCLENNAN COUNTY

SKETCH FILE NO. 40

Report regarding the quieting  
of titles to University Lands  
in McLennan County.

Dated Mar. 22, 1950

Filed Mar. 28, 1950

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