



Lake Charles \$100,000

74819

## TEXAS LOST LAND

### SABINE ISLANDS AWARDED TO LOUISIANA.

About 8000 Acres Involved in Decision by Interior Department. History of the Case.

(Houston Post Special.)  
WASHINGTON, June 29.—Acting Secretary of Interior Pierce has reversed the general land office and held that the Sabine islands, which have been the subject of controversy between the States of Louisiana and Texas, are within the jurisdiction of Louisiana and are part of the public domain of the United States. The land office was ordered to carry out the instructions issued in 1907 to have the islands examined to establish their swampy character with the view to issuing patent to Louisiana, the State having made application for it. These islands embrace about 8000 acres of land, which are close to Beaumont, Texas, oil fields and are believed to be rich in oil and gas.

The case was argued twice, before the general land office and the secretary's office, interior department, Assistant Attorney James D. Walthall, representing Texas, and Branch T. Masterson appeared as claimant under patents issued by the State of Texas.

#### CONTENTION OF TEXAS.

Texas contended that the international boundary, commission, appointed by the United States and Republic of Texas, which surveyed the boundary along the west bank of the Sabine river in 1840, followed the east channel around the islands in controversy and also built up a strong case on prescription and the admissions of the Louisiana map makers that the islands were in Texas. On the other hand, the land office of Texas has made admissions that the islands were sold by the State under a mistake of jurisdiction.

The opinion, which is in the form of a letter to the commissioner of the general land office, states that there is no discrepancy between the map and the journal of the boundary commission, as was contended by Texas; that until congress gave Texas permission to extend her boundary to the middle of the Sabine river that State had owned no part of the river and only a low water mark, and that congress in granting an extension to Texas could not have granted any territory which was under the jurisdiction of Louisiana.

#### PART OF OPINION.

The opinion says, in part: "Much stress has been laid by the State of Texas upon the fact that the public land surveys made by the United States of the territory lying contiguous to said islands were closed upon the eastern channel of the Sabine river, thereby tacitly admitting that said channel was the Sabine river proper that formed the boundary between said States.

"The mere fact that the public land surveys may have closed upon said channel as the Sabine river and that there is great irregularity in the public land surveys of the townships contiguous to and covering said island is not material in determining the limits of jurisdiction of the respective States for the reason that the eastern boundary of Texas as fixed by the joint commission pursuant to the treaty between the United States and the United Mexican states, so far as it affects the territory in controversy, is so well defined and established by the work of that commission and the treaty

(Continued on Page Two.)

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Continued from Page One.

under which they were acting as to leave no reasonable grounds upon which any dispute can arise as to the true locus of that boundary."

#### BOUNDARY COMMISSION JOURNAL.

In reference to the journal of the boundary commission, it says:

"There is not a single line of the journal to indicate that the commission at any time crossed to the east bank of any part of the Sabine river or that it fixed the boundary at any place east of the westernmost channel of the river. On the contrary, the description of that part of the survey affecting the land in question clearly indicates that the boundary line agreed upon and fixed was on the western bank of the western channel of the river at the narrows and that it did not at any time ascend the east channel, upon which is located at Millspaugh's Bluff.

"No discrepancy is shown between the journal and the map. On the contrary, it is shown throughout the journal that the commission never carried the boundary line at any point across any part of the Sabine river, but confined it to the west bank of the western channel of the river on the line described upon the plat, which occupied the exact locus that is found today.

#### POWER OF SUPREME COURT.

"The supreme court of the United States has sole jurisdiction to finally determine the question of disputed boundaries between States. No decision that may be made herein would be binding upon the States. But it is the duty of the department to determine whether the lands in question are part of the public domain, and whether they are of the character of lands that pass to the State of Louisiana, under its grant of swamp and overflowed lands. For that purpose it must determine for itself what boundary should be recognized, and such determination must be made according to the elementary rules that control in the question of disputed boundaries.

"The true line in a navigable river between States of the Union, which separates jurisdiction of one from the other, is the middle of the main channel of the river. If there be more than one channel of a river, the deepest channel is the midchannel for the purpose of territorial demarcation. That is also the rule as between nations if there be no convention respecting it.

#### RULE HAS NO APPLICATION.

"But that rule has no application in this case, for the reason that the boundary between the Republic of Texas and the United States was fixed by convention. Furthermore the river was not the boundary, but the boundary between said republic and the United States was the west bank of the river, and such boundary continued to be the east boundary of Texas until the act of 1849, when the United States consented that the State of Texas may extend its limits from the western bank of the river to the middle of the stream. It can not be presumed, however, that the United States intended by such legislation to take from the State of Louisiana any part of its territory or to change in any respect the boundaries established by the act of its admission, even if it had authority to do so.

"You will execute the instructions given in the letter of December 2, 1907."

#### GENERAL LAND OFFICE RULING.

The general land office, which first passed upon this controversy last March, held that the Louisiana boundary closed on the east bank of the narrows, and that the islands belonged to the United States, and not to Louisiana. An appeal was taken by counsel for Louisiana, and the case was reargued before the assistant secretary of the interior, and a board consisting of the assistants to the attorney general and law officers of the department. It will be necessary for the general land office to send a deputy to examine the islands to determine whether they are swampy in character, and if they are a patent will be issued to the State of Louisiana under the swamp land grant. The expense of this examination, which may be \$1000, must be met by the Louisiana legislature. When the money is on deposit, or is available, the land office, under the new law, which will become effective July 1, will send its own surveyor to look over the islands. Inasmuch as something over 500 acres already have been patented to the State and sold to individuals, the surveyor must make a survey of this tract, so that it may not be included in that to which another patent will be given.

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*Newton*

File 629

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*Sp. abstr. 657*

**FANNIN SCRIP.**

*Jasper (Confed.)*

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*J. C. Smith*

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*No. 1 - 1280 acres*

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*Conf'd* Certificate No. 716

*Ord to Branch T. Masterson*

*April 16, 1888*

*Pat. No. 152 vol. 37*

Cancelled in accordance with the Act of the Convention of the United States of America and the Republic of Texas, April 25th 1838 confirming the boundary between Louisiana and Texas along the Sabine River. See Parcel No. 5 within.

*6-8-1937*  
*Atlee*

*Cancelled in Ab. Vol. 60*

Mgl. 9340 1.

*Outside of State.*

**CONTENTS.**

No. 1. Certificate.

Nos. 2 and 3. Field Notes.

No. 4.

*5. Letter from 1837 etc.*

*6. Old Map etc.*