

## CHAPTER VI

### THE PERMANENT SETTLEMENT OF TEXAS

THE general policy of all the European nations in the eighteenth century and a part of the nineteenth excluded from their respective colonies all commerce with foreign countries. Spain followed the same principles, but carried them out more logically. Her legislation, adopted at the very beginning of her colonial empire, involved a system of isolation under which no foreigner was to be allowed to set foot within her dominions. Japan was hardly more rigid. The reasons for this extreme policy were complex. The securing a complete monopoly of trade was one of the motives common to her and to other European countries, but more important perhaps were the religious objects which the conquest of the Indies involved. It must never be forgotten that the conversion of the heathen was always actually and vividly present in the minds of the mediæval explorers and conquerors, as well as in the minds of the successive Catholic Kings, and that a genuine zeal for the welfare of the natives found its expression in all the Spanish colonial legislation of that period. Moreover, as the Spanish title to America rested upon the bull of Alexander VI, which granted the newly discovered lands upon trust to christianize the Indians, the Kings of Spain considered it incumbent upon them to exclude from that field all whom they could not control. More especially did they do their utmost to exclude all heretics, whether French Huguenots, Dutchmen, or Englishmen.

But plainly it was not enough merely to close the doors to foreigners and heretics. Unworthy Spaniards must also be kept from contact with the natives, and accordingly regulations of extraordinary minuteness were adopted. No one,

of course, could even visit the Indies without a passport, and it was the law that no passport should be issued to any man unless he presented satisfactory evidence of good character and made it appear that he had never been accused before the Inquisition, and was not the son or grandson of a person who had been convicted by that tribunal.

Permission to settle permanently in the colonies was more difficult. It was at first granted with reluctance, even when all the necessary evidence was forthcoming. Preferably, passports were granted for a limited period only. When granted for one colony they were not available for any other, and the holders were required to go to their destination by the most direct route. To go from one colony to another a new passport must be obtained.

These, it must be noted, were the early ideals, but as time passed the dream of developing the colonies through the labor of regenerated races of christianized Indians, working under the direction of a paternal government and supervised by an army of devoted friars, was either forgotten or tacitly abandoned. The Bourbon princes who succeeded to the throne early in the eighteenth century were more amenable to modern ideas, and especially to French ideas, than their Austrian predecessors, and the pressure of the constant and world-wide warfare of the latter half of that century frequently compelled temporary relaxation of the general colonial laws, sometimes with, and more often without, the previous sanction of the superior authorities in Spain. There also came in course of time to be a variety of individual cases, in which for one reason or another exceptions were permitted. "Some foreigners have found and do daily find means," said an experienced traveller, "to evade the law, either by stratagem, or by the tolerance of the governors or commandants of the ports at which they land."<sup>1</sup>

Toleration of the presence of foreigners was practised in Louisiana under Spanish rule to an extent quite unheard of in any of the other colonies of Spain. The reasons were obvious. To begin with, the population was not Spanish but French.

<sup>1</sup> Depons, *Voyage à la Terre Ferme*, I, 183.

Again, the fact that British vessels had a right under the treaty of 1762 to navigate the Mississippi from its mouth to its source, and the fact that under that same treaty the whole east bank of the river, from a point just above New Orleans, was British territory and contained actual British settlements, introduced features entirely unknown elsewhere.

It is therefore not surprising to find that as early as the outbreak of the American Revolution there were a number of English-speaking residents in New Orleans.<sup>1</sup> Later on, the rapid growth of the population of Kentucky and other parts of the Mississippi valley gave rise to new perplexities, and finally compelled the Spanish authorities, after 1795, to grant a certain authorized freedom of commerce. The successive governors of Louisiana, during the last years of Spanish rule, pursued an extremely vacillating course, but there were times when American settlers were actually invited into the colony and grants of land were actually made to immigrants from the United States.<sup>2</sup>

Such concessions, however, were peculiar to Louisiana alone. They were entirely unheard of in any other part of the Spanish possessions, and would have seemed to experienced colonial officials as something almost contrary to the established course of nature. It certainly was so in Texas, and therefore Governor Martinez of that province was greatly surprised and shocked when in November of the year 1820 a Connecticut Yankee rode into Béxar and coolly requested that a tract of land be given to him as the site of a whole colony of foreigners.

The enterprising stranger was Moses Austin, a native of the town of Durham, which lies next to Middletown, in Connecticut. He was born about 1764 and when a lad had gone into business in Philadelphia. There he was married in the year 1785.<sup>3</sup> From Philadelphia he moved to Rich-

<sup>1</sup> Martin, *Hist. of Louisiana*, II, 26-28, 36.

<sup>2</sup> In 1799 the Bishop of New Orleans forcibly protested against the mob of adventurers, who were permitted to reside in Louisiana, and who knew not God or religion—evidently emigrants from the United States.—(Robertson's *Louisiana*, I, 356.)

<sup>3</sup> Mrs. Austin was a member of a New Jersey family long settled in the United States.—(*Tex. Hist. Quar.*, X, 343.)

mond and became interested in lead mining in the mountains of Virginia—an enterprise that did not prove profitable. Hearing of lead mines west of the Mississippi he managed to obtain a passport from the Spanish minister in Washington, and after a difficult and dangerous journey of exploration in the dead of winter, he finally settled with his family in the year 1798 in the colony of Louisiana, at a place near the present town of Potosi in the state of Missouri.<sup>1</sup> Five years later the cession of Louisiana brought Austin once more within the limits of the United States.

For a number of years his affairs prospered, but in 1818 he was ruined by the failure of a St. Louis bank of which he had been the founder and chief stockholder. The irrepressible Yankee again asserted himself. The conclusion of the Florida treaty had now clearly defined the boundaries of the Spanish possessions, and Austin resolved to repeat the same experiment which he had tried successfully twenty years before. After careful preparation, he started in the latter part of 1820 on a preliminary visit to Texas. Six months previous to his departure the passage of the Missouri Compromise had in effect decided that the southwestern portion of the United States should become a series of slave states.

Austin safely crossed the deserted wilderness of eastern Texas and arrived at Béxar without molestation, precisely as Saint-Denis had arrived at the presidio of the Rio Grande one hundred and five years before. In no material respect was the Texas of 1820 different from the Texas of 1715.

Governor Martinez did not receive Austin cordially.

“At the first interview,” his son relates, “my father received a most peremptory order to leave Texas immediately; he endeavored to palliate and give a favorable turn to matters by entering into a genial conversation with the governor in French, which they both understood, but his efforts were fruitless; the governor even refused to read the papers my father presented as evidence of his having formerly

<sup>1</sup> An interesting account of Moses Austin's first journey across the Mississippi will be found in *Amer. Hist. Review*, V, 518-542.

been a Spanish subject in Louisiana, and repeated his order, with much asperity and some passion, to leave Texas immediately."<sup>1</sup>

Fortunately for Austin he happened, just as he left the governor, to meet an old Louisiana acquaintance, a cosmopolitan adventurer who had once been in the Spanish service and was now living in great poverty at Béxar, the Baron de Bastrop.<sup>2</sup> With this man's aid, Austin managed to get a hearing from the indignant governor. What arguments were offered is not related, but the rather surprising result was that a week after all the asperity and passion of the first interview the governor and *ayuntamiento* of Béxar united in a letter advising the superior authorities to grant permission for settling three hundred American families in Texas.

The work of Moses Austin was now finished. He could do no good by remaining at Béxar, and he returned home to await the result. The journey in winter was full of dangers and difficulties. By the time he reached Missouri he was in a most serious condition of health, and he died June 10, 1821, in the fifty-seventh year of his age. He had learned before his death from Governor Martinez that the proposed grant of land had been duly authorized by a decree of the viceroy of New Spain, and he was planning another visit to Texas when the end came.<sup>3</sup>

<sup>1</sup> *Comprehensive Hist. of Texas*, I, 442.

<sup>2</sup> The history of the Baron de Bastrop is very imperfectly known. In a Spanish official document he is called Don Felipe Henrique Neri, Baron de Bastrop; but the Spaniards often made sad work of foreign names.—(*Comprehensive Hist. of Texas*, I, 479.) In 1820 he was very old, but hale and active. He is said to have been a native of Holland, to have served under Frederic of Prussia, by whom he was ennobled, and then to have served under the Spanish colors. He asserted a dubious claim to an extensive tract of land on the Washita River, which he sold to Aaron Burr, and which Burr asserted was the goal of his expedition. See *Tex. Hist. Quar.*, VI, 248, for some account of Bastrop. As to his grant of land on the Washita, see White, *A New Collection of Laws*, etc., II, 404-408. The grant was made by Carondelet, Governor of Louisiana, June 21, 1796. See also Dunbar and Hunter's *Observations in Amer. St. Papers, Indian Affairs*, I, 731-743.

<sup>3</sup> The letter from Martinez was dated Feb. 8, 1821, and was probably received by Moses Austin in April or May. As to details, see *Comprehensive Hist. of Texas*, I, 440-444, 470; *Tex. Hist. Quar.*, VII, 286; X, 345. The decree of the viceroy was dated Jan. 17, 1821.

Stephen Fuller Austin, the eldest son of Moses, who now took up and carried forward to success his father's work, was at this time twenty-seven years old. He was born in Virginia November 3, 1793. He went to school in Connecticut, spent two years at college in Kentucky, and returned to Missouri when about eighteen years of age to help his father in the management of his multiplying business. When only twenty years old Stephen Austin became a member of the territorial legislature of Missouri, a position he retained for six years. In the spring of 1819, when he and his father had agreed on the plan for making a settlement in Texas, he left home for Arkansas to arrange there for carrying on the enterprise, and during the eighteen months that he spent in Arkansas, he located the town of Little Rock and served as one of the circuit judges of the territory. In person he was short and slight, with dark hair and a penetrating eye. All who saw him seem to have fallen under the spell of his very agreeable personality, and to have preserved pleasant memories of his winning smile and of what one old friend described as "his simple, unpretentious, gentle, and dignified manners," and his "unconscious magnetic bearing and influence among men."<sup>1</sup>

In the autumn of 1820, when his father finally set out for Texas, Stephen Austin went to New Orleans, where he found occupation as a newspaper editor. He remained in New Orleans for six months, until he learned that a grant to his father had been authorized, and on June 18, 1821, eight days after his father's death, of which he was still entirely ignorant, he started for Natchitoches where he and his father had agreed to meet and travel west to select the site for their colony. There he met two commissioners from Béxar, who had been sent by the governor to escort the expedition. It was not until after Austin had made up an exploring party of about a dozen men, that he received letters from home announcing his father's death, just thirty days after the event.

<sup>1</sup> Robert Mills, in *Comprehensive Hist. of Texas*, I, 500; and see *Tex. Hist. Quar.*, III, 6-10.

Stephen Austin's diary of his journey to Béxar gives a vivid impression of the condition of Texas in 1821.<sup>1</sup> From the Sabine to Nacogdoches there were a very few American settlers. Nacogdoches itself was in ruins, and of a once flourishing village there remained one church and seven houses "still standing entire, one of them two story high." Just beyond Nacogdoches two families had settled, "the last habitation to Béxar."

For twenty-two days the party journeyed through this two hundred and fifty miles of wilderness without annoyance from the Indians, although once they saw a large trail, and at night their sentinel saw "several Indians and other alarming things" which turned out in the morning to be stumps and roots of trees that had been blown over. Only once did they meet any human being, "two parties from La Bahía," whom we may conjecture to have been Mexicans moving back to Nacogdoches, although there were two women among them who spoke English. From these travellers were received alarming stories of the Comanches killing men and stealing horses in "the very Town of San Antonio," where "the people were in a very distressed condition." Without other incident the party rode into Béxar on Sunday the 12th of August, 1821, where they were met by "the glorious news of the Independence of Mexico."

The efforts of the Austins to establish themselves in Texas had in fact been closely contemporaneous with the efforts of Mexico to get rid of Spanish supremacy, and their success must have been due, in great measure, to the progress of liberal ideas. The year 1820, in which Moses Austin visited Texas, was the year of Riego's rebellion and of the restoration of the Cadiz Constitution of 1812. In June, 1820, the viceroy of Mexico had publicly sworn to uphold this Constitution, and had proclaimed liberty of the press and the abolition of the Inquisition; and had it not been for such changes in the form and spirit of the government it is hardly probable that the governor of Texas would have ventured to consent, in November of that same year, to Austin's

<sup>1</sup> See the complete text in *Tex. Hist. Quar.*, VII, 286-307.

projects. Even in his distant post the advent of the new ideas and aspirations of the rulers of Mexico must have become known.

In addition to a general desire to conform to the spirit of the age and to enter upon a career of liberalism marked by progress and national development, it seems likely that the colonial authorities were actuated by other notions of a very erroneous kind. From the fact that Moses Austin had come to Texas from Louisiana, they seem to have had a vague notion that the colonists he was to bring with him would be from Louisiana also, that Louisiana was a Catholic country inhabited by Frenchmen and Spaniards, and that the new settlers would be people who had once been subjects of the King of Spain and wanted to become so again.

But before the liberal intentions of the viceroy toward Austin could be carried out Mexico had shaken off her Spanish allegiance. It was on February 8, 1821, that Governor Martinez designated the representatives who were to meet Stephen Austin at Natchitoches. It was on February 24, 1821, that Iturbide proclaimed the plan of Iguala, and it was on the fifth of July, 1821, that the Spanish viceroy was deposed and independence was practically achieved. The news of this last event was that which greeted Stephen Austin as he came into Béxar.

The viceroy's permission to establish a colony in Texas was singularly free from restrictions. Austin might settle anywhere and take any quantity of land he chose, and he was not required to pay anything to the government. "It will be very expedient," was the language of the official decree of January 17, 1821, "to grant the permission solicited by Moses Austin that the three hundred families which he says are desirous to do so should remove and settle in the Province of Texas." The conditions were short and extremely simple:

"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 defence 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."<sup>1</sup>

To profess the Catholic religion and to take an oath of allegiance proved, in practice, to be easy burdens for the consciences of eager emigrants, and the conditions imposed were lightly accepted by Stephen Austin. Two days after his arrival in Béxar he secured a letter from Governor Martinez authorizing him to proceed to the River Colorado and to select a place for the three hundred families. These colonists, Martinez stated, would be permitted to come to Texas either by land or sea, but in the latter event they could only disembark in the Bay of St. Bernard (Matagorda Bay, the site of La Salle's old settlement), which had recently been established as a port of entry—the only one in Texas. No duties were to be charged on provisions imported by the emigrants for their own use, or on farming utensils or tools.<sup>2</sup>

Having spent ten profitable days in Béxar, Austin and his party started out to explore the country to the south and east, where they found everything "as good in every respect as man could wish for, Land all first rate, plenty of timber, fine water—beautifully rolling."<sup>3</sup>

Before November Austin was back in New Orleans, full of eager occupation, enlisting settlers and chartering schooners to carry emigrants and supplies to the new colony. In December he was once more on the banks of the Brazos River with the first of the emigrants, and here the earliest Anglo-American settlement in Texas was firmly planted.<sup>4</sup> Privations and dangers, such as had attended all the enterprises of American pioneers from the days of Raleigh, had to be faced by Austin's colonists, although in those almost tropical latitudes they escaped one bitter enemy. They were spared the prolonged rigors of a Northern winter.

<sup>1</sup> *Comprehensive Hist. of Texas*, I, 470.

<sup>2</sup> *Ibid.*, 472.

<sup>3</sup> Austin's Journal, Sept. 20, 1821; *Tex. Hist. Quar.*, VII, 306.

<sup>4</sup> For an account of Austin's arrangements with the early colonists, see *Tex. Hist. Quar.*, VI, 319.

Of their early troubles, Austin himself has given a vivid account.

"One vessel," he says, "the Schooner *Lively*, was lost, without any avail or benefit whatever to the settlement; for, owing to the inaccuracy of the charts, or some other cause, those who commanded the first vessels did not find the appointed place of rendezvous, the mouth of the Colorado.<sup>1</sup> One cargo which reached that place, was destroyed by the Carankaways in the fall of 1822, soon after it was landed, and four men were massacred. These disappointments compelled the emigrants to pack seed-corn from the Sabine or Bexar, and it was very scarce at the latter place. They were totally destitute of bread and salt; coffee, sugar, etc., were remembered, and hoped for at some future day. There was no other dependence for subsistence but the wild game, such as buffalo, bear, deer, turkeys and wild horses. . . . The Carankaway Indians were very hostile on the coast; the Wacos and Tehuacanas were equally so in the interior, and committed constant depredations. Parties of Tonkaways, Lipans, Beedies, and others were intermingled with the settlers. They were beggarly and insolent, and were only restrained the first two years by presents, forbearance and policy; there was not force enough to awe them."<sup>2</sup>

But want and danger from thieving Indians were not the only difficulties with which the pioneers were forced to contend. These were the inevitable accompaniments of an attempt by adventurous and poorly equipped settlers to establish themselves in a new country. There was now added the unpleasant fact of finding themselves in conflict with the rulers of the country.

Austin had proceeded with his plans and enlisted his companions on the strength of nothing more definite than a letter from Governor Martinez. It seems not to have occurred to him that a formal grant might be requisite, and it was therefore "totally unexpected and very embarrassing" to be told, when he reached Béxar again, in March, 1822, that it would be necessary for him to procure a confirmation from the Mexican Congress. There was nothing for it but to go to Mexico himself, and on April 29 he arrived in the capital at a most unpropitious time.

<sup>1</sup> Compare with this statement the articles in *Tex. Hist. Quar.*, III, "Adventures of the 'Lively' Immigrants," 1-32, 81-107, and "What Became of the 'Lively,'" 141-148.

<sup>2</sup> *Comprehensive Hist. of Texas*, I, 450.

The news of the refusal of the Spanish Cortes to recognize the treaty of Cordova or to permit a member of the royal family to assume the independent crown of Mexico had just been received, and all sorts of fierce intrigues were going on, more or less publicly, with reference to the future government of the nation. Foreigners too had descended upon the country, seeking concessions for mines or land, and presumably not very scrupulous as to the means for attaining their ends.<sup>1</sup> And amid all this turmoil and the conflict of rival interests, it is not surprising that Austin's business was not quickly disposed of.

While he waited, full of activity and hopefulness, in the Mexican capital Iturbide was crowned Emperor, formed his imperial court, and by a *coup d'état* dissolved Congress. It was not until this was done that anything was actually accomplished in regard to the settlement in Texas, although during the existence of Congress the subject of a general colonization law, under which foreigners might be admitted to take up and settle the uninhabited regions of the republic, had been debated at much length. The question of slavery was that which had principally delayed the passage of a law. Austin, who was by far the most efficient of those who were seeking concessions, and whose character inspired confidence in the Mexican leaders, was in principle opposed to slavery; but he was then convinced that at least temporary toleration was necessary if any colony in Texas was to succeed. The semi-tropical climate and the fact that the best lands were in malarial river bottoms seemed to him to make negro labor absolutely essential to agriculture; and as emigrants would naturally be farmers from the adjoining slave states, he be-

<sup>1</sup> Among the American seekers for concessions was the old Spanish pensioner General James Wilkinson, who went to Mexico in the spring of 1822 to try to pick up a living where he would not be subject (as he said) to "the disposition of the little Jesuit Maddison or his Bifaced successor Monroe." A characteristic letter written by him to a friend April 17, 1823, giving an account of Iturbide's career and other Mexican affairs, is printed in the *N. Y. Pub. Library Bull.*, III, 361. An equally characteristic and impudent note, demanding an official certificate of character from the American minister, exists among the *Poinsett MSS.* (July 9, 1825). Wilkinson got a concession for land in Texas, but died near Mexico Dec. 28, 1825, leaving the conditions of the grant unfulfilled.

lieved that the difficulties of attracting settlers would be immensely multiplied if slavery were prohibited.

To Austin's self-interested and commercial views were opposed the more elevated theories of some of the best men in Mexico, who desired that their country, which had just attained its independence, should keep slavery out of its as yet unsettled lands. It was the same spirit as that which had led the American Congress in 1786 to prohibit slavery in the Northwest Territory. In the case of Mexico, however, the question was far more difficult to decide, for the evidence seemed to be strong, if not conclusive, that if slavery were prohibited colonization would not take place.

The doubtful controversy was still unfinished when Iturbide dissolved Congress, but it was renewed in the sittings of the *Junta Instituyente* soon after the beginning of November, 1822.<sup>1</sup> By January 4, 1823, a conclusion had been reached which was acceptable to Austin, and the important statute, known in the Texas courts as the imperial colonization act of 1823, was duly enacted. This measure, which forms the starting-point of Mexican legislation on the subject, and marks the complete and deliberate abandonment of the most cherished maxims of Spanish colonial administration, deserves careful examination.

After a declaration that the government would protect the liberty, property, and civil rights of all foreigners who professed the Catholic religion, the statute provided for the distribution of public lands either directly to individual families or indirectly through the agency of *empresarios*. An empresario was defined as a contractor with the government who should undertake to introduce not less than two hundred families. Public lands were to be classified as grazing lands and arable lands. Colonists whose occupation was farming were to receive at least one *labor*, or about 177 acres; and those whose occupation was grazing at least one *sitio*, or about 4,428 acres. An empresario who had actually

<sup>1</sup> A most interesting account of the debates, and of Austin's efforts to secure favorable legislation, will be found in Bugbee's "Slavery in Early Texas," *Pol. Sci. Quar.*, XIII, 392-395.

established two hundred families was entitled to receive as a bonus for himself fifteen sitios and two labors, or something more than 66,000 acres of grazing lands and something less than 360 acres of arable land; but his title was to lapse unless, first, these lands were settled and cultivated within twelve years, and, second, unless two-thirds of the lands allotted to him were sold or given away within twenty years. In the same way the titles of colonists were to lapse if they failed to cultivate their lands within two years after the grants to them. Villages and towns were to be formed and priests supplied by the government as soon as a sufficient number of families were assembled. The colonists were to be exempt for six years from the payment of all taxes, ecclesiastical or civil, and for the next six years thereafter they were to pay only half the taxes exacted from other citizens. Tools and implements of husbandry were to be admitted free of duty, as also goods to the value of two thousand dollars for each family. Foreigners established in the empire were to be considered naturalized at the end of three years if they exercised any useful profession or industry, had a capital sufficient to support themselves decently, and were married; and if they married Mexicans they were to have a preference. The importation of slaves was not prohibited, but if imported they were not to be sold, and their children were to be free.

It is apparent on the most casual examination that this scheme required for its successful working a large force of highly skilled and intelligent officials. The classification of land and its surveying and allotment would have called for professional services of a high order. The keeping of accurate records was also an essential feature, as was an efficient inspection service to see whether the lands were occupied and cultivated as prescribed by the law. And the laying out of villages and towns would have also required the expenditure of substantial amounts of money, which the Mexican government could ill afford to spare.

Moreover, the law was very loosely drawn. It was made to apply only to those who professed the Catholic religion,

but what tribunal was to ascertain the fact, or what was to be the fate of immigrants who proved not to be Catholics, was not stated. A like uncertainty attended the provisions relative to naturalization.

However, having succeeded in getting this legislation, such as it was, Austin's business was not to criticize but to make the best of it, and to secure a definitive grant under its terms. On January 14, 1823, the council of state approved generally the issuance of such a grant to Austin; and on February 18, an imperial decree directed that one labor or one square league of land (sitio) should be given to each of three hundred "Louisiana" families, with more for those who had many children, or who might merit special recognition. The governor of Texas was to designate and lay out the land. Austin was authorized to found a town at a point as central as possible for the colonists, "who must prove that they are Roman Apostolic Catholics, and of steady habits"; he was to organize these colonists as a body of national militia; and he was charged with the administration of justice, and the preservation of good order and tranquillity.

The signature of the decree was among the last acts of Iturbide's reign. The insurgents were even then rapidly closing in on the capital, and five days later two regiments mutinied, released the political prisoners from the old prison of the Inquisition, and marched out of the city. Next day two more regiments followed the same course. Iturbide's career was too plainly in danger of coming to a sudden end to make it wise for Austin to return to Texas with an unexecuted decree in his pocket, which might very possibly be repudiated by a new government. A new period of waiting—which must have been irksome indeed, to the active-minded man—had to be undergone. Events, however, moved fast. On March 7 Congress reassembled, on March 19 Iturbide abdicated, by the 1st of April a triumvirate was formed to administer executive functions, and on April 11 Iturbide sailed for Italy. The same day Congress authorized the "Supreme Executive Power" to confirm the