

Spanish Land Grants of the Southwest

“No man but feels more of a man in the world if he have a bit of ground that he can call his own”
by Charles Dudley Warner

Primogeniture

- Due to limited quantity of land coupled with large families, the practice of primogeniture was common in much of Europe from the Middle Ages until the present day (though it has been modified today)
- Primogeniture in Spain said that the right of inheritance belonged exclusively to the eldest son
- He would inherit everything (title, land, possessions) on the death of his father
- Because of this, subsequent sons were encouraged to become religious (priests, monks) or to become involved in the colonization of New Spain

History of Spain Granting Land

- After the conquest of Granada in 1492, the Spanish crown parceled out lands as *encomiendas* to soldiers who were, in turn, to Christianize the Moors
- In 1499, a former governor of Granada introduced the *encomienda* to Hispaniola in the Americas
- Soon all participants in the conquests of the Caribbean, Mexico, Central America, and South America expected an *encomienda* as reward for their services to the Crown
- In 1546, under the New Laws of the Indies, *encomenderos* were still allowed to collect tribute from their grants but could pass them on only to the next generation
- By 1555, the golden age of the *encomienda* of New Spain was over
- However, around 1600, Juan de Oñate granted over sixty *encomiendas* in New Mexico to reward his men and provide for military defense
- These far northern *encomiendas* did not survive the 1680 Pueblo Revolt

What is an Encomienda?

- It is derived from the Spanish verb *encomendar* (to entrust a mission for someone to fulfill)
- The *encomienda*, as apparently perceived by the early recipients in Mexico, was a grant to a Spaniard of the Indians of a prescribed polity
- These Indians were to provide the grantee (the *encomendero*) tribute in the form of commodities and service
- This service (or forced labor) was called *repartimiento*
- In return, the *encomendero* was to provide protection and religious instruction to the Indians
- Land was not a formal component of the *encomienda*, although the *encomendero* often acquired separate grants of land in the vicinity of the Indian community
- Tribute from the Indians was collected twice a year
 - May: the contribution consisted of cloth and skins
 - Oct: the contribution usually consisted of corn
- The *encomenderos* did not always provide the protection and religious instruction as faithfully as promised
- *Encomiendas* and *repartimientos* were supposed to revert to the Crown, but gradually they became permanent and led to subsequent land grants

Land Grants

- From the end of the 17th century to the mid-19th century, Spain, and later Mexico, made land grants to individuals, groups, and towns to promote development in the frontier lands that today constitute the American Southwest
- The owner's title for grants in Texas, New Mexico, Arizona, and California had to be approved by the viceroy of New Spain at Mexico City
- However, during Spanish rule, local officials permitted settlers to occupy land long before the legal requirements had been fulfilled
- In 1821, after gaining its independence from Spain, Mexico continued to adhere to the land policies adopted by Spain
- In 1848, Mexico, according to the Treaty of Guadalupe Hidalgo, ceded vast territories extending from California to New Mexico to the United States
- The United States agreed to recognize and protect the property rights of Mexican or Spanish citizens living in the newly acquired areas
- In order to implement the Treaty's property protection provisions in California, Congress enacted legislation (the 1851 Act) creating a commission to review and confirm grants
- The 1851 Act directed the California Commission to apply Spanish and Mexican laws, customs, and usages.
- It also directed the Commission to apply a presumption in favor of finding a community land grant where a city, town or village existed at the time the Treaty was signed

Types of Land Grants

- **Private Grant**
 - Made to individuals as a reward for their service to the government
 - Grant is owned by one (or a few) individuals as their private property
 - After meeting conditions of grant, the grantees could sell the entire grant or divide and sell smaller portions of it
 - Most of the grants in California were private grants
- **Community Grant**
 - Possibly the most important type of grant made by the Spanish and Mexican governments, especially in New Mexico
 - A large tract of land granted to a substantial number of people (usually from 10 to 100)
 - Each individual in the group was given a parcel of land on which to build a home, and which they could irrigate and cultivate
 - The remainder of the grant, however, which often consisted of thousands of acres, was reserved to the common use and benefit of all the settlers
 - Each person in the grant had access to these common, or community lands, so they could graze their flocks, gather firewood, cut timber, hunt, and utilize the resources to provide for their families
 - The portion that was a person's individual property could be sold, but the common lands remained community property and could not be sold
- **Quasi-Community Grant**
 - Large tracts granted to one or a few individuals with the requirement that the land be settled
 - Grantee induces a large group of settlers to move onto the grant and gives them each a small private lot for house (*solar de casa*) and garden (*suerte*)
 - Grantee grants each person the rights to use the remaining land for grazing, gathering firewood, building materials, herbs, wild game, etc.
 - This arrangement is not usually in writing, which created problems in the future
- **Pueblo Grant**
 - Among the earliest type of grants in New Mexico
 - This was a grant of land made to the Indian communities
 - All of New Mexico's Pueblos currently exist within a reservation which has its basis in a Spanish land grant

Steps for Obtaining a Grant

- ***First:*** submit a petition to the town council, or *cabildo*, which forwarded it to the proper authority, who might be the governor, the commandant general, the *audencia*, the viceroy, or subdelegates sent out for that purpose
 - The petition had to contain the name, religion, residence, occupation, and size of the family of the applicant
 - It also had to contain a description of the land wanted and sometimes a map, or *diseño*
 - The description of the land was often very vague, for the boundaries were usually those of other grants, Indian villages, rivers, hills, piles of stones, or trees, which were likely to change or disappear with the course of time
 - This led to many difficulties for United States' surveyors in later years when they were trying to confirm grants
- ***Second:*** the petition was referred to the local officials, with inquiries regarding the character of the applicant, and to determine whether the land was vacant and not claimed by the Indians or other Spaniards
- This reference was often added as a note to the petition and was posted in a public place, so anyone having claims might present his objections
- The land was also visited by a commissioner to determine whether all the qualifications were as stated
- ***Third:*** the information was returned in the form of the *informe*, sometimes a separate document, or a note appended to the petition or inquiry
- In Mexican times, when local officials had more power in granting lands, this step was omitted if the person in question was well known
- ***Fourth:*** the granting of the actual grant, or its refusal (in which case appeal to a higher authority was possible), by the proper authority
- The grant was at times a separate document, a marginal note made on the petition, or simply the signature of the granting officer
- The grant was given to the grantee and another copy, or record, kept in the government files
- These papers formed the *expedients*
 - These records oftentimes remain incomplete due to papers not being completed or surveys not being made
- ***Fifth (last step):*** the grant was confirmed by the viceroy, the *audencia* (a court that functioned as an appellate court in Spain and its empire), or the *junta superior de hacienda* (superior board of the treasury)
- In Mexican times the confirmation was given by the territorial or departmental assembly
- This last step made the title to the land perfect
- The grantee, or grantees, were put in possession of the land by the local judge or *alcalde* (mayor)
- The grantees pulled up grass, threw stones, scattered handfuls of earth, broke twigs, and cried "*Viva el Rey*," (or after 1823, "*Viva el Presidente y la Nación Mexicana*") as their part in accepting the grant and sealing the deal

Texas Land Grants

- The earliest grant made by the Spanish crown was to establish a mission and presidio in East Texas in 1716
- In 1731 town lots in San Antonio de Béxar were granted to Canary Islanders
- By the mid-1700s larger livestock grants were being made along the San Antonio River valley
- Private land grants in what is now South Texas did not begin until the mid-eighteenth century
- Settlers in the colonies in South Texas requested individual land allocations as early as 1753
- Not until 1767 did a Spanish royal commission begin the work of surveying and granting possession of land to individual colonists
- These were at the Rio Grande *villas* (villages) of Laredo, Mier, Camargo, Revilla (later Guerrero), and Reynosa
- The land was to be divided on the basis of merit and seniority, with the colonists divided into three categories: original, old, and recent settlers
- Land grants were grouped in classes according to the date of arrival in Texas

- **Class 1 certificates were given to settlers who were already in Texas before the Declaration of Independence on 2 March 1836**
 - **These grants were unconditional and the rights as well as the land could be sold at once, even before the certificate was issued**
- **Class 2 certificates were given to those arriving after 2 March 1836 but before 1 October 1837**
- **Class 3 certificates were given to arrivals after 1 October 1838 but before 1 January 1840**
- **Class 4 certificates were given out after Class 3 privileges were extended to those arriving after 31 Dec 1839 but before 1 Jan 1842**
 - **Class 2, 3, and 4 certificates were conditional: the rights or land could not be sold until 3 years residence in Texas were proven**
 - **Married men and heads of families were given twice as much land as single men (over 17)**
- **The commissioners surveyed long, thin strips of land, each with narrow frontage on a water course**
- **These elongated quadrangles were known as *porciones* and were located in five settlements or *vistas***
- **Many of the grants, especially the larger ones, acquired names derived from saints' names, physical or natural characteristics of the region, or events**
- **The transactions were recorded in documents known as *Acts of the Visit of the Royal Commissioners (Autos de la general visita)***
- **Some 170 *porciones* were granted in what is now Texas in the five *vistas***
- **In addition, larger grants were made to influential citizens of Camargo and Reynosa along the Gulf of Mexico**
 - **Most of these grants were intended for grazing and often covered large expanses of land**
 - **The largest was the 600,000 acre Agostadero de San Juan de Carricitos grant to José Narisco Cabazos**
- **In the early 1800s, in an effort to populate the area, Spanish officials experimented with a policy to entice settlers from the American frontier with promises of land, religious tolerance, and special privileges**
- **In January 1821, Moses Austin was promised a contract to land on the Brazos River in exchange for bringing 300 Catholic families from Louisiana—after his death in June of that year, his son Stephen assumed the contract**
- **As a provision of the Treaty of Guadalupe Hidalgo in 1848, the new State of Texas officially recognized the land grants made under Spanish and Mexican rule as valid**
- **In February, 1860, the legislature passed a measure that gave the responsibility for confirming Spanish and Mexican titles to the district courts**
- **Land grants under the colonization contracts amounted to 4,494,806 acres**
- **Both the republic and state granted lands for military service in the form of bounty and donation grants**
- **Vast areas of Texas lands were also granted in return for making internal improvements: building railroads, canals, and irrigation ditches, constructing shipbuilding facilities, clearing river channels, and, during the Civil War, manufacturing firearms and munitions and constructing highways**
- **Finally, special education land grants totaling 172,319 acres were made by the Republic of Texas to private colleges and seminaries**

California Grants

- **There were no *encomiendas* made in California**
 - **Two reasons:**
 - **The Indians were not sedentary so tribute and services of the Indians could not be granted**
 - **Spanish occupation of California did not take place until about 1767-1770, by which time, the Spanish government was opposed to *encomiendas* and they were not being used**
- **By 1821, when Mexico gained her independence from Spain, there were 20 missions, 4 presidios (San Diego, Monterey, Santa Barbara, San Francisco), and 3 pueblos (San Jose, Los Angeles, Branciforte near present day Santa Cruz—this eventually disappeared) in California, which had been firmly established under Spanish rule**
 - **These were to serve as the bases for Mexican colonization**

- Spanish colonizers were forbidden to encroach on Indian lands
- In those territories where there were missions, the lands occupied by them could not be colonized until it was determined whether they were to be considered as the property of the establishments of the neophytes-catechumens, and Mexican colonists
- The Act of August 17, 1833, secularized the missions of California
 - Mission lands were made public lands and subject to grant
 - The mission building with 200 varas (*vara = 2.78061 feet*) square of land was to be reserved for the priest at each mission

California Ranchos

- During Spanish rule (1769-1821) the ranchos were simply grazing concessions from the Spanish King
- It was not until Mexican times (1821-1846) that the land was actually granted to individuals
- The majority of colonizers who came to California during the reign of Spain settled around the missions and presidios or in the three pueblos
- The commandants of the presidios and the alcaldes of the pueblos were given the authority to grant lots of land within their jurisdictions
- From these presidial and pueblo lots evolved the granting of lands outside of these jurisdictions
 - These grants of land are known as Rancho Grants, and were granted in order to encourage agriculture and industry, reward soldiers, and to provide for settlers who held no property
- Of the 800-plus rancho grants made, the Spanish government granted approximately 30—the remainder were granted by the Mexican government

New Mexico Grants

- A decree of 1684 specifically authorized the issuance of land grants in New Mexico
- From the late 1600s until 1846, Spain, and later Mexico, made a total of 295 grants of land within what today are the boundaries of New Mexico
- Of these 295 grants, 141 were made to individuals, and the remaining 154 were made to communities, including 23 grants made by Spain to indigenous Indian *pueblos* (villages) in recognition of the communal lands that the Pueblo people had held and used long before the Spanish settlers arrived
- Grants that were awarded to towns and other group settlements were modeled on similar communities created in Spain
- Although neither Spanish law or Spanish land grant documents used the term “community land grant,” many grants referred to lands set aside for general communal use or for specific communal purposes such as hunting, grazing, wood gathering, and watering

Problems with Grants

- After American conquest of New Mexico, the difficulties of fulfilling the guarantee for protection of property rights provided for in the Treaty of Guadalupe Hidalgo became apparent
 - There were differences in the Spanish and Anglo concepts of law and land tenure that raised complex legal questions
 - Community grants only gave title to a small amount of farmland available along the irrigation ditches, while the remainder of the grant was held in common and could not be sold
 - The boundaries of the community holdings, in the absence of surveyors, were inexactly delineated, using such natural landmarks as large rocks, prominent trees, springs, and arroyos
 - The first surveys showed that many of the old boundaries could no longer be accurately defined and that often the grants had overlapping claims
 - Legitimate descendants of grantees seldom possessed their original papers, and some of those who did, through fear or distrust of the alien legal procedures now imposed upon them, failed to bring the documents forward to receive new patents for their lands

- **Unfamiliar with Spanish law protecting and preserving village commons, American judges had ruled that the ancient common lands could be partitioned and divided among the numerous grant-claimants**
 - That meant that vast areas of upland pastures and mountain woods, of which the villagers had made free use for generations, were now allotted to individuals who could put them up for sale if they chose
 - Not surprisingly, surrounding lands soon slipped from the grasp of community members and passed to the control of outsiders—often cattlemen from Texas—or into the public domain, where much of it was placed under the National Forest Service
- These problems produced a tangled web of claims and counterclaims and opened the way for speculators to obtain, often through deceit and fraud, a controlling interest in some of the most valuable grants
- By the 1880s speculation in the grants had reached the point of a national scandal
- The Court of Private Land Claims (CPLC) was established in 1891 in a bid to settle the many controversies by judicial means
- All claims were adjudicated by 1903

Books and Interesting Websites

- [Spanish and Mexican Land Grants in California](#) by Rose H. Avina
- [1840 Citizens of Texas, Vols. 1 & 3](#) by Gifford White
- [New Mexico A Bicentennial History](#) by Marc Simmons
- <http://familytreemaker.genealogy.com/users/g/i/b/Steve-Gibson/FILE/0001page.html>
 - Information about Canary Islanders in Texas
- <http://bexargenealogy.com/>
 - Bexar County Texas genealogy
- http://www.tshaonline.org/handbook/online/articles/LL/mpll_print.html
 - Texas land grants information
- <http://bancroft.berkeley.edu/collections/landcases.html>
 - Pictures of California ranchos and documents
 - Click on link for “view digital collection”
 - Click on link for “online items available”
- <http://www.newmexicohistory.org/place.php>
 - Land grant information as well as history of New Mexico
- <http://www.nmgs.org/artlandgrnts.htm>
 - Information on land grants in New Mexico by Robert J Torrez, State Historian
- <http://www.southwestbooks.org/nutshell.htm>
- <http://www.colorado.gov/dpa/doit/archives/mlg/mlg.html>
 - Grants that spanned New Mexico and Colorado

*“The right to procure property and to use it for one's own enjoyment is essential to the freedom of every person”
by Thomas Jefferson*