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Purchase of Fort Clark , Texas

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1879.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1627.]

The Committee on Military Affairs, to whom was referred the bill (S. 1627) making an appropriation for the purchase of Fort Clark, Texas, respectfully submit the following report:

The land upon which Fort Clark is situated was located by virtue of part of the headright of Samuel A. Maverick, now deceased, and is survey No. 234, containing 3,867½ acres; less a small strip about 146 varas (about 134 yards) wide, patented by the State of Texas to Samuel A. Maverick, September 20, 1851, No. 404, vol. 9. This being a first-class headright, acquired during the coverture of said Samuel A. Maverick, deceased, and Mary A. Maverick, his widow, she is by the laws of Texas entitled in fee to one undivided half thereof. 2d. By the will of said Samuel A., duly probated, a certified copy of which is offered in evidence before the committee, Mrs. Maverick is duly authorized to bargain, sell, and convey, with good and sufficient title, any and all the lands of the testator. 3d. The children and heirs of said Samuel A. unite in a deed of relinquishment, duly authenticated, of all their interest in said land to their mother, said Mary A. An authenticated copy of said deed was also offered in evidence. A certified copy of the patent for said land covered by said survey 234, from the general land office of the State of Texas, was also offered in evidence, dated September 20, 1851, No. 404, recorded in vol. 9, record of patents, general land office of Texas. The title to said land is perfect, and in Mrs. Maverick, and has been so recognized by the government by leases thereof since 1852 until recently, Fort Clark being situate thereon.

The War Department has heretofore urgently recommended appropriate legislation to secure title to posts in Texas. (See annual report for 1878 and the following extract from pages 11 and 12:)

[Extract from Annual Report of Secretary of War for 1878.]

Military sites in Texas.

Ex. Doc. No. 292, Forty-third Congress, first session, contains the history of the efforts to obtain ownership of the sites of military posts in Texas occupied to restrain hostile Indians on the north and western frontiers of that State and to preserve the peace and protect property and life along the Rio Grande frontier.

A board, assembled under a law of Congress, reported in favor of purchasing a number of posts on both frontiers. The Lieutenant-General, considering the doubt as to the propriety of expending money in purchase of land for sites of posts occupied on what was supposed to be an advancing frontier, recommended the purchase of the posts along the Rio Grande only.

Congress appropriated, 3d of March, 1875, \$45,000 for purchase of sites of three posts only—Fort Brown, Ringgold Barracks, and Fort Duncan—and so restricted the War Department that to this day the United States has no title to any one of these posts, and has not been able to use the money appropriated for the purchase.

Fort Clark, which is some thirty miles from the Rio Grande, though a post on that frontier, was excluded from the appropriation, and no appropriation was made for its purchase. It has been a military post since 1852. Whenever a military post is established on unclaimed land in the wilderness of Texas, which the law of the United States does not allow the War Department to purchase from its lawful owner, the State, some person soon appears as owner, with a title derived from the State, and increases with the expiration of every lease his demands for rent, though settlement has not, except by the United States' own improvements, yet appreciated the value of lands in its neighborhood. The buildings, temporary or permanent, necessary to protection and shelter of troops and military supplies, become, under general law, the property of the land-owner on termination of a lease, and the officers of the United States are helpless to guard the interests of the government, which, from want of judicious legislation, is obliged to submit to the demands of the claimant as to rental, or to abandon improvements, with great damage to the United States and great suffering to the troops, and thus incur the expenditure necessary to build a new post in some other locality on another lease, and run the same road of improvidence again, or else to abandon posts on the frontier indispensable to the defense of the people of Texas against such atrocities as are filling the newspapers of the day.

Were the law to trust the Executive with the power to purchase sites for such military posts as it may be found necessary to establish on this Texas frontier, land could be bought for all of them at insignificant prices—50 cents to \$1 per acre; while, after spending in military occupation, and in huts, barracks, and store-houses, many thousands of dollars, these same sites are held against the United States at \$10 to \$100 per acre, or even higher.

The Quartermaster-General further reports that the removal of division and department headquarters to military posts, where possible, has caused considerable expenditure to provide suitable accommodations as offices and quarters, and this expenditure makes unusual demands upon the appropriation for barracks and quarters. This additional expenditure is, however, only temporary, and it is believed that the changes in this respect, required by the act of Congress passed at the last session, will, in the end, prove to be both beneficial and economical.

In a communication of January 15 instant to Mr. Maxey, of this committee, the Secretary requests that an appropriation for the purpose [purchase of Fort Clark] be made at the present session of Congress, in such sum as the committee may determine. The Secretary's letter is inserted, as follows:

WAR DEPARTMENT,
Washington City, January 15, 1879.

SIR: I have the honor to return the letter of the 18th ultimo from Mrs. Mary A. Maverick, of San Antonio, Tex., inclosed in your letter of the 9th instant, as requested.

Mrs. Maverick's proposition is as follows: "I am willing to sell the survey upon which Fort Clark is located, being survey No. 234, containing 3,267 acres (excepting a narrow strip, 146 varas in width, running across the northeastern side of the survey), together with my interest in the buildings and improvements located thereon, for fifty thousand dollars, provided that my proposition is accepted and the transfer completed prior to April 1, 1879. Title to survey, of course, warranted."

I inclose a report of the Quartermaster-General upon this proposition, dated January 13, 1879; copy of House Ex. Doc. No. 282, Forty-third Congress, first session, relative to military sites in Texas; copy of letter from Mrs. Maverick to General Vincent, assistant adjutant-general, Department of Texas, dated April 29, 1878, with the indorsements thereon; and copy of my letter of May 15, 1878, transmitting the same to the House of Representatives. I also inclose copy of my last annual report, on page 11 of which the subject of "Military sites in Texas" is considered.

Draught of a bill to authorize the purchase of Fort Clark is inclosed, with request that an appropriation for the purpose be made at the present session of Congress, in such sum as the committee may determine.

Very respectfully, your obedient servant,

GEO. W. MCCRARY,
Secretary of War.

Hon. S. B. MAXEY,
Of Military Committee, United States Senate.

The Quartermaster-General, under date January 13, 1879, in a communication to the Secretary of War, states that Mrs. Maverick proposed

April 29, 1878, to sell the site of Fort Clark, with all improvements, for \$25,000, "provided money was paid previous to June 3, 1878." General Ord, commanding Department of Texas, under date May 1, 1878, indorsed on said proposition, recommends acceptance thereof, and in connection therewith states the buildings, &c., on said land are worth from \$100,000 to \$200,000.

General Ord further states that "the post (Fort Clark) is the most important one in the department." This is an indorsement on a letter addressed by Mrs. Maverick to the Adjutant-General's Department of Texas, April 29, 1878, containing the proposition referred to. General Sheridan, commanding Military Division of Missouri, under date May 6, 1878, indorses the same as follows: "Not one moment should be lost in securing the offer made by the owner of the site of Fort Clark. The post will have to be retained for many years. It is of great value to us in every way, and the price asked is very low," &c.

The site selected for Fort Clark is admirably adapted to the purpose, and, situate conveniently to the Rio Grande frontier, will undoubtedly be important for many years to come. The committee here inserts the description thereof as furnished by Hon. Gustave Schleicher, now deceased, lately representing the sixth Congressional district of Texas, which embraces Fort Clark:

I desire to state that the large tract of land on which Fort Clark is situated is a remarkable tract for its fine situation, its excellent land, and beautiful pure stream of water. The head spring of las Moras, a large spring, and a bold stream of clear water issuing from that spring are contained in the tract. The country is settling fast, and lands are increasing rapidly in value. The tract is in the center of an admirable grazing country, fitting it peculiarly for a post for a large cavalry force. The improvements are of a superior order, all permanent, and constructed of hard stone; and altogether I consider the price very reasonable and the purchase of it by the government as an act of wise economy. The geographical position is such that it will fit this place peculiarly for a permanent station near the national boundary. I strongly recommend prompt action on this proposition.

G. SCHLEICHER.

This indorsement was made by Mr. Schleicher on a copy of the letter of Mrs. Maverick, dated December 18, 1878, containing her present proposition to sell for \$50,000.

The government failed to accept Mrs. Maverick's proposition of \$25,000 according to its terms, or at all, because Congress, although strongly recommended by the Secretary of War to make the necessary appropriation, failed to do so.

Mrs. Maverick, in a communication bearing date December 18, 1878, makes proposition as follows:

I am willing to sell the survey upon which Fort Clark is located, being survey No. 234, containing 3,867 acres (excepting a narrow strip, 146 varas in width, running across the northeastern side of the survey), together with my interest in the buildings and improvements located thereon, for fifty thousand dollars, provided that my proposition is accepted and transfer completed prior to April 1, 1879. Title to survey, of course, warranted.

She states that at the time her first proposition was made it was quite important to her pecuniarily to make prompt sale, but that the government having failed to accept, other arrangements were made, and the special necessity for ready money no longer exists. She proposes now to convey, with covenant and clause of general warranty, said land with its improvements for \$50,000. The committee, in addition to the evidence hereinbefore referred to, took the testimony of Col. R. S. Mackenzie, commanding Fourth Cavalry, with headquarters at Fort Clark, who agrees with Generals Ord and Sheridan as to the importance of Fort Clark, and puts the value of the improvements at \$150,000, stating that like im-

provements could not be built for a less sum, and states that a post in that vicinity is a necessity, and will continue to be so long as the Rio Grande remains the boundary, and that if Fort Clark is abandoned another will have to be erected in same vicinity without being more eligible, and thereby the government would suffer heavy loss. It is entirely clear to the committee that it is greatly to the interest of the government to own the land upon which it has expended so large a sum in the erection of this fort, which is yet, and for years will be, important to the protection of the frontier. The failure to accept Mrs. Maverick's first proposition (\$25,000) was a costly failure.

Mrs. Maverick's present proposition is \$50,000, to be kept open till April 1, 1879. The committee has no statement to show that she will take less.

It may be said that less than a year ago she proposed to take \$25,000, and that if she could afford to take that price then she could afford to take less than \$50,000 now, and that the chief value of the land consists in the improvements placed there by the government. It is doubtless true that the land would be worth nothing like that sum without these improvements, and that the land with the improvements would probably not be worth \$50,000 to any party save the government, but at last the fact is still untouched that the government placed these improvements there with knowledge of the title under which she claims; that General Ord places the improvements at from \$100,000 to \$200,000; that Colonel Mackenzie, commanding the post, places the improvements at \$150,000; that all agree that a post there or in that vicinity is a necessity, and will so continue so long as the Rio Grande remains the boundary; and that there is no place more eligible in the vicinity; and that if the government abandons this post it will have to build in the same vicinity, at a cost at least from \$100,000 to \$200,000, or, as definitely fixed by Colonel Mackenzie, at \$150,000. It is also to be considered that the buildings there are substantial stone buildings made from stone taken from the survey, as stated by Colonel Mackenzie, and these buildings, of course, the lease having expired, become under general law the property of the land-owner, so the only question left to consider, in view of the premises, is what is the interest of the government?

It may be said the government acted unwisely in placing itself at so great disadvantage in erecting costly buildings on land not its own. With that the committee has nothing to do, as the government has done so. It seems to the committee sound economy to appropriate \$50,000, or so much thereof as may be necessary, for the purchase by the Secretary of War of said property. The committee amended the bill by filling the blank in amount with the words "fifty thousand dollars," and after the words "appropriated for the purchase," and before "by the Secretary of War," by inserting the words "by condemnation or private contract," and after the words "by the Secretary of War," the words "as to him may seem best," and, as amended, recommend the passage of the bill.