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THE EARLY YEARS OF THE PERMANENT
UNIVERSITY FUND FROM 1836 TO 1937

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**THE EARLY YEARS OF THE PERMANENT UNIVERSITY FUND
FROM 1836 TO 1937**

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Dissertation

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The Early Years of the Permanent University Fund from 1836 to 1937

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Abstract

The story of the early years of the Permanent University Fund has been told many times. However, this dissertation attempts to tell the story using as primary source documents the minutes of the University of Texas Board of Regents meetings. In doing the research, it soon became apparent that the Regents minutes would give an incomplete story line, so a more historical research approach was used.

Early Texas leaders had an interest in higher education from the beginning of the Republic of Texas. It is interesting to note that this occurred at a time when there was very little in the way of formal public elementary or secondary schools in the state. Nevertheless, the early legislatures put into place a series of laws that laid a very good foundation for Texas higher education.

The establishment of the PUF and the efforts of early Regents to manage this asset correctly is one of the great stories of the state. The Regents began managing a large number of acres of land that had little value except as grazing land. The value of the property was low, and the income derived from the land was modest. Later, with the discovery of oil on these lands, there was and continues to be great wealth generated.

The increase in wealth that came primarily from oil leases caused a number of interesting disagreements. The long-running dispute between the University of Texas and Texas A&M College is researched until 1937 when the A&M Board decided to stop pursuing the financial and legal issues. Because of the wealth and the activity that occurred on the PUF land, there was a long-running dispute between the Regents and the Commissioner of the General Land Office that is important to the story of the PUF.

The impact the Bureau of Economic Geology had on the PUF is closely documented and seems to prove the importance of well-educated geologists on the successful discovery and production of oil on the PUF land.

It has been said that this story of the University of Texas and the Permanent University Fund is really a story about Texas, because it involves land, oil and education. The impact of the PUF on higher education in Texas has been enormous.

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CHAPTER ONE

INTRODUCTION AND METHODOLOGY

Purpose

The purpose of this study is to examine the early years of the Permanent University Fund (PUF), 1838-1937. The PUF was created by law to support the two public higher education institutions in Texas at that time, The University of Texas and the Texas Agricultural and Mechanical College. The PUF has become one of the largest sources of funds for higher education in the United States, with a current balance of over ten billion dollars, according to The Online Handbook of Texas (June 6, 2006). To date, the key events, people, and institutions that led to the creation of the PUF have not been studied systematically. This study fills a historical gap in the literature. Historical records are the major source of primary data available to achieve this purpose.

Selection of Methodology

This study uses the natural history approach. Within the larger natural history framework approach both critical qualitative methods and document analysis were used to study the inception and early evolution of the PUF. The natural history approach has long been used in the social sciences. In this type of analysis, the researcher attempts to master many of the subtle details of the object of study by carefully reviewing historical records. Using a natural history approach requires fieldwork that can best be described as exploration and discovery (Glesne, 1999). Thus, the study begins with an open-ended

question. As the data are collected, the analysis sharpens, themes as well as new questions emerge. New questions in turn lead to examination of new and different records.

As this study progressed, the need for additional types of information became evident. The literature review and the review of documents such as the institution's board minutes often led to new avenues of information and research. For example, after reading the University of Texas Board of Regents minutes, it became apparent that the Texas A&M University Board of Directors minutes should also be reviewed. This ensured that experiences at both institutions were included in the analysis. Information from the General Land Office helped provide an understanding of the role of the Commissioner of the General Land Office. To obtain a more complete understanding of the laws that were driving much of the Regents' activities regarding the PUF, it became necessary to review pioneering statutes at the Legislative Library.

The study relied on document analysis as a source of primary data. Document analysis is well suited to the study of communications and to addressing a classic communication question—"Who says what, to whom, why, how, and to what effect?" (Babbie, 1995, p. 307). As a mode of observation, document analysis is valued for its stability (can be reviewed repeatedly), unobtrusiveness, ability to provide exact information, and its broad coverage extending across time, events and settings (Yin, 2002).

Document analysis can be criticized because of issues of irretrievability and access. Fortunately, in this study the documents were both easily retrievable and

accessible (Yin, 2002). The University of Texas Board of Regents minutes were available on the Internet. However, because the minutes were hand written during the first 20 years, they were very difficult to read. Critics note that documents can be subject to both selectivity and reporting bias. Many of the documents used in this study were statutes and thus not subject to selectivity or reporting bias. In cases where reporting bias was possible (minutes of Boards of Regents), other documents were used to verify or attempt to learn different perspectives of a conflict (using the minutes from both the University of Texas and Texas A&M University).

Procedure/Document Analysis

The document analysis was guided by four larger themes or issue areas that also serve as the focus of subsequent chapters. The themes and corresponding documents analyzed are summarized below.

Table 1: Issues and Documents

Key Issues	Documents used
The early political years of Texas and their impact on higher education	Early Texas Constitutions, 1836,1866,1876. Declarations of Independence of the Republic of Texas. Journals of the House of Representatives. Journals of the Senate, 1857, 1860, 1929, 1931.
The conflict between the General Land Commissioner and the University of Texas Board of Regents	Texas General Laws, 1866-1937. Texas Special Laws 1859. Commissioner of the General Land Office, Reports 1880-1902. Journals of the House and Senate 1857-1931. University of Texas Board of Regents Minutes.
The dispute between the University of Texas Board of Regents and the Texas A&M College Board of Directors over the distribution of money and the funding of the two campuses	University of Texas Board of Regents, 1881-1937. Board of Directors Texas A&M College Minutes 1887-1937.
The discovery of oil on the university lands in 1923 and the role of the Bureau of Economic Geology	University of Texas Board of Regents Minutes. Literature review on the Bureau of Economic Geology. Documents from the University Land Office. Information from the records of the General Land Office.

Critical qualitative research techniques were applied to the examination of the many historical records. “Critical qualitative research uncovers, examines, and critiques the social, cultural, and psychological assumptions that structure and limit our ways of thinking and being in the world. Critical research focuses less on individuals than on content” (Merriam, 2002, p.9). This study followed the advice of Merriam and focused more on content than on individuals. Because this study was conducted as a way to see

how a large project, in this case the PUF, was administrated, little attention was paid to the individual participants and their motives.

The minutes from the University of Texas Board of Regents meetings were the major source of data in this study. These minutes are available on the Internet and over 4,000 pages were downloaded. Because all of the early minutes were handwritten, a lengthy study of what was contained in the minutes required the careful examination of each page to locate references to the university lands, PUF, the General Land Commissioner, and mineral interests. Because these minutes appear to be only a summary of what occurred at the Board meetings, an understanding of events was sometimes very difficult. As the examination was ongoing, a database was established that contained references to any of the selected topics. Once all the minutes were read in the period from 1891 until 1937, the information on the four topics was put into four individual databases and then used in the appropriate chapter. As Babbie wrote: “the historical/comparative researcher must find patterns among the voluminous details describing the subject matter of study” (Babbie, 1994, p. 334).

Glesne’s (1999) observation that ongoing discovery leads to investigation of additional documents held true during this research. For example, there were repeated references in the UT minutes about the conflict with the A&M Board. Hence, it was necessary to obtain A&M Director minutes for the appropriate years. This facilitated a more accurate depiction of events and overcame the bias of relying on a single source of data.

Soon after the study began, it became necessary to research the early legislative statutes to gain a more clear understanding of legal issues that were affecting the PUF. The Legislative Library at the State Capitol contains a complete legislative history beginning with the early days of the Republic of Texas and continuing with legislation beginning in 1845. As part of the review of legislation, it became necessary to have an understanding of the early constitutions of Texas; this information was also at the Legislative Library. In an effort to discover why some of the legislation was enacted, it became necessary to read speeches from early political leaders to understand the reasons for the passage of the statutes.

The UT minutes had repeated references to the General Land Office and the difficulties the Regents had in getting good information from that office. The study examined records from the General Land Office, in particular the bi-annual report given by the General Land Commissioner to the governor. There was much useful information contained in the early bi-annual Land Office reports that was helpful in bringing information together.

In the early years around 1881, it was readily apparent that the income from the leasing activities by the Regents of the university land was not sufficient to sustain the university and an examination of the quality of the land and the accepted practices of lands leasing was made using information from the minutes and information obtained from the Office of University Lands in Midland, Texas.

Income from university land dynamically increased with the discovery of oil on PUF property in 1923. The study examined files on the oil leases from a variety of

sources, including the Office of University Lands, the UT minutes, records from the General Land Office, along with various books that have been written on the subject.

This study concluded in 1937 because that seemed appropriate for several reasons. The flow of oil money from the university lands was providing a steady and dependable income stream that was very helpful to both institutions. Also 1937 was the year in which the University of Texas Board of Regents and the Texas A&M College Directors gave up their fight about the PUF. The PUF began to mature into the modern era about which much has been written.

CHAPTER TWO

THE EARLY YEARS OF TEXAS AND THEIR IMPACT ON EDUCATION

The story of the Permanent University Fund (PUF) is really the story of Texas. This story is about land, oil, and education. To understand the story more completely, it is necessary to have a good understanding of the events that occurred in the early years of Texas, because they provide the foundation for the beginning of the University of Texas and the Permanent University Fund. The farsighted approach of the early leaders of the Texas republic is nothing short of amazing. A timeline is being provided at the beginning of each chapter to assist in following the events.

Table 2: Timeline of Texas History, 1836-1871

March 2, 1836	Texas Declaration of Independence declared Mexican government had failed to establish any public system of education.
June 20, 1839	Congress set aside fifty leagues of land to meet the educational needs of Texans by providing for the creation of institutions of primary, secondary and higher education.
January 20, 1840	English common law adopted as the legal standard for Texas reserving all mineral rights in Texas lands for the Republic of Texas.
August 30, 1856	O.B. 119 signed into law directing that the balance of the original Fifty Leagues be surveyed into 160-acre tracts.
February 11, 1858	O.B. 102 signed into law providing for the establishment of an institution of learning to be called the University of Texas.
January 31, 1860	Bill approved directing that the PUF may be used at any time during the

	next two years to meet any appropriation made by law for frontier defense.
April 17, 1871	The Texas Legislature established the Agricultural and Mechanical College of Texas as a branch of the University of Texas.

The theme of public education in Texas began early. When Texas declared independence from Mexico, the Declaration of Independence, issued on March 2, 1836, included the accusation that the Mexican government had failed to establish any public system of education.

(The government of Mexico) has failed to establish any public system of education, although possessed of almost boundless resources (the public domain) and, although, it's an axiom, in political science, that unless a people are educated and enlightened it is idle to expect the continuance of civil liberty, or the capacity for self government. (Declaration of Independence of the Republic of Texas, 1836, p. 2)

These words were part of a long litany of grievances against Mexico. There is evidence that the Mexican government was not indifferent to educating the colonists; they just wanted the education to be conducted in Spanish. Although both Mexicans and colonists alike spoke about their eagerness for government schools, there were numerous laws that made implementation very difficult.

In 1830 the state legislature passed Decree No. 129 providing for the establishment of primary schools, but the Texas *ayuntamientos* [City Councils] of Nacogdoches and San Felipe de Austin reported that it was impossible to obtain capable teachers for the government schools. Instructors who spoke both Spanish and English probably were unobtainable, although the San Felipe jurisdiction then had four schools conducted in English by private teachers, who probably were included in the list of thirty or more who taught a few brief terms among the colonists before the Texas Revolution. In addition to the insurmountable difficulty

involved in securing bilingual schoolteachers, it is doubtful that the poverty-stricken colonists would have tolerated any serious attempt of the Mexican authorities to introduce a system of tax-supported schools in which instruction was carried on chiefly in Spanish. (Hogan, 1969, p.137)

This seems to tell us that perhaps early Texans were not all that interested in education. Certainly the poor economy and the high cost of public schools would have been a factor. Texans continued discussing public education in the 1836 Constitution of the Republic, “It shall be the duty of Congress...to provide by law a general system of education” (1836 Constitution of the Republic of Texas, General Law, Section 5).

By winning the War of Independence with Mexico in 1836, Texas gained millions of acres of land. These public lands were the subject of legislative debate, with one of the most famous being one by President Mirabeau Bonaparte Lamar on December 20, 1838, at the second Congress of Texas:

Education is a subject in which every citizen, and especially every parent, feels a deep and lively concern. It is one in which no jarring interests are involved, and no acrimonious political feelings excited; for its benefits are so universal that all parties can cordially unite in advancing it. It is admitted by all, that a cultivated mind is the guardian genius of democracy, and while guided and controlled by virtue, is the noblest attribute of man. It is the only dictator that freemen acknowledge, and the only security that freemen desire. The influence of education in the moral world is like (light) in the physical, rendering luminous what was before obscure. It opens a wide field for the exercise and improvement of all the faculties of man, and imparts vigor and clearness to those important truths in the science of government, as well as mortals, which would otherwise be lost in the darkness of ignorance....The present is a propitious moment to lay the foundations of a great moral and intellectual edifice, which will in after ages be hailed as the chief ornament and blessing of Texas. A suitable appropriation of lands to the purpose of general education, can be made at this time without inconvenience to the Government or the people; but defer it until the public domain shall have passed from our hands, and the uneducated youths of Texas will constitute the living monuments of our neglect and remissness....and the establishment of a University where

the highest branches of science may be taught, can now be effected without the expenditure of a single state dollar. Postpone it a few years and millions will be necessary to accomplish the great design. (Haigh, 1986, pp. 1-2)

President Lamar's speech motivated the Congress. On June 20, 1839, it passed a bill setting aside 50 leagues of land (221,400 acres) to meet the educational needs of Texans by providing for the creation of institutions of primary, secondary, and higher education. Section 4 of the Act directed the President to "appoint a surveyor and have surveyed from any of the vacant lands of this Republic, fifty leagues of land, which is to be set apart and is hereby appropriated for the establishment and endowment of two colleges or universities, hereafter to be created" (Act of 1839).

At the time President Lamar made his recommendations to the Congress, the entire population of Texas was less than 60,000. President Lamar, who had never attended college, proposed not one college but two to a Congress made up of very few members who had ever attended college. This all occurred at a time when there was not an established primary or secondary school system. President Lamar believed that under his leadership, Texas would become a great nation. He realized that for Texas to become great it would need a good public school system—elementary, secondary and postsecondary. The Congress must have shared his vision by so quickly approving the request for land. This vision was also shared by many early Texas leaders as is evidenced by the body of laws that were passed by the Legislature. These early laws, many of which are cited in Chapter Three, clearly demonstrate how strongly these early Texans felt

about education as was illustrated through the amount of thought put into the idea of higher education and the funding vehicle, the Permanent University Fund.

There were numerous problems with the sale of this first gift of 50 leagues of land. Most of the difficulty occurred in the General Land Office. Between 1839 and 1850, there were many parcels of public land privately surveyed, and the resulting survey and requests to purchase land were filed with the General Land Commissioner. The Commissioner, who somehow was unaware of the existence of the earlier survey of the 50 leagues of land for the founding of the university and the boundaries of that land, conveyed the title and collected the money for the tracts for which documentation and payment had been received. In other words, the staff of the General Land office was selling PUF land to anyone who applied to buy it because they were unaware that the land had been reserved for the PUF. It was in this manner that much of the original land was sold off without the money being received by the PUF. When the mistake was discovered, a review of the records showed that the surveyor hired to perform the original survey had indeed done the work; however, he had neglected to file his work with the General Land Office. In an effort to correct the problem, the Third Legislature passed a Joint Resolution that canceled the PUF survey and validated all of the good faith purchases. Since it appeared that only three leagues of land had been sold from the original 50, the Joint Resolution further instructed the General Land Office to employ a surveyor to survey an additional three leagues of land to replace the land that had been sold (Haigh, 1986).

On January 20, 1840, the Texas Congress did something that would have tremendous consequences for public education in the future. It passed a bill that adopted English common law as the legal standard for Texas. The legislation specifically reserved all mineral rights on Texas lands for the Republic of Texas. The ownership of the minerals on these lands would later create tremendous wealth for the University of Texas and Texas A&M College.

It is interesting to note, however, that when Texas joined the United States of America, its new Constitution of 1845 did not mention either higher education or the 50 leagues of land. This was corrected in the Constitution of 1876 (Constitution of 1876, p. 108).

The Legislature continued to be interested in the sale of the 50 leagues, and in an effort to make it easier for smaller buyers to purchase the property, a bill was passed, and on August 30, 1856, Governor Pease signed O.B. 119 directing the remaining 47 leagues of the original 50 be surveyed into 160-acre tracts. A companion bill (H.B. 27) directed the Governor, rather than the Land Commissioner, to “cause to be surveyed, as soon as possible, on any vacant or unappropriated lands belonging to the State, two hundred and twenty-two thousand, two hundred and fifty acres of land, or the unlocated balance donated and set apart by the late Republic of Texas for the endowment and establishment of two universities” (O.B. 119, Chapter 144, Acts of The Sixth Legislature, Adjourned Session [1856] pp. 489-492). O.B. 119 further instructed the Governor to “cause each alternate section of 640 acres to be sold in lots of 160 acres each, at public auction to the highest bidder, at the county seat of the county in which the same may be

situated”(Chapter 144, Acts of The Sixth Legislature, Adjourned Session [1856] p.490).

The minimum price was set at \$3.00 per acre. Tracts were to be sold with 5% down with the balance financed on a 20-year note at 8% interest. The first sale of lands was held in December 1856. By November 1881 there were only 32,325.5 acres remaining unsold.

On November 2, 1857, Governor Pease addressed the Joint Session of the Seventh Legislature:

On former occasions, I have called the attention of the Legislature, to the importance of establishing a State University, where all the facilities can be furnished for obtaining a thorough education, that are to be found in other states...The necessity for such an institution is felt and acknowledged by everyone; and I trust that you will not let this Session pass, without adopting measures for its establishment at an early date.
(Journal of the Senate, 7th Session, Tex. 1857, p. 20)

The Senate Committee on State Affairs passed a bill on January 21, 1858, entitled “A Bill to Establish the University of Texas.” The model for the university, as envisioned by the Committee, was the University of Virginia. The Legislature approved the legislation on February 8, 1858, and Governor Pease signed O.B. 102 into law on February 11, 1858. The Act provided for the establishment of an institution of learning to be called the University of Texas. The Act granted the University of Texas \$100,000 in U.S. bonds from the State Treasury as well as the money from the original 50 leagues of land. In addition, O.B. 102 granted to the University land reserved for the State under the Railroad Grant Act of 1854 (that is, the public lands originally given to the railroads as an incentive to get them to build rail tracks across Texas). Section 3 of O.B. 102 placed the control, management, and supervision of the University and its property under a ten-

member Board of Administrators consisting of the Governor, the Chief Justice of the Supreme Court, and eight persons appointed by the Governor with the consent of the Senate (Journal of the Senate, 7th Session, Tex. 1857, p. 78).

But not all went well for the Permanent University Fund during this period. A reversal occurred when a new Governor was elected in late 1859. Sam Houston was not as supportive of higher education as had been his predecessor. In a message to the Legislature on January 13, 1860, Governor Houston asked that they approve the use of the University Fund (consisting of the previous \$100,000 appropriation plus interest earned from the bonds that had been purchased with the appropriation) for frontier defense in an effort to avoid increasing taxes. The State had financial difficulties because of the pending Civil War. Governor Houston said in his address:

The establishment of a University is, in my opinion, a matter alone for the future. At this time it is neither expedient, nor is it good policy to provide for the sale of those lands set apart for the University fund. If, at some future period it should be deemed expedient, or in keeping with a more enlarged policy, to devote our entire energies to a more general diffusion of knowledge that a University would afford, or even if the voice of the State should demand the establishment of one, these lands will provide the means for advancing the cause of education. When that period arrives, their value will be greatly increased. If sold now, but, little will be realized from them, and before the expiration of twenty years—the time upon which over fifty thousand acres have already been sold---the land will be worth more than three-fold the amount they would bring now, with accumulated interest.

So far as the one hundred thousand dollars of bonds, and their interest, taken from the general fund and applied to the University fund, by the last Legislature, are concerned, I believe the condition of the treasury and our immediate necessities demand that the act be repealed, and the money again placed subject to appropriation. We need money for the protection

of our frontier, and to save us from taxation, more than a fund which promises no immediate benefit. Our common school fund already provided for the education contemplated by the Constitution, and if this amount, thus unnecessarily withdrawn from the general fund, will reduce the burden of taxation, the people will be able, in the future, to bear taxation to support a University, if one should be necessary. (Journal of the House of Representatives, 8th Session, Tex. 1860, p. 396)

The Governor felt that frontier defense was needed to protect the settlers in the western part of Texas from Indian attacks. Because that need was pressing and the University had not been established, it seemed to him more logical to use the money for the needs that were at hand. Governor Houston made a valid point about the sale of the land believing that waiting until years later to sell the lands would be the correct business move as the prices would rise over time. The political fact was that by raiding the Fund, he would not have to raise taxes to pay for the frontier defense. At the time of his speech he had already ordered troops to begin to take up positions in the west. The Legislature, on January 31, 1860, approved a bill that directed the Fund to “be used at any time during the next two years to meet any appropriation made by law for frontier defense” (1859 Tex. Special Laws, p. 29).

Because Houston did not appear at this point to be a strong supporter of education, it is helpful to review his educational experiences. When he was small he attended a local school in Rockbridge County, Virginia for not more than six months. After his father died in 1807, the family moved to Eastern Tennessee, and Houston for a time attended a local school where he began his love of the classics, especially the *Iliad*.

He later was wounded in the War of 1812 and while convalescing, he read law in Nashville for six months in the offices of Judge James Trimble.

Houston was a political foe of Lamar, and it has been suggested that he was undoing the funding for higher education because of his hatred for Lamar and his policies (The Handbook of Texas Online).

After the Civil War, a new constitution (the Texas Constitution of 1866), written at the direction of the federal government, provided for the maintenance of the University Fund and directed that the Legislature make provisions for the organization and operation of a university (1866 Tex. Gen. Laws, p. 30). On April 17, 1871, the Texas Legislature passed a bill establishing the Agricultural and Mechanical College of Texas and declared that it should be constituted, controlled, managed, and supervised as a branch of the University of Texas. This Act also specified that the College should own at least 1,280 acres of good land and that the Legislature would provide \$75,000 from the “school fund” to build the college. The term “school fund” referred to the fund that had earlier been created to provide for public schools. Elisha M. Pease ran for governor on a platform of creating a permanent fund for public schools in 1853. After Pease was elected governor, he was able to pass a law in January 1854 that caused \$2,000,000 to be placed into a fund for public schools and in so doing, created the first public school system in Texas (Funkhouser & Brussemi, 1981).

Early Texans believed that they could provide public education endowed by vast amounts of land. That idea is fairly easy to understand, after all most immigrants came to Texas because of the opportunity to obtain land.

Fabulously rich in unoccupied land but lacking in coin, the great-hearted Texans proposed to found a school system, from the primary grades through the university, entirely on the bounty of the state. The boundless resources dedicated to the education of oncoming generations would, they believed, make the imposition of fees or taxes forever unnecessary. What a glorious prospect! Only gradually did these empire-builders awaken to the sad fact that schools cannot subsist on land alone, especially when the land brings ten cents or less per acre. (Funkhouser & Brusceci, 1981,)

This history provides an understanding of the interest early Texans had in education—primary, secondary, and higher education. Without the interest of the public that was represented in the actions of the Congress of the Republic of Texas and later the activities of the Texas Legislature, there would not have been a Permanent University Fund. The wisdom of the Legislature was evident by their reserving the mineral interests on state land, thus greatly benefiting the state.

This chapter sets the stage for a more complete understanding of the important events that took place before the first University of Texas Board of Regents meeting in 1881.

CHAPTER THREE

THE EARLY YEARS OF THE UNIVERSITY AND THE PERMANENT UNIVERSITY FUND

This chapter describes the organization issues that occurred during the early years of the university. The timeline is used to enable the reader to follow the events.

Table 3: Timeline of Texas History, 1876-1883

1876	Constitution established the Permanent University Fund.
March 30, 1881	Legislature ordered an election for the purpose of choosing a location for the University of Texas .
April 1, 1881	Members of the Board of the University of Texas were nominated by Governor O.M. Roberts and approved by the Senate.
September 6, 1881	By popular election the city of Austin was selected as the location for the University of Texas and Galveston was selected for the Medical Branch.
November 15, 1881	Board of Regents held its first meeting and Dr. Ashbel Smith was elected President of the Board.
November 16, 1881	Board of Regents requested the status of the University funds, land, monies borrowed from the PUF and that any money borrowed previously be returned with interest to the PUF .
August 17, 1882	Regents received a letter from the State Comptroller stating that the Permanent University Fund contained \$34,464.34.
November 17, 1882	The cornerstone of the Main Building at the University of Texas was laid.
April 10, 1883	The Legislature added 1,000,000 acres of land in West Texas to the PUF.
November 1883	The Comptroller stated PUF had \$191,429.17 in actual and contingent funds.

After the Reconstruction period following the Civil War, each of the southern states that were part of the Confederacy wrote new state constitutions. In Texas, this occurred in 1876 when the new constitution was written and approved by the voters of the state. The Constitution of 1876 addressed many issues regarding higher education.

- It established the “Permanent University Fund” consisting of all lands, income thereof, and grants that had been set aside, appropriated, or otherwise accrued for the establishment and maintenance of a state university.
- It called for the creation of the University of Texas, which, although authorized in 1858, had yet to be located or organized.
- It mandated that the A&M College of Texas be a branch of the University.
- It expressly prohibited the levying of a tax or appropriation from the General Revenue Fund for construction of buildings at the University of Texas.
- It directed that the PUF be invested in State of Texas bonds, or, if these were unavailable, United States bonds.
- It took away the prime lands bordering the railroads (one section for every ten) that were granted but never conveyed by the Act of 1858 and gave in lieu thereof 1,000,000 acres in West Texas (Tex. Const. [1876]). The railroad lands referred to in the 1858 Act were lands that were originally given to the railroads to induce them to build track across Texas. Some of the land had been given back to the State because it was felt that it was too worthless to

justify the cost of a survey. Because the lands surrounding the railroads were beginning to be developed, the Legislature believed it was better to give to the PUF lands that were not already being developed.

In his report to the Governor for the fiscal year ending August 31, 1880, the Land Commissioner commented on the passage of a bill by the Legislature in 1879 which required the Commissioner to appoint a surveyor or surveyors, to locate and survey, in sections, the one million acres of University land. The Commissioner complained that the bill did not make provision for advertising for competitive bids. His primary complaint, however, was that the Legislature did not state how much he could spend to get the land surveyed. The Commissioner invited various survey companies to submit bids. From the ten bids received, he selected the lowest bidder, who agreed to do the work for \$4.25 per acre. When these surveys were completed, the information was submitted to the Land Office. The Land Commissioner reported that the best available University lands were in Tom Green, Pecos, and Crockett counties.

On March 30, 1881, the Legislature ordered an election for the purpose of choosing a location for the University of Texas. In that same act, a governing board of eight regents was authorized to set policy and oversee the affairs of the University (1881 Tex. Gen. Laws, p. 80). The Legislature specified how the University was to be run. Some items of interest were:

Section 20. No religious qualification shall be required for any office or privilege in the university. Section 21. The board of regents shall report to the board of education annually, and to each regular session of the Legislature, the condition of the university, setting forth the receipts and

disbursements, the number and salary of the faculty, the number of students, classified in grade and departments, the expenses of each year, itemized, and the proceeding of the board and faculty fully stated. (Tex. Gen. Laws, March 30, 1881, p. 82)

On April 1, 1881, the Regents were nominated by Governor O.M. Roberts and approved by the Senate. The Board held its first meeting on November 15, 1881, and Dr. Ashbel Smith was elected President. Dr. Smith, a Yale alumnus who by the time he was 19 years old had earned both an A.B. and A.M. degree and was a member of Phi Beta Kappa honor society. He later returned to Yale and received a medical degree. He served for six years in the Legislature and was a founder of the Democratic Party in Texas. He had served as Surgeon General in the Republic of Texas Army and sought to create a university modeled after the University of Virginia. He has been called “Father of the University of Texas” because of his early efforts on behalf of the institution (Silverthorne, 1982).

“Many of the Southern people who settled Texas were inspired by the educational view of the great Thomas Jefferson” (Funkhouser & Brusceci, 1981). The view that Smith held about using the University of Virginia as a model was common in Texas. Dr. Smith may have noted that when the Texas Senate discussed O.B.102, the legislation that founded the University of Texas, the committee discussed the fact that the new University should pattern itself after the University of Virginia (Journal of the Senate, 7th Session, 1857, p. 780).

At a meeting on November 16, 1881, the new Board of Regents passed a resolution that requested that the Governor provide them with information on the status

of the University funds, land, and monies borrowed from the PUF. Also, they requested that any money borrowed previously be returned to the PUF with interest (University of Texas Board of Regents Minutes, 1881).

The remarkable Ashbel Smith had written an article in the *Texas Journal of Education* in which he gave his views about the location of the State University:

He considered Austin the only suitable location for the main branch of the state university; it was “preeminently healthy,” was easily accessible by railroad from every part of the state, and, being the seat of government, would give the students the advantage of observing the running of the state first hand. (Silverthorne, 1982, p. 210)

By popular election on September 6, 1881, the city of Austin was selected as the location for the University of Texas, and Galveston was selected for the Medical Branch.

On August 17, 1882, the Regents received a letter from the State Comptroller stating that the Permanent University Fund contained \$34,464.34 in interest-bearing bonds (University of Texas Board of Regents Minutes, 1882). After reading the letter, the Board voted to sell the bonds at the highest possible price. The Board members were worried, no doubt, about having enough cash to open the University the next year. It is evident from the early financial information that the University had little cash and perhaps no credit. The hard assets that belonged to the University at the time were of little value. The most redeeming aspect of the University land was the amount of it.

On November 17, 1882, the cornerstone of the Main Building at the University of Texas was laid. President Ashbel Smith proved prophetic in his remarks: “Texas holds embedded in its earth rocks and minerals which now lie idle because unknown, resources of incalculable industrial utility, of wealth and power. Smite the earth, smite the rocks

with the rod of knowledge and fountains of unstinted wealth will gush forth”

(Silverthorne, 1982, p. 219).

In an Act of April 10, 1883, the Legislature added 1,000,000 acres of land in West Texas to the PUF. This additional land came from two million acres, which the Texas & Pacific Railroad had returned to the State as being of such low value that it was too worthless to survey. The Legislature reserved the other million acres for the Permanent School Fund. The Legislature also appropriated \$256,272.57 to repay the PUF for assets diverted by the State for other purposes during the Civil War.

This must have been a strange time for the Board of Regents. They were trying to open a new University. They knew there were significant land assets, but they knew little about what type of land it was or even where it was.

In November 1883, the Comptroller sent the Governor a letter containing a rendering of the University’s account. A copy of this letter is part of the Regents minutes. Because of its significance and tone, the letter is quoted in its entirety.

In compliance with your request of the 7th [November] the following relating to the University Fund is furnished accompanied with transcripts in detail of the University Land sales account.

For the quarter ending February 28, 1860 there appears to have been in the Treasury to the credit to the University the sum of \$130,684.26. This has been derived from the following sources.

From principle on U.S. bonds donated by the State to the University Fund,

\$100,000

Accrued interest on said bonds,

\$9,422.76

Proceeds of sales of University Lands,	\$21,261.50
Total	\$130,684.20(sic)

The books of the comptroller's office show that the State University Fund has been dispersed of as follows: By authority of an Act approved January 31, 1860 there was transferred from the University Fund to State Revenue account as follows:

In 5% United States Bonds	\$100,000.00
Interest on same	\$9,472.26
Total	\$109,472.26

This transfer was made on the books by the comptroller on February 29th 1860.

By authority of Acts approved January 29th and February 8, 1861 there was an additional transfer from the University Fund.

Act of January 29 th 1861	\$9,768.62
Act of February 8, 1861	\$25,000.00
Total	\$34,768.62

This transfer was made February 28th 1861.

On January 9th 1862 another Act was approved which an additional transfer was made to the General Fund amounting to \$1,520.40 making total transfers from the University Fund to State Revenue account as follows:

Under Act January 31, 1860	\$109,472.26
Under Act January 29, 1861	\$9,768.62
Under Act February 8, 1861	\$25,000.00
Under Act January 9, 1862	\$1,520.40
Total transfer	\$145,761.28

The last transfer was under an Act of January 9, 1862 consumed the University Fund except:

Specie 5% Confederate notes	\$3,952.74
Warrants	\$4,638.97
10 Interest Warrants	\$12,000.80

Subsequent to that date and up to June 1865 there were further receipts to the University Fund from warrants \$10,300.41 and in interest bearing warrants \$12,230.39.

It appears that by an oversight the 5% in species were dropped from the account.

On June 8, 1865 the warrants (10,300.41) were cancelled and a certificate of indebtedness issued to the University Fund by W.L. Robards, the Comptroller. The books of this department show that on the 31st day of July 1867 under the 3rd section of an ordinance of the Convention the above interest bearing warrants (\$12,230.39) were dropped from the books. These warrants were paid in the University Fund 1863 to 1869 inclusive received for sale of lands.

There was then left to the credit of the University Fund only \$10,300.41 represented by the Confederate certificate of indebtedness. The amount is still to the credit of that amount as will be seen by reference to reports from this office. The overall acts referred to appropriated the University Fund to general purposes provided that the amount appropriated should be returned to that account.

The books of this department show that on August 1, 1867 under Act approved November 12, 1866 there were funds placed to the credit of the University Fund in 5% State Bonds \$134,472.26.

The records show no further reimbursement of that Fund and the only amount appearing on the books of this department to the credit of the University Fund is \$134,472.26.

An examination of the record discloses no reason why the remainder of the amount borrowed from the University Fund was also returned.

There has been received for University Land Sales account from April 1874, the date of the Act under which collections are made to September 30, 1881 as follows:

Principle on Land notes	\$255,905.00
Interest on Land notes	\$110,745.82
Interest on bonds to credit of that Fund	\$70,219.90

The above funds were invested as they accrued in State Bonds

The University accounts had to their credit September 1881 as follows:

University Fund Account

5% State Bonds	\$134,472.26
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University Land Sales Account

5% State Bonds	\$77,400.00
6% State Bonds	\$175,500.00
7% State Bonds	\$114,000.00
Comptrollers Certificate of Indebtedness	\$10,300.41
Cash	\$205.59

The Bonds to the credit to the University Fund account are 12-year bonds from January 1, 1867, maturing January 1, 1879.

The University land sales account at present carried on the books of this office does not separate the Permanent and Available University Funds as now distinguished under the Constitution of 1876 as the law in force.

According to my construction of the Constitution of 1876 all monies, bonds, or other funds to the credit of what was known as the University Fund was by the terms of the Constitution dedicated a Permanent University Fund and all proceeds of sales of University land were dedicated as Permanent Fund.

The lands are to be sold under such regulations as might be directed by the Legislature. That body authorized the payments of the principle debt to be made in installments with annual interest.

The “proceeds” of the sales under the system now existing under present legislation includes principle of the notes taken for University Land and interest thereon. This principle and interest on the notes taken as purchase money for land should be in my opinion all set aside and transferred to the Permanent University Fund account. This principle and interest has been from time to time invested in State Bonds. Under the Constitution the interest on these bonds constitute the Available University Fund and is alone subject to appropriation and disbursement. We started the University Land sales account as shown on the records of this department has (sic) not separated the Permanent and Available funds arising from the same.

Transfer will be made and the accounts separated. This separation will show on September 1, 1881 as belonging to the Available University Fund arising from interest on bonds. Total credits to the amount of \$70,219.90.

This sum represents interest that accrued on bonds purchased with the proceeds of sales of University Lands and accrued interest on the Bonds.

As stated heretofore this amount was not retained in the Treasury as cash to the credit of the Available University Fund but as it accrued from time to time it was invested in State Bonds and the general amount of bonds now held to the credit of the University Land sales account referenced both Permanent and Available funds. An investigation of the various investments of this interest determines the proper proportion of each of the classes of bond bearing 5% interest to be designated as belonging to the Available Fund.

While transfers have not been actually made the following is a summary of the condition of the account concerning the \$70,219.90 received on Available Fund to September 1, 1881 arising from interest on bonds which will show the status when the transfer is effected.

1. Available University Fund account will be credited with total receipts from interest on bonds to September 1, 1881, \$70,219.97.
2. To account for this amount the following items appear.

In Treasury to credit of Available Fund for seven percent bonds
\$21,151.17

For 5% Bonds	\$8,308.37
Premium and cost of purchase of above bonds	\$4,277.31
Disbursements of Available University Fund on appropriating	\$31,477.62
Total	\$70,219.97

This shows a balance to the credit of the Available Fund in bonds that are in manuscript and consolidated with the Permanent Fund this amount of \$34,465.44.

The actual and prospective Available Fund from date to January 1, 1883 may be estimated to approximate as follows:

1. Sales of the 7% bonds \$26,156.67 at 1.40

Principle \$26,156.67

Premium \$10,462.60

2. Sale of 5% bond \$8,308.37 at 1.15

Principle \$8,308.37

Premium \$1,246.25

3. Interest on all bonds to January 1, 1882 \$11,190.00

4. Interest on Permanent Fund bonds to July 1, 1882 \$10,066.80

5. Interest on Permanent Fund bond to January 1883 \$10,066.80

January 1, 1883 Total available \$77,497.49

Against Available Fund there remains outstanding unpaid appropriations for several extraordinary accounts payable from the University Fund to February 28, 1882 the sum of \$30,472.35.

When these appropriations are satisfied there will be from this date to January 1, 1883 for use of the Board of Regents of the State University the sum of \$47,025.14.

It is deemed proper to add that the appropriation of \$150,000 made by the last Legislature for the support of the University has not been considered in summing disbursements actual or prospective. Of course, this appropriation as an entity has full standing to exhaust at any time any available fund that may be in the Treasury.

No provision as stated has been made for settlement of the principle or interest of the \$134,472.26 Bond issued in 1866 and which matures in January 1879.

By the Constitution of 1876 the principle of these bonds and any interest due on them on April 17, 1876 became Permanent University Fund.

From April 17, 1879 to January 1879(sic) this date when the bonds matured it seems we may consider that the interest due on these bonds is Available University Fund. The interest on the bonds from this date to the date when the bonds mature January 1879 amounts to \$18,209.77.

Should the Legislature make appropriation of this interest to the total amount that will be subject to signature by the Honorable Board of Regents of the State University will be:

1. By sale of Bonds, interest premium or as shown heretofore

\$47,025.11

2. Contingent interest as above stated

Total \$65,234.88 (sic)

Respectfully,

W.M. Brown

Comptroller

(University of Texas Board of Regents Minutes, 1883e, pp.48- 59)

This letter provides a fascinating look into the history of the Permanent University Fund. The accounting begins in 1860 with a beginning balance of \$130,684.26. Most of this money (\$100,000) was from an earlier legislative appropriation. What the Legislature can give, it can take away, as is shown by the fact that from 1860 to 1862 the Legislature took from this account \$145,761.28. This borrowing from the Fund reduced the balance to include worthless Confederate notes and a little over \$16,000 in warrants.

As is noted in the Comptroller's letter, this money was put back by the Legislature in 1866. One item of surprise was the very good land sales the PUF experienced from 1874 to 1881. The Land Office had sold \$255,905 worth of land at a time when the per-acre price was very low.

The new Constitution of 1876 set out in clear detail both the Permanent University Fund and the Available University Fund. This letter is the financial description of the Comptroller's interpretation of that Constitution.

While it was informative for the Regents to know how much money was in the Permanent University Fund, what they needed to know was what money was available to open the University on September 15, 1883. The money that could be spent was the money in the Available University Fund. After all of the adjustments were made by the Comptroller's office, the amount available on January 1, 1883 was \$47,025.14, plus the \$150,000 the previous Legislature had appropriated for the opening of the State

University. The Permanent University Fund had \$191,429.17 in actual and contingent funds.

The compilation of this letter from Comptroller Brown must have represented a major effort by him and his staff. The letter also denoted a sense of respect for the Governor and the Board of Regents.

Going Forward

By 1886, because of a major emphasis by the Board, money was beginning to flow to the University. On June 15, 1886, the Finance Committee of the Board gave the following report:

Permanent Funds	\$521,061.62
Principle on land notes	\$113,023.00
Cash on hand	\$10,700.00
Available Funds	
Cash on hand	\$49,821.03
State Bonds	\$8,308.37

Cash received from 1 June 1885 until 15 June 1886 from all sources.

1. int. on Bonds \$33,223.07
2. from int. on land notes \$6,469.15
3. Matriculation fees 2,570.00

4. Refunded	866.07	43,128.29	
Total of all Available Funds			\$101,257.69
Annual Revenue			
Interest on Bonds			\$31,824.38
Interest on Land Notes			\$10,500.00
Income from land leasing			\$3,600.00
Matriculation fees			\$2,600.00
Total yearly income	\$48,524.38		
(University of Texas Board of Regents Minutes, 1886c pp. 172-175)			

This report paints a good picture of the University's finances in 1886. Although land sales were producing much of the income, it is important to note that these sales were not from the original acres that were set aside in West Texas. The land that was being sold, for the most part, was located in McLennan, El Paso, and Collin counties. As these tracts were not contiguous to the University Lands, the Board decided to sell them.

In the early years of the University, the Regents received an annual report from the faculty; much of these reports discussed the status of the University's finances. Below is the report for the 1890-91 school year giving the estimated income for 1891-92. It is followed by the Faculty Report for 1891-92.

UNIVERSITY OF TEXAS FACULTY REPORT, SESSION OF 1890-91

Estimated income for 1891-92 came from controller's estimate

Interest on land sales were	\$4,114.07
Interest on bonds were	\$33,766.60
From matriculation fees	\$3,610.00
Payment to A&M	\$500.00

A comparison of this statement with the corresponding statement made in the faculty report for 1890-91 will show that last year the income from interest on land sales was \$10,868.88, while this year it was given as \$4,114.07, a falling off of \$6,761.81[sic]. The fact that the settlement of the McLennan county lawsuit by compromise, thus giving a number of purchasers of University land an opportunity to pay back interest on land sales for several years, and, in the opinion of the State Treasurer, this falling off will continue until some more expeditious method of collecting this interest is provided for by statute. According to statement from the Treasurer the land sales is [sic] \$11,797.40. In other words, the interest on notes given by purchasers of University lands amounts at present to \$11,797.40, while only \$4,114.07 was paid last year, thus leaving \$7,683.33—nearly two thirds of the entire amount due--unpaid. These deficits have been accumulating for four or five years, and now there is between \$30,000 and \$40,000 of back interest due the University on land sales.

While the amount of income from interest on land sales has decreased the income from leases of land has largely increased. In the last Faculty report this income was given as \$4, 767.10. In this report it is given as \$16,180.80, an increase of \$11,413.70. The probabilities are that this increase will continue, as University lands are rapidly coming into demand, owing partly to the natural improvement in the cattle business, and partly to the fact that, by recent legislative enactment, the lands are offered at 3 cents per acre for a term of ten years. The hope is expressed that, in a comparatively short time, a sufficient sum will be realized from

this source to make many needed additions to the teaching force of the University (University of Texas Board of Regents Minutes, 1891a, p.277).

THE UNIVERSITY OF TEXAS FACULTY

REPORT SESSION OF 1891-92

Receipts for the year 1891-92

From bonds	(\$)34,318.60
Interest on land notes	(\$)3,216.94
From leases	(\$)16,063.95
From appropriations	(\$) 5,000.00
From fees	(\$)6,300.00
From leases for May	(\$)734.40
TOTAL INCOME FOR 91-92	(\$)65,633.89
DEFICIT FOR THE YEAR	(\$) 2,839.96

The deficit (\$2,839.96) arises from the fact that a number of payment[s] now due on leases and land notes have not been made according to statements from the Treasurer. 662, 880 acres of University land are now under lease at 3 cents per acre, amounting to an annual payment of \$19,888.40(sic). According to statement of Controller \$16,063.95 has been paid, leaving a balance unpaid of \$3,852.459(sic). Again the appropriations by the Regents for the year 1891-92 were made on an estimated income of \$4,114.07 from interest on land notes—the amount collected during the year 1890-91. Instead of that amount the receipts from this source were \$3,216.94, according to statement of the Controller, leaving a balance of \$897.13. These two balances (\$3,852.45 and \$897.13) amount to \$4,719.58. Had they been paid, the total income for the year 1891-92 of \$65,633.89, would of (sic) amounted to \$70,353.47

It may be well to say in regard to the five sources from which the University derives its income that some of them are uncertain. The land notes are being paid in full in some cases, and in others the land is being forfeited. As a result, the income from this source may be expected to grow less. The permanent endowment as represented by the bonds has grown, and will continue to grow slightly as the principals of the land notes are invested in such securities as the Controller is allowed to buy for the University. A small increase from this source may therefore, be expected. The income from leases of lands has grown very rapidly in the last two years, having increased from [\$]4, 767.10 in 1889-90 to [\$]16,083.95(sic) in 1891-92. This increase depends upon so many contingencies that it is difficult to make an entirely reliable estimate in regard to it. That it will continue to increase in the same proportion in the next two years is very doubtful. That there will be a substantial increase, however, can perhaps be safely expected. The estimate of the income from fees ([\$]7,880.00) is based on the income from this source during the current year. As the attendance is increasing each year, a larger income from this source may be expected next year. It is suggested in this connection that it might be well to change the character of the fee charged in the Academic Department. Instead of charging an annual fee of \$10.00 as is now done, let the charge be a matriculation fee of \$30.00, as the law seems to contemplate, which will be the only fee for admittance a student will have to pay, no matter how long his connection with the Academic Department of the University may continue. (University of Texas Board of Regents Minutes, June 1892, p. 314)

The fact that the faculty spent time on the financial issues of the University reveals that the matter was of great concern. Indeed, their comment that money was sorely needed to add faculty to the staff showed that there was a shortage of funds. The two faculty reports that have been cited contain some very good information. The faculty, in reviewing the income for the University, pointed out how precarious the finances were and how the income from the PUF was tied to the general economy of Texas. Because the financial success of the PUF depended on sale of land, the collection of interest and principal from those sales, the leasing of land, and all this activity was supported by the

cattle business. The cattle business, in turn, depended on rainfall. If it did not rain, the grass did not grow, and without abundant grass, it is not possible to raise cattle. All of this was compounded by the fact that the university lands were in parts of Texas where the annual rainfall was small, making the entire enterprise problematic. The suggestion of increasing the annual matriculation fee from \$10.00 to \$30.00 was an effort by the faculty to provide for the University a more stable source of income.

The minutes of the Regents meetings during 1881 to 1899 revealed many new and difficult issues that confronted the Board. On many of the financial issues, the newly formed Board received little or no legal guidance. For example, there is a portion from the August 1896 meeting minutes that discusses how the Board should handle a donation of \$250. They had not had to deal with this issue before, and after much discussion they decided to ask the Attorney General for a legal opinion. They asked two questions. First, could they accept the money, and second, if they could accept the money, how should it be invested. On May 11, 1888, the Attorney General provided the answer.

ATTORNEY GENERAL'S OFFICE

MAY 11, 1898

Article 1, Section 2 of the State Constitution provides:

Sec. 11 Fund, how invested. In order to enable the Legislature to perform the duties set forth in the foregoing section it is hereby declared that the lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sale of the same, heretofore made or hereafter to be

made by the state of Texas, or from any other source, shall constitute and become a permanent University fund. And the same as realized and received into the treasury of the state (together with such sums, belonging to the fund, as may now be in the treasury), shall be invested in bonds of the state of Texas, if the same can be obtained;

If not then in United States bonds, and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing section; provided that one-tenth of the alternate sections of the lands granted to railroads, reserved by the state, which was set apart and appropriated to the establishment of 'The University of Texas', by an act of the Legislature of February 11, 1858, entitled "An Act to establish 'The University of Texas, shall not be included in or constitute a part of the permanent University fund'.

Following this provision our statute provides by Article 3836:

"The following shall constitute a permanent fund for the University of Texas, to be used for the benefit of said university:

1. All, lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas under any previous law.
2. One million acres of the unappropriated public domain of the state set apart for that purpose by the present constitution, and one million acres of land set apart by act of April 10, 1883.
3. All bonds that have heretofore or that may hereafter be purchased with the proceeds of the sale of university lands.
4. All proceeds of the sale of university lands that are now or may hereafter be placed in the treasury of the state
5. In addition to the foregoing, all grants, donations and appropriations that may be hereafter made, or that may be received from any other source. (University of Texas Board of Regents Minutes, 1898c p. 239)

In his opinion, the Attorney General gave the Board of Regents a broad overview of the laws that affect the Permanent University Fund and how they should deal with money received from any source.

In a meeting held in 1903, Regent Gregory reported that he had decided that the law on the investment of the Permanent Funds could only be changed with a constitutional amendment. The Board requested that Gregory prepare a joint resolution to the Legislature asking for a constitutional amendment to authorize the Board of Education to invest the PUF's cash in the same securities as the Public School Fund. Regents Henderson, Gregory, and Browning were chosen to represent the interests of the University before the Legislature (University of Texas Board of Regents Minutes, 1903a, p. 16). The Regents also discussed asking the finance committees of the Senate and House to extend the state bonds owned by the PUF at their current interest rate, or at the best rate possible. This was an effort by the Board to maintain the income they were currently receiving from their bonds.

Summary

This chapter dealt with the early days of the University when political and educational leaders of Texas began the hard work of establishing and organizing the University. The important work of organizing a Board of Regents, holding a state-wide election to select the site for the university, obtaining the money necessary to build and equip facilities and recruit and hire faculty was all accomplished during this period. At the center of much of the early Regents' activities was understanding and managing the University lands for the best possible benefit to the University. During this period, a

dispute began involving the Regents and the Commissioner of the General Land Office.

That dispute is discussed in the next chapter.

CHAPTER FOUR

AN EARLY REVIEW OF UNIVERSITY LANDS AND THE FIGHT FOR CONTROL

On three different occasions, Texas appropriated land for a university. The first was in 1839, the second came during the Constitutional Convention of 1875, and the third was when the people of Texas later ratified this Constitution on February 15, 1876. This second allocation was for one million acres of land located in the western part of Texas. In April 1883, the Legislature added another one million acres (Haigh, 1986). Of additional interest is the fight for control of the land between the University of Texas Regents and the Commissioner of the General Land Office. This dispute would go on for many years. This timeline is used to help the reader more readily follow the events described in this chapter.

Table 4: Timeline of Texas History, 1883-1937

April 12, 1883	State Land Board created to sell and lease public lands. Another act on same date authorized the survey of another 1,000,000 acres for the University from the public domain.
April 14, 1883	The Legislature passed an Act stating that all minerals in the Public School, University, Asylum and public lands of the State of Texas shall be used for the benefit of the respective funds .
1895	The Legislature passed an act that allowed the Board of Regents to control and manage the University lands.
September 26, 1904	Board hired its own land agent.
1913	The Legislature gave back to the Commissioner of the General Land office the duties and the responsibilities for leasing the minerals on the University lands.
May 28, 1923	Oil was found on University land.
1929	SB 82 created a Board to begin dealing with the sale of oil and gas on University lands.
1931	SB 280 gives Board of Regents authority to lease the University lands.
1933	HB 6 grants authority for pipeline construction across University land – leases to be handled by Board of Regents.
1937	SB 343 dealt with the public auction of University land when the demand warranted it because of multiple demands for lease.

The lack of knowledge about the University Lands led the Regents to appoint a committee to work with the General Land Office to ascertain the amount of land that was in the Permanent University Fund. At the beginning of the PUF, the General Land Office was in charge of the University lands. By resolution on May 1, 1883, the Regents asked the Land Commissioner to designate and set apart from the two million acres that had been designated for both the Public School Fund and the PUF, the land that belonged to

the PUF, since at the time it was not clear what land belonged to the Public School Fund and what belonged to the PUF. They also asked for maps and plats of the land (University of Texas Board of Regents Minutes, 1883a). Also on May 1, 1883, the Land Commissioner, W.C. Walsh, met with the Regents and provided them with valuable information about the lands. He said that they were good for grazing but did not have much surface water. He had been told that the land was good for sheep and cattle and that it might be more valuable in the future. Commissioner Walsh confirmed what was well known to the Board, namely that the lands were in a part of Texas that was unknown to most Texans (University of Texas Board of Regents Minutes, 1883a).

The Regents were interested in receiving as much information as possible on the University lands from the General Land Office. But this information had been slow in coming. In June 1883, Regent T.D. Wooten reported to the Board that he had talked to the Land Commissioner and was told that the reason the Commissioner had not been able to provide the requested information was because of low staffing in his office. The Commissioner was, however, trying to speed up the leasing of the University lands and had found that newspaper advertising was the most economical way to get the word to the public. Regent Wooten then visited with Governor Ireland who suggested that the Commissioner hire an additional draftsman (University of Texas Board of Regents Minutes, 1883a). The next day, Commissioner Walsh told the Board that he had hired an additional draftsman and had put him to work on the maps and plats for the PUF. He also told the Board that none of the PUF land was in the Panhandle, but was most probably in

Tom Green, Pecos, Crockett, and Presidio counties (University of Texas Board of Regents Minutes, 1883b).

The legislature continued to pass laws during 1883 that were important to the University and the PUF. On April 14, 1883, the Legislature passed an Act stating that “...all minerals in the Public School, University, Asylum and public lands of the State of Texas...shall be used and disposed of for the benefit of the respective funds for which said lands are now set apart as hereinafter prescribed” (Tex. Gen. Laws, p. 85). On April 12, 1883, the State Land Board, made up of the Governor, Attorney General, Comptroller, Treasurer, and Land Commissioner, was created to sell and lease public lands (1883 Tex. Gen. Laws, p. 71). Both of these laws had a major impact on the PUF. The law that retained the mineral rights for the public lands made it possible for the PUF to receive billions of dollars in oil and gas royalties. The Land Board would play a major role in the sale and leasing issues involving the PUF.

The slow response that the Board received from the General Land Office caused many conversations about the feasibility of the Board of Regents managing the University lands. In 1886, the Land Office gave the job to the Board. The Board by resolution asked the President to contract with a land agent. The agent was to be paid a salary of \$2,500 per year. As part of this same resolution, the Board gave specific instructions about fencing around the leased tracts of land. The instructions were that the fence should have five wires and be galvanized with posts set not more than 30 feet apart. The yearly leases were to be six cents per acre with a credit given against the lease payment of up to two cents per acre for fencing costs and costs associated with putting

stock watering tanks into place (University of Texas Board of Regents Minutes, 1886a, pp.71-72).

In June of 1886, the Board received a long and instructive report from Mr. Williams, the land agent, about the lands located on the frontier. He said they generally were in Tom Green, Pecos, and Reeves counties. He said there was little or no surface water but that water could be obtained by digging to moderate depths (University of Texas Board of Regents Minutes, 1886b, p. 163).

The Land Commissioner in his annual report to the Governor in 1886 discussed some of the difficulties he had encountered in running his office.

It is perhaps well to call attention to the fact that the remunerative work of this department is rapidly diminishing, while the amount of clerical labor remains about the same. This, in view of the constitutional requirement that the office must be self-sustaining, will soon present a difficult question for solution. If the surplus, over expenses, collected and paid into the treasury for the past few years can be credited to the future expenditures, the issue may be postponed for some years.

The sale and lease of the School Lands, notwithstanding this clerical force provided for the special work, adds largely to the labors of this office and entails an expense for which there is no provision of fees. During the past eight years the disposition of these lands has been an absorbing question and a brief glance at the experimental legislation of that without cost for collecting.

University Lands amounting to one million acres were surveyed under authority of an act of April 10, 1883, upon what was then supposed to be the best of the vacant land reserved by former acts. Subsequently, in the adjustment of the Texas and Pacific eighty-mile reserve and correction of survey, good pasturelands were discovered in El Paso County, superior in every respect to much of the first selection. On learning these facts I consulted with the Regents, and through them arranged for the survey of sufficient (sic) of this land to replace what was found in the original survey to be sandy and in conflict. This work has now been completed and maps and field notes of the blocks returned and filed in this office. It

might be well for the Legislature to confirm this exchange and restore the rejected portions of the first survey to the reserve. (Commissioner of the General Land Office Report to the Governor, 1886)

The Commissioner was probably feeling some pressure from the continuing concerns of the Regents. In this report he was attempting to explain why his office had been doing such a poor job of overseeing the University land. The Commissioner explained that the Legislature had continued to give him more and more duties but had neglected to give him the necessary money to carry out these duties properly.

The Regents were concerned with the management of the General Land Office, and regardless of who was at fault, the records on the University Lands had been poorly maintained. The Board had discussed the issue numerous times. The Board minutes do not reflect when Theodore Roziene was hired to help clean up the records so they would have accurate information, but he reported to the Board on March 13, 1887. The Chairman of the Land Committee of the Board, Colonel George Brackenridge, received the following letter:

Dear Sir!

The work in the General Land Office and in the Office of the Land Board is finished. I am now at work in the State Treasurer's Office. The records of the several offices do not agree, still, I can make a very correct statement of facts tracking the disposition and present status of the old 50 League donations. The field notes and maps on file in the General Land Office are very much mixed, and required much patience[sic] study, on account of the numerous corrections of surveys made from time to time. I have been governed by latest files. The records in the Land Office are not very reliable. No true statement can be made from these alone. The Land Board records omit a great many tracts, besides giving wrong descriptions. They ought to be recompiled. The Ledgers and Books in the Office of the State Treasurer's Office, showing the sales of those lands and payments made thereon are in good shape, and without them we could never get to

the bottom of our examinations. I had to lay a foundation for my work. And the proper way to begin was to get the latest and most correct field notes. It took time to hunt them up. Some were filed away in pigeonholes and not readily found. They should have been recorded, but are not. So with the patents issued, but as final payments are made almost every few days to the Treasurer the facts are not known to the other offices except by special inquiry. Many have final receipts, and want no patents, probably for the purpose of evading the taxes. But in the Treasurer's office I get all this from the day I begun (sic) till (sic) I finish my examination—within a space of a few days. My work will differ considerable [sic] with the report of Mr. Walsh of December 10, 1886. I account for every parcel of land, and give the history of each tract on one single line, showing the survey or part of survey paid for or patented, and to whom etc. And the particular tracts, fully described and easily identified, on which payments are still due, to whom sold, and the time when the last payment of interest was made, thus finding the forfeited lands. I have found a good many so far—dating back to 1879—and also sales of many tracts that do not appear upon the Land Board Records of the Land Office. I expect to have all the data completed this week, unless something unlooked for should turn up. In the Treasurer's Office I cannot examine more than 200 pages a day, covering 400 separate acc'ts. When I get through here, I will take all the notes with me to San Antonio—and put the work in a neat and proper shape as a record for future reference.

Please do me the favor to advise First National Bank to pay me \$50.00. I want the money to pay any board bills and pay expenses here and at home.

I remain yours respectfully

Theo. Roziene

(T. Roziene, personal communication, 1887)

Colonel Brackenridge acknowledged this letter in an October 22, 1887 letter to Dr. Wooten, president of the University. This must have been good news to both men because for the first time the University had accurate information regarding the University lands.

In a report to Governor Ross in 1888, Land Commissioner Hall produced some interesting information about the difficulties his office had in obtaining good, reliable information on public lands. The Commissioner stated that there were approximately 398,876 acres for which there was no accounting. Some of these acres were the result of survey error. Since there appeared to be about three million acres in the public domain, the error rate was about ten percent. He further stated that these poor records and poorer survey results caused almost incalculable trouble that led to many lawsuits. Apparently, the Legislature also continued to give the Land Office additional responsibilities without proper funding. The Commissioner stated:

The Act of April 1, 1887, providing for the sale of the school, University and asylum lands, and for the lease of such lands and of the public lands, took effect on July 4, 1887, entailing upon this department a vast increase of labor, care and responsibility...

The requirements of the law that these lands be carefully classified and appraised before they could be offered for sale necessitated a virtual suspension of sale for some months. In fact not yet has the classification been sufficiently advanced to meet all demands for purchase. While the law seemed to contemplate and provide for the classification only of such lands as were in demand for immediate purchase, it was discovered, in the very inception of this work, that it was impossible to determine which lands were in such demand. It was also evident that the work could be done more economically by being done systematically. Hence the classifier was directed to complete the particular district to which he was assigned. This necessitated the employment of a large number of men in order to meet the wants of every section of the State with as little delay as possible. Up to this date about three-fourths of these lands have been classified and placed upon the market; and by the end of this year not less than twenty-five million acres will have been offered for sale.

(Commissioner of the General Land Office Report to the Governor, August 31, 1888)

In the same report, the Commissioner noted that out of the two million acres of University lands, only 77,437 acres had been leased. The results for the public school land were much better. According to the Commissioner's Report, the 77,437 acres of land that had been leased for the university represented only one-thirtieth of the whole, while the school lands that were leased represented more than one-fifth of the whole. The primary reason was that the school lands were primarily located next to lands that were desirable and had already been homesteaded. When those lands were made available, neighboring ranchers quickly leased them. But the University lands were different. They were located in large blocks so that ranchers had to lease very large sections. Also, they were in very remote areas, were without permanent surface water, and, for the most part, were too distant from water to be used. The Commissioner reported that all of this made it very difficult to lease University Lands. He suggested that there be put into place one of two plans. One was to reduce greatly the lease payments on University land; he suggested a reduction from six cents per acre per annum to three cents. In addition, he proposed that the lessor be induced to develop the water availability by digging wells or stock tanks to catch the runoff from occasional rains. Or perhaps, he suggested, the State should furnish the money to develop the water. His second plan was to give control of the University lands to the Regents (Commissioner of the General Land Office, August 31, 1888). The Act of April 1, 1881 had once again given control of university lands to the General Land Commissioner; the Legislature would continue to switch control from the Regents to the Land Commissioner several more times. The Commissioner's second suggestion was something that the Regents had wanted for some time.

In his bi-annual Report to the Governor in 1890, Land Commissioner Hall wrote that the Legislature had adopted his suggestion of two years ago to reduce the annual lease payments to three cents per acre. The wisdom of that suggestion is shown in the fact that the University had leased four times as much acreage as it had two years previously. This Report contained a Supplemental Report, dated January 19, 1891, which showed that since the end of the fiscal year, an additional 103,680 acres of University land had been leased and applications for another 648,960 were awaiting payments. When all of the leases were processed, the University would have leased about 50% of the available land (Commissioner of the General Land Office Report to the Governor, 1891).

In 1891, the Legislature dealt with a great many issues affecting the University Lands. An example was S.H.B. 481. Under Chapter 114, entitled Lands—Sale and Lease of School and Other Public Lands, Section 11 lays out the method by which a purchaser was required to pay interest payments on land purchased. The legislation gave the borrower a grace period of five months to pay the interest. If it was not paid by the end of that time, a 20 percent penalty was charged. The legislation also gave the Land Commissioner the right to foreclose on property without judicial proceedings. In an effort to help speed up the leasing of the land, the legislation also gave the terms in which the University land could be leased—for not more than ten years and for three cents per acre per year. The law restated that all dealings on the land were to be with the State Land Commissioner (1891 Tex. Gen. Laws, p. 180).

On June 18, 1894, the Regents took action to collect some of the past due interest on the land sales. The following resolution was adopted:

Resolved that the Chairman of the Faculty and Professor Batts be authorized to make such steps as may be necessary to have collected the interest on the land notes and leases belonging to the University of the sales of the lands made under the Act of the Legislature of 1874 to the end that the same be realized and the lands recovered back for the University and further to look generally into the condition of all lands belonging to the University land to take such steps as may be necessary to protect the interest of the University in such lands. (University of Texas Board of Regents Minutes, 1894a, p. 414)

Later in the year, Professor Batts reported to the Board that he had not been able to finish his investigation of the lands near El Paso, known as the San Elizario lands. There was a three-way dispute involving the people of El Paso, the San Elizario estate, and the University. Land Commissioner Walsh had earlier suggested that the Legislature substitute other land for this disputed property, but that had not been done. Professor Batts said that it appeared that the lands were worth from \$5.00 to \$20.00 per acre. However, if they could be irrigated they would be worth much more and could be used to grow the fine “mission grapes” that were produced in the region.

Professor Batts told the Board that a large amount of the land was encumbered by the fact that there were state contracts of sale that were in default and those contracts had not been rescinded. This made it impossible to give good title to a new buyer. In an effort to deal with all of these issues the Board unanimously adopted the following resolution:

Whereas it has been brought to the attention of the Board by the report of Professor R.L. Batts concerning the present status of the University lands that a considerable quantity of said lands are encumbered by reason of there having been made by the State contracts of sale thereof with diverse persons which said contracts have not been legally rescinded or forfeited, thus rendering it difficult if not impossible for the State acting for the University to convey a good legal title to subsequent purchasers; therefore be it.

Resolved that said Professor R.L. Batts be and he is hereby requested to proceed in his investigation concerning the status of said lands, and also to investigate and determine whether or not there cannot be prepared and have passed an Act of the Legislature providing (1) for the rescinding of said sales and the making of forfeiture of money already paid on such of said lands as have been sold or leased in some summary or legal manner, so that the title thereof may be cleared of all cloud and said lands put in such condition as to enable a good title to be conveyed to subsequent purchasers; (2) for the Board of Regents to take control of the sale and lease of said lands and all other lands donated by the State to the University; (3) requiring some proper official of the State to make a thorough investigation and written tabulated report of the exact status of each parcel of land belonging to the University, so that the status of said lands may be officially declared; (4) providing a summary, cheap and expeditious manner in which the money due from individuals on contracts for the purchase or lease of University lands may be collected and placed to the proper credit of the University, and (5) providing for the summary recovery of and ejection from said lands of all trespassers and other persons who are using said lands of all trespassers and other persons who are using said lands for grazing or other purposes.

Resolved 2. That such Professor R. L. Batts be requested to report this Act to the Board at his earliest convenience together with such statements concerning the same; and recommendations touching the procuring the same to be passed as he may deem proper. (University of Texas Board of Regents Minutes, 1894b, pp.2-3)

In the June 18, 1894, meeting Regent Wooten said that the Regents had been working on the issue of control of the University lands for some time and had hired an agent, Mr. Williams, to look into the issue. The Regents had tried to get the Attorney General to take some action but had been unsuccessful. During this long discussion, questions were asked as to why the Board of Regents did not have control of these lands. Regent Prather responded that Governor Ross had always objected to the idea because the Land Board already existed at the General Land Office, and the Governor did not think that another board should be created. It was discussed that even though Land

Commissioner Walsh had told the Board that he was interested in turning over control of the University Lands to the Board, he had recently testified before the Legislature that he opposed the transfer. The confusion about who should be in charge eventually caused the Legislature to take action to resolve the dispute.

The year 1895 brought great news for the Regents. The Legislature passed an act that allowed the Board to control and manage the University lands.

Be it enacted by the Legislature of the State of Texas: that the board of Regents of the University of Texas are hereby invested with the sole and exclusive management and control of the lands which have heretofore been or which may hereafter be set aside and appropriated to or acquired by the University of Texas, with the right to sell, lease and otherwise manage, control and use the same in any manner, and at such prices and under such terms and conditions as may to them seem best for the interest of the University, not in conflict with the Constitution of this State: *Provided*, that such land shall not be sold at a less price per acre than the same class of land of other funds may be sold at under the statutes. (1895 Tex. Gen. Laws, p. 19)

At last the Board was granted the authority for which they had worked so hard for so many years. No longer would they have to work through the Commissioner of the General Land Office.

The Regents began to step up their efforts to collect the money that was due the PUF. In their January 1895 meeting, they passed the following resolution:

Resolution was adopted that the State Treasurer be requested to notify all parties who are delinquent in payments of interest on University lands and notes, said of any future delinquency and that he be requested to take steps immediately to collect all amounts due from all parties who are in arrears and that the Secretary of the Board inform the Treasurer of this request, and that Professor Batts be requested to continue his investigations, and that the officers of the State are respectively requested to render Professor Batts assistance in his investigation. (The University of Texas Board of Regents Minutes, 1895b, pp.29-32)

In March 1895, the Regents discussed their new responsibilities for managing the University lands. They reached several conclusions. First, they would need additional appropriations from the Legislature to pay the additional expenses that would be incurred. Second, they agreed that they needed to make every effort to keep the management in the hands of the Board and not rely on outside agents. They also discussed that they needed to have first-hand knowledge about the land. There are numerous stories in the Board minutes illustrating how difficult it was to manage property located in remote areas. As an example, one of the Regents related a story of a rancher who was trying to lease some of the land at a cheap price by saying that the land had no water on it. It was later discovered that there were two good wells already on the land, and the rancher was leasing some land but was also occupying 100 sections of other land without paying any lease (The University of Texas Board of Regents Minutes, 1895c, pp.43-44).

Regent Bryan stated that he had had a conversation on the subject with Land Commissioner, H.J. Baker, who represented himself as being quite friendly to the University. The Commissioner was willing to provide all the information he could concerning University lands. Regent Prather presented the following resolution:

Resolved, that the matter of collecting the amounts due on leases and sales of University lands, and of providing a plan for utilizing the lands be referred to a Special Committee to be appointed by the President with authority to secure such information from the Land Commissioner and other sources as can be had. Whose duty shall it be to inquire into and make written recommendations to the Board at the present meeting investigating the whole matter. (University of Texas Board of Regents Minutes, 1895b, pp.29-32)

This continued to be a major topic. By their May 1895 meeting, maps from various sources were furnished to the Board. Because none of the maps were from the General Land Office, it was difficult for the members to have a good understanding of the land. Regent Breckenridge insisted that the only way the Board would ever have a true understanding of the University Lands was for the Regents themselves to travel to them. There appears to have been a lack of enthusiasm for his suggestion. (He made it many more times over the following years.)

The discussion centered on the fact that the Regents had been given these new duties, but they had not been given any money to accomplish them. The Legislature had appropriated more money, but the Governor had vetoed the Bill. Regent Breckenridge wryly said that it appeared that the politicians kept control of the lands when it was desirable to have control. During the time the Land Commission had control, cattle prices had been high and grazing land was in high demand. When the Regents were given control over the land, cattle prices were low and there was little demand for grazing land. Finally, the Board decided that Regent Breckenridge should be appointed as a committee of one to find and employ someone to make an examination of the lands (University of Texas Board of Regents Minutes, 1895c, pp. 43-44).

From time to time the Board dealt with specific leases. It is interesting to review some of these discussions because it is helpful in understanding the complexities of leasing public land. In the June 18, 1895 meeting, the Board discussed the lease application from a Mr. Dunn, who wanted to lease 148 sections of land out of a group of 199 sections located in Andrews and Martin counties. The proposed lease was for three

cents per acre, payable yearly in advance, with the length of the lease to be ten years. The Board authorized its land agent to contact Mr. Dunn to see if he would lease the additional 51 sections of land located in the tract on the same terms (University of Texas Board of Regents Minutes, 1895e, p. 51).

Several days later, in an effort to delegate some of the responsibility, the Board passed the following resolution:

Resolved, that the Chairman of the Land Committee be empowered and instructed to proceed at once to make leases of the University lands on such terms and in such length of time as he may deem advantageous and to the best interest of the University and that he be authorized to employ such agents as he may deem necessary. And further that the land committee may draw blank leases of University lands in such forms as to them may seem proper.

Resolved, further that the Chairman of the Land Committee be authorized to receive applications for purchase of land and report the same to this Board. (University of Texas Board of Regents Minutes, 1895d, pp. 43-44)

At the Regent's first meeting in 1896, they hired a new land agent for one year at the salary of \$125 per month, plus traveling and stationary expenses. His duties were to investigate all available sources to learn the actual condition and character of the University lands and to put the information into a systematic form to be presented to the Board (University of Texas Board of Regents Minutes, 1896a, pp. 71-72). They also voted to give the Land Committee the power to sign and execute all deeds and leases.

In August 1896, the Regents, at their regular meeting, continued to discuss managing the University land. Regent Prather said that he had a concern about leasing large sections of the land and felt that the law of 1889 that prohibited unlawful enclosures of public lands could be construed to apply to University and school lands. Prather said

he was bringing this to the Board's attention because Mr. E. R. Jackson had proposed leasing over 100 sections of University land. Mr. Jackson already leased land from the University and was three years delinquent on his lease payments.

Mr. Lee, the University land agent at the time, explained in detail about the land Mr. Jackson was leasing and stated that payments were in arrears by almost \$3,000. Mr. Jackson was present at the meeting and asked if he could address the Board. After being given permission, he explained that his fences had been down because of the recent drought, and he could not afford to pay two cents per acre for further use of the land. He said that he paid the lease during the first two years of the drought, but he could not afford to any more. Mr. Jackson then proposed to the Board that he lease 144 sections for eight years at two cents per acre.

Regent Ball asked about the delinquent payments. Mr. Jackson replied, "I understand that I am liable for two years lease of some 60 sections for about \$3,000, but if you got the law against us, we can't stay there." He meant that if the Board sued him, he would have to leave the land. The Board then asked him if he could pay \$1,000 of the past due money, if they forgave the balance. He replied that he would have to think about that (University of Texas Board of Regents Minutes, 1896a pp.71-72). As a result of this discussion and others, the Board gave to the land agent, Mr. Lee, permission to enter into settlement agreements about past due payments.

There are many references in the early Regents meeting minutes about the San Elizario lands in El Paso County. These lands held special interest to the Board. This might have been because these lands had access to water as they were situated along the

Rio Grande River. This made them more valuable than the arid lands of West Texas. At the July 1900 meeting, Regent Bryan reported that he wanted to file a lawsuit in Travis County District Court on behalf of the University to recover the land located in El Paso County. Regent Bryan asked the Governor to furnish the money to hire a local El Paso attorney to assist the Assistant Attorney General. Governor Sayers said that he had no funds with which to employ legal counsel and suggested instead that the Regents use money from the lease payment receipts on University lands. Attorney General Smith employed William Burgess of El Paso on the terms set out by the Governor (University of Texas Board of Regents Minutes, 1900b).

Problems continued on some of the University lands. In a letter dated June 24, 1901 to University Land Agent Saner, Homan C. Myles, a dealer in Texas and Mexican cattle from El Paso, made the following request:

Dear Sir,

The land that I leased of university in July 1899, lease No 87 was at that time very thinly covered with grass, being of a sandy and desert nature. Since 1899, we have had no rain on it; I was therefore compelled to move most of my stock off it in the winter of 1899. I had no rain on the land the last year (1900) until October, which was too late to bring feed. After losing many cattle by death I have been forced to move all my cattle and forsake the land entirely. The land which was never much good is now worthless and it will take two good seasons to make it worth anything. Mr. Tom Lee forced me to pay the very high price of 5 cents per acre, much more than it was worth at the time. Considering all the circumstances I will respectfully ask you to have the rent reduced to the same price that the school and railroad land is this vicinity viz, 3 cents per acre per year. Hoping you will give this your favorable notice, I remain.

Yours very truly,

H.C. Myles

(H.C. Myles, personal communication, June 24, 1901)

The Land Agent, Mr. Saner, sent the letter to the Regents Land Committee. In his cover letter, Mr. Saner said that while he had not had time to inspect the land personally, the information he had was that the facts stated were substantially true. He went on to report that if the drought continued in West Texas, there would be other similar requests. He recommended that the matter be deferred until he had time to inspect the land (E.L. Saner, personal communication, July 2, 1901).

There followed a number of letters between Mr. Myles and Land Agent Saner about releasing Mr. Myles from his obligations and transferring his lease to a Mr. Coleson. The exchange clearly illustrated the difficulty in doing business in a frontier environment. Myles had sent Saner a letter of recommendation from a local merchant, Murphy & Walker, who verified the good credit standing of Coleson. Saner, who was trying to handle the University land business from his office in Dallas, wrote the following letter in 1901:

Dear Sir:

Yours of the 1st. inst. [instance]enclosing letter from Murphy & Walker, Marfa, Texas, received. I have also received plat of ground showing improvements. I would be pleased if you would furnish me at your earliest convenience.

1st From the bank a statement showing the value of Wm. Coleson's property above all indebtedness against same.

2nd Please show the value of all improvements on your ranch.

3rd Give depth and size of wells.

4th Size of windmills and quality of water pumped each twenty-four hours.

5th Description of houses and their value.

6th How many head of cattle would you run per section of land.

7th Kind of grass and present condition of same.

8th Distance from nearest railroad station.

Kindly furnish this information at your earliest convenience, so that we may present same to the board with full data when they meet, and oblige.

Yours truly,

Special Agent

(E. L. Saner, personal communication, November 26, 1901)

Another letter of recommendation followed from Murphy & Walker, who besides being merchants were also bankers. In their letter, they stated that they had been doing business with Coleson for 12 years and always found him upright and honorable in all of his dealings. They also said that he had some 600 head of highly improved cattle that were unencumbered (Murphy & Walker Bankers, personal communication December 5, 1901).

Myles replied as follows:

Dear Sir,

Your favor of Nov. 5 was duly received. Wm. Coleson now has on this ranch of which lease 87 forms a part.

600 head of high grade Hereford cattle = value \$22.50 per head
\$13,500.

22 Hereford Bulls at \$45.00 per head, \$1,650.

30 Horses and mules, \$750.

I price the cattle at \$22.50 but doubt if Mr. Coleson would sell at less than \$30.00 per head.

He owes no money on his stock. I enclose letter of Murphy & Walker Bankers of Marfa, Texas is regards to Mr. Coleson's standing. The land is lease No 89 had upon it about 1.2 miles of good wire fence worth \$65.00 per mile = \$507.50

1 – well about 15ft. deep with 10ft mill and watering tanks etc. probably cost \$300.00. Will water usually 300 cattle. There are no houses on the land. The part on south side is sandy & barren for 1 or 1 1/2 miles back. The balance is fairly well covered now with grasses of bunch grass. The land is hilly and lies about 3 miles from Fabers Station on the S.H. GA Ry. If you ever need any further information I will gladly give.

(H. C. Myles, personal communication, December 5, 1901)

These letters provide additional insight into the ranching activity on the University lands and give evidence on the kinds of information that were flowing to the Board members. This information would be of interest to these members as they tried to give guidance to the staff of the University. It is evident that the Board of Regents were good businessmen because they allowed Coleson to assume the lease on July 1, 1902 but did not release Myles from his obligations (H. C. Myles, personal communication, August 28, 1899).

In the Land Commissioner's 1902 report to Governor Sayers, there was another example of the difficulty in obtaining accurate information regarding University land.

An act approved April 10, 1883, authorized the survey for the University of another 1,000,000 acres from the public domain. The contract for making the survey under this act was let to two surveyors, viz: Mr. O. W. Williams and Capt. Dennis Corwin, who made returns of their work to the Commissioner of the General Land Office in 1886. Their reports show that if either of them did any surveying at all it was by running only certain lease lines. Their report shows a survey of this land into blocks containing a number of sections, but there are no field notes for each of these sections or blocks and no established corners. I am at a loss to know why such a report of what was evidently a chimney corner survey of so much land,

and of such great importance both to the University and to the State, would be received and filed by the Commissioner, much less to give the same his approval by causing a plat thereof to be made on the official maps(;) until this land is properly surveyed and sectionized, the boundaries of the several blocks definitely located on the ground, and field notes written and filed for each of the sections, showing where all the monuments on the ground have been established, it is going to be a constant source of annoyance to the University authorities. And until a proper survey is made and such field notes are written and filed none of this land can ever be sold or patented. (Commissioner of the General Land Office Report to the Governor, 1902)

The Board hired another land agent in 1904. A description of the land department and the land agent and his duties appears in the minutes of the Board meeting of September 26, 1904.

Land Department

The Land Agent shall be in charge of all University lands. It shall be his duty to keep a permanent record of all such land, giving complete details of same. He shall check up and make a report to date of all lands sold, giving location and number of acres embraced in each sale, the price per acre, rate of interest borne by land notes, amount paid on principal, interest due and past due. An abstract of this report shall be furnished to the Auditor who shall have kept in his office an account with each land note, and provision shall be made for having the State Treasurer furnish the Auditor with a duplicate receipt for all principal and interest paid. The same shall apply to the Land Leases. The Land Agent shall notify the Auditor promptly of all leases made and cancelled, and all rebates of refunds allowed (University of Texas Board of Regents Minutes, 1904b, p.168).

The reference to the auditor appears to be describing the University Auditor.

In planning the budget for the 1905-07 biennium, the Board estimated the revenue from land lease income and notes. Land leases were estimated to bring in \$72,567.44 per year and land notes were estimated to bring in \$2,000 per year (University of Texas Board of Regents Minutes, 1905a, p. 260).

At the October 22, 1910 Regents meeting, it was reported that the reorganization of all state departments by the Legislature had left the Commissioner of the Land Office short staffed. His staff had been reduced by four clerks, and his office had been given the additional duty of receiving lease money from the University lands. The result was that the Land Office was unable to keep records of the money received. The President proposed a plan to use the University's Land Agent to collect the money and provide all parties with proper receipts (University of Texas Board of Regents Minutes, 1910b, p. 77).

At the January 9, 1911 Board meeting, Mr. Brackenridge, Chairman of the Land Committee, reported that he had sent national experts, along with a University instructor, to examine the University lands for underground water. If significant water could be found, the Regents thought they could increase the income from the lands.

The successor to Regent Brackenridge as Chairman of the Land Committee was George Washington Littlefield. This remarkable Texan received his education from Gonzales College and Baylor University. He was a very successful businessman who had a love for family and used nephews and the husbands of nieces as managers of his various business enterprises. He had a great deal of knowledge of the land especially of western land, that he had acquired by owning and managing several large ranches in both Texas and New Mexico. That was of great benefit to the University. He had bought and sold water rights throughout his career and had become an expert in this area. His vast knowledge of water and its impact on the value of land helped play a large role in explaining to his fellow Regents to difficulties associated with the university lands. His

ownership of the American National Bank in Austin placed him in a position of loaning money to many prominent politicians, which helped to explain some of his political influence. (The Handbook of Texas Online).

At the October 17, 1911 Regents meeting, Regent Littlefield, the new chairman of the Land Committee, gave the following report:

At your last meeting you appointed a committee to inspect the University lands of Andrews County. That committee composed of our Chairman and your Land Committee.

We did not have Capt. Faust of the land committee with us as he was in a Sanitarium at Milwaukee, Wisconsin, nor Mr. Stark, he having been absent from the state and his business was such that he could not join the committee. Col. Ousley and myself, accompanied with Mr. Saner, the Land Agent, met in Ft. Worth on the 10th and put in the 11th and 12th in looking over the lands. Owing to heavy sandy roads we could not go in automobiles over all the lands laying in the extreme West part of the County, but I can assure you on what I know of that portion and what good citizens of the State have told me, that it is the poorest portion of the University land in Andrews County. There are no streams or running water on the lands. Wells are from one hundred to one hundred fifty feet deep with only a moderate supply of water. On the two western blocks of land it is said to be difficult to find water. Some wells have been sunk five hundred feet and no water found.

As to the settlement of the County, the only lands [sic] I saw that showed much chance to be farmed was that in the Eastern portion. It is my opinion that about 120,000 of the 311,000 acres only could be looked upon as having any showing to ever become agricultural lands, and from my experience of that Western country, the crops would have to be confined to Kafir corn, milo maze, Sugar Millet and cotton occasionally may be made. The cotton crop would depend upon getting rain in May to secure a stand. Later than that the season being so short you could not expect maturity of the bolls. Often rain does not fall until the last of June, when there would be no chance for a cotton crop, yet Maze and Millet could be matured before frost. That usually comes from the 15th to the 25th of October. The irrigation from wells cannot be relied upon, as water is simply limited and only a small orchard and garden could be considered. Its being so far west from cities of any considerable size and railroads so

distant from those lands, it would be useless to consider vegetable or fruit crops for market, I believe. The hard lands of the plains country will be settled by stock farmers. These sandy lands are more adapted to cotton, fruits, and vegetables and cannot be profitable stock farms. The character of the grass they produce is not that which is good feeding during the winter. They principally have sedge grass and skin oak growth on them. Sand from one foot to eighteen inches deep to red clay. Those lands are now being leased and bring an annual rental of seven cents per acre. You cannot expect to increase that rental very much for it requires about twenty to twenty-five acres for the support of an animal for twelve months.

Should we sell the lands at the figure offered, you will then receive an income per annum equal to twenty-five cents per acre. Five years interest being paid in advance would be available and can be used in a manner that I wish to submit later to the Regents, which in my mind will result in the greatest good for the University.

Such is my report on the Andrews County property and I recommend its sale. (University of Texas Board of Regents Minutes, 1911c, p. 187). As

will be evident shortly, Littlefield changed his mind.

In a ten-page Act in 1913, the Legislature gave back to the Commissioner of the General Land office the duties and responsibilities of leasing the minerals on the University lands. (1913 Tex. Gen. Laws, p. 409) The record is not clear from the Board minutes as to why the Legislature decided once again to return part of the responsibility for the University lands to the General Land Commissioner. Perhaps the reason was that by that time, oil had been discovered in many parts of Texas, and some of the discoveries were on land owned by the Public School Fund. Since PSF land was administered by the Land Office, the Commissioner was probably experienced in dealing with mineral issues. Because oil had not yet been discovered on PUF land, the Regents would not have the same level of experience.

Income from the University lands was a constant concern. At the Regents meeting of April 25, 1916, the chairman of the Land Committee reported that the University had leased 2,067,106 acres of grazing land and would receive \$145,983.06 in lease money, the most ever. At the October 24th meeting that same year, he reported that the lease income would grow to \$182,000, a new high. The Board had obviously become more adept at leasing the land. This was a long way from the earlier days when the annual income rarely exceeded \$20,000. This success made the Board members more assured that they had made the correct decision not to sell additional land, a decision which appears to have come from Regent Littlefield in the discussion that occurred in a 1901 meeting after he changed his position on selling contiguous University land. This was illustrated by the appearance of Judge Rogan, an Austin lawyer, representing a client who had for some time been trying to purchase University land located in Andrews County. When the Judge inquired if the Board was ready to sell, Mr. Littlefield, chairman of the Land Committee, replied: "I think we should not sell it, it would cut the property up into fragments, the terms were too long, the interest rate was too low, and the price too small" (University of Texas Board of Regents Minutes, 1916b, p. 13). The Board voted not to sell the land.

In the early days, income from the land consisted of monies received from ranchers who leased the land for grazing. According to Board minutes that amount ranged from four cents to ten cents per acre per year. Since much of the land was not suitable for grazing, the total income was modest. In 1916, it totaled \$205,000 (University of Texas Board of Regents Minutes, 1917a, p.68).

However this changed following the discovery of oil on University land. In 1923, the Board voted to request that the Land Commissioner not lease any more mineral rights on University land at ten cents an acre (University of Texas Board of Regents Minutes, 1923, p. 143). This item was of interest because the University had been leasing land for some time, and ten cents an acre had been a good price. Land Commissioner Robison told the Board that the law required him to lease land to any applicant as long as that applicant complied with the law. He further stated that almost all of the land within 50 miles of “the new well in Reagan County” had already been leased. He must have been talking about the Santa Rita well that started the oil boom on the University lands. For an oil company to be able to lease land that had a good prospect of oil for 10 cents an acre per year was not a happy prospect for the University. The school could receive considerably more money following the discovery of oil. At the meeting on July 10, 1923 the Board voted to ask its Land Committee to look into the question of whether the Land Commissioner had the right to grant mineral leases.

The management of University land was once again under the control of the General Land Office. Because of the speed with which lands were leased and drilled, it was very difficult for the Land Commissioner to have sufficient staff to monitor the activities of the oil operators. This caused friction between the Regents and the Land Commissioner. In the Commissioner’s report to the Governor for the years 1924-1926, his dismay at all the conflict with the Regents was evident when he wrote:

Until oil was found on University land May 28, 1923, it seemed the matter was of but little concern to the University authorities, but since then, and especially since the royalty amounts to about a quarter million dollars a

month, they have for some reason become so enthusiastically interested that they have even employed lawyers to attack the validity of the law, and if successful there will be no authority for anyone to collect the royalty. If they would leave the present system alone it is believed in ten years the University would have a permanent endowment from this source alone of some thirty to fifty million dollars. However, I am now in the same attitude that I was during the last Regular Session of the Legislature when I informed those speaking for the University that I would be glad if they would devise a better and more efficient system for handling of the subject and take over its administration; that I would in good faith tender my services in the endeavor to aid in preparing a bill and encourage its enactment because it was much desired by the Land Office that the University authorities would either take over the whole thing and administer it or that they quit meddling with it while its administration is in the Land Office. (Haigh, 1986, p. 171)

This dispute continued to be discussed in the Texas Legislature. Between 1923 and 1937 there were four Sessions where legislative action affected this relationship.

During the 41st Legislative Session in 1929, Senate Bill 82 passed, creating a Board of Lease of University Lands to deal with the following items:

1. Surveying, dividing and marking the lands,
2. Authorizing the employment of geologists and mineralogists and other needed employees.

This was the first law authorizing the sale of oil and gas leases on University lands. It also set out the duties of the General Land Commissioner and the Board of Regents. The Board of Lease consisted of the Commissioner of the Land Office and two members of the Board of Regents. S.B. 82 also directed that when the Board approved the signing of an oil and gas lease, that lease was to be signed by the Commissioner of

the General Land Office. The bill also stated that all royalty payments were to be made to the General Land Office (Journal of the Senate, 41st Session, Tex. 1929, p. 617).

The following quotation was selected to help explain the thinking of the author of the legislation and the politics involved.

Robert L. Holliday, one of the authors of the act, discussed the intention of the Board of Regents Legislative Committee and supporters in the legislature... said it was their intention to remove as much jurisdiction over oil and gas matters in the Permanent University Fund lands from the land commissioner and his staff as the Constitution of 1876 would permit. It was also the intent of the Board of Regents and the authors of the act that the University through its members on such board should have the balance of power on the Board for Lease. (Haigh, 1986, p. 233)

The 42nd Legislative Session in 1931 again dealt with this issue by amending Chapter 87 of the General Laws of Texas. Senate Bill 280 vested to the Regents the authority to lease the University lands. In addition, the Act gave the Regents the authority to hire staff to deal with the management of the University lands and appropriated monies to pay the expenses associated with this operation. Article 2596 of that Act stated:

The board of regents are invested with the sole and exclusive management and control of the lands set aside and appropriated to, or acquired by the University of Texas, with the right to sell, lease or otherwise manage, control and use the same in any manner, and at such prices and under such terms and conditions as they deem best for the interest of the University. (General Laws 42nd Legislative Session, 1931, p. 28)

Article 2597 stated:

The board of regents are invested with the sole and exclusive management and control of all mineral lands...and is hereby empowered and authorized to sell, lease, manage and control said mineral lands belonging to the

University as may seem best to them for the interest of the University.
(General Laws 42nd Legislative Session, Tex., 1931, p. 28)

The Regents won a big victory with the passage of this bill.

Also during the 42nd Legislature, additional were bills passed. Senate Bill 279 amended several sections of Chapter 282 of the General Laws. Section 4 of the Code was amended to set out issues dealing with the leasing of oil and gas; in addition, the Bill stated that a lease could not exceed 6,000 acres. There was an obvious attempt by the Legislature to treat each party fairly as additional amendments stated that all lease bids were to go to the General Land Office, and the Commissioner was given the duties of executing the leases. The Board for Lease also had its duties outlined; it was to adopt proper forms, regulations, rules and contracts to protect the income from the leases. Because the Board had three members, two from the Regents and one from the Commissioner of the General Land Office, this gave control of these matters to the Regents (General Laws 42nd Legislative Session, 1931, p.28). The increased attention by the Legislature made the Regents' job of managing the PUF more effective. Some of this increased attention probably occurred because of the University's success in oil production on University lands.

During the 43rd Session in 1933, the Legislature took action to grant authority regarding pipeline construction across University land. This was done in recognition of the fact that it was more cost effective to transport the oil out of the oil patch by pipe rather than by using railcars as had previously been the case. H.B. 6 gave the Land Commissioner the duties of executing leases on all public lands with the exception of

University lands. Leases for right-of-way on University lands were to be handled by the Board of Regents (General Laws 43rd Legislative Session, 1933, p. 168).

In 1937, the Legislature again dealt with aspects of the oil business that impacted the University. S.B. 343 dealt with the public auction of leases on University land when demand warranted. The General Land Commissioner was given the right to execute a lease after the Board for Lease determined the best bid (1937 Tex. Gen. Laws, p.280). The power continued to be in the hands of the Regents through the Board for Lease because the Regents made up two of the three members. The Land Commissioner was reduced to a secondary role in the Board's dealings.

Summary

The dispute between the Regents and the Land Commissioner resulted in a great deal of political capital being expended by both sides over many years. The Legislature repeatedly felt the need to address the issue. The size and location of the University lands made the job of managing them difficult for both parties. In the end, the Regents gained control of the land and the power to lease it for the purpose of searching for and extracting minerals. This enabled them to begin to accumulate great wealth in the PUF.

CHAPTER FIVE

THE DISPUTE BETWEEN THE UNIVERSITY OF TEXAS BOARD OF REGENTS AND THE TEXAS A&M BOARD OF DIRECTORS

One of the more interesting aspects of the early years of the PUF was the ongoing dispute between the Regents of the University of Texas and the Directors of the Texas A&M College. Although there could be many reasons for this dispute, one might argue that the basis for the conflict was the original missions of each institution. Texas A&M College, which opened before the University of Texas, had a primary mission of supporting agricultural and mechanical education. Because the early Texas economy was based on agriculture, the small farming communities that made up most of early Texas had a natural affinity for Texas A&M, as did the various governors who served during the dispute. Time and again, Governors from Colquitt to Hogg intervened on behalf of Texas A&M College in this dispute. The following timeline is furnished to help the reader follow the story.

Table 5: Timeline of Texas History, 1887-1937

January 1887	The Regents tell the Directors that all of the revenue from the Available Fund could be spent on the maintenance at the University, and they encourage A&M to ask the Legislature for maintenance money until there is sufficient revenue from the University Lands for both schools.
March 8, 1887	Board of Directors of Texas A&M College discussed the fact that they had just introduced into the Legislature a bill that would allow the College to receive $\frac{1}{4}$ of the Available University Fund. The bill did not pass.
January 27, 1911	Joint meeting between the University of Texas Board of Regents and the Directors of Texas A&M College to discuss a proposed constitutional amendment that would separate the two schools.
April 30, 1915	Regents received a resolution from the A&M Directors stating that the College no longer wanted to go to the Legislature to pursue constitutional amendments. Instead, they suggested a proposal for a special tax and wanted a committee appointed to study separating the two institutions.
December 27, 1918	Governor called a joint meeting of the Texas A&M Board of Directors and the University of Texas Board of Regents to get advice from the respective boards on legislation that would affect the two institutions.
January 29, 1919	A joint resolution asked the Texas Legislature to consider taking over the lands in the Permanent University Fund for the sum of \$10,000,000 dollars, with the money to be divided two thirds to the University of Texas and one-third to Texas A&M College.
November 26, 1924	Resolution by the A&M Board of Directors on the advisability of separating the two institutions and agreeing that the disposition of the University lands should be two thirds to the University of Texas and one third to A&M College.
April 10-11, 1937	Boards agree on the handling of PUF.

Originally, The University of Texas was to be an institution with a more traditional mission—one based on the model set down by Thomas Jefferson at the University of Virginia. When ordinary Texans heard some of their early political leaders

talk about modeling a Texas university after one in Virginia, there was skepticism about something that was so far removed from agriculture.

The Texas Constitution of 1876 made Texas A&M College a part of the University of Texas. While it is not documented, being a branch of a university that did not yet exist (The University of Texas did not open until 1883) must have been very difficult for the Directors of Texas A&M.

The primary method for funding Texas higher education at the time was the Permanent University Fund, and while the Fund was rich in land, it was poor in revenue. The early income, primarily from the leasing of land for cattle grazing, was very modest and not adequate to support the two institutions. The primary evidence of this is the fact that the A&M Directors requested only \$500 annually from the PUF and stated they would request additional funds from the Legislature for their operations (Haigh, 1986). The basic message to the Regents was that when it came to funding, let each institution go its own way. Because of the political make-up of early Texas, A&M College had more support in the Legislature. So the decision by the Directors to seek a more reliable source of funding for the College was not only politically wise, but was in the best interests of both institutions.

With the discovery of oil on University land in 1923 and the rapid rise in income to the PUF, there was a realization on the part of the A&M Directors that they needed to have more of a say in the management of the Fund and the ability to secure more income from it. As the Fund continued to grow, the visible agitation on the part of the A&M Directors became more and more visible.

However, the Directors were in a weak negotiating position for several reasons. First, the Constitution clearly stated that A&M College was part of the University of Texas. Second, the Regents controlled the management of the Permanent University Fund. This made the job of negotiating very difficult and probably added to the time it took to resolve the dispute. This conflict was described during the meetings of the Texas A&M College Directors and those of the University of Texas Regents and is reflected in the minutes of those meetings.

On March 8, 1887, the Board of Directors of Texas A&M met and adopted a resolution that a committee be appointed to meet with the University of Texas Regents to discuss the proper share of monies to be given to Texas A&M College from the Permanent Fund (Board of Directors Minutes, 1887a, p.27). This appears to be the earliest discussion of the Directors about their share of the PUF. On that same day, the Directors discussed the fact that they had just introduced a bill in the Legislature that would allow the College to receive one fourth of the Available University Fund. The bill did not pass. Later that month, a committee of the Directors met with a committee of the Regents to discuss points of controversy between the two schools. The committees came to an agreement on the various points. While a resolution was adopted by the committees, the Regents reminded the Directors that their votes were not binding upon their full Board, and that the vote would be subject to their subsequent approval. The resolution stated that 1/5 of the income from the Available University Fund should be paid to Texas A&M. It also called for the Regents to remain in control of the management of the PUF. The full Board of Regents never approved the resolution.

There was fairly continuous communication between the Regents and the Directors. In January 1887, the Regents sent word to the Directors that all of the revenue from the Available University Fund could be spent on the maintenance at the University, and they encouraged the Directors to ask the Legislature for maintenance money until there was sufficient revenue from the University Lands for both schools (University of Texas Board of Regents Minutes, 1887, pp.177-180). The other side of this discussion is reflected in the A&M minutes of June 8, 1887: "We also had introduced a bill amending the Revised Statutes so as to give the College $\frac{1}{4}$ of the Available University Fund. This bill was favorably reported by the Committee on Education with the amendment of $\frac{1}{5}$ instead of $\frac{1}{4}$, but failed to become law by reason of the early close of the Session." (Board of Directors Minutes, 1887c, p.28).

The problem of insufficient revenue continued. In September 1890, the Chairman of the Board of Regents announced that the Land Office had leased 167,040 acres of land for three cents per acre. The income from that transaction amounted to \$4,011.20, certainly not enough to provide money for the maintenance of two colleges (University of Texas Board of Regents Minutes, 1890, p. 258).

However, there is evidence that in spite of many differences of opinion about the status of the two institutions, the Regents and the Directors did sometimes seek ways to work together in dealing with the Legislature. The Regents asked the Directors to come to Austin to discuss efforts to get the Legislature to pass a bill giving one-half of the remaining public lands to the PUF. An informal meeting involving several members from

each board was held in Austin and was reported in the June 19, 1893 Regents minutes (University of Texas Board of Regents Minutes, 1893a, p. 366).

Regent W.L. Prather, chairman of the Regents legislative committee, was given the task of drawing up this legislation. The bill would have given to the University of Texas and its branches one half of the remaining public vacant and unappropriated lands, and the public schools the other half. At the time there were about six million acres of land that had not been appropriated (University of Texas Board of Regents Minutes, 1893b, p.366). The proposed legislation did not pass.

Later, as evidenced by the following letter, the A&M Directors were again anxious to meet with the Regents to discuss the various issues that existed between the two bodies. On June 16, 1896, the following letter was sent.

Dear Sirs,

The Board of Directors of the A&M College at their recent meeting (this month) passed a motion unanimously inviting the Board of Regents of the University to meet with us at the A&M College, on the 29th and 30th. Please so notify your Board.

Judge Beauregard Bryan, of your body will explain why this meeting is desired. We trust you will find it both convenient and desirable to be with us. We promise to do all we can to make the meeting mutually pleasant and profitable.

We offer a cordial welcome, an airy office for business, cool well ventilated rooms in which to sleep, and plenty to eat, etcetera, all which will be as free, though not as hot as the summer sun.

We hope you will come.

The Regents accepted the invitation (University of Texas Board of Regents Minutes, 1896c, p. 96). The joint meeting was held in College Station, on June 30th and July 1, 1896. The first item of business was to form a Joint Committee on the Revision of Curricula. This Committee was given the duty of studying the advisability of revising the curriculum of the University and its branches in an effort to cut costs. The Committee was to report back to the two boards by January 1, 1897. The following motion was passed:

It was recommended that a joint committee be appointed to be comprised of the President of the University of Texas and such two members of his faculty as he may select and of the President of Texas A&M College, and such two members of his faculty as he may select, to whose consideration shall be submitted the question of the advisability of so revising the curriculum of the University and its branches as to economize if possible in the interests of the State and students of the Main University and its branches, and with a view of so arranging the courses in these two institutions that students taking courses in one branch may receive credit for the same in the other and that joint committee be requested to make their report and recommendations to the respective boards of said institutions on or before January 1, 1897.

The cultivation of more cordial relations between the alumni of the University and its branches was also recommended to the end that their joint efforts may better advance the educational interests of Texas and that they may all feel that they are children of a common mother. (Board of Directors Texas A&M College Minutes, 1896b, pp.104-105)

Based on the minutes of both Boards, discussion concerning PUF issues seemed to be somewhat dormant during the early years of the 20th century. However in a meeting of the A&M Directors, the question of a Constitutional amendment separating A&M from the University was discussed again in 1911. The Democratic State Convention had

passed a resolution calling for the separation of the two institutions. In addition Governor O. B. Colquitt in his address to the 32nd Legislature had also called for the separation. Colquitt quoted the Democratic platform which said in part: “the perfection of our educational system up to the full needs of our people: adequate provision for the support of the University and Agricultural and Mechanical College and their divorcement and separation, in law as well as management” (texashistory.unt.edu/permalink/meta). During this discussion, a motion was passed that called for the College to receive one-half of the Permanent University Fund (Board of Directors of Texas A&M College Minutes, 1911a). The following proposed amendments to the Constitution were approved for submission to the Legislature:

AMENDMENTS TO THE CONSTITUTION

Amend Section 10, Article 7, so as to read: The legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a University of the First class, to be located by a vote of the people of this state, and styled “The University of Texas” for the promotion of literature and the arts and sciences.

Amend Section of same Article so as to read: The Agricultural and Mechanical College of Texas, located in the county of Brazos, is hereby separated from the University of Texas, and constituted an independent College, whose leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and mechanic arts, in such manner as the legislature may prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

Amend Article 7 of the Constitution by adding Section 16, which shall read as follows: One half of the Million acres of land heretofore set apart and appropriated by Section 15 of Article 7 of the Constitution, for endowment, maintenance and support of the University of Texas, and its branches, and one half of other lands so appropriated, or appropriated for

the endowment and support of said University, is hereby set apart and appropriated for the endowment, maintenance and support of the Agricultural and Mechanical College of Texas and the Legislature shall provide for the equal and equitable division of said lands as between the University of Texas and the Agricultural and Mechanical College of Texas. Said land hereby set apart to the Agricultural and Mechanical College of Texas, together with the proceeds of sale of same, shall constitute a part of the permanent Agricultural and Mechanical College of Texas fund. Said land may be sold under such regulations as may be provided by law and the proceeds from the sale thereof, shall be invested as provided by law.

If part of said lands has been sold, the division above provided for to include such proceeds.

Provision to be made for the use and application of the revenue and interest derived for A&M College as part of the endowment, set apart.(Board of Directors of Texas A&M College Minutes, 1911a pp. 98-108).

Later in this meeting, the A&M Board suggested: “a special tax at a rate to raise sufficient revenues for the maintenance and the building and equipment needs of the A&M College in lieu of any interest of the College in the University permanent fund” (Board of Directors of Texas A&M College Minutes, 1911b).

This meeting, which lasted for several days, was comprised of committee members from both boards. One of the A&M Directors read out loud the resolution concerning the Constitutional amendments and then moved for its passage by both Boards. Following a lengthy discussion, Regent Fred W. Cook moved that there be a committee of six, comprised of two from each board and the President of each of the institutions, appointed to consider the proposed amendments to the Constitution. The motion was adopted, and the meeting adjourned until the evening. The A&M Directors must have become nervous about the political implications of a special statewide tax

because when the joint meeting reconvened, Mr. Sumners, speaking of behalf of the A&M Directors, stated the following:

The report that I have been instructed to make to the Joint meeting is that the Board of Directors are willing to yield as to a donation of one half of the land of the Permanent University Fund, but the Board of Directors wants it understood in that connection, that its understanding of Agreement No. 2 of the joint meeting of the former Board of Regents and the former Board of Directors, which is as follows:

A special tax rate to raise sufficient revenues for the maintenance and the building and equipment needs of the A&M College, in lieu of any interest of the College in the University permanent fund.

was that the Officials of the University and the Board of Regents would stand aside as far as a tax is concerned, and join the Board of Directors of the Agricultural and Mechanical College of Texas in an effort to get a special tax which will raise a revenue equal to that which is surrendered to the University, due from its permanent fund. The people will stand for no such tax, and the University standing out for a large special tax, as represented by the bill now pending in the legislature, would hamper the A&M College. (Board of Directors of Texas A&M College and University of Texas Joint Meeting Minutes, January 27, 1911a, pp. 235-241)

Over time, this idea of a special tax to replace the money that A&M College had hoped to receive from the PUF would be discussed several times. The Directors became so desperate for revenue that they would be forced to propose a statewide property tax for the purpose of supporting all higher education with the exception of the University. This clearly shows how difficult the negotiations were.

This meeting and the discussion that followed once again point out what a difficult time the Directors were having in solving their funding problems. They were asking the Regents to allow them to approach the Legislature to support A&M with a special tax in return for not pressing the issue of dividing the University lands. This

constituted an offer by the A&M Directors to resolve the overriding dispute. Both the Regents and the Directors realized that it was just part of a negotiation process. Those negotiations continued, and after some discussion, it was agreed that the Regents would transfer land notes and other securities in an amount sufficient to yield an annual revenue of \$2,600 to A&M. The Board agreed to work together during the legislative session to help gain passage of the agreements on the Constitutional amendments that had been discussed by the various joint committees.

After some discussion between committee members of both boards, another proposal emerged for a Constitutional amendment that would allow the University to transfer land notes or other securities that would yield an annual income of \$8,000, and, in addition, the amendment would separate the two institutions (University of Texas Board of Regents Minutes, 1911, p. 161). All of these efforts failed to gain legislative support and none were passed into law.

During Regents meetings held in October 1911, November 1913, April 1914, and October 1914, the Board continued to discuss the Constitutional proposals from the A&M Directors. During the legislative session of 1913, the discussions became so contentious that Governor Colquitt intervened. The Governor, in an effort to help resolve the dispute, prepared a resolution outlining what he believed to be the fairest manner in which to resolve the difference between the two institutions. In his letter—where he obviously had reviewed the previous negotiations—the Governor came up with proposals that were the same as those in the 1911 Democratic platform that he had discussed in his previous address to the Legislature. His letter resulted in this comment by the Directors:

We endorse the resolution prepared by Governor Colquitt, subject to the following amendments and pledge ourselves to support it in all proper ways:

Eliminate the fifty thousand dollars in bonds transferred from the University to the Agricultural and Mechanical College, leaving them in the possession of the University.

Transfer the asylum lands and proceeds there-from in the estimated amount of five hundred and ninety thousand dollars (\$590,000) from the Agricultural and Mechanical College to the University.

Transfer from the University to the Agricultural and Mechanical College four hundred thousand acres of the University lands of average value to be determined and selected by a commission composed of one representative from the University, one representative from the Agricultural and Mechanical College, to be chosen by their respective boards, and one member to be chosen by the Governor of the State; or transfer from the University to the Agricultural and Mechanical College the equivalent in securities of the four hundred thousand acres of land, at the option of the Agricultural and Mechanical College.

This agreement is made in final satisfaction of any claims of the Agricultural and Mechanical College to any part of the permanent fund of the University to any part of the appropriations made by the Federal government on behalf of agricultural and mechanic arts.

This agreement is reached after a careful estimate of the total endowment and the permanent income of each institution capitalized at an estimated valuation agreed to, and acceptable to both institutions. This total capitalization is thus divided in the ration of approximately sixty-seven for the University and thirty-three for the Agricultural and Mechanical College. (Board of Directors of Texas A&M College, 1913a, pp.51-59)

The response to the suggestions by the Governor did little to help the A&M Directors as once again nothing came of their proposal. However, it does provide evidence of their increasing frustration, because regardless of their proposals and best efforts, nothing changed.

In spite of all of this controversy, the Directors always tried to be very polite in their “public face,” continuing to pass resolutions that were ignored by the Board of Regents. In some instances, the Regents on joint committees would agree to items only to remind the Directors on the committee that they were not empowered to speak for the full Board. This is evidenced by the passage and the wording of another resolution at the Regents meeting of November 24, 1913.

WHEREAS, There is urgent need that all discord between the University of Texas and the Agricultural and Mechanical College of Texas be permanently composed, and their energies directed entirely to the vital public service for which they were instituted and are maintained; therefore be it

RESOLVED, by the Board of Regents of the University of Texas, that the Board of Directors of the Agricultural and Mechanical College be cordially invited to unite with said Board of Regents in urging the submission, by the Thirty-fourth Legislature, of a constitutional amendment and its adoption by the people, which shall provide;

For the termination of the present constitutional status of the Agricultural and Mechanical College as a branch of the University and its return to the status of an independent college.

For the repeal of the provision in section 14 of Article VII of the Constitution forbidding appropriations of tax levies for the erection of University buildings.

For an equitable specification of the interest, if any, of the Agricultural and Mechanical College in the permanent University fund, or any part of it. And

RESOLVED. That the Board of Regents of the University of Texas advise the Board of Directors of the Agricultural and Mechanical College of their willingness to abide by the decision reached as to the partition of said permanent University fund at a joint meeting of the two boards held in the city of Fort Worth on January 6, 1913, namely, by the transfer, as then agreed, of 400,000 acres of land now held by the University to said College; and

RESOLVED. Further, that in case the said Board of Directors is unwilling to renew the said agreement, the Board of Regents propose that the question of the interest, if any, of the Agricultural and Mechanical College in the permanent University fund be left to a commission of arbitration, to be designated in any of the following ways, to wit:

1. One member from each governing board, to be selected by it; two persons, neither of them being a member of either board, one to be selected by each board; and a fifth person, to be agreed upon by these four, to be selected as chairman of the commission of arbitration.
2. One member of each board, to be selected by it, the Commissioner of the Land Office; the Superintendent of Public Instruction; and the Attorney General of Texas; the last named to act as chairman of the commission of arbitration.
3. A member of each board, to be selected by it: the presidents of the respected alumni associations of the two institutions; and a fifth person, to be selected by these four, and to act as chairman of the commission of arbitration.
4. The presidents of the [sic] two colleges or universities without the State of Texas selected by the Board of Regents of the University of Texas; the presidents of two such colleges or universities selected by the Board of Directors of the Agricultural and Mechanical College; and a fifth college or university president, to be selected by these four, to act as chairman of the commission of arbitration. And

RESOLVED. Further, that if the Board of Directors of the Agricultural and Mechanical College are not satisfied by any of these proposed commissions of arbitration, they be and are hereby invited by the Board of Regents of the University to suggest a commission of arbitration that

would be satisfactory to them. (University of Texas Board of Regents Minutes, 1913, pp. 338-339)

It was some time before there was a formal response to the Regent's resolution.

The Board of Directors formally received the letter from the Regents at their meeting of January 19, 1914. At that meeting, the Directors passed the following resolution:

Whereas, there is urgent need that all discord between the University of Texas and the Agricultural and Mechanical College of Texas be permanently composed, and their energies directed entirely to the vital public service for which they were instituted and are maintained: therefore be it.

Resolved by the Board of Directors of the Agricultural and Mechanical College of Texas, that the courteous expressions contained in the resolutions adopted by the University of Texas are appreciated and reciprocated and that this body announces its willingness to take up with the Board of Regents at a future date all matters affecting the relation of these two institutions. (University of Texas Board of Regents Minutes, 1914a, p. 347)

A second response was received on October 27, 1914. The A&M Directors had met on June 10, 1914 and responded in the following manner:

Whereas, on January 19, 1914, The Board of Directors of the Agricultural and Mechanical College of Texas received from the Board of Regents of the University of Texas a communication expressing a desire that all discord between the Agricultural and Mechanical College and the University of Texas be permanently composed and their energies directed entirely to the vital public service for which they were instituted and are maintained, and suggesting various plans for composing the discord between said institutions, and proposing further that, if the Board of Directors of the Agricultural and Mechanical College are not satisfied with any of the methods of settlement suggested, that they be invited to suggest a commission of arbitration that would be satisfactory to them: and

Whereas, on January 19, 1914, the Board of Directors of the Agricultural and Mechanical College advised the Board of Regents of their appreciation of the courteous expression of resolution adopted by the Board of Regents and of their willingness to take up with the Board of

Regents of the University of Texas at a future date all matters affecting the two institutions;

Resolved 1. That the Board of Directors of the Agricultural and Mechanical College inform the Board of Regents of the University that they are not able to approve any of the proposals contained in their communication in the form presented.

2. That responding to the invitation of the Board of Regents of the University contained in the last paragraph of said communication, the Board of Directors of the Agricultural and Mechanical College invite the Board of Regents of the University to unite with the Board of Directors in urging the submission by the Thirty-fourth Legislature and the adoption by the people of a constitutional amendment which shall provide:

1. For the termination of the present constitutional status of the Agricultural and Mechanical College as a branch of the University and its return to the status of an independent College.
2. For the repeal of the provision in Section 14 of Article Seven of the Constitution forbidding tax levies or appropriations of money out of the general revenue for the erection of buildings for the University of Texas.
3. For an equal division of the permanent fund of the University between said institutions.
4. For a tax levy for the support of said institutions and its equitable apportionment between them. (This provision to be included only in case said Boards agree that it is advisable to ask for a tax levy at this time.)
5. For the prevention of duplication of work by the Agricultural and Mechanical College and the University of Texas.

Resolved. Further that if the Board of Regents of the University of Texas are not satisfied with the foregoing proposal, they be and hereby are invited by the Board of Directors of the Agricultural and Mechanical College to join the said Board of Directors in submitting said proposal in its entirety to a commission of arbitration, to be constituted as follows;

Two persons to be selected by the Board of Regents of the University of Texas, two to be selected by the Board of Directors of the Agricultural and Mechanical College of Texas, these four to select a fifth member of the

Commission of Arbitration who shall act as Chairman thereof. (University of Texas Board of Regents Minutes, 1914b, pp. 419-420)

As had usually been the case, there was little response from the Regents. While it was true that the Regents had expressed a willingness to discuss all matters, they never agreed to the Directors' proposals. So the next year, in April 1915, the Regents received the following resolution from the Directors.

Whereas, the Board of Regents of the University of Texas, at a meeting held on October 27, 1914, passed formal resolutions, inviting the governing boards of the Normal schools, the C.I. A. [insane asylum] and A&M College to appoint committees to meet a similar committee from the governing board of the University of Texas, the joint committees to meet at Austin, Nov. 30, 1914, for the purpose of considering the best means of securing the levy of a special tax, or special taxes, for the benefit of the State institutions of higher learning, therefore,

Be it Resolved, that the Board of Directors of the A&M College respectfully advise the Board of Regents of the University of Texas, that after due consideration of the courteous invitation it is thought inadvisable, at this time, to take any steps on behalf of the A&M College to secure the passage of an amendment to the Constitution involving additional taxation. The Board of Directors are not unmindful of the need of more definite and dependable support for all of our higher institutions of learning, but in view of the financial conditions now prevailing among the people of the State it is thought inadvisable to insist upon the passage of a constitutional tax measure.

Be it further Resolved, that the Board of Regents be respectfully advised that before the proposed tax measure is considered that the more fundamental relations involving separation of the two institutions should be definitely agreed upon, and to this end, the Board of Regents of the University of Texas be advised that a committee of three members consisting of the President of the Board, the President of the College and a Director has this day been appointed to meet a like committee from the governing board of the University of Texas on December 15, 1914 at Austin, Tex., to enter into negotiations along the lines outlined in the formal resolutions passed by this Board on June 10, 1914 and duly submitted to the Board of Regents of the University of Texas (University of Texas Board of Regents Minutes, April 30, 1915, p. 439).

At this same meeting, April 10, 1915, the Regents answered by passing a resolution telling the Directors they appreciated their suggestions and would be glad to meet at some future date to discuss all of these matters. They did not set a date. Once again, the issue festered and nothing was resolved.

Governor Hobby Tries His Hand

On December 27, 1918, Governor W. P. Hobby called a joint meeting of the Texas A&M Board of Directors and the University of Texas Board of Regents. At the opening of the meeting, the Governor said he was interested in getting advice from the respective boards on legislation that would affect the two institutions. The Governor said that in his mind the great question was the University lands. He said he wanted the land to become a more liquid asset for the benefit of both schools. After some discussion, it was decided to appoint a committee made up of three members of each board to put the issues in proper form and to have a future meeting with the governor to propose legislation.

A subsequent joint meeting of both boards was held on January 29, 1919. Out of that meeting came a resolution asking the Texas Legislature to consider taking over the lands in the Permanent University Fund for the sum of \$10,000,000, with the money to be divided two thirds to the University of Texas and one-third to Texas A&M College. This cash, which would come from a bond sale, would then be put into a permanent fund to be invested in the same manner as the Permanent School Fund. It was also suggested that both colleges be allowed to sell bonds and use the income from the permanent fund as

security for those bonds. The proceeds from the bond sales were to be used only for permanent improvements at the two institutions.

In addition, the joint committee suggested that the state sell the lands, while retaining the mineral rights. It was suggested that if the sale of the lands or the mineral deposits that might be discovered on the land brought more than \$10,000,000, that money would go to the institutions. The joint committee suggested a fixed property tax for the purpose of supporting institutions of higher education. The committee also suggested that the two institutions be separated by constitutional amendment. Once again nothing came of this initiative.

More Resolutions

In an A&M Board of Directors meeting held in Austin on November 26, 1924, the president of the College read a new resolution on the advisability of separating the two institutions. The Directors also agreed that the disposition of the University lands should be two-thirds to the University of Texas and one-third to A&M College. Later in the day, the Directors and the Regents held a joint meeting at the State Capitol. The following minutes describe what occurred in the meeting:

Mr. L.J. Hart briefly stated the purpose of the joint meeting and explained previous efforts and agreements for separating the two institutions. He stated that at several joint meetings of the two boards agreements had been reached and signed whereby it was agreed that the two institutions should be separated and the university lands equitably divided between the two institutions in the ratio of two-thirds for the University and one-third for the A&M College. Mr. Hart invited a free and open discussion of this whole matter at this time stating that he thought now was the time for the two boards to present to the Legislature a concrete plan for separation.

President Bizzell (of A&M College) expressed his pleasure and gratification in the selection of Dr. Walter Splawn as President of the University and expressed the belief that they could work in cooperation and harmony in matters of mutual interest to the two institutions.

Dr. Splawn expressed his desire that he and the members of the Board of Regents of the University be given some time to study the questions of separation and division of the lands, as he was not familiar with past efforts and agreements and felt sure that the members of his board were not very familiar with the matter.

A motion was made and duly passed to the effect that the Board of Regents of the University be given time to study over this matter and the Legislative Committees of the two Boards would meet to work out a definite proposal to the Legislature covering the entire matter of separation and division of the lands and the removal of the inhibition in the Constitution from the Legislature appropriating money for buildings at the University. It was agreed that this matter should be attended to at the earliest practicable date.

Mr. R.G. Story on behalf of the Board of Regents expressed his thanks to President Bizzell for arranging for the joint meeting, stating that he thought it was a fine thing to have these joint meetings and pledged the best efforts of the Board of Regents to cooperate with the Board of Directors of the A&M College in matters of interest to the two institutions and to the cause of education in Texas in general. Mr. Stark also joined Mr. Story in this expression of friendly feeling and cooperation. Mr. Hart expressed the same sentiments on behalf of the Board of Directors. (Board of Directors of Texas A&M College Minutes, November 26, 1924a, pp. 26-27)

This meeting shows once again that the members of the Board of Regents knew how to negotiate. In spite of the fact that the two boards had been talking about these issues for more than 40 years, the Regents were able, without much apparent effort, to persuade the A&M Directors to give them more time to understand the issues. Once again it proves the old adage “the one with the gold always wins.” The University

Regents controlled the PUF with its ever-increasing oil revenues, and the A&M Directors had very little leverage in these negotiations.

At the next A&M Directors meeting, the question of the relationship between the two institutions was discussed. By motion, Judge Byrd E. White was appointed to contact the chairman of the Board of Regents and arrange a meeting to discuss an understanding about dividing the PUF (Board of Directors of Texas A&M College Minutes, 1925a). But again little of substance came of these initiatives.

And More Resolutions

After years of discussions between the Board of Directors of A&M College and the Board of Regents of the University of Texas, a joint committee proposed another settlement. From the minutes of the March 8, 1930 meeting of the A&M Directors comes the following information.

Judge White read to the Board the proposed agreement reached by the two committees from the Board of Regents of the University and the A&M College as to the division of the University Fund. In substance the agreement was that the A&M College was to receive \$100,000 per year for four years beginning with September 1, 1930, and after the four years the fund would be divided two-thirds to the University and one-third to A&M College. On motion by Mr. Kiest seconded by Mr. Schuhmacker, this agreement was formally approved by the Board. (Board of Directors of Texas A&M College Minutes, 1930b, p. 138)

Shortly after this resolution was passed, the Directors were notified that the U.T. Regents had voted against supporting the settlement. The euphoria that had existed a few minutes before must have quickly dissipated. When the joint committee that had been working on the issue for some time met later in the day, Mr. Law, President of the A&M Board, said the following:

Our Board is unanimous in believing that it will be to the best interests of both the University and A&M College if we can come to an agreement. We hope that can be done.

We would like to make this observation in that connection. That for a good many years this matter has been under consideration and there has (sic) been many delays for one reason or another and our Board feels that further unwarranted delays will be inimical to the best interests of the A&M College, and I might say highly prejudicial to the interests of A&M College. Therefore I want to say to you frankly that we would like to have it understood that if further negotiations are continued they be prosecuted promptly so that we may find out as soon as possible whether we can come to an agreement. I hope and pray that we can close the matter soon. It will be to the best interests of the institutions that that be done, but we would like for this matter to be handled promptly. (Board of Directors of Texas A&M College Minutes, 1930b, pp. 138-141)

For the remainder of 1930, negotiations continued. During the course of those negotiations, the major change that seems to have occurred was that the yearly cash settlement that was to go to A&M changed from \$100,000 per year for four years to \$200,000 for three years. After decades of discussion both Boards met on January 5, 1931, and agreed on a bill to be presented to the Legislature.

A Bill

To be Entitled

An Act to Amend Article 2592 of the Revised Civil Statutes of Texas of 1925.

Be it Enacted by the Legislature of the State of Texas:

Section 1 – Article 2592 of the Revised Civil Statutes of Texas of 1925 shall be so amended as to read hereafter as follows:

Article 2592—The Board of Regents of the University of Texas and the Board of Directors of the Agricultural and Mechanical College of Texas shall expend the Available University Fund for the construction of buildings on the campuses of their respective institutions and for the extension and improvement of their campuses and for the equipment of buildings thereon in the proportions and amounts hereinafter indicated; and the Board of Regents of the University of Texas shall expend of such Available University Fund so much thereof as may be appropriated by the Legislature for the administration of the University lands and of the University Permanent Fund, such expenses to be apportioned between the two institutions in proportion to their receipts of Available University Funds under the terms of this Act. For the years beginning September 1, 1931, September 1, 1932, September 1, 1933 the sum of Two Hundred Thousand Dollars (\$200,000) net shall accrue for each said years of said Available University Fund to the Agricultural and Mechanical College of Texas and shall be expended by the Board of Directors of that institution for said Agricultural and Mechanical College purposes, and the Board of Regents of the University of Texas shall expend the balance of said Available Fund for said University of Texas purposes.

Beginning September 1, 1934, the Board of Directors of the Agricultural and Mechanical College of Texas shall so expend one-third of all the Available University Fund received from the Permanent University Fund arising from the 1,000,000 acres of land appropriated by the Constitution of 1876 and the land appropriated by the Act of 1883, except income from grazing leases on University lands (less its proportion of expenses of administration and excluding any expenses of administration from grazing leases), and the Board of Regents of the University of Texas shall so expend the balance of said Available Fund, including all the income from grazing leases on University lands (less its proportion of expenses of administration).

The Board of Directors of the Agricultural and Mechanical College of Texas shall have the right to pledge that part of the Available University Fund hereby placed at its command, and the Board of Regents of the University of Texas shall have the right to pledge that part of the Available University Fund placed at its command for not exceeding fifteen years to make the said funds immediately available. Any contract for expenditures of said interests and income for any purpose other than those named shall be void. No surface lease of said lands shall be made for a period of more than ten years. On motion properly made and seconded, the Board of Regents of the University voted unanimously their approval and

acceptance of the bill. On motion properly made and seconded, Mr. Law then asked the A&M Board for a vote. The vote was unanimous for acceptance and approval of the bill.

On motion properly made and seconded, the two boards acting jointly, requested the two legislative committees of the two boards and with the Presidents of the two institutions, to have the bill presented to the Legislature and followed through to final passage and signed by the Governor. (Board of Directors of Texas A&M College and the Board of Regents of the University of Texas Joint Meeting Minutes, 1931a, pp. 161-164)

At the end of this historic meeting, the Secretary of the Board for Texas A&M College wrote on the bottom of the minutes: “The meeting was then adjourned, peace and harmony prevailing” (Board of Directors of Texas A&M College and the Board of Regents of the University of Texas Joint Meeting Minutes, 1931b). However, it should be noted that the Legislature did not pass the proposed bill.

The End of the Dispute

The issues involving the management of the Permanent University Fund were finally resolved in 1937. In that year, President Law of the A&M Board of Directors, approached his cousin, Jubal R. Parten, a University of Texas Regent, about sharing in the management of the oil lands. Parten, in an interview done in 1981, told the following story:

I thought about it early one morning, and it flashed on me what to do—if I could get the consent of my colleagues and other Board members—just forthrightly go to my friend Law and say “We doubt very seriously if we can make sense of two boards being charged with the responsibility for that. We think that it would be logical and fairly feasible if we simply combine these boards; then we will have overall responsibility”...Combine A&M and the University of Texas...I sold

Benedict (President of the University) and the board on it. Then I went down to see him [Law]. Well, he said that does make sense; or something like that. You couldn't argue with it. And that was the end of it. As expected...Because I know that they thought they'd be meeting all the time in Austin. (Pringle, 1985, p. 295)

This interview with Parten describes his version of how the dispute between the two institutions was finally settled. In a meeting held jointly by the two full boards, it appears that the A&M Directors just finally gave in to the idea that the Regents would continue to manage the PUF, and that they should stop arguing about the issue.

Indeed, at the 1937 meeting, Major Parten stated that he felt sure that the A&M Board would be interested in knowing about the handling of the Permanent University Fund. He stated that through careful study, they knew the value of the oil lands, and that both institutions were fully protected. By that he meant that the transactions were being handled in a manner in which both institutions were benefiting. He stated that the plan for selling oil leases to the highest bidder had proven very beneficial, and he felt sure that it had worked to the best interests of all concerned. Mr. Lacy complimented the Board of Regents on the efficient manner in which the investments of the Permanent Fund had been handled. Dr. Randall said that the \$21,000,000 endowment was liquid, and this money could be converted into cash within a very short time. Dr. Aynesworth, Chairman of the Board for Oil Leases, explained how these leases were sold through a public auctioneer. The other members of the two Boards who attended expressed their hopes for closer and more friendly cooperation between the two boards and institutions (Board of Directors of Texas A&M College Minutes, April 10-11, 1937, p. 82).

The dispute ended with very little fanfare. The Regents continued to manage the PUF, giving one-third of the revenue to A&M. The legislature later dealt with the two institutions as if they were separate. A careful review of existing 1876 Constitution shows that there has been no amendment removing A&M College from under the University of Texas. It is impossible to estimate the time and talent spent by both sides in this long running debate. The obvious point is that the Regents had the upper hand in these negotiations, primarily because Texas Agricultural and Mechanical College was part of the University as a result of the 1876 Constitution. Becoming a separate college was very important to the A&M Directors, and this issue provided much of the early motivation of the Directors. The secondary issue was the money from the PUF; perhaps funding became a little less secondary when the PUF became awash in oil money, but it always appeared to be a second consideration for the A&M Directors. But in the end, the Directors were not able to prevail in most of their demands.

CHAPTER SIX

THE BUREAU OF ECONOMIC GEOLOGY AND THE DISCOVERY OF OIL

The story of the PUF is intertwined with the history and activities of the Bureau of Economic Geology and Technology and the mineral surveys that were done from time to time. The role that college-educated geologists have played in the overall success of the Permanent University Fund cannot be overestimated. It was the men of the time—and in later years, the women—who used their training and expertise to find the minerals that brought the initial wealth to the PUF. The West Texas lands are almost desert. The University had worked for years to extract lease money from drought-ravaged ranchers. The money was hard to earn and the leases had not proven to be a good source of income. It was the discovery of minerals that began to provide the resources needed for a great University. Early on, the Regents understood that it would be most helpful to have a unit whose staff could help assess and develop the land. This unit became the Bureau of Economic Geology. Its very name denotes its role. The Bureau's primary responsibilities were and are related to geology and economics. It was Bureau staff who provided the data that persuaded the oil industry to risk their capital on the University lands. The following timeline will help the reader follow the events.

Table 6: Timeline of Texas History, 1899-1929

January 17, 1899	First mention during a Regents meeting that someone was interested in prospecting for minerals on University land.
1901	SB 71 gave the Board of Regents the power to control, manage and dispose of all mineral rights belonging to the University of Texas as well as to explore or have explored and to develop mineral rights on University land .
1901	HB 139 called for a mineral survey of all public lands.
January 10, 1901	Lucas well at Spindeltop blew in and created even more interest in a state geological survey.
April 1911	The Board discussed increasing the budget of the Bureau of Economic Geology and Technology because of its important work.
1917	SB 357 gave more rights to the prospectors of minerals on the public lands, including those of the University, in order to encourage the speedier development of these minerals.
January 29, 1919	The Board of Regents instructed the UT President to direct the Bureau of Economic Geology and Technology to make an investigation of the University's lands to ascertain the presence on these lands of mineral deposits, particularly oil.
1923	Santa Rita well discovered on University land.
1929	SB 82 changed the oil and gas lease program and established new lease procedures.

In the minutes of the Regents meeting of January 17, 1899, there is the first mention that someone was interested in prospecting for minerals on University land.

Mr. Lee, University land agent, appeared before the Board and called attention to the application of Henry Garnare to the General Land Office to prospect for minerals on certain University lands in El Paso County. Referred to the Committee on Lands with the power to act. (University of Texas Board of Regents Minutes, 1899, p. 251)

In Senate Bill 71 (1901), the 27th Legislature for the first time gave the Regents the power to control, manage and dispose of all mineral rights belonging to the University. The Board was further empowered to explore, or have explored, and to develop minerals on the University lands. Expenses for either development or exploration could be paid from the proceeds from the lease or sale of the land (1901 Tex. Gen. Laws p. 266).

At the same time, professional geologists were working to re-establish the geological survey that the Legislature had allowed to expire in 1895. While attending a meeting of the National Scientific Society in New York, it was suggested to geologist Robert T. Hill that he attempt to have control of the survey transferred to the state university. It was felt that this would allow the survey to survive occasional legislative lapses. Since Hill was scheduled to work in Texas for the United States Geological Survey, he agreed to make the suggestion. By chance, he encountered Regent George Breckenridge and explained the idea of transfer. Breckenridge arranged for Hill to meet with the Regents to explain the idea, and he gained their support (Ferguson, 1967).

It appears that the support by the University Regents resulted in the 27th Session of the Legislature passing HB 139, which called for a mineral survey of public lands.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* The Board of Regents of the University of Texas are authorized and directed as soon as practicable to have made a mineral survey of all the lands belonging to the public schools, University, asylums, or of the State.

SECTION 2. Said board shall employ for that purpose persons skilled and who have had at least five years experience in the science of mineralogy,

geology and chemistry, who shall conduct said survey under the direction of said board.

SECTION 3. Said board shall publish annually for free distribution among the people of the State all practical information collected in the prosecution of said survey as the same progresses; but the information obtained by a survey of the public school, university, asylum or State lands shall not be communicated by said board or by the person or persons making said survey to any person whomsoever until said information is published for the benefit of the general public; and anyone violating this provision shall, upon conviction, be fined in any sum not exceeding one thousand dollars, or by imprisonment not to exceed two years in jail.

SECTION 4. In connection with the work of said survey provision shall be made for assays, analyses and other scientific examinations of specimens of mineral substances found in the State, and for the collection and distribution of statistics relating to the mineral production of the State, and such assays, analyses and examinations shall be made at the request of any citizen of the State, and a certificate thereof given, and a uniform and reasonable charge shall be fixed by said board for such assays and analyses. It is especially provided, however, that essays and analyses of mineral specimens found upon any of the public lands of the State be made free of charge when requested by the Governor or by the Commissioner of the General Land Office.

SECTION 5. In connection with said survey, said board shall make provision for instruction in the University of Texas, said practical economic and field geology and mineralogy, and shall have prepared and transmitted to the A. and M. College, for educational purposes, duplicate specimens of all mineral and other substances obtained from the survey.

SECTION 6. The geological and scientific equipment, collections, specimens and publications now in charge of the Commissioner of Agriculture, Insurance, Statistics and History are hereby loaned to said board until such time as the State may desire to otherwise loan them, and their removal to the University of Texas is hereby authorized.

SECTION 7. For the purpose of carrying out the provisions of this act the sum of ten thousand dollars per annum for two years or so much thereof as

may by necessary is hereby appropriated out of the general revenue of the State; provided, that said mineral survey of the State shall be completed within two years.

SECTION 8. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SECTION 9. Whereas, there is now no provision for a mineral survey of the public lands of the State, and as a result the mineral value of such lands is not known, and said lands are being sold without regard to their mineral value, whereby great loss is resulting to the public free school, asylum and University lands of the State; and whereas, there is now no provision for the collection and preservation of authentic data concerning the mineral resources of the State; and whereas, no provision now exists whereby reliable official assays, analyses and examinations may be obtained by citizens of Texas, whereby great loss is suffered by the people of the State; therefore it is declared that an emergency is created and an imperative public necessity exists for the immediate passage of this act, and the constitutional rule requiring bills to be read on three separate days be and is hereby suspended, and that this act take effect and be force from and after its passage. (1901 Tex. Gen. Laws p.32)

This bill was signed into law by the Governor on March 28, 1901 authorizing the Board of Regents to carry out a mineral survey for all of the lands belonging to the schools, asylums, University, or the State. HB139 stated that the main activity was to ascertain the mineral value of the reserved lands to prevent them from being sold for low prices (Ferguson, 1967).

This far-sighted action by the Legislature with the passage of HB 139 would pay dividends to the University for many years. Illustrating this point is the fact that in the previous year, 1900, the General Land Commissioner, Charles Rogan, reported to the Governor that the state was selling some of the richest mineral-bearing land in El Paso,

Presidio, and Brewster counties at the price of grazing lands. Rogan pointed out to the Governor that his office was not equipped to handle the task of declaring which lands should be sold at mineral-bearing prices (Commissioner of the General Land Office, 1900).

Governor Sayers was receptive to the suggestions of the Land Commissioner and the Regents that a mineral survey be conducted. In his address to the Legislature on January 10, 1901, he called for an immediate evaluation of the mineral potential of School and University lands. That same day, the famous Lucas well at Spindletop, near Beaumont, blew in and created even more interest in a state geological survey. As a result a bill was soon introduced whose purpose was to protect ... “the State from selling any rich mineral lands it may have for a song, and also to promote the development of Texas mineral lands generally” (*Galveston Daily News*, March 31, 1901, p. 5). In addition, there were new oil discoveries near the School lands in Pecos County. William Battle Phillips, who was at the time an instructor at the University, was asked by the *Galveston* paper to discuss the Spindletop discovery.

We shall have to await further developments before the exact thickness of the oil-bearing strata is ascertained, and to collect and digest data derived from the drilling of other wells in the coastal plain. This work will be taken in hand by the mineral survey contemplated by the University of Texas, a bill for the establishment of which is before the Legislature...It is unfortunate just at this time that there are no State reports on the development of the oil industry. The form [sic] survey went out of business before the oil industry arose. (*Galveston Daily News*, March 17, 1901, p. 8)

HB 139 gave the Regents the responsibility of overseeing the mineral survey. Professor Phillips was assigned to carry it out.

Some time after the survey had begun, members of the Board of Regents wanted to ensure that it was being conducted properly. They sent a letter to Mr. Phillips asking him nine questions about his work to make sure that he was following the law that authorized the survey.

In March 1904, the Regents received a very long letter from Mr. Phillips. His answers were quite lengthy. The most instructive questions and answers are shown below. Two themes emerge from this report: education and economics. Since Texas A&M College was a part of the University, there was an interest in ensuring that the College received some of the materials collected by the survey. Another primary interest was to identify the economic prospects represented by the minerals on state lands, in general, and, more specifically, on the University lands.

1. Does the employment by you of persons to do a particular thing like making analysis and tests of clay, constitute such employment by the Board of Regents of skilled persons “who shall conduct such Survey under the direction of said Board” as was contemplated by and embraced with the meaning and intention of Section 2 of the Act establishing the Mineral Survey?

Reply:

In my opinion it does. No person has been employed on this Survey where qualifications were not embraced within the requirements of the Act. The persons so employed have been as follows: B.F. Hill, J. A. Udden, George B. Richardson, Heinrich Ries, S.H. Worrell and O.H. Palm. The last two as chemists (sic). All of these gentlemen have had considerable (sic) more practical experience than is required by the terms of the Act. In addition to these gentlemen Mr. R. C. Brooks has been employed to examine samples of coal,

lignite and clays, his work being confined to the collection of the samples which were to be analyzed in our own laboratory and tested in the clay laboratory of Dr. Ries, at Cornell University.

2. Has the provision of the Act that the "Board shall publish at least once annually all practical information collected in the prosecution of said Survey as the same progresses" been strictly complied with?

Reply:

It has. The Board organized the Survey in May 1901. Since that time we have published seven Bulletins and have distributed them to the citizens of the State and to others who made application for them. The total number of such copies published and distributed is 31,000 and the demand for them has been so active that we have on hand now only a few copies of the last two Bulletins. The statement concerning these Bulletins is as follows:

TITLE	PUBLISHED	COPIES
1. Texas Petroleum	July, 1901	4,000
2. Sulfur, Oil and Gas active in Trans-Pecos Texas	Feb., 1902	3,000
3. Coal, Lignite, Asphalt Rocks	May 1902	4,000
4. Quick silver deposits of Brewster County	Oct., 1902	4,000
5. Minerals and Mineral localities of Texas	Jan., 1903	5,000
6. Mining Laws of Texas and Magnetic Declination tables	July, 1903	5,000
7. Report of Progress for the Year 1903	Jan., 1904	6,000

To this total is to be added:

Special topographic Map of Brewster County Quicksilver region sent out with Bulletin, 4,000

Topographic Maps of the southwest part of Brewster and the northeast part of Presidio, with Bulletins of 6,000.

Making a grand total of 41,000 copies.

3. Is instruction in practical and economic and field geology and mineralogy being given at the University in connection with said Survey as contemplated and required by Sec. 5? If so, by who and what extent? (sic)

Reply:

Instruction in practical mineralogy has been given in the University in connection with this Survey since the fall of 1904. Instruction for such matters have [sic] been given in the University for a number of years, long before the Survey came into existence. It has wisely been added to and enlarged since 1901. Instruction in field and economic geology has been offered, but there have been no students applying for the course. One reason for this is doubtless that the students who have entered for the degree of engineer of Mines have not yet advanced sufficiency (sic) to be able to take the course in economic and field geology. During the session of 1902-03 I gave instruction in practical mineralogy and also lectured on economic geology. During the present session Mr. B.F. Hill has the class in practical mineralogy and I have lectured to it on economic geology, as time would permit. I have been absent a great deal during this year and on this account there has been no regular course of lectures on economic geology, nor any application for such a course.

4. Have duplicate specimens of all mineral and other substances obtained from the Survey been prepared and transmitted to the A&M College as contemplated and required by Sec. 5? If so, when was this done, and has there been a list of such specimens made and provided by you and what acknowledgements or receipt therefore was given and by whom?

Reply:

On January 9, 1903 I sent to President David F. Houston, of the A&M College, a box containing 33 specimens of mineral obtained by this Survey and embracing coal, lignite, asphalt rocks, cinnabar, gypsum (illegible). Under date of Jan. 12, 1903 I have a receipt from him with expression of his appreciation of the courtesy.

On the 19th of Sept. 1903 I sent to Prof. H.H. Harrington, College Station, a box containing 50 samples of clay, one sample of cement, one sample of cement clinkers, one sample of finished cement and one specimen of serpentine. I have had no acknowledgement from him of the arrival of this box and am writing to him concerning it. We have now on hand and ready for shipment to the A&M College duplicate

specimens of such things as we obtain from the Survey, but the specimens of building stone, which have been secured and paid for by the Texas World's Fair Commission and which we (are) charge of, we do not consider as coming under the Act...

I have a list of everything we have sent to the A&M College and it can be referred to at any moment. Up to this time we have sent 67 duplicate specimens and have as many more ready to go.

5. Has the Geological Map of the State for distribution among the citizens of the State, on which is currently set forth the exact location of mineral deposits as contemplated by Section 6, been made, and if so, when will be same probably be published and distributed?

Reply:

To prepare a correct geological map of the State on which would appear – the exact location of mineral deposits would require the labor of many years and the expenditure of large sums of money. This Survey, together with the Survey which expired in 1892, has collected much data for such a map and we propose this year to issue a current geological map of El Paso county, in which according to this report of the Commissioner of the General Land Office for the two years ending August 31, 1902, there were still 2,056,084 acres of public school land unsurveyed exclusive of the holdings of the University. [N]early all of the data for this map is in hand and it is thought that publication can be made this year. We have prepared the way for the construction of geological maps to cover the southeastern part of Presidio and the southern part of Brewster counties, south of the line (sic) and between the lines of 104 degrees and 102 (sic). The excellent topographic map of this area, prepared by the United States Geological Survey under a plan of cooperation with this Survey, will serve as the basis for the construction of the geological maps.

Under the appropriations for such work in this State that are largely mineral it will be many years before a current geological map can be prepared. We have done and are now doing all that we can towards carrying out the provisions with respect to the preparation of a geological map. Of necessity the work proceeds slowly, for we have not the means to keep parties in the field for

this purpose (University of Texas Board of Regents Minutes, 1904a, pp.79-87).

While it was apparent that this survey was a successful effort, the political support for it was poor and the Legislature did not continue its funding in 1905.

In 1909, the Regents established the Bureau of Economic Geology, with Dr. William Battle Phillips as its first director. The news release on its establishment reads as follows:

The Board of Regents recently established a Bureau of Economic Geology for the purpose of collecting and distributing information concerning the mineral resources of the State. They have called to the Directorship of the Bureau, Dr. William B. Phillips, of Birmingham, Alabama, who was formerly Director of the University of Texas Mineral Survey. He will take charge of the work September 1st.

This action of the Board is a new departure. There are institutions in the country where the Professor of Geology of Mining acts as the State Geologist, but not one in which there is a special department disconnected from the teaching force and devoting itself to such matters.

In taking this step the Board realizes the necessity of keeping the University in close touch with all of the affairs of the Commonwealth, in multiplying the bonds of mutual interest that connect it with the progressive citizens of this State, and in furthering the development of its material resources.

It is not the intention to interfere with the work of professional geologists, engineers or chemists, but rather to aid this by every means. There is a sphere of influence which rigidly belongs to such a Bureau and it does not impinge upon the domain of the professional geologist or engineer. On the contrary it is proposed to provide a source of information concerning the State at large which may be freely consulted by geologists, mining engineers and land owners alike, a sort of clearing house of information. This work is to be accomplished by means of bulletins, press notices, addresses, etc., and especially by maintaining a complete collection of the

building stones, clays, oils, coals, lignite, asphalt, rocks, minerals and ores of the State at the University to be open at all times for inspection. There is already at the University a splendid collection illustrative of the economic geology of the State, and this is to be enlarged and made of direct benefit to the public.

It is hoped that all of those who are in any wise interested in the development of the mineral resources of the State will consider this Bureau as established for their advantage and that they will frequently consult it. (Haugh, 1987, pp.111, 112)

Repeatedly in the minutes of the Regents meetings it becomes clear that the Bureau of Economic Geology played a very important role in finding and publicizing the mineral deposits on University lands. For example, in the June 11, 1910 meeting of the Regents, a report was presented on the Bureau's field work in Brown, Coleman, Caldwell, Gonzales, Atascosa, McMillen, Bexar and El Paso counties examining coal, lignite, iron ore, clay, oil and copper. The report stated that the Museum of Economic Geology had been updated. The Museum contained materials illustrating the economic features of the state, and it had been visited and consulted by many people. The collection of data by the Bureau resulted in a large amount of correspondence to the president of the University about the potential utilization of the minerals that had been discovered. The president reported that he had received correspondence from citizens of 185 counties. Almost without exception, these inquiries were about ways to use these minerals profitably. The president proposed that the University establish a testing laboratory for economic geology and expand the mission of the Bureau to perform tests for commercial and industrial purposes. He stated that for a small cost, this extremely valuable information could be furnished to the public and would result in the establishment and

development of profitable enterprises. The minutes also contain the statement, “The establishment of the Bureau has unquestionably been justified” (University of Texas Board of Regents Minutes, 1910a, p. 49).

During the April 1911 meeting, the Regents discussed increasing the budget of the Bureau because of its important work. At the time there were two leading programs at the Bureau: one for finding ways to commercialize the state’s fuels, especially lignite, and a second for discovering water for irrigation purposes.

In the meeting of June 12, 1911, the Board discussed the fact that no money had been budgeted for the Bureau to do field work, although much had been done with the use of private funds. The Director had used the private money to examine iron ore, oil and gas deposits, and the nitrate of soda in areas of the State. Work was also being done on the use of coal or lignite to produce gas as a fuel source. The University was planning to purchase fuel for its own power plant and was very interested in these studies (University of Texas Board of Regents Minutes, 1911b).

On April 25, 1916, during a discussion on the survey of the University lands, a resolution was approved asking Dr. Udden, then Director of the Bureau, to give the Regents Land Committee information concerning the additional cost to add the duty of looking for oil and other minerals to the survey. Dr. Udden was asked to report back to the Board by June (University of Texas Board of Regents Minutes, 1916). Dr. Udden complied on June 12 with a list of expenses, and the Board empowered Mr. Littlefield, as Land Committee Chairman, to authorize spending the extra money and to continue to act

as he saw best in this matter (University of Texas Board of Regents Minutes, 1916a, p.601).

In a second report later in 1916, Dr. Udden reported that “It does not appear to be unreasonable to regard it as suggesting the possibility of the existence of buried treasures in which oil may have accumulated” (Cook, 1997, p. 14). The publication of this report began to peak the interest of enterprising businessmen.

With the passage of Senate Bill 357 in 1917, the Legislature gave more rights to prospectors of minerals on public lands, including those of the University. This seems to have been done to encourage the speedier development of these minerals (1917 Tex. Gen. Laws 158).

Also, on January 29, 1919, the Regents instructed the president to direct

the Bureau of Economic Geology and Technology to make at once an investigation of the University’s lands in line with the report submitted by the Director of the Bureau to the Land Committee on June 22, 1916, to ascertain the presence on these lands of mineral deposits, particularly oil. (University of Texas Board of Regents Minutes, 1919b, p.323)

In his written report to the Board on April 24, 1917, University President R. E. Vinson suggested having a study and geological survey made on University lands. Apparently the Regents took no action because two years later, on June 9, 1919, President Vinson reported that since there was a great amount of drilling for oil in the State, a geological survey should be conducted on University lands. He also stated that it seemed appropriate for the University to use its own Bureau of Economic Geology to secure information about the subsurface geology. His idea was to study soil samples from

holes that were being drilled on University lands. Doing the job adequately required an oil scout for \$2,700 per year and two additional geologists for \$2,000 per year plus appropriate expenses. Vinson stated: “We are face to face with an opportunity, which should not be neglected” (University of Texas Board of Regents Minutes, 1919a, p. 283). These were wise words indeed.

On November 6, 1919, the Regents voted an additional \$800 to complete the survey work being done in Upton County. Later in this meeting, the president stated that he had been unsure whether to release to the public the preliminary information he had received from the Bureau. After some study, he recommended to the Board that the information be given to operators who were leasing the PUF lands with the understanding that they would in return pay for the costs to produce the report. This general discussion gives an indication of the understanding the administration and the Regents had about the possible large amounts of money that were at stake. The issues of how much of the information they were receiving from the Bureau should properly be shared and with whom, and whether there should be a cost attributed to it, received much attention.

At their meeting of February 26, 1922, in an agenda item titled “Oil Prospecting on University Lands,” the Board (on a split vote) declined to assume responsibility for the oil boring being done by Harry G. Hershenson in the Pecos region (University of Texas Board of Regents Minutes, 1922, p. 132). As this event predated the discovery of the Santa Rita well in 1923, it seems to indicate that the Regents were not all of the opinion that oil would be discovered on University lands.

The Santa Rita Well

All of the cooperation between the Regents and the Bureau paid large dividends, the first being the discovery of oil. The story of the first discovery well is contained in this chapter because it represents the benefits of good leadership coupled with good science. The stories about the Santa Rita well need to be read with a full appreciation of all that had gone before. Perhaps a case could be made that oil would have been discovered on University lands without the Bureau of Economic Geology, but few would argue that it would have occurred as soon as 1923.

It could be argued that 1923 was the most significant year in the very long history of the PUF. The Santa Rita well was discovered in Andrews County that year. It was the discovery well for that part of West Texas. As with any good Texas tale, there are several versions of what occurred. Different source materials tell the story differently. It is helpful to understand the term “spudding” or “spudding in” that is found in many of the stories about oil wells. The term refers to “the initial boring of a hole in the earth to begin drilling”(Olien, 2002, p. 283).

One of the Santa Rita stories included here appeared in a commemorative book entitled *Oil Legends of Fort Worth*, that was written for the Historical Committee of the Fort Worth Petroleum Club. Many of the oil companies that drilled wells in West Texas were based there. That story of the events surrounding the Santa Rita well goes as follows:

The first to plan systematically to search for oil in Reagan County was Big Lake lawyer Rupert P. Ricker. In 1919 he filed drilling permits in Reagan and surrounding counties but could not raise the ten-cent per acre rental.

He succeeded in getting an army friend, Frank T. Pickrell, to take the lease. With fellow El Pasoan Haymon Krupp, they leased 431,360 acres in Upton, Crockett, Reagan, and Irion counties and formed the Texon Oil and Land Company. Their plan was to drill in southwest Reagan County, but the lease specified that a well had to be begun by a certain date. Because of difficulties in raising money for drilling, the prospectors had to improvise. The town closest to the intended well site was Best, nine miles west of Big Lake, so Pickrell and Krupp had the drilling machine shipped there. All they could afford was a water well driller, but that would at least begin the hole and they could comply with their lease provision. Pickrell loaded the machine on a wagon, proceeded four miles west to where he had staked the well, and then began drilling. According to their state permit, they had to have two impartial witnesses sign affidavits that they had seen the well begun. With their time running out, they feared they could find no one handily. Appearing as if from a mirage, two men drove up in an automobile and agree to witness the spudding...Almost two grueling years later, on May 28, 1923, the driller, Carl Cromwell, struck oil at 3,028 feet and Santa Rita #1 opened a new era for the economy of West Texas. (Early Oil, [1977], p. 190)

Another telling of the story is as follows:

Is prayer more potent than geology in finding oil? The Permian Basin indicates it may be sometimes. Fort Worth owes much of its growth to the Permian Basin, which it serves as gateway and financier. It all started when two Catholic women invested their savings in an oil play in Big Lake, Reagan County, in 1923. Consulting their priest, they promised to name the well for a saint if successful. He suggested Santa Rita, the “saint of the impossible” when a producer blew in on May 28, their prayers were answered in a big way. The 100 barrel-a-day well opened the nation’s largest oil reservoir on University of Texas land and made Fort Worth one of the world’s leading oil centers. (Oil Legends of Fort Worth, 1993, p. 17)

From a book by Warner comes another story that seems to have common circulation:

An interesting story in connection with the spudding of the well relates that it had been suggested to Mr. Pickrell by Catholics in New York City who were interested in his project, that he invoke the aid of the Saint of the Impossible, Santa Rita. He was requested to climb to the top of the derrick when the well was spudded and sprinkle the petals of a blessed

rose on the drilling rig and christen the well “Santa Rita.” This he did, and, although the company was handicapped in the drilling of the well by financial difficulties and by the distance—more than 200 miles—to the nearest supply store at Ranger, the well, which had been commenced on September 3, 1921, blew in at daylight on the morning of May 28, 1923, from a depth of 3,028 feet.

The discovery of the Big Lake field not only impressed upon the oil industry the favorable possibilities for oil production that existed in the West Texas district, but it also marked the beginning of a steadily increasing revenue to the State University from royalties and lease bonuses. The Fathers of Texas in Congress of the Republic had set aside more than 2,000,000 acres of land in the western portion of the state and had stipulated that the revenue from such land should be used for educational purposes. They did not know at the time that their action was destined to make the University of Texas one of the richest and most outstanding in the world, but such has been the result of their desire to provide the newly created nation with resources for building a proper educational system. (Warner, 1939, pp. 318-320)

The Lease file from the General Land Office also contains some interesting information about the lease that contains the Santa Rita well. A letter contained in the file states:

July 9th, 1919, the Commissioner of the General Land Office of the State of Texas, did issue to HAYMON KRUPP as assignee of George W. Walling, Jr. Oil and Gas Permit No. 3955, covering Sections 1, 2, 11, and 12, Block 2, University Land, aggregating 2360 acres in Reagan County. On the 13th of June 1923, through his agent Frank T. Pickrell filed a statement showing that oil produced in paying quantities. (General Land Office Lease File Records)

The most important paper filed on this original well could be the following letter:

Big Lake, Texas, June 8, 1923.

To the Honorable Commissioner of the General Land Office,

Austin, Texas

I, Haymon Krupp, owner of oil and gas permit No. 3955 covering Sections 1, 2, 11, and 12, Block 2, State University lands located in Reagan county, Texas, acting herein by Frank T. Pickrell, the duly authorized agent and manager, hereby report that oil and in paying quantities is being produced from a well drilled upon the mentioned and described surveys and which well is located and situated upon Section 2, Block 2 of the above mentioned surveys, and that oil in paying quantities was struck May 28, 1923, and since said time oil has been produced in paying quantities from said well upon said land. That I accompany this application with a log of said well, the correctness of which is sworn to by Carl G. Cornwell, the driller of said well.

I hereby apply for an oil and gas lease for ten years, subject to renewal or renewals upon the above described surveys, and pray that said lease is issued forthwith to me.

Haymon Krupp

Agent and Manager

(H. Krupp, personal communication, June 8, 1923)

Now that there was a major oil find on the University lands, there was a corresponding amount of discussion at Regents meetings. In their October 27, 1924 meeting, the Regents authorized the University President to hire a royalty oil gauger to serve the University in the small town of Texon and its vicinity in West Texas. When oil was produced from a well, it was transferred to a large metal tank which was then usually picked up by a truck. The gauger's job was to stick a wooden rod into the tank to measure the amount of oil inside. From the depth shown on the stick, he could estimate the number of barrels of oil in the tank. It was much like an auditor counting cash to make sure that it is all there.

The November 24, 1924 meeting had four agenda items regarding oil. Money was appropriated in the amount of \$345.82 for a shack to be built at Texon for use by the oil geologists from the Bureau of Economic Geology. Additional money, in the amount of \$591.92, was used for the purchase of a fully equipped Ford roadster, to be used by the oil gauger. A proposal from Marlan Oil Company to lease certain University land was referred to the Land Committee, which was given the power to act. Also there was an item concerning a proposal from two Oklahoma oil men offering to buy all of the University oil for 10 cents a barrel more than any offer from a pipeline company. This item was also referred to the Land Committee.

There began a series of events that led to legislative action in 1925 that has a possible effect on oil and gas leasing on University lands. The University had been granting oil and gas operators leases based on a permit system. The legislature began to feel that the permit system was not fair and that the University should change to a competitive bid system. In 1925 HB 246 was passed which cancelled the permit system and substituted a competitive bid system. Because of this change there was a dispute about the validity of the existing leases which had been granted under the old system, which is described below.

A special meeting was called by the Regents on July 16, 1925 to hear Charles L. Black, an attorney employed by the Land Committee, to advise them on the validity of oil leases on University land, and to consider appropriate action. Because of the importance of this matter, the following section of the minutes is included. Mr. Storey, Chairman of the Land Committee, made the following report with reference to the oil royalty situation:

1. That is (sic) pursuance (sic) to instructions from the Board, the Committee had tendered appointment as counsel to Judge Victor Brooks, of Austin, to advise the Board relative to the constitutionality of House Bill 246 which directs oil royalties from University land to be placed in the available funds (sic). After Judge Brooks had given some thought to the matter, the question was raised by Judge Padelford as to the validity of oil leases now in force, whereupon Judge Brooks reported himself disqualified to render an opinion, he having once represented one of the present leaseholders.
2. That the Committee then employed Charles L. Black, of Austin, to render an opinion as to the validity of the oil leases.
3. That the Committee has received and files as a part of this report, to become a part of the minutes of the Board, the opinion of Judge Black advising that the oil leases now in force are valid.
4. That it is the opinion of the Majority of the Committee, namely Mr. Storey, Judge Royston, and Mr. Neathery, that the Board should accept the advice of Judge Black that the leases are valid and the Board should take no action at this time seeking to attack the validity of the oil leases. Mr. Storey explained that Judge Padelford had not agreed to the majority report. Mr. Storey moved, seconded by Mr. Neathery, that the Board adopt the report of the Committee and take no action at this time.

Judge Padelford Dissents. Judge Padelford explained to the Board that he did not favor the report as made by the Committee and that he did not favor its adoption by the Board, it being his opinion that the oil leases on the University land are invalid. He stated that the Attorney General has expressed his willingness to bring suit to test these issues if the Board should request him to do so. Judge Padelford expressed himself firmly in favor of asking the Attorney General to bring such a suit. He submitted for incorporation in the minutes his written opinion of the lease question. —For copy of the opinion see Secretary's files—

This matter was discussed at length by Mr. Neathery, Mr. Storey, Judge Boyston and Mr. Howard, with numerous questions and remarks from the other members present. Finally, the motion to adopt the Committee's report was passed by the following vote: Aye—Howard, Neathery, Mrs.

O'Hair, Royston, Stark, Storey, Tyler: No—Padelford. The report was declared adopted.

On motion of Judge Royston, seconded by Mr. Neathery, the Board unanimously voted to instruct the Secretary to notify the Attorney General of the action just taken, attaching a copy of the opinion of Judge Black and the opinion of Judge Padelford with the request that if, in his opinion, the action of the Board does not protect the interests of the University, that he take such steps as he may deem necessary to protect the interests of the University.

Mr. Storey, explained, for the purpose of record, that the reason the legal questions discussed above had not been submitted originally to the Attorney General was that the Attorney General had rendered an opinion in which he had declared House Bill 246 unconstitutional. The Board then undertook a further study of the question, with the results recorded above (University of Texas Board of Regents Minutes, 1925a, p. 383)

The implications of this issue were enormous, as existing leases had greatly increased in value since oil had been found on University land. By 1925, oil royalties were paying the PUF over \$2,000 per day. Any oil company that had paid for a lease before oil was discovered now had a lease that was worth a lot more. From the University's point of view, however, if the leases were declared invalid, new leases on the same land would be worth more. Another issue that had to be taken into account was the work disruption that would occur if the leases were declared invalid, thereby affecting revenue to the PUF. All of these issues were discussed many times during Regents meetings.

On January 10, 1927, the Regents sent a request to the newly sworn in Attorney General, Claude Pollard, asking him to meet with them to discuss pending issues concerning royalty payments and other legal matters. The Attorney General met with the

Regents and discussed his willingness to assist them in suits to recover oil royalty money due the University. Two other items regarding oil were discussed, as well. First, Ernst and Ernst, an accounting firm, reported their progress on the ongoing audit of the oil producers on the University lands. Second, the issue of invalid leases came before the Regents when they received from former Regent Judge Padelford a brief outlining his (continuing) position that the oil leases were invalid. The Board voted to send their thanks to Judge Padelford for his continued interest in the University (University of Texas Board Minutes, 1927a, p. 23). This action seems to indicate that the Regents continued to believe that Judge Padelford was incorrect in his opinion. The legislature took action in 1927 with the passage of S.B. 474.

An act to withdraw from sale the oil and gas in University land (sic) until such time as the Legislature may enact laws deemed adequate to protect the interest of the University in its available and permanent funds, on the condition only that the University mineral leases or sales Act of March 10, 1925, Chapter 71, Acts of Regular Session, 39th Legislature, shall be invalid or ineffective by the Supreme Court of Texas in suits now pending or that may hereafter be filed; and in that event prohibiting the Commissioner of the General Land Office from issuing any oil and gas permit upon any application heretofore or hereafter filed, and declaring an emergency. (General and Special Laws, 40th Session, 1927).

This bill was to protect the University against an possible adverse ruling from the Supreme Court, which never came. All of this was resolved in 1929 by the 41st Legislature as will shortly be discussed.

The Ernst and Ernst audit report discussed in the 1927 meeting must have contained some interesting information about the lack of proper payments by a least one

oil company leasing University lands. In a meeting held November 21, 1927, the Regent's Land Committee reported:

Mr. Storey, as Chairman of the Regents Land Committee, reported that the Committee had met at Dallas on November 17, with Regents Neathery and Holliday (of the Committee). Regent Crane, President Benedict, Comptroller Calhoun, Land Agent Saner, Attorney General Pollard, and three of his assistants present. Mr. Storey stated that Attorney General Pollard had reported to the Committee that attorneys for the oil companies against which the University has filed suit for the collection of additional oil royalty payments had inquired of him as to the possibility of a settlement of the suit by compromise. Mr. Storey stated that the matter was discussed fully by all present at the meeting. He stated that, following discussion, the Regents Land Committee formulated the following recommendation to the Board of Regents touching on the matter.

That the Regents should approve a compromise of the suit provided the oil companies agree to make the payments prayed for and provided further that the compromise did not involve a decision by the court as to the validity of the leases forming the subject matter of the suit.

He stated that the Committee was of the opinion that if a compromise agreement involved the validation of the leases, either by judgment of the court or by estoppel, that the Regents should not make such compromise agreement.

After a full discussion of the matter, Mr. Storey offered a motion to the effect that it be the sense of the Board of Regents that the settlement of the lawsuit be approved, provided it does not involve the settlement of the question of the validity of the leases. Following further discussion, action on the whole matter was deferred until 2:00 P.M. at which time it was stated that Attorney General Pollard would confer with the Regents (University of Texas Board of Regents Minutes, 1927b, p. 23).

Later in the day the Board met with the Attorney General and after a briefing adopted the following motion:

It is the sense of the Board of Regents of the University of Texas that they will confirm action taken by the Attorney General looking to the settlement of the suit filed by the University for the recovery of additional

oil royalty payments, including the question of fraud set out in the petition, provided the defendants will turn over to the Board of Regents the funds now in escrow, and provided that from the date of entry of the compromise judgment by the court the oil lessees agree to pay as royalty to the University one-fourth of the oil produced or one-fourth of the proceeds of the oil produced, the Board of Regents to have the option as to which they receive, with the further understanding that no gathering charge is to be made against the University and only such deduction allowed for basic sediment and water as is actually found to be present in the oil (University of Texas Board of Regents Minutes, 1927b, p. 23).

This settlement resulted in an immediate payment of \$1,000,000 from Texon Oil Company and an improvement in the business arrangement with future oil producers. This meeting and the agreement must have been a tremendous relief to the Board. It must have been very satisfying to the Regents to recover so much money from the oil producer without having to go to court.

Also at this meeting, one of the Regents reported a conversation with Governor Dan Moody in which the Governor expressed the thought that the University was not receiving top dollar for its oil. The Governor met the Board and discussed ways to obtain a higher price. In a specially called meeting held in Dallas on December 23, 1927, there were additional conversations about the validity of the leases and the following letter from the Attorney General was entered into the minutes:

To The Members of the Board of Regents:

Gentlemen:

Since the meeting of the Land Committee in Dallas and the meeting the following Monday of the Board of Regents in Austin, I have been giving quite careful consideration to the case of Theisen v. Robins Land Commissioner, about which the Regents are interested, and in regard to which they suggested that if I requested it or desired it, they would employ additional counsel. I suggested that I be given an opportunity to

investigate the issues involved in the case since it was one that had lapped over into my administration, and I would advise them later. The pressure of business in the department has prevented my giving earlier advice than this. The case has been set for submission along with some cases that involved the validity of the Relinquishment Act for January 18, 1928.

The relator in this case is represented by Judge W. R. Ward of Houston, formerly county judge of Harris County, the relator in a companion case of Rosa Frank being represented by Ex-Attorney General Keeling and G.B. Smedley. Respondent in these cases is represented by E.F. Smith, formerly Assistant Attorney General. These cases arise under the general mineral leasing acts of the State and both relators filed mineral applications upon the same tract of land under the General Permit Law, one filing upon the theory that the land was surveyed, and the other filing upon the claim that the land was unsurveyed. Both claimed that though the land involved is University land and would, if the University Land Leasing Act of 1925 is valid, come within the exclusive purview of that act, but they both claim that said act is unconstitutional and void for the reason that it merely provides for the creation of an option and not a sale as required by the Constitution, and other reasons presented in the brief.

At the instance (sic) of the Regents of the University, the previous administration of the Attorney General's Department filed an application to intervene on behalf of the University Regents attacking the constitutionality of the University Land Leasing Act of 1925, authorizing the sale of oil and gas leases on lands owned by the University. This was the act under which the Commissioner was required to advertise for lease the lands belonging to the University once each month and awarding the lease to the highest bidder. This act was attacked by the plea of intervention as well as by the briefs of the relators. Of course, if this act is not valid, then the general permit law, under which both of the relators claim, would be applicable. Neither the relators' briefs nor the briefs filed on behalf of the Regents of the University nor the respondent's briefs contended that the general permit law was unconstitutional. This question was raised by Judge Padelford, who filed an amicus brief, and this brief is largely the basis of the opinion rendered by Judge Nichols. Judge Nichols held that both the law under which the relators claim as well as the law under which the respondent defends, were alike, unconstitutional. The intervention of the Board of Regents incidentally set up the exclusive application of the statutes authorizing the making of mineral leases by the Board of Regents. The effect of the opinion of Judge Nichols is that all leases for mineral purposes heretofore made, running into the hundreds of millions of dollars are invalid and void, because all laws authorizing such

leases are unconstitutional. The effect of his opinion is that no lease or mineral permit heretofore given by the Land Commissioner on any of the public lands is valid, that they are all void, and unauthorized by the Constitution. The question of the validity of the law authorizing the making of mineral leases by the Board of Regents was not decided, and, in my judgment could not be decided, because not involved on the facts [sic].

The disastrous and chaotic results of the opinion of Judge Nichols would be such that I am not disposed, as representing the Law Department of the Government, to seek to uphold it, for the reason that after careful consideration of the questions involved, I have concluded that he is wrong, and that the general permit and leasing laws of the State which have existed for a quarter of a century and under which thousands of acres have been leased, and millions of dollars paid into the various funds of the State are valid and should be upheld, and I believe that it the duty of this department to defend the general permit and leasing laws if it interferes in the case at all, and not seek by any other brief filed or argument made, to tear down this law, in view of the uniform section under it by the officers of the State Government for a quarter of a century. The case has been thoroughly briefed on both sides, upon the part of the relators by Judge Ward and Mr. Smedley, and upon the part of the Land Commissioner by Mr. E. F. Smith, and the argument will be ably presented by these attorneys.

It is more than probable that if Judge Nichols' opinion as to the general permit law were upheld, it would follow as a logical sequence that we must dismiss the Reagan County Purchasing Company case, for all of the leases on University Land having been made under this law and being utterly void on the grounds of unconstitutionality, an accounting of fraud with relation to such leases would seemingly be immaterial. The Legislature, indeed, might be morally obligated to make some kind of restitution out of the University funds. These things are mentioned in illustration of view of where the interests of the University lie in this matter. (University of Texas Board of Regents Minutes, 1927c, p. 165)

The potential impact of this letter on the Regents must have been devastating.

The Attorney General was telling them that if the court decision were allowed to stand, all of the oil leases that were in place on University land would be void. It would be hard to imagine the number of suits that would be filed against the University by the oil

companies involved. If this suit were allowed to stand, the Permanent University Fund would no longer have the funds for the University to perform its mission properly. The Board then agreed to hire an attorney to represent it before the Supreme Court. Before the Court could rule the Legislature took action.

In 1929, Senate Bill 82, one of the most important bills ever considered by the Texas Legislature regarding the University of Texas and the PUF, was passed. This legislation changed the oil and gas lease program and established new administrative procedures that have increased the money received for oil and gas leases. At the time, the PUF was growing at the rate of \$250,000 per month. A large part of the income was coming from the Big Lake oil strike located at Big Lake, Texas. Part of this Act is quoted because of its importance to the Fund.

An Act to provide for the sale of oil and gas in and on University lands; to create a board to perform the duties with reference thereto provided hereby; to provide for surveying, dividing and marking of said land; describing the duties of the Board of Regents of the University of Texas and the Commissioner of the General Land Office of the State of Texas, authorizing the employment of a geologist and mineralogist, and other employees, and making an appropriation and repealing all laws in conflict herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. A Board is hereby created to consist of the Commissioner of the General Land Office and two members of the Board of Regents of the University of Texas, neither of whom is employed either directly or indirectly by any oil and gas company, nor as an officer or an attorney thereof, to be selected by said Board of Regents, who shall perform the duties hereinafter indicated; the board shall be known as Board for Lease of University Lands. (1929 Tex. Gen. Laws 621)

This is the same law that was referred to in Chapter Four that helped settle the dispute between the Regents and the Land Commissioner. In settling that dispute, the legislature made the PUF more efficient and helped it prosper.

Summary

This chapter has reviewed many of the issues regarding the Bureau of Economic Geology and the discovery of oil on University lands. The fact that the University was able to have the state mineral survey placed under the Regents' authority in 1903 led to the creation of the Bureau. Dr. Phillips' ability to organize and set up the Bureau paid rich dividends to the PUF. Having the State Geologist as part of the University staff created a focal point for all geologists in the state to discuss new findings and ideas about their application. This has benefited the University greatly.

Also establishing the validity of the oil and gas leases by the Legislature ranked as an important milestone for the PUF.

The discovery of the Santa Rita well and the income produced by that well began to change the financial position of the University and that discovery well increased the lease, exploration and production activities on the PUF land.

CHAPTER SEVEN

CLOSING COMMENTS

This research has shown how the Permanent University Fund was established and how it grew through 1937. The vision of early Texas heroes and their positive outlook towards higher education occurred at a time when Texas was sparsely populated. There was not in place even the most rudimentary education system at the time when the University was envisioned and the PUF was started.

The three different gifts of land to the PUF played a major role in its success. The earliest gift, the 50 leagues of land and the subsequent sale of that land, provided the cash for the opening of the University in 1883. A review of the second and third parcels of land revealed that while the Legislature was generous in the size of their gifts—two million acres—they were not as generous when it came to the quality of the land. The land the PUF received was among the worst in all of Texas. Land that contained surface water or was located adjacent to rivers or streams had been homesteaded by early settlers before the grants were made. Many Texans have spoken about the generosity of the Legislature because of the wealth that has been produced from the land. But in the context of the 1800s, the Legislature made a very modest gift to the University. This makes what happened in later years all the more interesting.

The Regents had to struggle to create income from the PUF. The land was located in an area that was virtually desert. The annual rainfall of most of the counties that contain University lands is modest. The land is of marginal use for grazing. Most of the

land's original value depended on adequate rainfall to grow grass for cattle. Tenants had to be very careful not to invest too much in lease payments because they had no way of making money if the rains did not come. The record indicates that when the rains did not come, the Regents were faced with delinquent lease payments. All of this made it very difficult for the early Regents to build and sustain a university.

The good fortune predicted by Ashbel Smith at the dedication of the University came true. "Texas holds embedded in its earth rocks and minerals which now lie idle because unknown, resources of incalculable industrial utility, of wealth and power. Smite the earth, smite the rocks with the rod of knowledge and fountains of unstinted wealth will gush forth" (Silverthorne, 1982, p. 219). But the good fortune came because of good planning and artful negotiations.

The Regents had the foresight to create the Bureau of Economic Geology and ask its staff to look for possible mineral deposits on University land. The knowledge obtained by the Bureau accelerated the exploration of the lands. It can easily be assumed that an investor trying to sell a deal to drill an oil well on University lands most likely used geological information from the Bureau to raise money. The money for the first well came from out of state. The success of Texas oil fields made it a little easier to raise capital for drilling. The fact that Texas was known to have a strong oil industry regulator, the Texas Railroad Commission, gave comfort to investors. The job of raising money was easier because of the infrastructure that was in place and the vast wealth that had been created by fortunate investors. But it still took a great deal of money to drill on University lands.

The discovery well on University land, the Santa Rita, was drilled in an area well away from known oil fields. There were few roads, and the railroads were hundreds of miles away. Without investor money, this area would not have developed in 1923.

Another area of interest is how quickly the oil wells were drilled on various parts of the University lands. This happened for two primary reasons: 1) the successful production of the Santa Rita well, and 2) by 1923, the oil industry in Texas was well developed. The first commercial well was drilled in Texas in 1865, and the first large gusher, the famous Spindletop well, was drilled in 1901. All of this success brought businessmen, speculators, geologists and drilling contractors from around the country to Texas to seek their fortunes. Most of these people were in place when word came of this new development well in far West Texas. It did not take long for other drilling rigs to find their way to University lands. Shortly afterward came the railroads and their tanker cars to carry the oil away. That was followed by the construction of pipelines that made it even more economical to transport the oil. All of this economic frenzy created a lot of wealth very quickly for the PUF.

Much credit must go to the Texas Legislature for having an understanding of the laws that needed to be passed to protect the interests of the State and the recipients of the appropriated lands. In retrospect, the wisdom of preserving the mineral rights for the PUF paid almost unbelievable dividends. A strong case can be made that the private ownership of mineral rights caused the rapid development of the Texas oil industry. The drive for personal wealth caused investors to go to extraordinary lengths to develop Texas oil and gas deposits. This industry has a record of success that is unmatched in the world.

The story about the dispute between the General Land Commissioner and the Regents over management of the University lands is really a reflection of early Texas politics. The Land Commissioner was one of the first offices identified in the Constitution, and it has been held by men of great political skill. But when faced with a powerful and influential University of Texas Board of Regents, the office was handed a rare political defeat. Getting control of the University land, and the later wealth associated with the PUF, was not a battle these Regents were prepared to lose.

A part of the story of the early years of the PUF that was apparent from the minutes of their meetings, but not much discussed specifically, was the easy and direct access the Regents had to state leaders. In minutes from a meeting in the late 1800's, there is a line where the President of the Board of Regents says to send word to the Governor that they are meeting and would be glad to receive him. And it was recorded that the Governor joined the Regents within 15 minutes. The meeting minutes often reflected the obvious deference with which the various Governors treated the Regents, even though those same Governors were the very persons who had appointed these Regents to their positions.

The primary interest in the history of the Permanent University Fund is economic. Even the story about the relationship between the University Regents and the Board of Directors of A&M has an economic basis. It is certainly true that the Directors wanted A&M to be separated from the University, and governance was the focus of some of their interest in early discussions. However, financing the institutions was of basic concern from the beginning when the two institutions decided that because there was so little

money available that A&M would only receive \$500 per year from the PUF and would have to rely upon the Legislature for additional funding. There was a new aggressiveness on the part of the A&M Directors after the discovery of oil on University lands. They had been happy for the Regents to manage the land when it appeared to be useful for only grazing. All that changed, however, when oil was discovered and there was real money to fight over. The pressure from the A&M Directors to receive a portion of the income from the PUF really appeared when the monthly income increased from several thousand dollars from grazing lease payments to hundreds of thousands of dollars from oil royalties.

Further Research

There is much more research that needs to be done on this subject. It would be very helpful for someone to conduct a legislative history on all of the laws that have been passed that have at one time or another affected the PUF. The General Land Office has a great deal of information in its files on early oil leases and some of the early work that was done on straightening out the survey lines. This could be researched in depth. There was a great deal of poor work done in the Land Office during the early years, 1836-1860. Most of it can be blamed on the lack of staff in the office. However, there are still title disputes that arise today caused by some of these old problems. It would also be helpful to study the history of the University Lands Office in Midland, Texas. I was able to spend one day going through files and was impressed with their staff and their knowledge of the PUF lands; therefore, there is a great deal to be learned from that office.

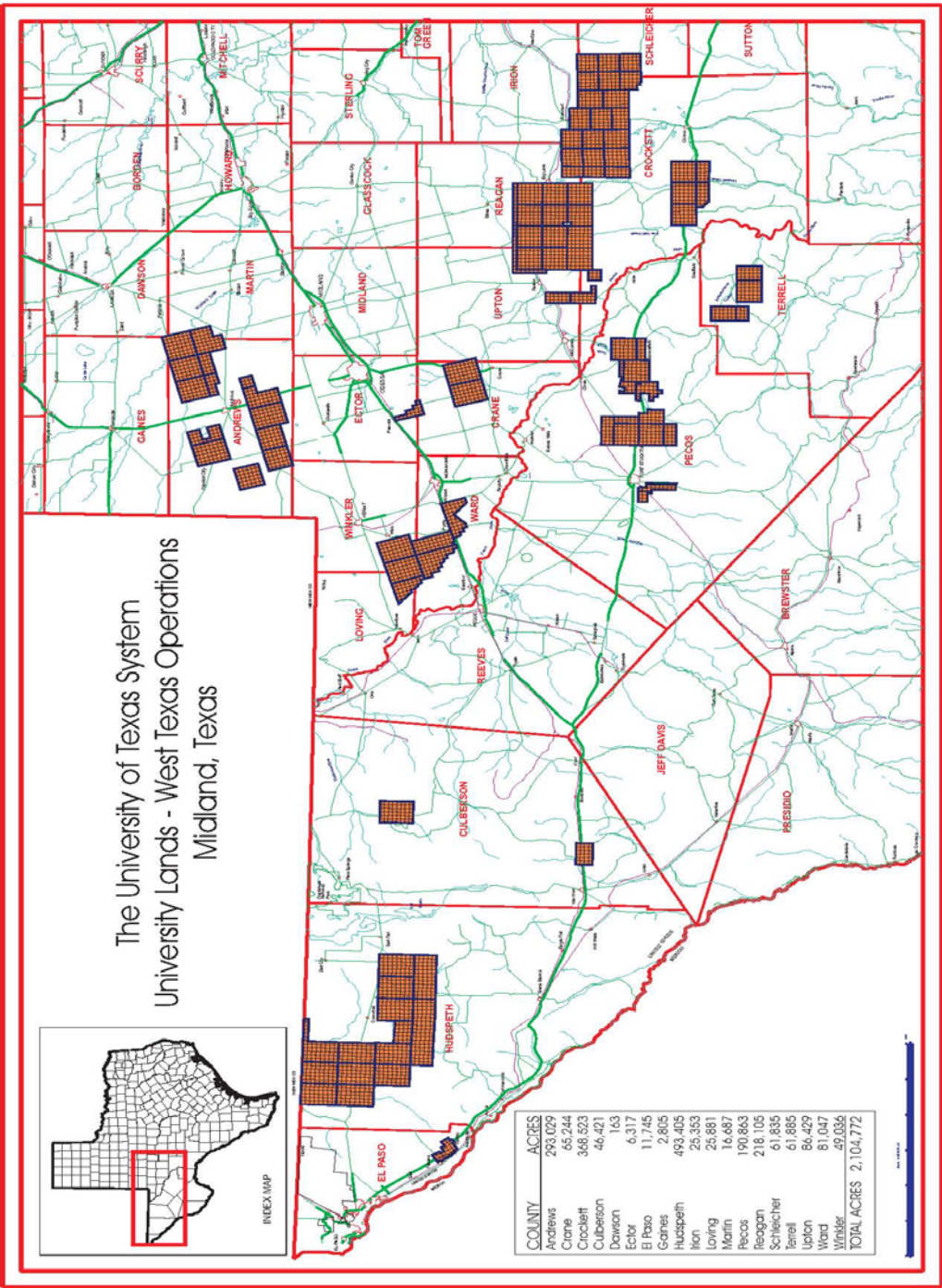
It would also be interesting to study the relationships between the findings of this study and important events concerning the PUF that have occurred since 1937, such as the expansion of the PUF in the 1970's when it increased significantly in value because of the increased production of oil and gas and various policy decisions by the Board of Regents, the redefinition of the proper use of the PUF fund proceeds in the early 1980's, The inclusion of Prairie View A&M as a recipient of operating support, the establishment of the Higher Education Assistance Fund for institutions that are not covered by the PUF, and the constitutional amendment of 1999. All of these issues warrant further study.

Conclusions

The story of the early years of the Permanent University Fund is mostly about economics, because it was economics that drove much of the activity discussed. However, it is also about a group of Regents who gave of their time, talent, and sometimes their treasure to make sure that the University of Texas would become an institution of pride for all Texans. The Board of Regents has continued to manage the PUF, and the Fund has enjoyed tremendous growth since its inception. PUF investments are managed now by the University of Texas Investment Management Company (UTIMCO), and the annual 2005 Report to the Legislature showed that the PUF had a net asset value of \$9,426,700,000 at the end of the 2004-2005 fiscal year.

The success of the Permanent University Fund has meant, and will continue to mean, that thousands of Texans will be able to attend first-class state universities. The impact of the Permanent University Fund on Texas and Texans is beyond measure.

Figure 1. Map of the University of Texas System University Lands – West Texas



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VITA

Charles Ray Matthews was born in Waco, Texas and for all but four years attended Catholic schools. Matthews graduated from Waco Catholic High, now known as Reicher High School. He has an undergraduate degree from the University of Texas at Dallas and a Master's degree in Public Administration from Texas State University-San Marcos. Matthews has been honored by the alumni associations of both institutions as an "Outstanding Alumnus."

Matthews' interest in the Permanent University Fund stems from his experience in dealing with various energy issues. The discussion about energy of various kinds has been part of his life for 40 years. Little did he realize when he moved to Garland, Texas in the early 1960s, that he would become interested and involved in the effects of the availability and price of energy on the Texas economy.

Garland is a unique city in that it owns a very large municipal electric utility and that power agency has competed against an investor-owned electric utility for customers. This competition began in the 1920s and only recently ended. The competition was fierce, fueled much of city politics, and was the subject of much of the "coffee shop talk" in the city. Matthews remembers remarking in the 1970s that the citizens of Garland must know more about the cost of fuel to fire power plants and the benefits of different kinds of fuel than those in any other city in Texas. He was a participant in those conversations and the politics that surrounded the debates. He was forced to become a student of energy issues when he began to get involved in local politics.

In 1979, the Garland City Council appointed Matthews to the Board of Directors of the Texas Municipal Power Agency (TMPA). TMPA was a joint-action agency that was established by the Legislature in 1975. The members were four Texas cities which each owned their own municipal electric utility. When Matthews joined the Board, the Agency had already begun the construction of a power plant and was beginning to acquire lignite deposits. The lignite was to be the fuel source for the new plant. In addition the Agency owned an interest in a nuclear power plant being built in Glenrose, Texas. During his four years on the Board, Matthews was one of six people on the owners' committee of the nuclear power agency, and in his last year of service, he served as president of the TMPA Board. When the lignite-fired power plant was dedicated, the total cost of the project had grown to two billion dollars.

One year later Matthews was elected as Mayor of Garland. One of his responsibilities was to help oversee Garland Power and Light (GLP). This municipal utility is the third largest in Texas. He used that opportunity to expand the use and profit of GPL resulting in the sale of electricity to twenty seven other municipalities.

Matthews ran successfully for statewide office in 1994 as a member of the Texas Railroad Commission and was re-elected in 2000. The Commission is considered the premier state energy regulator. It was created by the Legislature in 1891, and in 1919, it was given the responsibility of regulating the Texas oil and gas industry. Texas has been our nation's largest oil and gas producing state for over one hundred years. Because of the size of the early oil industry in Texas, the regulation of oil production had the effect

of setting the world price of oil from 1932 until 1973. The rise of Oil Producing Exporting Countries (OPEC) in 1973 lessened the Commission's influence on prices.

During his ten years as a Commissioner, he had the opportunity to witness the continuing development of the oil and gas wells located on University lands. These lands are part of the Permanent University Fund. As a doctoral student at the University of Texas at Austin, Matthews began to research the PUF.

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