

File 4116.

Acquid. 3 clas

No 288

Carl Frank  
536 4/11

3 20

for Patent see 4575 No.

3 8th Aug 73

Gen. Emig 6104  
For Bal. see Nac-37 4187

Covers a part of C. H.  
Lind says survey 1-824  
Otherwise correct on  
map of Cherokee Co.

July 7/73. E Schutey  
July 18/73 Th. Schutey

Comet for patenting to

E. L. Gregg Ass<sup>t</sup> Rongly

July 19/73

Patent to E. L. Gregg Ass<sup>t</sup>

July 19. 1873 L. E. C. Kelmer  
MR. P. P. R.

Patented to E. L. Gregg  
apex July 19/73 A. L. L. L.

3 6 3 4 2

No 236 - 11/41

C. C. April 30/73. J. Bickler.

transf from Frank to  
Gregg  
June 10/73 (Ala)

See Letter within  
with Certificate No 19/196  
issued & forwarded to  
Gunn & Co 199 Hwy  
19/74 Shelley

Contents

- 1 Certificate
- 2 Transfer
- 3 field notes
- 4 Protest
- 5 Letter

Feb 6 - 1879

Seagr

Gunn & Gregg wants  
Patent on map of this  
the 1st claim

see Letter  
with

Gunn & Gregg  
want Patent  
May 8/74



THE STATE OF TEXAS

I, JOSEPH E. PORTIS, Commissioner appointed by the Governor of the State of Texas, under Act No. 20 to locate to the German Immigration Company and their Colonists the lands to which they are entitled, and to adjust the boundaries of said Company, do hereby certify that

Carl Frank  
Certificate No. 104  
for 640 Acres  
Posto, Comd

File 4116  
No. 3 C  
Carl Frank  
104 Perm 8

Filed April 16/73

CONTRACT

Map of said Colony

I do further certify that and is entitled to the acres designated in the testimony of Joseph E. Portis, of the records and returns in this case, and that the same are hereby confirmed to the said Carl Frank.

State of Texas }  
Austin County }

Know all Men by this public instrument of record  
being made and entered into by and between Carl  
Travis of the County of Austin in the State of Texas  
of the first part and E. L. Gregg

of the County of Cherokee in the State of  
Texas of the second part, Witnesseth  
That for and in consideration of the sum of Three-  
hundred and twenty Dollars in hand paid by the party  
of the second part to the party of the first part, the receipt  
of which is hereby fully acknowledged and confessed, the  
said party of the first part, by this act has Granted,  
Bargained, Sold, Conveyed and Released, and doth hereby  
grant, Bargain, Sell, Convey and Release unto the said  
party of the second part, his heirs, assigns and legal  
representatives, the following described lands and  
premises, lying and being situated in the County  
of ~~Brewer~~ in the State of Texas, To Wit:

640 acres of Land known as Survey Number  
201 & 202 in Twp 5 District N 4 being the  
Land to which I am entitled as a colonist  
of the German Emigration Company of Houston

as Listers and Millers Grant, as is shewn by  
Certificate No 104 Issued to me by Joseph F.  
Polk's Commissioner of Industry on the fourteenth  
day of May A. D. 1850, Together with all and singular  
the rights, members, improvements, hereditaments  
and appurtenances to the same belonging, or in  
anywise incident or appertaining, and the overviews  
and remainders rents, issues and profits thereof. To  
Have and to Hold all and singular the premises  
and hereditaments above enumerated and hereby en-  
titled granted, with the appurtenances thereto  
belonging, to the said part of the second party,  
his heirs and assigns forever. And the said part  
of the first part by this act bind myself  
my heirs, executors and administrators to war-  
rant and defend forever all and singular the  
said premises before described premises,  
unto the said part of the second party, heirs  
and assigns, against every person or persons  
whomsoever lawfully claiming or to claim  
the same or any part thereof.

In witness of all which the part of the  
first part hereunto set my hand and seal (using  
scroll for seal) at this 14<sup>th</sup> day  
of March in the year of our Lord one  
Thousand eight hundred fifty one.

Witnesses:

Louis Trann  
Carl Bauer

Carl Frank



NAC-3  
4114

The State of Texas }

County of Comal }

Before me the undersigned Theodore Köster  
Chief Justice and ex officio Notary Public in and for  
said County, duly commissioned and qualified this  
day personally appeared Louis Frank of the County  
of Austin, who being by me duly sworn according to  
law solemnly depone and declared, that he is the  
same person whose name has been subscribed to  
the above deed and that he the said Louis Frank  
was present at the signing and sealing of the foregoing  
instrument of writing and saw Carl Frank sign  
the same and heard him acknowledge that he the said  
Carl Frank did so for the purposes and considerations  
therein expressed. And the deponent further declared  
that he the said deponent and Carl Bauer signed their  
names therunto as witnesses. In testimony whereof  
I hereunto set my hand and affix  
the seal of the County Court of Comal  
County aforesaid. At the City of New-  
Wauwau this the twenty ninth day  
of March Anno Domini One thousand  
eight hundred and fifty one.

T. Köster

Chief Justice and ex officio Notary  
Public Comal Cty

2<sup>o</sup> Feb 1874  
May 3<sup>o</sup> 1873

Dea of <sup>Sp. 104.</sup>  
Carl Frank (640)

to  
No. 201/200 Tyris Distr 4

Edwards  
File

John Fox received on  
the 21<sup>st</sup> day of May  
A.D. 1873

W. L. Byrd to C. B.

authd.

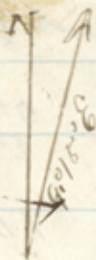
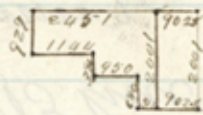
Filed June 10<sup>th</sup> 1873  
Chas. F. Allen  
R.C.

Recording fees \$1.40

The Clerk of the Court, I hereby certify that the foregoing  
When Mr. Caprony's record was filed in my office in  
for record on the 21<sup>st</sup> day of May A.D. 1873, and  
was recorded on the same day, in Book "A" of  
pages 273 & 274.

Given under my hand and Seal  
of Office the 21<sup>st</sup> day of May  
A.D. 1873, W. L. Byrd C. B.

State of Texas Field Notes of a sur-  
veyor Cherokee County Survey of 536 $\frac{1}{2}$  acres of  
land made for C. L. Gregg by  
virtue of Land Certificate No. 104  
issued to Care Frank by Joseph



scale 4000 ft per inch

P. Portis Commiss<sup>r</sup> of date the 14<sup>th</sup> of May A. D.  
1850. the same being an emigration Certificate  
issued to said Frank by virtue of his having em-  
migrated to Texas previous to September the  
1<sup>st</sup> A. D. 1847 for 640 acres of land.

Said Survey is situated in Cherokee County  
on the waters of the Naches River about 7  
miles N. W. from the Town of Rust more or  
less and is part of a forfeited survey made  
for Wm. H. Lindsay on the 30 day of Sep-  
tember A. D. 1847 by virtue of Certificate No.  
648. issued by the Board of L<sup>d</sup> Commiss<sup>r</sup> for  
 $\frac{2}{3}$  of a League and one Labor of land.

Beginning at the S. W. corner of a survey of  
320 acres made for C. L. Gregg by virtue of  
Duplicate Certificate issued to Thomas Tubbs and  
on the N. B. line of J. Thomson Survey No. 674.

Thence N. with said N. B. line 358 varas to a  
Stake on the C. B. line of W. S. Hamilton Survey  
No. 52 from which a Red Oak 24 in dia. brs.  
N. 17. W. 10 varas a Black Jack 12 in dia. brs.  
S. 58 E. 7 varas. Thence N. with the C. B. line of  
No. 52 680 varas to the N. E. corner of No. 52, a  
Post from which a Black Jack 10 in dia. brs.

S. 86. E. 5 varas and another Black Jack 0 2.  
 mi dra. brs N. 6. W. 10 varas Thence W. with  
 the N. B. line of said No. 22. 950 varas to the  
 E. B. line of G. W. Prince Survey No. 266. a  
 post from which an Ash 18 2. mi dra brs S.  
 87 E. 6 varas a Walnut 9 2. mi dra brs S.  
 33. W. 6 varas Thence W with E. B. line of  
 No. 266. 394 varas to the N. E. corner of same  
 a post from which a Pine 14 2. mi. dra brs.  
 N. 82 W.  $4\frac{1}{4}$  varas a Red Oak 8 2. mi dra.  
 brs S. 57 E. 11 varas Thence W. with N. B. line  
 of said No. 266. 1144 varas to a S. E. corner of  
 John Smithers Survey No. 545. A post from  
 which a sweet gum 18 2. mi dra. brs. S. 11 E.  
 3 varas a Black gum 12 2. mi dra brs. S. 6  
 E. 5 varas Thence N with the E. B. line of said  
 Smithers Survey 927 varas to ~~the S. W. corner~~  
~~of J. C. Arrington Survey No. 222.~~ <sup>a stake on E. B. line of</sup>  
~~M. C. Patton~~ A post from  
 which a Hickory 9 2. mi dra. brs. S. 71. E. 13 varas  
 and a Post oak 9 2. mi dra brs. N. 61 W. 9 varas  
 Thence E. with S. B. line of said <sup>Patton's</sup> ~~Arrington~~ sur-  
 vey at 940 varas a branch. course S. E. at  
 1754 varas S. E. corner of <sup>M. C. Patton</sup> ~~J. C. Arrington~~ Survey  
 2451  $\frac{2}{10}$  varas the N. W. corner of said 320  
 acre survey in the name of Thomas Tubb  
 Thence S. with said Tubb N. B. line 2001  
 varas to the place of Beginning.

Surveyed April 4 A.D. 1875. NAC-3  
4116  
 J. C. Patton  
 J. P. Gibson A.S.C.

J. C. Patton  
 J. P. Gibson  
 J. P. Gibson

I, James P. Gibson County Surveyor  
of Cherokee County do hereby certify that  
the foregoing survey was made accord-  
ing to law and that the limits bound-  
aries and corners with the markers  
natural and artificial are truly and  
correctly described in the foregoing  
plot and field notes and that said  
field notes are recorded in my office  
in Book A on pages 198 & 9.

Given under my hand this the 5  
Day of April A.D. 1873

James P. Gibson  
County Surveyor  
Cherokee County

3 File 4116

Pacodochus & Clap

Field notes

Field notes of 536 7/10 ac

Carl Frank

Filed Apl 16<sup>th</sup> 73

A Survey of  
536 7/10 acres  
of land  
made for  
E. L. Gregg

Patented to E. L. Gregg.

ap<sup>ro</sup> July 19/73

A. S. Gour

April 1873

C. C. April 30/73. J. Bickler. C. C. April 30/73. J. Bickler.

13

To the Commissioner of The General  
Land Office, Austin Texas

The undersigned, a  
resident citizen of the County  
of Cherokee and State of Texas,  
having bona fide settled upon  
public domain on the 16th day  
of December A. D. 1872, on what  
is known as the Owen H. Linsey  
Survey in said County, more  
particularly designated in the  
accompanying Certified Copy of  
Homestead Application filed in the  
Office of the County Surveyor of  
said County on the 4th day of  
August 1873, and learning that  
one E. L. Gregg, did on the 1st day of  
January 1873 file upon said Survey  
by virtue of Certificate No  $\frac{29}{363}$  dupli-  
-icate issued to Thomas Tubbs January  
15. 1872. The Original of which was  
issued to said Tubbs by the Board  
of Land Commissioners of Macoydoche  
County on the 4th day of March  
A. D. 1874 for 640 acres of land,  
Also Certificate 104 issued to Carl  
Frank by Joseph P. Porter's Commissioner,  
on the 14th day of May 1850,

a protest is hereby entered against  
the issuing of a Patent to the  
said Gregg or any other person  
or persons whatsoever, upon  
the said Survey, particularly  
that portion of the same  
embraced in the above recited  
Application and Designation.

This the 5<sup>th</sup> day of August A. D. 1843

Bailep L. Baker

for Willson & Barron

Attorneys

4 4116  
Nacoy. (3)ly

Protest

Grand Jury. 8/73

Nov. 3. 4116

Rusk Texas

Sept 16<sup>th</sup> 1873.

Comr. Genl Land Office

Adrian Texas.

Sr.

We are in receipt of communication requesting return of Patent issued on survey of Edie Frank, 536 $\frac{1}{2}$  acres because of Conflict of Pre-emption Survey made for J. M. B. McKnight, and we supposed in Conflict with survey made for B. G. Acker in Cherokee County. In reply to which we state, the facts to be, in the premises, substantially as follows; That upon an investigation of the O. H. Lindsay Survey in this County containing about 850 acres, we ascertained through yourself that it had reverted back to the state and was subject to location and no settlers being on it at the time we proceeded to purchase certificates to file upon it. Before we obtained the said Frank 640, our E. L. Greig filed two certificates upon <sup>it</sup> on 12 day of Oct 1872 (viz) Certificate No 975. issued to Jeremiah Whitworth  $\frac{1}{3}$  of League by Bd Land Comr. Harris Co. crossing with this certificate

590 acres of said <sup>vacancy</sup> also certificate No 29/363  
640, duplicate issued to Thos Tubbs 17<sup>th</sup>  
July 1872, covering 311 acres of said  
vacancy.

After this on (to wit) the 29<sup>th</sup> day  
of October 1872, our E. L. Gregg bargained  
sold, and executed Bond for title (to be  
made in reasonable time) to the said  
B. G. Aker with C. C. Francis and R. H.  
Gurine as sureties, the said Aker  
executing his promissory note to the  
said E. L. Gregg for four hundred  
dollars payable on the 1<sup>st</sup> day of  
January 1873, for two hundred acres of  
said land, upon which the said  
B. G. Aker did on 20<sup>th</sup> day of January 1873  
make payment of (200<sup>00</sup>) which credit  
was entered upon said note.

In consequence  
of defect in transfers of the Jeremiah Whitworth  
Certificates, the Carl Frank was purchased  
and substituted on the 1<sup>st</sup> day of January  
1873, and recorded in connection with  
the Thos Tubbs 320, covering the vacancy

When our Mr Gregg  
sold the land to Aker he was making  
arrangements to emigrate to the west - but  
upon making said purchase moved upon

The land and commenced improving under  
The above stated Contract.

At The same time  
E. S. Greig made verbal Contract with J. M. B.  
McKnight for five hundred acres of The Land  
250 acres to be paid for on The 10<sup>th</sup> day of January  
1873, and 250 acres to be paid for on 10<sup>th</sup> day  
Januy 1874. The Contract for last payment  
was on Condition that The said McKnight  
succeeded in selling his homestead  
situated in This County. after which and  
under said Contract McKnight commenced  
his improvement, about The 10<sup>th</sup> of Feb  
1873, he proposed to make a very small  
payment on The Land to our E. S. Greig  
which was not accepted, Mr G. demanding  
a Compliance with The Contract, upon  
which The said McKnight stated that he  
was not able to pay for The Land unless  
he could get time. Subsequently information  
was obtained that The said McKnight had  
abandoned work on The place, and had  
declined altogether to comply or pay for  
The Land, upon which The Land bargained  
to him, was sold to another party. At  
This time and until a few days before  
The pre-emption files were made we had  
no information or Knowledge that either

The said McKnight or Acker for a moment  
contemplated holding or trying to hold the  
land by presumption, they having recognized  
the claim of Ed Gregg during this entire  
occupancy, and up to within a few days  
of their file, as appearing upon Surveyors  
Books,

At the time Ed Gregg made contract  
with Mr McKnight, he McKnight was the  
owner of 200 acres of land in Cherokee Co  
and on the 16<sup>th</sup> day of December 1872, he McKnight  
and wife conveyed the said land to Marion  
Acker for the consideration of six hundred  
dollars, and on the 28<sup>th</sup> day of said  
month acknowledged the execution of said  
conveyance. The same was sold on time  
no part of it having been paid up  
to the present time, leaving the equitable  
title to said land in McKnight & wife, until  
the purchase money is paid,

For the above  
reasons we respectfully decline to return Patent  
and ask in justice to ourselves and others, that  
Patent be forwarded for 326 Thomas Tubbs, and  
unlocated balance Carl Frank.

We further protest  
against any action being taken in favor of  
said presumption claims, as they were made  
in bad faith and unauthorized by law.  
Respectfully,  
Wm & Gregg

The State of Texas } On this day, personally appeared  
Cherokee County } The undersigned Authority E. L.  
Gregg & Co. & Francis both well known to me  
who after being duly sworn, state that <sup>the</sup> facts  
contained in the letter of Quinn & Gregg  
dated Sept 16<sup>th</sup> 1873, addressed to the Commr of  
The Genl Land Office, in relation to the  
filing of certain Certificates upon a Tract of  
Land described in said letter, and the sale of  
said Land to B. G. Acker and J. M. & M. Knight  
and their settlement upon the same are true  
& correct, that the filing of said Certificates  
came under the personal knowledge of E. L. Gregg  
and the sale and purchase of the Land by said  
McKnight and Acker came under the personal  
knowledge of both affiants, and at the  
time said Land was sold neither of them  
resided upon it, but both entered and  
went into possession under said  
Contract.

Sworn to, and Subscribed E. L. Gregg  
before me the 4<sup>th</sup> day of  
October 1873

M. L. Byrd eccce

5 File 4116  
Nacoydoehis 3rd class  
Letter  
Linn & Gage  
Relative to cancella-  
tion of Patent on  
account of conflict  
with Preamptors  
claims

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Letter  
Linn & Gage  
Dated  
September 16th 1813