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THE UNIVERSITY OF TEXAS
AUSTIN

January 18, 1943

SCOTT GAINES
LAND ATTORNEY

J. H. WALKER
UNIVERSITY LANDS OFFICER

JAN 22 1943

Hon. Bascom Giles, Commissioner
General Land Office
Austin, Texas

REFERRED TO MAE

Dear Bascom:

Subject

The records of the General Land Office show a conflict between University Block 11 in Andrews County as surveyed by Mr. Friend in 1935 and School Land Block 73 as surveyed in 1902 by the county surveyor of Andrews County and later by Robt. E. Estes, a State Licensed Land Surveyor. The University authorities would be pleased if you would cause to be made an investigation of the records of the Land Office and take such administrative steps as you may deem proper for the adjustment of the boundary between these two blocks.

The
Back-
ground

In the hope of being of some assistance to you, I am laying before you the background of the University endowment which, seemingly, is necessary for a proper understanding of an apparently complicated situation. The story behind the University surveys is unlike that of any other location of surveys in Texas. In 1929 you made a transcript or tracing of the Corwin sketch of the University surveys east of the Pecos. A reprint of this tracing is enclosed for your use, for the reason that the original Corwin sketch in the Land Office has become obscure in some places, and your work is wonderfully clear. I am sure that you are familiar with the

January 18, 1943

case, but feel that a compilation of the facts shown by the records would be helpful to those coming after.

T&P
Rock
Mounds
Unknown

At the outset let me state that all ground connections indicated on Corwin's sketch appear in the Gunter & Munson surveys. Not a single marker of any kind is called for as being in the T&P blocks. The omission may be accounted for in the failure of the T&P field notes and sketches west of Block 37 to call for a single stone mound or permanent ground mark of any kind. To my mind, in 1884-5 Corwin knew nothing of the location of the T&P rock mounds, nor did Captain Wise, who directed the Gunter & Munson surveys, know of the location of such mounds. That Wise knew nothing of the location of the rock mounds is evidenced by the fact that he himself marked the 171st mile post on the Center Line at a point about 200 varas east and 170 varas north of where it was marked by the T&P surveyors in 1876 or 1885.

(See Bex. S. 43275)

Let me call to your attention the names of three gentlemen upon whose operations in the field and in the Land Office rest the location of the land set apart to the University east of the Rio Pecos: Captain W. C. Walsh, Captain Louis C. Wise and Captain Dennis Corwin, all having served the Confederacy on many of its battle fields.

Captain Walsh.--To this gentleman the University is almost solely indebted for the endowment of the second

January 18, 1943

Would
Take
For-
feited
Surveys

million acres of land. When the Constitutional Convention decided to withdraw every tenth section of railroad land from the University that had been set apart to it in 1858, Captain Walsh began his endeavors to retrieve this loss and finally with the aid of Hon. A. W. Terrell, Dr. Ashbel Smith and Dr. Thos D. Wooten he succeeded in securing the passage of the Act of April 10, 1883, setting apart a million acres for the University out of the reserve created by the Act of July 14, 1879. As disclosed by the Austin Daily Statesman of May 3, 1883, and the Weekly Statesman of May 10, 1883, and the Minutes of the University Regents, the Commissioner decided to select the forfeited surveys in the Pacific Reserve for the University and the School Fund and in this way to save the expense of surveying. On the 23rd of April that year the Legislature had made an appropriation of \$5,000 payable out of the Available University Fund and the Available School Fund for the purpose of surveying the land. This money, however, was not used.

Original
Surveyor

Captain Wise.--A graduate of Virginia Military Institute and a Captain of Engineers in Lee's Army of Northern Virginia, became a draftsman in the Land Office in the 70's and drew what is known as the Tom Green County map of 1880, on which the G&M forfeited surveys were platted in 1883. Soon after the compilation of this map Captain Wise resigned his position in the Land Office and moved to Abilene, Texas, where he opened

an engineering office. He was employed by Gunter & Munson and Maddox Bros. & Anderson to survey and direct the surveys of land for them under the Act of July 14, 1879. Captain Wise's surveys and surveys directly under his supervision seemed to have been made north of the T&P Center Line. The surveys for the same parties south of the Center Line were made by J. C. Caie and C. W. Graves.

Inspected
the
Land

Captain Corwin.--A Captain in the Confederate Army. He was county surveyor of Travis County in 1858, and after the War was sheriff for a few terms and also served again as county surveyor. He was employed by the Regents of the University to inspect the lands from which the Land Commissioner proposed to make his selections for the University and to assist that body in securing the best land obtainable. He made his report (known as his field notes) on the 12th of January, 1885, to the Land Commissioner in which he nominated 1,266,240 acres, from which the Commissioner selected one million acres for the University. Corwin's sketches show the selections.

On August 11, 1883, Dr. Ashbel Smith, President of the Board of Regents, wrote the Land Commissioner as follows:

"By request of the Board of Regents I have the honor to inquire as to the present status of the 1,000,000 acres as to setting apart, designation, etc. for the University of Texas. As the Board desires to adjourn today your early reply would oblige them."

January 18, 1943

This is letter No. 163351 Land Office files. On the same day the Land Commissioner responded as follows:

"Replying to your note of this date I will inform you that for the past six weeks I have had an extra draftsman employed tracing and platting the lands on the maps and giving him all the assistance I could from my regular force. From present indications I think it will be sixty days before the work is completed. I will hurry it all that is possible consistent with accuracy."
(Letter Book No. 148, p. 532.)

Blau's
Map

The forfeited surveys in Andrews County were platted on a special map by Felix G. Blau. This map includes T&P lands in Tom Green County as well as the T&P and the G&M forfeited sections in Andrews County. It is known as the Blau map. I have never been able to find in the records of the Land Office nor in those of the University the name of the draftsman who platted the Caie and Graves forfeited surveys on the map of Tom Green County, but the only payments so far found out of the Available University Fund for the purpose of selecting lands under the Act of April 10, 1883, were made to Dennis Corwin. This impresses me that Dennis Corwin entered the forfeited surveys on the map of Tom Green County, of which a tracing is now on file in the Land Office. The original map is in such condition that nothing certain can be determined from it.

In regard to Captain Corwin's employment, let me quote a letter which is impressed on page 177 in Book 167, Land Office Letter Books:

"I have waited until the present moment to receive such report as you desired to make under your employment by the University Regents as to the character of the land to be designated for the Common Schools and University. I cannot wait any longer and shall begin apportioning the lands as contemplated by law and award to each fund the best land I can from the information I possess. If you have any suggestion, I would be happy to receive it."

The record is clear that Commissioner Walsh thought all the necessary surveying had been done, and that the field notes on file could be used for the University and the School Fund. Commissioner Walsh's intention of using the field notes in adopting the forfeited surveys seemingly was abandoned for an unrecorded reason, as Corwin changed the block and section numbers on his sketch. That Walsh adopted the forfeited surveys in Andrews County, however, for the University is evident from Blau's map and Corwin's sketch. (See Cowan's letter attached.)

All locations south of the Center Line since 1895 seem to be controlled by the T&P monuments set out in their reconnaissance surveys as disclosed by copies of the field books filed in the Land Office under the Act of 1931. In all litigation, so far as my information goes, all parties have accepted these rock mounds as controlling. No issue has ever been raised as to the authenticity and locative functions of these mounds. Surveyors entering the field in the early 90's and at all times since have accepted them as the corners of

P5

the T&P surveys. As a matter of fact, the field notes of the T&P surveys west of Block 37 on file in your office in no instance call for rock mounds or any other ground marks as establishing their corners. South of the Center Line the G&M surveys, not calling for identifiable objects, take their ground position from their ties to the T&P surveys. (See the Underwood sketch compiled in the Land Office.)

The G&M surveys north of the Center Line are marked by their own rock mounds which are identifiable with certainty as far west as the west line of Block 42, and consequently take position from their own markers. (The term "G&M" is used to apply to all surveys in that area made under the Act of July 14, 1879, the field notes of which are on file in your office or of record in Palo Pinto County.) Surveyors and the occupants of the land have accepted the G&M rock mounds as set by Captain Wise in 1882, and UT Blocks 1 to 8 are located on the ground by Mr. Frank Friend in accord with these mounds. Mr. Friend places University Block 9 in accord with the G&M survey of Township 2, Block 42, but he gives 52 varas excess to each mile westward in University Blocks 10 and 11 to meet an extension of a line northward from MP 189 on the T&P Center Line. School Land Block 73, also located by Corwin, has been established by the county surveyor of Andrews County and Robt. E. Estes, as heretofore stated, by course and distance from the monument at the northwest corner

of Section 12, Block 42, Township 2 North, G&M, which monument is shown by Corwin's sketch as the beginning of University Block 1. Thus comes about the conflict between University Block 11 and School Land Block 73.

Colonel
Woods

Colonel Sidney Woods was appointed by Land Commissioner Rogan to sectionize the land in the Pacific Reserve for the Public Free School Fund under the Act of February 23, 1900. He was a surveyor with the T&P locators in 1876, and informed me that he set the rock mound at the break of the plains in the T&P Center Line. In 1899 under employment of the Land Commissioner he ran a connection between the southeast corner of New Mexico and T&P mile post 189. His field work indicates that in the relocation of Block 73, which was Township No. 2, Block 46 G&M, surveyed by L. B. Taylor in December, 1882, Colonel Woods established the northwest corner of Block 73 from MP 189. While Surveyor Taylor calls for the northwest corner of T&P Township 1, Block 45, as a beginning point, there is no permanent marker there, which makes it an open call to be located from some other point. It is contended that L. B. Taylor's northwest corner of the block, taken by Corwin for 73, is as much as 600 varas east of the corner set by Colonel Woods in 1900. Taylor and Woods give different bearings from this corner on the west end of Blue Mountain, and grave doubt is cast on Woods' identification of the Taylor corner. Mr. Friend's survey of University Blocks 10

and 11 is based on the assumption that Woods' northwest corner of Block 73 is properly located.

Center
Line

The T&P Center Line is run on an angle of 77° with the meridian through Fort Phantom Hills, and the sections in their field notes are angulated with this meridian for mapping purposes. The variation west of Block 33 is the assumed declination of the needle plus the angular convergence of the meridians. The difference between the given variation in the field notes and the initial variation is the difference between the given course of the lines and their true course. The bearings of the mile points on the Center Line on natural objects taken by the teamster are on magnetic courses. Curiously, the bearings of the stone monument at the break of the plains on this line appear to have been taken on a magnetic course and correction attempted by adding the declination when it should have been subtracted. With the proper correction the bearings called for are remarkably accurate.

In January, 1883, at the suggestion of Rev. J. T. L. Annis, Presiding Elder of the Methodist Church in Abilene, I was called upon to make computations for Captain Wise and his surveyors in the matter of the convergence of the meridians in the Andrews area and the reconciliation of their courses to those of the T&P. You will note that these surveyors follow the T&P block and township numbering as well as the courses of the T&P lines, and it is clear they intended to place their

surveys in the spaces left open by the T. & P. Railroad Company. The G&M surveyors knew the T&P called courses were not the true courses of their lines, and they knew about the $3\frac{1}{2}'$ increase in variation in each block going west, but they did not seem to know, as indicated by their work, that the T&P field notes did not carry the descriptions of the reconnaissance and actual ground survey. Apparently these surveyors knew nothing of the marked Center Line, for Captain Wise himself marks the 171st mile on the line approximately 200 varas east and 170 varas north of the point marked for it by the T&P surveyors in 1876 or 1885.

Corwin's sketch is locative of the University lands. From no other source can these lands be located. It is on his sketch only that his section numbers are to be found. Corwin's nominative allocations, usually called his field notes, are drawn from his two sketches as shown by his calls for section numbers. The Corwin block numbers in Andrews County correspond to the Walsh delineation on the Blau map of the T&P surveys, including Andrews County. Corwin fitted his sketches to the T&P as well as the G&M locations, but it is contended that he drew the T&P block and township lines from the Gunter & Munson monuments in Andrews County, and that Corwin's work at best is only an office survey.

It is also contended that at the time Corwin operated the Land Office records did not show any rock mounds in the

T&P system west of Block 37, which is true, and that the G&M system did show all its rock mounds by the field notes then on file in the Land Office. These contentions, in effect, are that the G&M blocks taken over for University Blocks 9, 10 and 11 must be put on the ground by course and distance from Captain Wise's pyramid set for mile post No. 171 on the T&P Center Line. This would place the west line of University Block 11 about 560 varas east of the Friend position for it.

Our
Theory

The University theory of the present location of its lands in Andrews County is that the Act of February 23, 1900, appropriating a given number of acres in the Pacific Reserve to the Public Free School Fund, was in its nature and effect an act of partition between the School Fund and the University Fund inasmuch as the endowment of the latter, standing in the nature of a location, had not been actually surveyed on the ground. It would follow that the Woods-Twicheil survey effectuated the partition. The lands appropriated to the School Fund could not have been surveyed without first establishing the lines of the University and the T&P surveys in that area, and the surveyors representing the State, which owns both funds, made a binding survey for both funds. This is assuredly true of Blocks 12, 13 and 14. Adjoining these blocks on all sides are school land surveys which have been sold and occupied since the survey under the Act of 1900.

P10

The west boundary of Block 11 was not definitely fixed in the Woods survey, and it is possible that it would take its position in accordance with the Cunningham survey of the north six miles of Block 45, Township 2 North, taken for Block 11 wherever that location may be.

Corwin
in
Andrews
County

"Let me essay, O Muse! To follow the wanderer's footsteps"--Evangeline. Corwin's tracks in the sand may be read in the light of the records and traditions. As Sancho Panzo might have said it, "Es visible su camino en las arenas." If you will examine the field notes of Section 48, Block 42, Township 1 North, G&M (Bex. S. 43275), you will find this call: Thence S 13 E 1900 vs. to Pyr. rock 3 ft. base 3 ft. high--large rock setting on S side mkd. 19." Pyr. is an abbreviation for pyramid, which term seems to have been used by Captain Wise where he built a large mound of rocks. Although J. C. Caie, named as deputy surveyor of Tom Green County, authenticates the field notes in question, the survey was made by Captain Wise, and the penmanship is rather convincing that Dennis Corwin had knowledge of this pyramid. The pyramid is the key of Corwin's locations of University Blocks 1 to 11 in Andrews County, and will be referred to hereafter as the pyramid.

The pyramid is at a point found by Wise and Caie to be the 171st mile point on what they supposed to be the T&P Center Line. As a matter of fact, the pyramid is approximately

The
Pyramid

200 varas North 77° East and 170 varas North 13° West of the 171st mile point as marked by the T&P surveyors in 1876 or 1885. It is unknown and a matter of grave doubt whether the T&P marker was placed on the ground in 1876. If so, it was re-enforced by Murray Harris in 1885. However, the time of the T&P marking is immaterial, as the G&M surveyors treated the pyramid as being at the intersection of the west line of T&P Block 42 as on the surveyed Center Line of that system. From it Captain Wise extended the west line of his Block 42 and treated the pyramid as marking the 171st mile point on the T&P Center Line.

What
the
Figures
Say

"No se mentiran los numeros," as Sancho Panzo might have hardened the thought into expression. In a softer tone, the figures in this case point to a certainty. Captain Corwin entered the field at Midland June 1, 1884. That day He called on M. Zirker, the purchaser of T&P School Section 24, Block 39, Township 1 South, which lies just northeast of the town of Midland. Mr. Zirker pointed out to Corwin the northwest corner of the section which was marked then by a stone. As this mound is not called for either in the field notes filed in the Land Office in the fall of 1876 or in the copies of the field books filed in the Land Office under the Act of 1931, the stone must have been set by the district surveyor who was required under the Act of 1883 to accept applications from actual settlers. Corwin's evident

purpose in connecting himself to the Zirker monument was to enable him to locate the Wise surveys lying to the north of the T&P. By running a line North 13° West 3 miles and approximately 170 varas he found Wise's line. From Wise's rock monuments Corwin could have readily traced the roundabout course to the pyramid. From that point proceeding North 13° West 28 miles he found himself five miles east of the rock monument at the head of the swale leading into Shafter Lake proper. This rock mound is 79,500 varas from the Zirker monument. (See Block 14) If this distance was calculated, which is among the certainties, Corwin could not have arrived at the figures in any other way than that which is indicated.

With Corwin in the field were J. B. and J. H. Kuykendall. Under law then in force it was necessary for a pre-emptor to survey a like quantity for the School Fund in making his homestead location. Corwin made four surveys at Shafter Lake for the Kuykendalls, one for each as a homestead and the other for the School Fund. Attached is a copy of a letter of June 18, 1885, from S. H. Cowan, the surveyor of Howard Land District, who afterwards became attorney for the West Texas Cattlemen's Association. You will note from this letter that Corwin promised to leave spaces for these pre-emptions in making his selections for the University. Mr. Corwin did not sign the field notes, for the reason he was not authorized to make surveys in that area, but he did file the notes in the

The
Pre-
emptors

713

Land Office, which confirms Cowan's statement that he left land for the pre-emptors. This makes it clear that Corwin placed the corner of Section 1, Block 14, at the rock mound at the head of the swale where it was placed under the Woods survey, according to Daniel Boone's field notes.

Corwin's
Map

The sketch of the lands east of the Pecos by Corwin is in two sectors, the 13° angle surveys and the 17° angle surveys. In the construction of his map Mr. Corwin places Blue Mountain on Section 15, State University, when, as a matter of fact, it is on Section 15, T&P, four miles to the east. It follows that his 17° surveys are three or four miles too far west. This brings about a conflict on the ground between University Blocks 39, 40 and 41 and the G&M 17° angle blocks. It also renders it difficult to make a closure of Corwin's lines, because it is unknown where the connections are run on the true courses or the T&P courses. The northwest corner of Section 2 in Block 73, according to the Taylor survey, is on the meridian through the west end of Blue Mountain. On the basis of the Caie connection from Duro, which is said to have been taken from the railroad mileage, making the measurements exact, the corner established by Taylor just mentioned would be considerably farther east than Colonel Woods had made it. Taylor takes a bearing on the west end of Blue Mountain as due south. My calculation

P14

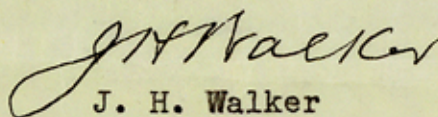
Hon. Bascom Giles

-16-

January 18, 1943

may abound in errors, but it appears to place the Taylor northwest corner of Block 73 considerably east of where Colonel Woods sets it in conformity with T&P lines.

Yours very truly,



J. H. Walker

JHW:G
Encl.

715

COUNTER # 12846

June 10, 1885

W. C. Walsh Com.
Austin, Tex.

Dear Sir:- Sometime ago I sent Field Notes of J.H. & J.D. Kuykendall's homesteads in Andrews County to Dennis Corwin (he having first surveyed their homesteads when selecting School land) and asked him to file the same in your office. I did not know whether you would file their field notes as the land may have been selected as University or School. But in view of the fact that Kuykendalls have been living at the place for more than a year I think they ought to be allowed to have their homesteads notwithstanding the land may have been selected as School or University. Mr. Corwin also surveyed it for them and, told them he would leave out sufficient for their homesteads so they say. Please let me hear as to the matter. Their Homesteads are on sec. 37 & 38 Bl. 45 T 4 N Andrews County.

Will you also be kind enough to send me a list of sections of the W. B. Munson surveys selected as School or University.

Will the Land Board sell any of said lands in Andrews Co.

Respecty

S. H. Cowan

Sur Howard LD

RECEIVED

JAN 22 1943

REFERRED TO MAP

P16

COUNTER # 12847

P17

ANDREWS COUNTY
SKETCH FILE.

File No. 8

ANDREWS County

STATEMENT BY
J. H. WALKER.

Filed JAN 22ND, 1943

BASCOM GILES, Com'r

William Sheriff
File Clerk

COUNTER # 12878