

No. 2006

DICK WILLIAMS, ET AL

VS.

ASA A. JONES, ET AL

IN THE DISTRICT COURT

OF

BREWSTER COUNTY, TEXAS.

1081

On the 23rd day of February, 1943, came on to be heard the above entitled and numbered cause, and came plaintiffs, Dick Williams, Hugh Means and R. F. Rice, Independent Executors and Trustees of the Estate of Elizabeth M. Watkins, deceased, and their co-plaintiff, M. L. Hopson, in person and by attorneys, and came the following named defendants by attorneys: Clyde Higgins, Dorothy Gage Forker and husband Donald Forker, Roxanna Gage Catto and husband, John Catto, Jr., Tom Parsons, Sid E. Slaughter, Peyton Powers, William M. Light, W. E. Sims, John E. Eaton, Administrator of the Estate of Evelyn Wilcox, deceased, Big Bend Realty & Development Co., H. G. Towle, H. M. Mills, Roy Stillwell, C. B. Billington, Asa A. Jones, W. L. Council, Carl Steiner, Louis Rassieur and wife, Mrs. Louis Rassieur, Albert Chambers, Carrie M. Cegur, Rock Realty Co., Wendell R. Bosworth, Oliver D. Bowen, E. E. Shriver, representing the estate of Frank L. Shriver, deceased, Estate of Samuel Schwab, deceased, Reginald H. Johnson, Charles C. Schrimmer and wife, Ruth Schrimmer, John D. Woodfin and wife, Ruth Woodfin, Rena Lee Poague, Trustee and Executrix of the Estate of B. T. Barkley, deceased, Mrs. Florence Lewis, Otto Walker, Great Southern Life Insurance Company, John O'Brien, Anna L. Bird, Mittie Bird Rice, R. N. Gresham, Guardian of the Estate of E.M. Bacon, NCM, W. E. Pope, A. P. Powers, J. W. Gilmer, Elmer Gilmer, Blanche Martin, J. M. Lea, Maurice M. Brill, Aetna Life Insurance Company, E. T. Rose, S. G. Sample, Guy S. Combs, Great American Life Insurance Company, and Franklin Life Insurance Company.

And came the Intervenor, the State of Texas,, appearing through the Attorney General; and came likewise all defendants cited by publication, except those who filed answers herein or disclaimers herein, who were made parties defendant on the intervention of the State of Texas, and who were made parties defendant by the plaintiffs, all of whom were duly served in the manner and form and for the length of time required by law, and for all of whom Alan R. Fraser, a practising attorney of this bar, was duly appointed by the Court as attorney and who, as such attorney,

Brewster Co. 2/27/43

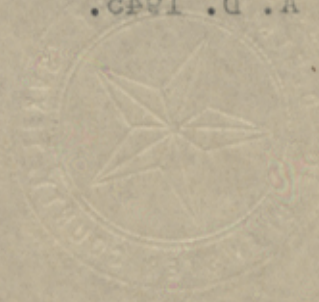
Counter 16135

01

THE STATE OF TEXAS,)
COUNTY OF BREWSTER.) I, J. W. Frazer, Clerk of the District Court of
Brewster County, Texas, do hereby certify that the foregoing instrument
of writing is a true and correct copy of Mandate, Court of Civil Appeals
for the Eighth Supreme Judicial District of Texas, El Paso, in Cause No.
2006, styled The State of Texas, et al, vs. Asa A. Jones, et al, as same
appears of record in Volume 6, Page 383, Minutes of the District Court of
Brewster County, Texas.
GIVEN UNDER MY HAND AND SEAL OF OFFICE, This the 9th day of January,

A. D. 1945.

J. W. Frazer
Clerk of the District Court, Brewster County,
T e x a s .



RECEIVED
JAN 17 1945
REFERRED TO CHIEF CLERK

Plumber lost 1-17-45

Number 14120

Counter # 78991

Gordon Griffin, J. C. Epperson, for all Plaintiffs.
 By C. W. Trueheart
 Hal Browne, Atty for deft. Guy S. Combs
 Tarlton Morrow, Atty. for Delt. Great Southern Life Ins. Co.
 Scott Snodgrass, Atty. for Delt. Asa A. Jones
 Atty. for Delt. H. G. Towle, Roy Stillwell & W. E. Sims
 C. W. Trueheart

THE STATE OF TEXAS,)
 COUNTY OF BREWSTER.) I, J. W. Frezer, Clerk of the District Court of
 Brewster County, Texas, do hereby certify that the foregoing instrument
 of writing is a true and correct copy of Judgment in Cause No. 2006,
 styled Dick Williams, et al vs. Asa A. Jones, et al, as same appears of
 record in Volume 6, Page 223, Minutes of the District Court of Brewster
 County, Texas.
 GIVEN UNDER MY HAND AND SEAL OF OFFICE, This the 12th day of January,
 A. D. 1945.

J. W. Frezer
 Clerk of the District Court of Brewster County
 T e x a s



RECEIVED
 JAN 17 1945
 REFERRED TO CHIEF CLERK

filed an answer for said defendants, and made their appearance herein. That the said defendants so made parties and for whom said attorney appeared, upon intervention of the State of Texas, are as follows:

all residents of the State of Massachusetts: H. W. Karnes and L. H. Vermillion, residents of the State of West Virginia; Charles H. Buttrick, Mrs. Charles H. Buttrick, husband and wife, and D. Wm. Good, residents of the State of Virginia; William S. Speed and Mrs. Ollie S. Sackett, a widow, residents of the State of Kentucky; The Land Title Bank & Trust Company of Philadelphia, Pennsylvania, an Executor and Trustee of the Estate of Henry Whelen, deceased, a resident of the State of Pennsylvania; James C. Beuhler, a resident of Indiana; J. H. Stark, or if dead, his unknown heirs, a resident of Illinois; John Wikowsky, a resident of Kansas; F. M. and H. McWilliams, residents of New York; C. J. Cross, a resident of Illinois; J. W. Dickinson, a resident of Massachusetts; A. S. Hickok, a resident of Ohio; F. W. Cherryhomes, a resident of Oklahoma; G. F. Collins, a resident of Oklahoma; Eureka College, a resident of Okiahoma; Frank H. Colony, a resident of Massachusetts; S. J. Harlan, a resident of California; M. D. Coperhaver, a resident of Virginia; W. O. Trenor, a resident of Virginia; Ethel Norris Howell, a resident of Virginia; L. W. Thandler, a resident of California; Walter Stansell, J. M. Lee; Fred G. Turner, Mrs. Mabel Madison Almond and her unknown husband; Ed C. Daniel; Neal Butler, trustee; Nora D. Newton; H. D. Smith and wife, Mary Ella Smith; Homer (Shorty) Rachelle; W. H. Halcombe, Dr. J. Marvin Rape; Charles E. Davidson; Charles E. Schauer; Tom Nolen; M. E. Smith; Lawrence Lotta and wife, Helen Lotta; E. W. Bacon; Alfred Bosenow; John Lotta and Frank Lotta; Clyde Young; H. E. Smith; W. D. Adcock; E. K. Smith; the unknown heirs of Frank L. Shriver, deceased; Albert Spurlock; Carl Steiner; McLauren & McDonald; John Noonan; Teresa H. Cohen; Jesus Gonzales; Roscoe Chandler; Mrs. E. A. Farnum; Anthony Cardamona; Florence G. Lewis; Frank H. Colony; Harry Higbee; Mrs. S. J. Harland; Lena M. Dawson; Nelson White; J. P. Braum; R. H. Johnson; Vincent W. Borden; J. M. Jamison; Otho Eddleman; A. D. Roach; R. H. Darsey; West Texas Land Company; A. J. Henthorne; Clifton Roark; Freeman Corporation; Del Pecos Land Corporation; S. H. Campbell; Roscoe Chamblee; Callie M. Osborn; Daniel Rodriguez; V. L. Kiper; A. H. Taylor; the unknown heirs of Joe Kerr, deceased; T. W. Carr; J. B. Grimes; G. W. Dickey; George W. Stowe;

Eugene Ashe; J. E. Dinsmore; P. A. Burnet; Ella McCracken; J. E. McDowell; Fred Wehmiller; A. J. Henthorn; Ida Wilson; Parthenia Jones; Vennie Lytle and wife, Mrs. Vennie Lytle; Noah T. Hollinsworth and wife, Mrs. Noah T. Hollinsworth; William Pierce Eslinger; and Mrs. William Pierce Eslinger, husband and wife; C. B. Johnson; Mrs. Jane Smith Ferguson, and her unknown husband; Dr. James D. Macon; Paul R. Long; John D. Wagoner; Alleen Fish Evans; Robert S. Buntain and Jessie E. Buntain; Newell H. Motsigner and Mrs. Newell H. Motsigner, husband and wife; Earl D. Roundbush; P. T. White and Harry Graham; Henry A. Tisler; Mrs. C. L. Bushnell and husband, C. L. Bushnell; Dr. Kyle C. Copenhaver; J. Blaine Long and wife, Mrs. J. Blaine Long; Donald B. McMillan and Mrs. Donald B. McMillan, husband and wife; Leon L. Soloman; Mrs. Nina G. Bushnell and her unknown husband; Ray W. Doud; Pauline Mary Vogel; Mrs. Thelma Harris and her unknown husband; John H. Jefferies; Mrs. Mamie D. Powe and her unknown husband; Dr. Charles E. Thorne; W. C. Iverson; E. C. Barnekow, Jr.; John Vonderbeck; Jacob Weinberg; Earnest A. Simmons and wife, Mrs. Earnest A. Simmons; G. C. McClure; Mrs. Margaret J. Green and her unknown husband; Dr. John H. Kincaid; Dr. Charles B. Wickham; Dr. C. W. Rain; A. Brown Davis; H. A. Dammyer; G. E. Newcomb; A. H. Bohn; H. A. Palmer; Ivan J. Babb; F. R. Defenbaugh; L. B. Bullock; E. L. Alford; A. T. Dudley; H. N. Fry; Ed Sawyer; S. A. Anderson; A. C. Smith; Egiste Tezzi; W. L. Halbert; S. W. Roberts; L. F. Predmore; L. P. Jones; Edwin Wilcox; John A. Duffey; G. C. Wisdom; A. J. Wisdom; Trustee; Charles A. Baggett; or C. A. Baggett; P. E. Montgomery or Paul E. Montgomery; C. D. Finley; E. E. Rutledge; J. N. Heard; H. S. Anthony; J. A. Scarbrough; N. A. Brown; C. W. Middleton; J. B. Riley; J. L. Chapman; F. A. Crawford; O. H. Ridgeway; John C. Hale; E. A. Sterling; C. W. Andrews; M. H. Jones; J. F. Head; L. L. Lyles; C. R. Brice; H. M. McLeod; R. A. McLeod; J. L. Abarnathy; D. W. Schuech, Trustee; Fred W. Schawe, Trustee; F. X. Joerger, Trustee; J. T. Strickland; H. P. Compton; Mildred Harrington; Josephine Pouget; L. L. McHugh; J. H. Bush; T. J. May and Jessie McRaw; J. B. Leshiker; Charles Orsak; Mrs. Nona Dyer and her unknown husband, Jennie Francis; W. N. Connell; Lela Mae Wilkins; C. P. Alford; Dr. J. M. Stephens; Bert Michel; C. Weaver; Alexander Sutherland; Lottie Sutherland; G. S. Bryan; R. H. Dorsey; I. V. Brandon; Sallie Caton; Caton McKee; H. Beaty; R. E. Nugent; Mrs. J. B. Zirk and her unknown husband; E. Harpster; John C. F. Kyger; August Kubala; W. E. McGuinn; J. M. Heoy; Mrs. Wilima Vorhes and her unknown husband; H. F. (Frank) Atkinson; Emma A. Anderson;

W. E. Hogue; C. F. Harrison; B. W. Hill; Mrs. W. P. Seymour and her unknown husband; Guido Mann; E. W. Whitney; Lou King; Chester E. Carlton; J. Welborn Poe; F. J. Dill; Mrs. M. M. Payton and her unknown husband; Bettie Gunn; J. L. Thomas; W. C. Fish; C. L. Guinn; Charlie Jeffress; J. C. Overcash; J. M. Hallaman; J. W. Garner; J. C. Harris; H. H. Maxwell; L. G. Brown; Leonard Cook; Myrtle M. Graham; C. K. Lemons; J. K. McCoy; J. K. Lambert; C. E. Cassady; W. H. Headley; S. P. Birkett; J. W. Coleman; R. S. Jones; S. W. Shumate; Jack Hansen; D. H. Thornton; N. C. Price; C. E. Goode; J. H. Ratcliff; Maude C. Dameron; K. M. Jarrell; D. B. Jarrell; Fred Myers; W. B. Kerr; J. B. Foller; H. R. Atkins; Trigg T. Parrish; J. A. Fishburn; C. H. Meadows; C. M. Taylor; H. C. Kelsey; J. O. Freeman; Jack X. Lewis; W. H. Burt; Mattie E. Webber; W. A. Daneron; J. H. Webb; C. W. McCory; Wm. H. Craig; E. J. Evers; E. W. Merdith; F. K. Hodges; M. S. Wood; C. T. Law; H. W. Mertzger; M. Wasielski; D. E. Hambler; J. T. Estes; Lottie Manchester and H. H. Champlin; Brewster Oil Company; Guaranty State Bank & Trust Co.; Baird Development Company; Commercial State Bank; W. F. Hallam & Co.; Lotus Oil Company; E. E. Shriver; Max Schwab & Samuel Schwab; Florence G. Lewis; Anna L. Bery and Millie Bery Rice; Mrs. Harry Higby; Blanche Martin; Carl Steiner; Dr. F. N. McLauren; J. B. Garrett; Bosworth & Bowen; Mrs. Mabel I. Robinson; the unknown heirs of W. E. Barkley, deceased; O. R. Adcock; Ella Bennett; Mrs. Dora L. Vance; Marian B. Vance; Albert Dammyer, Administrator of H. A. Dammyer Estate and the unknown heirs of J. B. Speed, deceased; H. W. Mills; H. D. Wilcox; D. L. Fincher; Sidney M. Segal; S. M. McAnelly; J. T. Story; Alfonso Gallucci; Philips & Cunningham; Paul R. Dietzen; Henry W. Irwin; R. W. Tilney, (Mrs. Garnett C. Hord); L. A. Fox, N. O. Anderson; H. D. Wilcox; Mabel Madison Ammons; Mrs. M. E. Smith; A. B. Daniels; Ed C. Daniel; Earl Stirman; J. B. Catlett; Capt. M. N. Lively; A. Madison; J. P. Bramm; the unknown heirs of B. M. Wilson, deceased, (J. M. Haynes); Mana D. Newton; Victoria Pernyat; Henry W. Irwin; Commercial Land Company; Ulice J. Adams; Chambers Baird; P. A. Burnett; W. R. Adcock; L. W. Thandler; J. W. Caustic; E. K. Smith; James Conners; C. P. Baxter; D. H. Black; H. J. Struck; I. M. Burt; E. W. Moore; the unknown heirs of T. E. Dale, deceased; Thos. H. Bowles; J. G. Kirk; Martha Thomas; Carrie S. Parkin; Minnie M. Chambers; F. A. Mitchell; J. B. Kirk; Arthur A. Cockran; Jonas Chadburn; J. Fields Smathers; M. R. Dick; Guy O. Gardner; John W. Smith; S. S. Seyffer; T. H. Murphy; D. A. Smith; H. W. Metzger; John J. Chambers; J. H. Bugler; Chas. Bowles; J. R. Brady; J. W. Bogue; Frank Sheedy; Mrs. Mable I. Robinson;

John E. Woodward; R. H. Johnson; James C. Buehler; Joe Zeni; Ida Wolff; Chas. Stern; Otis Turner; David Stern; Jack Smith; Ida W. Simpson; L. Latta; W. A. Scott; M. D. Polonius; H. E. Fees; A. J. Roach; Wayne Davis; Otho or Bessie Eddleman; Willie Lois Oliver; E. W. Whitney; Chas. Gaudio; Lenore Wiley; O. C. Zimmerman; L. M. Autrey; Otis Turner; Anna Berz; Watt R. Matthews; the unknown heirs of H. H. Hoffman, deceased; Jim Featherston.

And that the parties so made parties defendant upon the cause of action asserted by the plaintiffs for whom said attorney appeared, are as follows:

J. E. McDowell; Fred Wehmiller; A. J. Henthorn; Ida Wilson; Parthenia Jones; Vennie Lytle and Mrs. Vennie Lytle; husband and wife; Noah T. Hollinsworth and wife, Mrs. Noah T. Hollinsworth; William Pierce Eslinger and Mrs. William Pierce Eslinger, husband and wife; C. B. Johnson; Mrs. Jane Smith Ferguson and her unknown husband; Dr. James D. Macon; Paul R. Long; John D. Wagoner; Alleen Fish Evans; Robert S. Buntain and Jessie E. Buntain; Newell H. Motsinger and Mrs. Newell H. Motsinger, husband and wife; Earl D. Roundbush; P. T. White; Harry Graham; Henry A. Tisler; Mrs. C. L. Bushnell; and her husband, C. L. Bushnell; Dr. Kyle C. Copenhaver; J. Blaine Long and Mrs. J. Blaine Long, husband and wife; Donald B. McMillan and Mrs. Donald B. McMillan, husband and wife; Leon L. Solomon; Mrs. Nina G. Bushnell and her unknown husband; Ray W. Doud; Pauline Mary Vogel; Mrs. Thelma Harris and her unknown husband; John H. Jefferies; Mrs. Mamie D. Powe and her unknown husband; Dr. Charles E. Thorne; W. C. Iverson; W. C. Barnekow Jr.; John Vonderbeck; Jacob Weinberg; Ernest A. Simmons and wife, Mrs. Ernest A. Simmons; G. C. McClure; Mrs. Margaret J. Green and her unknown husband; Dr. John H. Kincaid; Dr. Charles B. Wickham; Dr. C. W. Rain; A. Brown Davis; H. A. Dammeyer; G. E. Newcomb; A. H. Bohn; H. A. Palmer; Ivan J. Rabb; F. R. Defenbaugh; L. B. Bullock; E. L. Alford; A. T. Dudley; H. N. Fry; Ed Sawyer; S. A. Anderson; A. C. Smith; Egiste Tezzi; E. L. Halbert; S. W. Roberts; L. F. Predmore; L. P. James; Edwin Wilcox; Mildred Harrington; Josephine Pouget; L. L. McHugh; J. H. Bush; T. J. May and Jessie McRaw; J. B. Leshikar, Charles Orsak; Mrs. Nona Dyer and unknown husband; Jennie Francis; Lela Mae Wilkins; W. N. Connell; C. P. Alford; Dr. J. M. Stephens; Bert Michel; C. Weaver; Alexander Sutherland; Lottie Sutherland; G. S. Bryan; R. H. Dorsey; I. V. Brandon; Sallie Caton; Caton McKee; H. Beaty; R. E. Nugent; Mrs. J. B. Zirk and unknown husband; E. Harpster; John C. F. Kyger; August Kubala; W. E. McGuinn; J. M. Heoy; Mrs. Wilima Vorhes and her unknown husband; H. F. (Frank) Atkinson; Emma A. Anderson;

W. E. Hogue; C. F. Harrison; B. W. Hill; Mrs. W. P. Seymour and her unknown husband; Guido Mann; E. W. Whitney; Lou King; Chester E. Carlton; J. Welborn Poe; F. J. Dill; Mrs. M. M. Feyton and her unknown husband; Bettie Gunn; J. L. Thomas; W. C. Fish; C. L. Guinn; Charlie Jeffress; J. C. Ovencash; J. M. Hallaman; J. W. Garner; J. C. Harris; H. H. Maxwell; L. G. Brown; Leonard Cook; Myrtle M. Graham; C. K. Lemons; J. K. McCoy; J. K. Lambert; C. E. Cassady; W. H. Headley; S. P. Birkett; J. W. Coleman; R. S. Jones; S. W. Shumate; Jack Hanson; D. H. Thornton; N. C. Price; C. E. Goode; J. H. Ratcliff; Maude C. Dameron; K. M. Jarrell; D. B. Jarrell; Fred Myers; W. B. Kerr; J. B. Foller; H. R. Atkins; Trigg T. Parrish; J.A. Fishburn; C. H. Meadows; C. M. Taylor; H. C. Kelsey; J. O. Freeman; Jack X. Lewis; W. H. Burt; Mattie E. Webber; W. A. Daneron; J. H. Webb; C. W. McCory; Wm. H. Craig; E. J. Evers; E. W. Merdith; F. K. Hodges; M. S. Wood; C. T. Law; H. W. Mertzger; M. Wasieleski; D. E. Hambler; J. T. Estes; Lottie Manchester and H. H. Champlin; John A. Duffey; G. C. Wisdom; A. J. Wisdom; Trustee; Charles A. Baggett or C. A. Baggett; P. E. Montgomery or Paul E. Montgomery; C. D. Finley; E. E. Rutledge; J. N. Heard; H. S. Anthony; J. A. Scarbrough; N. A. Brown; C. W. Middleton; J. B. Riley; J. L. Chapman; F. A. Crawford; O. H. Ridgeway; John C. Hale; E. A. Sterling; C. W. Andrews; M. H. Jones; J. F. Head; L. L. Lyles; C. R. Brice; H. M. McLeod; R. A. McLeod; J. L. Abernathy; D. W. Schuech, Trustee; Fred W. S. Schawe, Trustee; F. X. Joerger, Trustee; J. T. Strickland and H. P. Compton, if living and if dead, to their, and each of their, unknown heirs, executors, administrators and legal representatives; Brewster Oil Company, Santa Fe Land, Trust & Title Company; Baird Development Company, Guaranty State Bank & Trust Company; Commercial State Bank; W. F. Hallam & Company and Lotus Oil Company; and if individually or partnership owned to their and each of their unknown owners, heirs, executors, administrators, legal representatives; and if corporations to their and each of their unknown owners, stockholders, officers and directors.

And thereupon the case came on for trial and all parties, in open court, waived a jury and announced ready for trial, and thereupon the case came on for trial before the Court. And the Court heard the pleadings and evidence, the taking of which continued until the 4th day of March, 1943, and thereupon heard the argument of counsel, which continued until this the 5th day of March, 1943, and thereafter on March 17th, 1943, a day during the extended term of this Court, and upon consideration, ORDERS, ADJUDGES AND DECREES, as hereinafter set out.

It appearing to the Court that this suit involves, among other things, the true location on the ground of the Southwest corner, of what is known as Block G-1, D & W. Ry. Co. survey, Brewster County, Texas, and the location of the several surveys therein from 1 to 200, and particularly those designated in the pleadings filed herein. And it further appearing to the Court that there is likewise involved herein the true location on the ground of the southeast corner of Section 36, Block 237, Texas & St. Louis Railway Company Survey, Brewster County, Texas, said corner being the southeast corner of what is known as the S. A. Thompson blocks, located in Bowell & Gage File No. 2, known as Blocks 225 to 242, inclusive. And it further appearing to the Court that the plaintiffs and their co-plaintiffs, M. L. Hopson, and the Intervenor, the State of Texas, contended that the true Southwest corner of said Block G-1 is located at what is known as the R. S. Hunnicutt corner, evidenced by a pile of rock in which there is a stone marked SW-G1, and located on the ground at a point latitude $29^{\circ}33' 51.951 \text{ sec.}$, longitude $102 \text{ Deg. } 57' 56.238 \text{ sec.}$, and from which stone mound, the highest point on the north end of Stairway Mountain bears S. 19 deg. 30' W. 1230 varas; and from which X mark on top of imbedded boulder $12\frac{1}{2}$ feet across the top and about 5 feet high bears S. 34 deg. 51' E. 32 varas, and based upon said contention sued for certain sections of land in said Block G-1, based upon the assumption that same are each located on the ground from said Hunnicutt corner as the true Southwest corner of said Block G-1. And the Court having heard evidence upon such finds that such corner is not the true Southwest corner of Block G-1, but finds that the true southwest corner of Block G-1 is located on the ground coincident with the S. E. corner of said Survey 36, Block 237, T. & St. L. Ry. Co. survey, which point is located 3198.4 varas East and 3396 varas south of said Hunnicutt corner. And it further appearing to the Court that in locating the several surveys within said Block G-1, the proper method of locating same is to give to each survey therein a distance east and west of 1900 varas and north and south of 1900 varas, based upon the beginning point as here fixed for the true location on the ground of the Southwest corner of said Block G-1 and to construct them numerically in the same manner as shown in the field notes of John T. Gano, each being tied into the preceding one in the manner set out in said field notes of said Gano.

And it further appearing to the Court that the plaintiffs Dick Williams, et al, and their co-plaintiff, M. L. Hopson, have in the pleadings set out so-called corrected field notes of the several surveys for

which they sue, based upon survey made by John Stovell, under which an attempt is made to change the size of the surveys in said Block G-1, but that said attempted method of location was erroneous.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the plaintiffs Dick Williams, Hugh Means and Raymond F. Rice, Independent Executors and Trustees of the Estate of Elizabeth M. Watkins, deceased, and the said co-plaintiff M. L. Hopson, be and are hereby denied any right of recovery, based upon said corrected field notes; and that said plaintiffs and said co-plaintiff Hopson, and the State of Texas are denied any right of recovery to surveys in said Block G-1 based upon the location contended for by them from the said Hunnicutt corner.

It further appearing to the Court that all the surveys so located in said Block G-1 sued for by plaintiffs and their co-plaintiff Hopson are not patented, some being school sections on which there is a balance of the purchase price still due the State; and it further appearing that certain of the lands claimed by the defendants herein are unpatented; and it further appearing that all parties in open court agreed that as between the State of Texas and any party hereto as to any unpatented land, no attempt should be made to adjudicate the respective rights of the parties under any awards made to said respective unpatented surveys or parts thereof, except that this judgment shall be binding upon the questions of boundaries and locations.

IT IS, THEREFORE, ORDERED that as to the said respective rights of the State and the awardees, their heirs and assigns, of any of said unpatented lands, or the respective rights of lessor or lessee where the State has made surface leases shall not be affected by this judgment except as to locations and boundaries. And it is further ordered, adjudged and decreed by the Court that the plaintiffs, Dick Williams, Hugh Means and Raymond F. Rice, in their ~~representative~~ capacities aforesaid, and the co-plaintiff, M. L. Hopson, or the Intervenor, the State of Texas, are the record owners of the patented and unpatented surveys out of Block G-1 aforesaid, numbers of which are set out in the pleadings of said respective parties, and are entitled to recover said surveys, or portions thereof, described in said pleadings, (except the W 1/2 of the SW 1/4 of Section 129, Block G-1) based upon the construction of said surveys here made in accord with the Cano field notes and the location thereof from the true beginning point, namely, the S. W. corner of Section 1, Block G-1, as here fixed without adjudicating between themselves as to any patented or surface

leased sections, the respective rights of said parties under the exceptions set out in the proceedings hereabove.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the State of Texas take nothing as against any party hereto, as to the three tracts of land described in the Second Amended Plea of Intervention and Cross-action of the State of Texas alleged to be vacant, the first tract containing 12,820 acres, more or less, the second tract containing 112 acres, and the third tract containing 48.24 acres, provided, however, as between the defendants herein, no adjudication as to title is made. The Court in this connection finds and adjudges that none of said alleged vacant land is in fact vacant, but, on the contrary, finds and adjudges that the same is appropriated land, but does not undertake to find the particular section or sections covering the respective alleged vacant tracts.

And it further appearing to the Court that there has been filed in the General Land Office of the State of Texas a "Map showing reconstruction of conflicting areas in the northern part of Brewster County, Texas, based on connections made by M. P. Ball in December 1941 and January 1942" which purports to show a conflict between a portion of the surveys in Block G-1, D. & W. Ry. Co., with certain surveys out of the T. & St. L. Ry. Co. Blocks 228, 229, 236 and 237; and it further appearing that the defendant, the Great Southern Life Insurance Company, is the owner of the odd numbered sections of land in said Block 237, T. & St. L. Ry. Co. and that the defendants, W. E. Pope and Albert Chambers, are the owners of certain sections in the T. & St. L. Blocks, and that the filing of such map showing such conflict operates to cloud the title of said defendants to said sections of land and particularly those so shown to be in conflict, and renders essential to fix the true dividing line between said D. & W. Ry. Co. Block G-1 and said T. & St. L. Ry. Co. blocks; it is, therefore, ordered, adjudged, and decreed by the Court that said map of said Ball which undertakes to show a conflict between said blocks of land is erroneous and that no conflict exists in fact, and that the true dividing line between said blocks is fixed by beginning at the point on the ground here established as the southeast corner of Section 36, Block 237, being coincident with the southwest corner of Section 1, Block G-1, thence extending north for an aggregate of 38,000 varas to a point for G-1's NW corner, which is 92.3 varas west and 78.7 varas north of W. L. Rider's NW corner of Survey

200, Block G-1, which Rider corner is defined as follows: Beginning at a fence corner and a large flat rock from which an NW peak, a double mountain bears S 77° 19' W, the W. pk. of Bullis Mt. brs. S. 4° 54' W. sharp pk. between two mountains brs. N. 30° 15' W. the S. point of Horse-shoe Mt. brs. N. 72° 54' E. and a dagger palm tree brs. S. 8° 50' W. 24 vrs.

It further appearing to the Court that certain pleas of title by adverse possession were set up by some of the defendants herein, but that by agreement of all parties the question of boundary and title based upon the boundary was agreed to be tried and determined and the question of title by adverse possession left in abeyance for determination if necessary; and it further appearing to the Court that it is unnecessary to adjudicate titles by adverse possession and this judgment shall not operate as an adjudication upon such issue, and shall not operate as res adjudicata upon such issue. It is further ordered that as to the question of improvements in good faith, this judgment shall not operate as an adjudication. The Court finding that an adjudication thereon is unnecessary since boundaries have been fixed in the manner in which they are fixed in this judgment.

It appearing to the Court that certain cross-actions were filed herein by certain defendants upon matters other than those herein adjudicated, but that as to each of such cross-actions so asserted by each such defendant, such defendant took a non-suit, and based upon such non-suit, no adjudication of such cross-actions is made; and said non-suits were allowed.

It further appearing to the Court that defendants, I. C. Roark, Sr., I. C. Roark, Jr., F. M. Roark, Clifton Roark and J. B. Catlett, filed herein a disclaimer as to the Second Amended Plea of Intervention and Cross-action of the State of Texas, that the Court on February 22, 1943, before the commencement of trial upon taking the testimony had said disclaimer called to its attention and sustained the same, and gave the same effect and ordered that no judgment of costs be adjudged against them, and that they be dismissed from this suit; accordingly, in accordance with said orders, it is decreed that each of said defendants be dismissed from this suit with their costs. And it is further decreed that no costs shall be collected against them or either of them.

And it further appearing that the First National Bank in Pleasanton, and Jim Featherstone each filed a disclaimer as to the relief prayed for by the State of Texas and by the plaintiffs, and that Del Rio Wool and Mohair Company, Rosenberg State Bank, Mae M. Ament, Trustee for M. A.

Baumgardner, filed disclaimers as to the relief prayed for by the State of Texas and the plaintiffs. It is ordered that each of said parties be discharged upon his disclaimer with his costs.

A description of the three tracts of land sued for by the State as vacant land is as follows: Situated in the northeast portion of Brewster County, Texas, to-wit:

TRACT NO. 1:

BEGINNING at a point on the bank of the Rio Grande River about 300 varas below and N. E. of the mouth of Maravillas Creek; same being the N. E. and lower corner of Survey 21, Block B-1, G. C. & S. F. Ry. Co.

THENCE down the river with its meanders to the S. E. and upper corner of Survey 20, Block B-1.

THENCE West with south line survey 20, Block B-1 4200 varas to a point in an east line, Survey 28, Block G-22.

THENCE South with the east line survey 28, Block G-22, 270 varas to its most southern S. E. corner.

THENCE west with south line survey 28, Block G-22, 1296 varas to a point in east line survey 3, Block G-13, H. E. & W. T. Ry. Co.

THENCE south with east line survey 3 and 2, Block G-13, to S. E. corner, ~~survey 21~~ and most southern S. E. corner, Block G-13, H. E. & W. T. Ry. Co.

THENCE west with south line of Blocks G-13, H. E. & W. T. Ry. Co. and G-1, D. & W. Ry. Co. 15 022 varas to a point in east line survey 24, Block 237, T. & St. Ry. Co.

THENCE south with east line of Block 237, 4050 varas to S. E. corner, Block 237; T. & St. L. Ry. Co.

THENCE east with north line, Block G-9, H. E. & W. T. Ry. Co. and north line, Block G-23, C. T. & M. C. Ry. Co. 13,950 varas to a point in west line of Survey 25, Block B-1.

THENCE north with west line Survey 25, 300 varas to its N. W. corner and in south line survey 24 Block B-1.

THENCE west with south line survey 24, 1250 varas to its S. W. corner,

THENCE north with west line survey 24, 950 varas to its N. W. corner.

THENCE east with north line survey 24, 2800 varas to the S. W. corner survey 23, Block B-1, G. C. & S. F. Ry. Co.

THENCE north with west line survey 23, 950 varas to its N. W. corner.

THENCE east with north line survey 23, 120 varas to S. W. corner survey 22, Block B-1, G. C. & S. F. Ry. Co.

THENCE north with west line survey 22, 950 varas to its N. W. corner.

THENCE east with north line Survey 22, 200 varas to S. W. corner, Survey 21, Block B-1, G. C. & S. F. Ry. Co.

THENCE north with west line Survey 21, 950 varas to its N. W. corner.

THENCE east with north line survey 21, 3900 varas to the place of beginning.

Containing 12,828 acres of land (more or less).

TRACT NO. 2:

BEGINNING at the N. W. corner Survey 18, Block B-1, G. C. & S. F. Ry. Co. and in the south line survey 17, Block B-1.

THENCE west with south line survey 17, 650 varas to a point in the east line survey 28, Block G-22.

THENCE south with east line Survey 28, 680 varas to an L-corner.

THENCE west with a south line of Survey 28, 55 varas to an L-corner.

THENCE south with an east line survey 28, 270 varas to a point in north line survey 19, Block B-1.

THENCE east with north line survey 19, 705 varas to S. W. corner, survey 18, Block B-1.

THENCE north 950 varas to the place of beginning, and containing 112 acres of land.

TRACT NO. 3;

BEGINNING at the S. W. corner of Survey 16, Block B-1, G. C. & S. F. Ry. Co.

THENCE north with west line Survey 16, 950 varas to its N. W. corner.

THENCE east with north line Survey 16, 100 varas to S. W. corner Survey 15, Block B-1.

THENCE north with west line survey 15, 270 varas to a point in west line survey 15, and also a corner in Survey 26, Block G-13, H. E. & W. T. Ry. Co.

THENCE west with a south line survey 26, 220 varas to a point in an east line survey 26.

THENCE south with east line Survey 26, 950 varas to an L-corner survey 26.

THENCE west with a south line Survey 26, 370 varas to another L-corner of Survey 26.

P. W. 27 9 27 2008

Counter 16146

012

THENCE south with an east line Survey 26, 270 varas to the north line Survey 17, Block B-1.

THENCE East with north line Survey 17, 490 varas to the place of beginning, containing 48.4 acres of land.

That the numbered sections claimed by the State of Texas, or claimed by said State as covered only by awards or surface leases, are numbered as follows: the following even-numbered surveys in Block G-1, Dallas and Wichita Ry. Co. grantee in Brewster County, Texas, to wit:

"Unpatented surveys Numbers 2, 4, 6, 8, 12, 14, 16, 18, 24, 26, 28, 30, 32, 34, 38, 40, 42, 44, 46, 48, 52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 80, 82, 84, 86, 88, 92, 100, 102, 108, 110, 112, 114, 116, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200."

That the numbered sections of said block G-1 claimed by the plaintiffs, Dick Williams, Hugh Means and Raymond F. Rice, in their representative capacities, are numbered as follows:

Sections 81, 83, 85, 87, 105, 107, 109, 111, 113, 115, 129, (except the W 1/2 of the SW 1/4) 131, 133, 135, 137, 139, 141, 155, 157, 159, 161, 163, 165, 167, 181, 183, 185, 191 and 193.

That the numbered sections of said Block G-1 claimed by the plaintiff M. L. Hopson, are numbered as follows:

NE $\frac{1}{4}$ 136, 112, 192, 162, 184, 164, 166, 154, 158, 160, 138, 130, 132, 114, 116, 106, 80, 82 and 86.

And it further appearing to the Court that the following named persons were duly served with personal citation on the Intervenor's Second Amended Plea of Intervention and Cross-actions and have wholly made default, towit:

John Almond, Mrs. Mabel Madison Almond, Ed C. Daniel, H. D. Wilcox, Sanderson Wool Commission Company, a corporation, Walter Stansell, Clyde Young, Santa Fe Land Trust & Title Co., a corporation, Effie Lou Bennett, Independent Executrix and sole beneficiary under the last will and testament of F. C. Bennett, deceased, Vincent W. Borden, John M. Hefner, a resident of Dallas County, Texas, as agent for E. E. Shriver, Max Schwab, Samuel Schwab, Florence G. Lewis, Anna L. Bery, Willie Bery Rice and Mrs. Harry Higby, Mrs. Irene Peters, a resident of Brewster County, Texas, temporarily residing in Yazapai County, Prescott, Arizona, individually and as agent for Blanche Martin, Carl Steiner, Dr. F. N. McLauren, Carrie M. Segur;

J. B. Garrett, Basworth & Bowen, F. M. and H. McWilliams, Mrs. Mabel I. Robinson, H. H. Hoffman and W. E. Barkley Estate, Otis Turner, a resident of Brewster County, Texas, as agent for O. R. Adcock, Ella Bennett, Mrs. Dora L. Vance, Marian B. Vance, Albert Dammyer, Administrator of the Estate of H. A. Dammyer, Estate, and J. B. Speed Estate, the Land Title Bank and Trust Company, as executor and trustee of the Estate of Henry Whelen, deceased, William S. Speed and Mrs. Ollie S. Sackett, a widow, and it appearing to the Court that all other parties named as parties defendant in any pleading herein other than those who appeared by answer or disclaimer were duly served with citation in the manner and form and for the length of time required by law, but wholly made default, and it is ordered as to said defendants that they be bound by this judgment.

The said Alan R. Fraser, Attorney for the defendants for whom he appeared herein, is here allowed a fee of \$250.00, one-half thereof to be taxed against the plaintiffs and the co-plaintiff, and one-half thereof against the State of Texas. It is further ordered that all costs herein incurred by plaintiffs and co-plaintiff are adjudged against them respectively, and all costs incurred herein by Intervenor, the State of Texas, are adjudged against it, and in addition all other costs herein incurred shall be taxed against the plaintiffs and co-plaintiff to the extent of one-half thereof and the balance thereof to be taxed against the Intervenor, the State of Texas.

All parties and all issues not hereinbefore disposed of are hereby dismissed.

To all of which judgment hereinbefore shown, the plaintiffs, Dick Williams, Hugh Means and Raymond F. Rice, in their representative capacities, and the co-plaintiff, M. L. Hopson, and the Intervenor, the State of Texas, each separately, in open court, duly excepted and gave notice of appeal to the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas, in El Paso, Texas. Intervenor, State of Texas, thereupon duly requested that the Court file Findings of Fact and Conclusions of law herein.

H. O. Metcalfe

Judge Presiding.

OK AS TO FORM:

Fagan Dickson
Assistant Attorney Gen.
Attorney for Intervenor, The State of Texas.

C. W. Trueheart,
Atty. for Defts. H. G. Towle, Roy Stillwell & W. E. Sims

Scott Snodgrass, Atty. for Deft. Asa A. Jones

Tarlton Morrow, Atty. for Deft. Great Southern Life Ins. Co.

Hal Browne, Atty for deft. Guy S. Combs
By C. W. Trueheart

Gordon Griffin, J. C. Epperson, for all Plaintiffs.

THE STATE OF TEXAS,)
COUNTY OF BREWSTER.) I, J. W. Frazer, Clerk of the District Court of
Brewster County, Texas, do hereby certify that the foregoing instrument
of writing is a true and correct copy of Judgment in Cause No. 2006,
Styled Dick Williams, et al vs. Asa A. Jones, et al, as same appears of
record in Volume 6, Page 223, Minutes of the District Court of Brewster
County, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This the 12th day of January,
A. D. 1945.

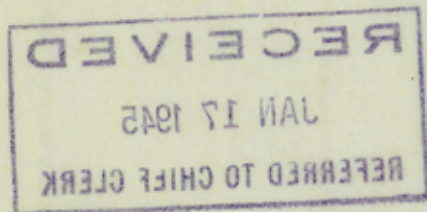
J. W. Frazer
Clerk of the District Court of Brewster County
T e x a s.

RECEIVED
JAN 17 1945
REFERRED TO CHIEF CLERK

THE STATE OF TEXAS,)
COUNTY OF BREWSTER.) I, J. W. Frazer, Clerk of the District Court of
Brewster County, Texas, do hereby certify that the foregoing instrument
of writing is a true and correct copy of Mandate, Court of Civil Appeals
for the Eighth Supreme Judicial District of Texas, El Paso, in Cause No.
2006, styled The State of Texas, et al, vs. Asa A. Jones, et al, as same
appears of record in Volume 6, Page 383, Minutes of the District Court of
Brewster County, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This the 9th day of January,
A. D. 1945.

J. W. Frazer
Clerk of the District Court, Brewster County,
T e x a s.



1081

THE STATE OF TEXAS

TO THE DISTRICT COURT OF BREWSTER COUNTY, GREETING:

Before our Court of Civil Appeals for the Eighth Supreme Judicial District of Texas on the 11th day of May, A. D. 1944, the cause upon appeal to revise or reverse your judgment between

The State of Texas, et al., Appellants,

No. 4331

VS.

Asa A. Jones, et al., Appellees,

was determined; and therein our said Court of Civil Appeals made its order in these words:

"This cause came on to be heard on the transcript of the record and the same being inspected, because it is the opinion of this Court that there was no error in the judgment, it is therefore considered, adjudged and ordered that the judgment of the Court below be in all things affirmed, that the appellees, Asa A. Jones and the other defendants listed in the judgment of the Court below, do have and recover of and from the appellants, Dick Williams, Hugh Means and Raymond F. Rice, Independent Executors and Trustees of the Estate of Elizabeth M. Watkins, Deceased, and the Intervener, The State of Texas, all costs in this behalf incurred, and this decision be certified below for observance.

THEREFORE, we command you to observe the order of our Court of Civil Appeals for the Eighth Supreme Judicial District of Texas in this behalf; and in all things to have it duly recognized, obeyed and executed.

WITNESS, the Hon. P. R. Price, Chief Justice of our said Court of Civil Appeals, with the seal thereof annexed, at El Paso, this the 28th day of November, A. D. 1944.

(SEAL)

J. I. Driscoll, Clerk

By: E. J. Redding, Deputy

P-211 217 212 7000075

Counter 16151

017

SK ^{NS} No. 9 North & South

Brewster County
District Court of Brewster County
cause #2006

Dick Williams et al. vs. Asa A. Jones et al.

Mandate, Court ^{also} of Civil Appeals,
8th Judicial District, El Paso, Texas

Filed October 16 1947

Bascom Giles, Com'g

Marion Rosenberg
File Clerk

Counter 16152