

JOHN M. BYERS
ENGINEER
RICHMOND, TEXAS

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REPORT OF A SURVEY MADE TO DETERMINE THE TRUE RELATIONSHIP OF THE JOHN N. ELY SURVEY TO THE ADJOINING SURVEYS IN FT° BEND COUNTY, TEXAS.

The John N Ely survey is the last survey between two blocks of surveys north of the Brazos River Leagues. The Surveys to the west and south of the Ely are built eastward from the Churchill Fulcher League and the Surveys to the east and south of the Ely were located from the Habermaker Surveys, which in turn were located from the north-east corner of the E. P. Whitehead Survey. Note: See accompanying map which is a part of this report.)

It appears from various sources of information, such as the General Land Office Map of Ft. Bend County, and several plats of surveys made by different surveyors during the past thirty or forty years, that the John N. Ely Survey conflicts on the west with the east boundary line of the Alexander Phillips Survey. Therefore it was necessary to locate correctly the east boundary line of the Phillips Survey.

The sequence of these surveys is as follows:

The Churchill Fulcher League was Located first, then the Dan R. Perry Survey began at the Said Fulcher's northeast corner, known as the grindstone corner; then the Rufus Wright Survey was located from the Northwest corner of the Fulcher and the J. J. Bond Survey located along the north line of the Rufus Wright Survey; the Micajah Autry Survey began at the Northwest corner of the J. J. Bond in the East line of the Nathan Brookshire Survey which line is a northward projection of the line between the Churchill Fulcher and John Randon Leagues.

From the Northwest corner of the J. J. Bond the Micajah Autry Survey calls to run north to the south line of H. & T. C. R. R. Co. Sec. No. 75, and thence East to the West line of H. & T. C. R. R. Co. Sec. No. 105. (erroneously called Sec. No. 106 in the original field notes of the M Autry.) Thence South to the Southwest corner of said Sec. No. 105 and thence east along the south boundary lines of said Sec. No. 105 and H. & T. C. R. R. Co. Sec. No. 106, passing the Southeast corner of said Sec. No. 106 at 1901 varas and continuing east for a total distance of 3607 varas; thence South 4353 varas.

From this last named point, the J. W. Scott is located, and from the Northwest corner of the J. W. Scott Survey is located the A. G. Sharpless Survey, and from the Southeast corner of the A. G. Sharpless Survey is located the Alexander Phillips Survey.

To locate the south and east boundary lines of the Alexander Phillips Survey, which are also boundary lines of the John N. Ely Survey, I proceeded as follows:

A search for original corners or bearing trees on the Brazos River for the River Leagues on this and other occasions, convinces me that none of these trees are now standing, for the River has changed its course in some instances as much as 1000 ft. and this is the case at the south end of the Churchill Fulcher League.

I began at a square iron and a piece of grindstone established by Surveyor Barr as the Northeast corner of the Churchill Fulcher League, on the prairie and near an old north-south fence line now down. A backsight was taken on the Northwest corner of the Enoch Latham Survey in the east line of the Fulcher League as now established and the magnetic variation was found to be (9° 30' East). With this declination, a line was run north 773 varas and a search made for the Northeast corner of the D. R. Perry Survey without result.

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A line was then run East for 300 varas and a search made for the Southeast corner of the Rufus Wright Survey without result and a stake was set.

A line was then run North, at 79.5 varas passed a fence, course West, and found an iron pipe 23.4 varas to the East in a fence corner; at 1074 varas, a search was made for the Northeast corner of the Rufus Wright Survey and the Southeast corner of the J. J. Bond Survey without result, and a stake was set.

This line was then continued north and at 15 varas passed 15.1 varas west of an iron pipe and at 16 varas passed 15.1^{v₂} west of a fence corner, (Note; this is the corner now taken as the Northeast corner of the Rufus Wright), at 41 varas passed a fence, course West, and 13.6 varas west of a fence corner post, and at 48.6 varas passed 20.3 varas west of a large post in the prairie; at 615 varas a stake was set and a search made for the Northeast corner of the J. J. Bond without result.

This same line was then continued North 502.2 varas to its intersection with the South line of Sec. No. 105, at a point 185.2 varas west of the Southeast corner of Section 105, at which point I found a very old post oak post, same as described as found by Surveyor Farr 30 years ago.

From the point of intersection described in the preceding paragraph a line was run West with a very old fence line on the South boundary of Sec. No. 105 for 763.5 varas to a fence corner post, at which point I dug up a very old rotten 3" iron pipe.

From this old iron pipe for the Southwest corner of Sec. NO. 105, a line was run north with a very old fence, 1457, varas and a search made for the Southeast corner of Sec. No. 75, and the Northeast corner of the Micajah Autry Survey without result, and a stake was set.

This line was then continued North for 188.6 varas to a very old rotten 18" oak fence corner post. The fence continues north from this point and on beyond an old earthen tank and windmill.

From the post described in the preceding paragraph a line was run S 89° 47' W with a very old fence for 2160 varas to a fence corner on the east line of the Nathan Brookshire Survey. Note: there is no evidence of any other line running north and south 100 varas west of this last named point.

From the fence corner post described in the preceding paragraph a line was run south with the old fence line between the M. Autry and N. Brookshire Surveys, at 188 varas no corner could be found for the Northwest corner of the M. Autry Survey, at 2112.8 varas passed an iron pipe and fence corner, course of fence West, (Note; this is evidently the recognized Northwest corner of the J. J. Bond Survey), at 2690.3 varas passed a fence corner, course of fence East, at 2773.1 varas passed a very old 3" iron pipe for the Northwest corner of the Rufus Wright Survey, and the Southwest corner of the J. J. Bond Survey. (Note: about 72 varas west of this point is an old Bois de Arc Hedge inclosure and the old Harris Residence), at 3256 varas passed a fence, course west, at 3406 varas passed a fence course west, at 4533.8 varas passed a large iron in an old field for the Northwest corner of the Churchill Fulcher League, at 4601.6 varas set a stake and found no corner, at 4789.6 varas no corner was found.

I then began back at the stake set in the south line of Sec. No 105 (see paragraph 4 of this page) and a line was run East with an old fence line, at 185.2 varas passed an old oak post in the fence corner for the common corner of Secs. Nos. 105 and 106, and at 1035.2 varas passed a very old oak post in the fence corner for the Southeast corner of Sec. No. 106.

A line was then run North 190 varas to an iron bar and fence corner, fence courses north and east.

I then began back at the Southeast corner of Sec. No. 106 and ran east on the north line of the M. Autry Survey and at 2837.2 varas a stake was set in an old fence line on the west line of the A. G. Sharpless Survey and 192 varas South of a fence corner for the lower Northwest corner of the Sharpless in the South line of the J. D. V Vermillion Survey. (Note: this makes 3600.7 varas from the Southwest corner of Sec. 105 to the West line of the A. G. Sharpless Survey or 6.3 varas short of the call of the M. Autry which is 3607 varas for this line.

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A line was then run $S0^{\circ} 06' W$ with an old fence line, on the west line of the A. G. Sharpless Survey; at 1073.5 varas passed an iron pipe and fence corner just north of the Katy- Fulcher Road, at 1472.4 varas passes a 6"x6" fence corner post for the established corner of the J. W. Scott Survey (N. W. Cor.), at 4170 varas to an iron pipe and fence corner for the southwest corner of the J. W. Scott survey, which is 127 varas east and 36 varas south of the northeast corner of the Enoch Latham survey.

At 183 varas or 4350 varas as per call of the east line of the M. Autry survey, I found no corner. The call from the southeast corner of the M. Autry survey to the northeast corner of the E. Latham is 527 varas. The measurement is 127 varas or 400 varas short of the call.

I take the corners of Secs. 105 and 106 to be the original corners without doubt, and such being the case, the fence on the south line of Sec. 75 is too far north by 188 varas for the call of the M. Autry on the west line of Sec. 105. This leads to the conclusion that the present corner of the Churchill Fulcher League, from which I began this survey, is too far east by 400 varas and too far north by 188 varas for the corner known to Surveyor Schley in 1874. It will be recalled that Surveyor Schley laid out the surveys north of the river leagues in this section and the established corners of the river leagues were known to him. I am of the opinion that the lower corners of Sec. 105 and Sec. 106 are authentic and true corners and are the same as those used by said Surveyor Schley.

I then went back to the present northwest corner of the Churchill Fulcher League and ran west 400 varas and south 188 varas and hit a lone 10" ash tree and a large sandstone rock on the prairie, which I take to be the original location of the grindstone corner, the tree and rock having been placed by some one to perpetuate its location when the lines in this section were changed.

Now if we begin back at a point 183 varas south from the iron pipe at J. W. Scott's southwest corner and run west 527 varas plus 2393 varas as per call of the M. Autry for the northwest corner of the E. Latham and thence north 3785 varas as per call of the Autry we arrive at a point 65.8 varas south and 100 varas west of a stake set by me for the northeast corner of the J. J. Bond and described on a preceding page. Thence west 2823.5 varas to the Nathan Brookshire east line. Thence North 2025 varas as per call of the M. Autry on this line and we arrive at a point 180.4 varas south of the present southwest corner of Sec. 75, which point will check with the stake I set in the west line of Sec. 105 for the northeast corner of the M. Autry survey as per call on the west line of Sec. 105. The east line of the Nathan Brookshire survey as it exists on the ground has every appearance of being the original location and it follows that the east line of the M. Autry is properly located at present or to be exact, it should be 6.3 varas east of its present location. It could not be located farther west and satisfy the conditions of the field notes and established facts on the ground.

I began back at the present northeast corner of the Churchill Fulcher and ran south. At 1169.6 varas pass the northwest corner of the E. Latham which is a fence corner 20 ft. east of the road center, at 2598.5 varas, pass S. M. A. & A. P. Ry. center line, at 2925.8 varas pass through a shack, and at 3783.7 varas found a fence corner for the southwest corner of the E. Latham survey, but could not find any evidence of the original corner as described in the patent at this point.

I then began back at a 6" X 6" post for the northwest corner of the J. W. Scott, which according to our previous deductions from the original location of the M. Autry is 183 varas too far north and appears to have been relocated from the south line of the J. D. Vermillion as per call of 1665 varas for the west line of the A. G. Sharpless. I found this line to check 1664 varas.

A line was then run east from the northwest corner of the J. W. Scott following an old fence, at 1924.7 passed an iron pipe for the southwest corner of the Alexander Phillips, at 2688 varas found a stake in the road center of the Richmond-Katy public road for the northeast corner of the J. W. Scott.

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At this point, I began a new count and ran east passing an angle iron and fence corner at 865.08 varas for the northeast corner of the E. D. Bell survey in the south line of the Alexander Phillips and at 1824.1 varas, I found a cedar post and fence corner for the southeast corner of the Alexander Phillips survey, course of the east line of the Alex. Phillips survey being N 0° 10' E. The total call from the east line of the M. Autry is 1920 varas plus 2592 varas or 4512 varas in all. The actual measurement is 4512.1 varas, but we found that the M. Autry east line should be placed 6.3 varas farther east to check the call and this would place the Alex. Phillips east line east of its present location by the same amount. It follows therefore that we cannot pull the A. Phillips survey back west out of conflict with the John Ely, and neither can the Phillips survey be pushed northward. If it were to be moved at all, it should be moved east 6.3 varas and south 183 varas, which would increase the area in conflict with the John Ely survey.

To locate the Thomas Habermacher, I began at a cedar post for the northeast corner of the William Andrews and ran south and found no corner at 820 varas as per difference of the Samuel Isaacs and the Wm. Andrews common line and at 1190 varas found no corner for the northwest corner of the Samuel Isaacs League. This point is a point in a fence line in a small prairie in the edge of the bottom timber.

I returned to the cedar post for the northeast corner of the Wm. Andrews and ran north 571 varas to a fence corner for the northwest corner of the E. P. Whitehead survey.

Thence I ran east at 2616.8 varas pass a bois de arc post in road center and at 3549 varas set a stake in the center of an old rice field as I found no corner.

Thence I ran south 765.3 varas to a point in the rice field where a rock formally was for the northwest corner of the James Perry Labor. I then continued south crossing a canal and following the fence on the west line of the James Perry Labor a total distance of 1765.3 varas to a fence corner for the southwest corner of the James Perry Labor.

Thence I ran east 1000 varas to the southeast corner of the James Perry Labor at a road intersection.

I began back at a stake set for the northeast corner of the E. P. Whitehead and ran North 22° West 2670 varas as per call of the Thomas Habermacher survey and arrived at a point in the field 80 varas north and 320 varas west of the established corner of the Thomas Habermacher survey. If we start at the established south corner of the Thomas Habermacher and back the same call in we miss the northeast corner of the E. P. Whitehead by the same distanced in opposite directions.

By reference to the plat, it will be seen that if we accept the call of N 22° W 2670 varas from the northwest corner of the E. P. Whitehead survey for the proper location of the Thomas Habermacher survey it will increase the conflict of the John Ely survey with the surveys on the east by some 300 varas. I took into consideration the fact that the northeast corner of the E. P. Whitehead might have been located farther to the east as shown by the eastern double circle on the plat, and searched the Deed Records of Fort Bend County and found that the calls of the Samuel Isaacs and the E. P. Whitehead were accepted as correct and used in actual surveys of subdivisions as reflected in sketch No. 2, shown herewith. These subdivisions were made in the 1840's and prior to Surveyor Farr's work in this county.

By further reference to the plat it will be seen that in order to pull the Robinson survey down enough to make the John Ely fit the Alex. Phillips, it would be necessary to place the south corner of the Thomas Habermacher still farther to the south and east than it is now located and this location would be contrary to all facts of the field notes of the various surveys and contrary to all of the old established corners. I believe that the north line of the E. P. Whitehead as fenced and also the James Perry Labor are the original locations and are held to be such by the McCrearys who have owned the James Perry Labor and a part of the E. P. Whitehead for a very long time.

The distance from the west line of the William Andrews League to the northeast corner of the Knight and White along a road center, determined by a road survey made by a former County Surveyor is 4993.4

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varas, which closely checks the call of 4999 varas.

Considering the foregoing facts as found on the ground together with the relationship of the various surveys surrounding the Thomas Habermacher, I consider the 3" iron pipe and post the true location of the Thomas Habermacher as determined by Surveyor Tolman in his corrected field notes of this survey.

I then proceeded to tie in the south corner of the L. A. Patillo to the E.P. Whitehead as shown by the plat and ran the southwest lines of the Thomas Habermacher and the Stephen Habermacher according to the field notes as shown by the plat to the iron axle for the common corner of the T. Robinson and G. W. Cartwright survey and the Stephen Habermacher survey, which corner was held by the District Court of Fort Bend County Texas in case No. 6642 Michael Feeney vs. T. P. Black to be in the north line of the Stephen Habermacher and in the south line of the G. W. Cartwright. From this point the field notes for the T. Robinson were corrected June 28, 1917.

From the east corner of the T. Robinson as established I ran S 45° 09' W 950 varas to an iron axle for the south corner of the T. Robinson and an east corner of the John Ely.

The southwest lines of the L. A. Patillo, S. M. Williams, the Morris and Cummings No. 1. and No. 2, I ran as shown by the plat.

The I. N. G. N. No. 2, was then run from an iron pipe in its east corner and the west corner I found to be a very old iron pipe which appears to be an authentic and well established corner of this survey.

I then proceeded to survey the John N. Ely as reflected in the field notes taking the northwest line of the I. N. G. N. Survey No. 2 as the southeast line of the Ely, and ignoring a conflicting location of the G. C. & S. F. No. 1. which also conflicts with the I. N. G. N. survey No. 2, a prior location. It is a physical impossibility to satisfy each of the surveys to the south of the John N. Ely since there is a double set of corners in a fixed area.

My reason for the location of the John N. Ely as set forth in the corrected field notes is as follows:

First. It was found by retracing Surveyor Schley's work eastward from the Brookshire east line that the A. Phillips southeast corner should be 6.2 varas farther east than the cedar fence corner post shown on the general sketch for this corner. The east line of the A. Phillips should be at right angles with its south line according to the call and there should be no offset in this east line as is now represented by a fence line. Therefore, the west line of the John Ely should run north from the southeast corner of the A. Phillips to the last location of the T. Robinson according to its corrected field notes of June 28, 1917, and made by County Surveyor R. C. Waitt.

Second: From this last named corner the John Ely should run southeast with the southwest line of the corrected T. Robinson to the T. Robinson's south corner, a square iron buggy axle set by Waitt, but should not stop at this point, for the District Court in fixing the northwest line of the Stephen Habermacher survey did not necessarily fix the northwest line of the Morris and Cummings No. 1. and if we run the Morris and Cummings No. 1. to the T. Robinson, there would be an excess area 186 varas by 1344 varas. Therefore the line of the John Ely should continue through the south corner of the T. Robinson, changing its course so as to be parallel to the southwest line of the Morris and Cummings No. 1, (ie: South 45° East) and run to the old Farr line for the northwest line of the Morris and Cummings No. 1, which line is 2688 varas N 45° W from the south corner of the Morris and Cummings No. 2.

Third: The John Ely as per call, should then run southwest with the northwest line of the Morris and Cummings No. 1, to the old west corner thereof.

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Fourth: Thence the John Ely should run southeast with the southwest line of the Morris and Cummings No. 1 for 788 varas as per call.

Fifth: Thence the John Ely should run S 45° W 2036 varas according to call, but there is an old corner of the I. & G. N. survey No. 2, which I take to be an authentic corner and which bears S 44° 52' W, and to avoid a very small triangular vacancy of no consequence I considered the southeast line of the John Ely coincident with the northwest line of the I. & G. N. survey No. 2. There are patented surveys at the south corner of the John Ely, approved by the General Land Office in 1911, and these surveys would conflict with the John Ely if the said Ely were run out for the full 2036 varas. It was therefore considered advisable to run the John Ely to its intersection with the northeast line of the E. D. Bell survey and thence Northwest with the said E. D. Bell line to the south line of the A. Phillips and thence to the southeast corner of the said Phillips as established by me on the ground.

Sixth: The location of the G. C. & S. F. ^{#1} shown on the general sketch is a recent location and does not appear to be at all in conformity with the original location of this survey which was also subsequent to the I. & G. N. survey No. 2 and would have to give way to this prior survey. The evidence indicates that the pile of rocks in the east corner of the Brooks and Burleson No. 10 is a corner set by Schley, and that the G. C. & S. F. No 1 was located originally from this corner by Schley who did not know Surveyor Lott's corners of the I. & G. N. surveys No. 1. and 2. While I am satisfied that the I. & G. N. No 2 as located at present is Surveyor Lott's location, I am not satisfied that the location of the G. C. & S. F. survey No. 1 as I have shown it on the general sketch is Surveyor Schley's location. It should be pulled down to the pile of rocks mentioned above.

Seventh: In all of these surveys it is not a matter of construction to make the various surveys fit each other as per call on paper, but it is a question of retracing the footsteps of the different surveyors who are supposed to have made the original location on the ground. It appears that some of these surveys were written up from the office.

I have gone into this matter very thoroughly and have been unable to find any old settlers whose information was exact enough to be of any value. This much is evident however in regard to the surveys south of the John Ely, that Surveyor Schley's corners did not fit Surveyor Lott's corners. It is also evident that some of the original calls of the Habermacher surveys were erroneous. Just why Surveyor Schley ran the S. M. Williams survey 100 varas in conflict with the Thomas Habermacher, I have not been able to determine.

On the following pages will be found a certified copy of the judgment in the case No 6642 of Feeney vs. Black and also my corrected field notes of the John N. Ely survey.

I, John M. Byers, Deputy County Surveyor of Fort Bend Co. Texas do hereby certify that the foregoing report truly represents the relationship of the various surveys considered as they actually exist on the ground as determined by me from a survey made by me during the month of October 1920.

Chain Carriers. | Abelino Rodriguez
| Sinclair Dyer
| Endro Rodriguez
| Manuel Trujillo

John M. Byers

Dep. Co. Surveyor, Fort Bend Co. Texas.

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I, John M. Byers, County Surveyor of Fort Bend County Texas, do hereby approve and adopt the foregoing survey, which was actually made by me at a time when I was Deputy County Surveyor, and do certify that the foregoing survey was made according to law and that the limits, boundaries and corners, with the marks natural and artificial are true as described in the foregoing plat and field notes and they are recorded in my office in Book F. page 410 et seq.

Feb. 15, 1921.

John M. Byers
County Surveyor Fort Bend Co. Texas.

Handwritten notes in pencil, including the name "John M. Byers" and other illegible text.

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counter 22994

counter 55882

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Sketch File _____
Fort Bend County -
- North Post -

Filed May 20th 1921

J. T. Robison
Clerk -
S.C. Clark, Clerk

See Blue Print Plot filed
with this -

Rep. 12, 1921.

As recorded in my office in Book B. page 410 et seq.
the first as described in the foregoing plat and field notes and the
limits, boundaries and corners, with dimensions, natural and artificial
that the foregoing survey was, and according to law and that the
I. John W. Byers, County Surveyor of Fort Bend County Texas, do
hereby approve and adopt the foregoing survey, which was actually made

County Surveyor Fort Bend Co. Texas.
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