

G. H. PENDARVIS,

Attorney at Law and Abstractor of Titles.

969

Houston, Texas, April 8, 1895.

Hon A. J. Baker,
Land Commissioner,
Austin, Texas,

Dear Sir; -

There is a conflict of surveys between Cedar Bayou and the San Jacinto River, about 20 miles east of Houston, in Harris County, and as this section is now erroneously platted on the Land Office maps, (as I shall hereafter show,) and as I am informed that it is now being re-compiled by your office, I deem it proper to address you on the subject.

I beg to hand you herewith a certificate of the County Surveyor of this county, giving connecting lines run by him from the San Jacinto River at the northwest corner of the Peuben White League, to Cedar Bayou at its intersection with the ^{north} south line of the George Ellis League. Also from the same point on the San Jacinto River to Cedar Bayou at its intersection with the south line of the Juliana Maley League. Referring to this data, and that already on file in your office, I beg to call your attention to the following considerations:

All these surveys, between the San Jacinto River and Cedar Bayou are in the prairie, without marked lines or corners, and can only be established by course and distance from the river and bayou respectively. The corners called for in the certificate above referred to, as I understand, are established on the ground.

counter 25392

A

Houston, Texas,

(2)

The Reuben White League, an old Mexican grant, calls to begin at its northwest corner on the San Jacinto River; thence east 5400 varas; thence south 5000 varas; thence west 2900 varas to the river. As a matter of fact, running it out this way, it now requires 6600 varas to reach the river instead of 2900. There is evidence upon the ground that the river at this point has changed its course several times, the movement being west. In 1840, it appears that a survey for Horace Baldwin, assignee of Henry Shearly was located, or intended to be located, by J.W. Henderson, County Surveyor, east of the Reuben White. This survey is shown on the map made by Geo H. Brinhurst in 1840, and now an archive of your office, but was never patented, and I am informed that the field notes are not on file in the Land Office. I therefore submit herewith a certified copy of same from the County Surveyor's office of this ^{County} office, from which you will observe that it calls to begin at the S.E. corner of the Reuben White, but ties to nothing else. Applying the scale to the Brinhurst map above mentioned, you will see that it puts the beginning corner of the Baldwin Survey about 2900 varas east of the river.

In April, 1839, Henry Trott, then District Surveyor, located the Scrip surveys, including the four Gregorys. This block of surveys calls to begin at the S.E. Corner of the Baldwin, which is the S.W. and beginning corner of the Augustus Whitlock, Scrip No 186

Houston, Texas,

(3)

(How a survey made in April, 1839, comes to call for one made in May, 1840, I am unable to explain.) Taking these surveys in the order in which they are recorded in the County Surveyor's office, and which is presumably the order in which they were made, they run as follows: No 186 calls to begin at the S.E. corner of the Baldwin; thence east 1900.8 varas and around to the beginning. No 187 begins at the S.E. corner of 186; thence east 1900.8 varas and around to the beginning. 196 begins at the S.E. corner of 187; thence east 1200 varas to the N.E. corner of the Geo White League; thence south 300 varas, with White's east line; thence N 80 E, passing the N.W. corner of the Geo Ellis League, 960 varas to the S.W. corner of the Hannah Nash League; thence, with the west line of the Nash, N 10 W, 1700 varas; thence west 1850 varas to the east line of 187 and south to the beginning. Then comes 351; beginning at the N.W. corner of 186, on the east line of the Baldwin; thence east 1900 varas and around to the beginning; No 41 begins at the N.E. corner of 186 and S.E. corner of 351; thence east 1900.8 varas and around to the beginning. 42 begins at the N.W. corner of 196, and calls for the west line, N.W. corner and north line of the Hannah Nash, and the S.W. corner of the Hugh Morgan on Cedar Bayou. 43 begins at the N.W. corner of 42 and calls for the bayou. 44 begins at the N.W. corner of 43 and also calls for the bayou.

Now if we locate the S.E. corner of the Reuben White 5400 varas east and 5000 varas south of its N.W. corner on the San Jacinto

Houston, Texas,

(4)

and from thence give the Baldwin its distance of 2888.8 varas for the beginning of Scrip 186, and lay out the block by course and distance, we reach the west lines of the Geo Ellis and Hannah Nash Leagues long before exhausting the distance called for, and place the point called for as the N.E. corner of the Geo White 1434.7 varas east of the N.W. corner of the Ellis, instead of west of it as it should be. Even if we suppose the surveyor to have been ignorant of the position of the Ellis and Nash Surveys, he could not have been mistaken as to the bayou, and his calls for the Ellis and Nash put them in their proper position relative to the bayou. On the other hand, it is inconceivable that an error of over 1500 varas could have been made in chaining 5000. The conclusion is therefore irresistible that Trott did not begin his block of surveys at a point 2888.8 varas east of the S.E. Corner of the Reuben White. The error is easily accounted for. If instead of the going to the N.W. corner of the Reuben White for his beginning he took its S.W. corner and not knowing of the error in its south line, ran 2900 varas east for the S.E. corner of the Reuben White, and 2888.8 varas further for the S.E. Corner of the Baldwin, and then began his survey (The river being further east than it is now,) his survey would have come out about as it did. That this was understood to be the location of the Baldwin is shown by the Bringhurst map above referred to. Conclusive as this reasoning

Houston, Texas,

(5)

may be, we are not left to depend upon it alone. We have positive evidence as to where Trott understood the Baldwin survey to be. Again taking up his scrip locations, all made at the same time, the next in order is the S.T. Champney, No 93, which calls to begin at the S.W. Corner of the James Scott League. The James Scott League is an abandoned survey, and its field notes may not be on file in the land office. I therefore submit herewith a certified copy from the County Surveyor's office. Referring to same you will see that the west line of the Scott is a prolongation of the west line of the Julian Maley League, and its S.W. Corner is S 9, 1/2 E, 3000 varas from the S.W. Corner of the Maley. From this point, the Champney, No 93, runs with the south line of the Scott 1915 varas to the N.W. Corner of Scrip 44; thence south, with the west line of 44, 1950 varas to the north line of 41; thence west 2070 varas; thence north 2360 varas to the west line of the Scott, and with same 760 varas to the beginning. The next survey is the Addison Weld, No 183, which begins at the north corner of the Champney; thence south 2360 varas with its west line; thence west 1190 varas thence south 920 varas to the N.E. Corner of the Baldwin. The certified connection herewith shows the easting from the N.E. corner of the Reuben White to the S.W. corner of the Maley to be, on the ground, 2305.8 varas. Adding to this the departure of the west line of the Scott, 495 varas, makes the easting from the N.E. corner

Houston, Texas,

(6)

of the Reuben White to the S.W. corner of the Scott 2800.5 varas. Deducting from this the westing made in running from the S.W. corner of the Scott to the N.E. corner of the Baldwin as above, viz 1374.3 varas, leaves 1426.5 varas, which shows that Trott located the east line of the Baldwin at that distance east of the true position of the east line of the Reuben White, and proves beyond question that he began his block of surveys 1426.5 varas east of the true S.E. corner of the Reuben White.

Starting from the point thus established, all the calls of Trotts block of surveys fit, until we reach the most westerly, viz, Nos 191 and 199, which appear to conflict with the Humphrey Jackson. In order to reconcile these conflicts, and to make room for the junior locations put in place of the abandoned Baldwin (which was probably floated because it was found to conflict with the Reuben White,) the map makers have shifted the whole block east. This is shown by comparing the position of the Champney, Scrip 93, on the present maps with its position as fixed by the Scott field notes and as shown by the Bringhurst map of 1840. Its interior and beginning corner, instead of being on a prolongation of the west line of the Maly is several hundred varas east of it.

Of course I know that it is not the province of your department to decide questions of conflict, but you can and do delineate the relative position of surveys as accurately as possible, accord-

Houston, Texas,

(7)

ing to the data at your command, and in so doing should show the conflicts in their true position. As these surveys are now shown on the land office maps in such a way as to cloud the title to land which belongs to me, viz, the four Gregory Sections, I respectfully ask your consideration and action upon this matter. If you need other connections I will be pleased to furnish them, and if the certificate enclosed is not in proper form to authorize you to act upon it, I will have such corrections or additions made in it as you may indicate. I would like a working sketch showing your compilation of this entire section in the light of this data.

To show you how this question affects me, I enclose a plat showing how the County Surveyor insists upon locating the Gregory sections. This construction is contrary to all established rules, as it ignores established lines and natural objects. Even if it be conceded that the beginning point is where he claims it to be, the call for the west line of the Nash in the first course of Scrip 42 should be respected, and from thence following the calls in the patent would put the ^{upper} S.E. corner at the S.W. corner of the Hugh Morgan, and the N.E. corner 280 varas N 10 W from it, in their proper place. Then beginning Scrip 43 at its second call instead of its first, both 43 and 44 would come in their proper place and get their full quantity. Even if the Cahmpney 93 were not fixed by its call for the Scott, it is junior to the Gregorys and would

G. H. PENDARVIS,

Attorney at Law and Abstractor of Titles.

Houston, Texas,

(8)

have to give way. The Campney 93 being fixed as already shown, Mr Polk's construction would leave a vacancy between it and the Gregory; this is what I referred to in my letter of the 30th March.

This unreasonable construction by the County Surveyor is preventing my sale of the land, and will to a certain extent operate to my prejudice if I take the matter into court. An unofficial expression by an expert in your department on this point would be of great service to me, and would be much appreciated, if it can consistently be given.

The red lines on the plat may be ignored, as they only shew the effect of locating the Baldwin Survey 2900 varas east of the present position of the river, and therefore have no bearing on the question as to its location in 1840.

Yours truly

G. H. Pendarvis

H

counter 25319

*G. H. Pendarvis, Houston
Campney 93
Gregory
Baldwin Survey
2900 varas
east of the
river
1840*

Harris Co. ~~33~~ #11
G. H. Pendarvis' Report on
Conflicts between the sur-
veys on Cedar Bayou, and
San Jacinto River,
Dated April 8, 1895.

Your truly
G. H. Pendarvis

Counter 25350

G. H. Pendarvis

1895
Houston, Texas

G. H. Pendarvis Rept. 4/8/95

I