

Refugio, Texas
September 15, 1954
Surveyor's Report

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

Dear Sir:

This is a report covering a resurvey of the Lawrence and James Carlisle survey, titled October 3, 1834, and the Martin Power survey, titled September 29, 1834, both in Refugio County, Texas, made for the James F. Welder Heirs of Victoria, Texas.

In regard to the ownership of these two surveys, my own examination of the records indicates that John Linney acquired both surveys through proper succession from Carlisle and Power. John Linney conveyed 60 1/2 acres out of the N.W. corner of the Power survey to J. O. and Robert Driscoll by deed dated April 15, 1880 as recorded in Volume M, Page 585, Deed Records of Refugio County. Mr. James Lawrence Wood now owns this 60 1/2 acre tract. John Linney's heirs conveyed the balance of the Power survey and all of the Carlisle to C. L. Terrell by deed dated August 5, 1901, as recorded in Volume S, Page 198, Deed Records. C. L. Terrell's widow, Mrs. Etta Terrell, conveyed this latter tract to R. H. Welder by deed dated June 5, 1931, as recorded in Volume 20, Page 450, Deed Records and R. H. Welder conveyed it to the James F. Welder Heirs by deed dated December 30, 1935, as recorded in Volume 32, Page 199, Deed Records.

These surveys are headright grants to colonists in the Power and Hewetson Colony and both front on the north or left bank of Sous Creek.

There is no record in this county, or in the General Land Office of a surveyor's field note description of the titled surveys in this area. These surveys, as well as most of the other surveys in the Power and Hewetson Colony are located from the general description in the title which calls for a frontage on the streams, depth and adjoinder calls for the abutting grantees, if any.

At first glance the lines of the titled surveys appear to be

particularly confusing in this area due to the shortage of distance between Sous Creek on the south and Medio Creek on the north, where another group of this same series of titled surveys extends south from that creek. However, after a comprehensive study of the original titles, the plats in the Atlas files and the county maps from the colonial era to the present time at the General Land Office, the junior surveys and the county deed records, it is quite evident to me that the titled surveys were run out from the west line of the Refugio Town Tract. It is also certain that the colonial surveyors meandered all of the streams in the area. I am also certain that the lines of the original surveys as I have re-established them have been so located and peacefully occupied from the colonial period to the present date.

It appears to me that these lines were located by the simple formula of measuring west from the Town Tract, allowing each title its stream frontage, and adjusting the shortage of depth by seniority of surveys or mutual agreement. I have no knowledge of any legal disputes involving the titles west of the Town Tract.

I have prepared a working sketch outlining the Power and Carlisle surveys which shows all of the original surveys in the area that have any bearing upon the location of these two surveys, and have indicated thereon the land ownership lines on the Power, Carlisle and abutting surveys.

I began this survey at a rock marked 7-L on the north high bank of Sous Creek at the recognized S.E. corner of the Carlisle survey. This rock is situated 55.6 varas north of the center of Sous Creek and is also the S.E. corner of the James F. Welder land. The 7-L marked on this rock is the cattle brand of John Linney who acquired the property in 1874. From this rock I measured N. $8^{\circ} 52'$ E., at 7658.4 varas set a concrete monument in Welder's north fence boundary at the S.E. corner of a lane at the recognized N.E. corner of the Carlisle survey, at 12,652.5 varas found a rock on the right high bank of Medio Creek at the recognized N.W. corner of the John James titled survey and the N.E. corner of the T. H. Williamson Survey, S:229. This rock is situated on the south high bank of Medio Creek, is S. $8^{\circ} 52'$ W., 187 varas from its low bank going

forward on my line and about 25 varas from the low bank looking northeast. The distance in the Carlisle title is 7579 varas, the actual distance is 7658.4 varas to the rock marked 7-L and 7714 varas to the center of Sous Creek. The total called distance along the east line of the Michael Riley, 1:113; C.I.R.R. Co., S:287; Thomas O'Connor, B:147; C.E.P.I. & M. Co., S:247 and Thomas H. Williamson, S:229, surveys made by L. H. Ward between 1874 and 1877 is 4918 varas, the actual distance is 4994 varas.

I then went to the recognized S.W. corner of the Refugio Town Tract and found the rock marking this corner; this is the same rock found by A. H. Lea, the surveyor appointed by the court in 1853 in suit styled James W. Byrne v. The Town of Refugio, Cause No. 417, District Court of Refugio County, and Town of Refugio v. Byrne 25 Tex 193. There is considerable testimony in the Byrne suit that identified Bray as the colonial surveyor who surveyed the Refugio Town Tract and sustaining A. H. Lea's re-establishment of Bray's west and south lines of the Town. This detail is mentioned because this rock is located as follows: Begin in center of Town Plaza; Thence, N. 80° 26' W., 4697.8 varas to the west line of the Town Tract; Thence, S. 9° 34' W., with the west line of the Town Tract, 5455.8 varas to rock at the S.W. corner of the Town Tract. The Town Tract, by Mexican law should be four leagues, 10,000 varas square on lines running north, south, east and west with the plaza at its center, thus making the rock some 302 varas east and 456 varas south of its theoretical location. This is mentioned by way of explanation for there is no doubt about the present corner of the Town Tract. I began at this rock and measured N. 81° 08' W., 7727.9 varas to the east line of the Carlisle survey, and N. 8° 52' E., with the east line of the Carlisle survey, 840.7 varas to the concrete monument that I set at the N.E. corner of the Carlisle survey. The called distances in the titles across the Thomas Mullen and Mary and Anna Roche surveys are 2376 varas each and the title distance across the John James survey is 2970 varas, a total of 7722 varas, thus making an excess of 5.9 varas between the S.W. corner of the Refugio Town Tract and the east line of the Carlisle survey.

The other lines of the Carlisle and Power surveys were

surveyed in the following manner: Beginning again at the N.E. corner of the Carlisle survey, I measured N. $81^{\circ} 08' W.$, with the general course of Welder's north boundary, 1663 varas, the called distance in the Carlisle title, to a concrete monument set for the N.W. corner of the Carlisle survey;

Thence, S. $8^{\circ} 52' W.$, at 387 varas set a concrete monument for the N.E. corner of the Martin Power survey, at 7487 varas set a concrete monument, at 7581 varas in all to the center of Sous Creek. The called distance of this line in the Carlisle title is 7365 varas, thus making an excess of 216 varas to the center of Sous Creek. I then meandered the center of Sous Creek to the S.E. corner of the Carlisle survey.

The resurvey of the Martin Power survey was begun at the concrete monument set in the west line of the Carlisle survey, 387 varas from its N.W. corner;

Thence, N. $81^{\circ} 08' W.$, with the north line of the Welder land and the south line of L. H. Ward's surveys, and a prolongation thereof, 3801 varas to a concrete monument set for the N.W. corner of the Power survey; this is the called distance for frontage of the Power survey.

Thence, S. $8^{\circ} 52' W.$, at 6500 varas set a concrete monument, at 6574 varas in all to the center of Sous Creek at its forks for the S.W. corner of the Power survey. The called distance of the west line of the Power in the title is 6771 varas, thus making a shortage of 197 varas.

Insofar as I was concerned, the fact that the S.W. corner of the Martin Power survey struck Sous Creek at its forks was entirely fortuitous, as my surveying is based upon the re-established west line of the Collyer and James surveys and east line of the Carlisle survey and the series of surveys made by L. H. Ward, between the rock marked 7-L and the rock at the N.W. corner of the James survey. However, it became increasingly significant to me after studying Ward's field notes of the D. J. Mitchell survey 1:75 for the lines of the Mitchell cross the Sous without reference to it. I found that Sous Creek practically loses its identity as a creek at this point, where a branch extends NW and another branch extends W.SW.

I then meandered the center of Sous Creek to the S.W. corner of the Carlisle for the S.E. corner of the Power survey. Thence, N. 8° 52' E., 7194 varas to the N.E. corner of the Power; the called distance in the title is 6415 varas, thus making an excess of 779 varas.

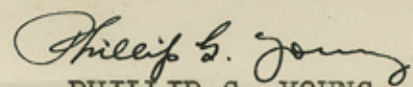
Through a series of private surveys I have previously had occasion to check the lines of the H. C. Wood, James Lawrence Wood and Mattie Wood Estate lands sufficiently to feel safe in platting them upon the working sketch from the deed records. This indicates that the James McGeehans titled survey will overlap the Power by about 700 varas.

To summarize this work, the excesses and shortages of the north-south lines were not overlooked, but the lines of these surveys as I have re-established them, conform to the recorded titles in this area from the very earliest settlement of the country. They conform to L. H. Ward's block of surveys on the north, which, whether made by protraction or actual survey, call to begin and run with the north lines of the Carlisle and Power surveys, thus ascertaining that the lower lines of the L. H. Ward surveys would shift northward or southward with the lines of the Carlisle and Power surveys.

The Carlisle survey contains 2268.9 acres, an excess of 54.8 acres and the Power survey contains 4625.5 acres, an excess of 197.1 acres.

Measurements were made to the center of Sous Creek as it has an average width of 4 or 5 varas below its forks. The two forks appear to be considerably less, but were not measured.

Respectfully submitted,


PHILLIP G. YOUNG
County Surveyor
of
Refugio County, Texas

PGY/jf

