

File No. Sketch File 12  
Robertson County  
Filed 9-29 1987  
By GARRY MAURO, Com'r  
H. Forbes

SURVEYOR'S REPORT  
JOHN H. TYLER SURVEY  
SCRAP FILE 12481 - SCHOOL FILE 146221  
ROBERTSON COUNTY, TEXAS

TO THE  
HONORABLE GARRY MAURO, COMMISSIONER  
TEXAS GENERAL LAND OFFICE  
AUSTIN, TEXAS 78701

In June and July of this year, I made an on-the-ground survey attempting to locate the John H. Tyler Survey, School File 146221, in Robertson County, Texas.

The Tyler Survey is "Public School Land" by way of a vacancy filing and award in 1922 to 1924. It is a tract of land of 108-acres and was forfeited to the state in 1927, re-purchased that same year and again forfeited in 1941.

#### History of the Area:

The Thomas J. Chambers 4 league grant has the senior Titled date September 28, 1834 in the area, followed by the Litsom Purdy Titled December 30, 1834, the Joseph Webb Titled January 12, 1835 and the Concepcion Charle Titled July 16, 1835.

#### Next in seniority by survey date:

John Trudoe Survey - May 22, 1835  
Thomas Mudd Survey - Since February 1, 1839  
Hugh Davlin Survey - April 20, 1839  
L. M. Simons Survey - Since August 1, 1839  
Joseph Mathers Survey - June 21, 1857  
A. B. Hannum Cancelled Survey - June 21, 1857  
A. B. Hannum Corrected Survey - June 22, 1876  
A. B. Hannum 54-Acre Cancelled Survey - December 5, 1876  
A. B. Hannum 22-Acre Corrected Survey - December 6, 1876  
John H. Tyler Survey - February 10, 1922 (Not Patented)

The Chambers Survey, Titled September 28, 1834 calls to begin at a point 10,000 varas above the mouth of Pond Creek, which is on the west side opposite League made for Litsom Purdy. From this beginning point, the Field Notes call to meander the River southerly to the upper corner of the Purdy League 18. From here they call N 60° E 11,050 varas; N 30° W 9,520 varas; and S 60° W 10,550 varas to the beginning. The Chambers survey does not call to go with the northwest line of the Purdy Survey, nor does it call for passing the Purdy north corner although it calls for the same bearing, "N 60° E", and a distance of 1,426 1/2 varas longer than the Purdy call.

The Concepcion Charle Survey, Titled July 16, 1835 calls to begin at the upper corner of League 18 granted to Littsom Purdy, running up the river meandering the same for a base of about 2,500 varas. The River meanders are then cited, ending at a Stake. From this west corner on the river it calls to go "N 60° E" 8,754 varas, at 1,250 varas crossed the Little Brazos, at 3,050 varas crossed a creek called in English Lost Creek, at 3,270 varas again crossed said creek, and running up the same to the headwaters and formed a corner at a Blackjack 4 inches in diameter. Two Blackjack trees are cited as witnesses. From here it calls S 30° E 2,500 varas to a stake and cites two oak trees as witnesses. From here it calls S 60° W 11,050 varas, at 1,427 varas reached the NE corner of Purdy's League No. 18 and thence with the S boundary line of said League No. 18 to the place of beginning.

The John Trudoe Survey calls for the Purdy north corner "which stands in the south boundary of League No. 19 granted to Concepcion Charle" and then goes N 60° E 1,420 varas with south boundary of said League No. 19 to its East corner, then goes N 30° W 1,132 varas with the East line of League 19 to a stake and mound in prairie, then goes N 60° E 5,214 varas through small prairies and open post oak wood. The Charle and the Trudoe surveys were made by the same surveyor, J. B. Chance, apparently in 1835.

The Thomas N. Mudd Survey was surveyed "since February 1, 1839" and calls to begin at the N. E. corner of a survey made for R. A. Lusk at a stake and cites two blackjacks as witnesses. It then goes N 60° E 2,240 varas with Hugh Dablins south line and calls for a B. Hickory and a B. Jack as witnesses. It then goes S 30° E 3,720 varas intersect John Trudos survey set a stake and cites a P. O. and a B. Jack as witnesses. It then goes S 60° W 2,240 varas, came to the S.E. corner of said Lusks survey at a stake and cites two P.O. as witnesses. It then goes N 30° W 3,720 varas with said Lusks line to the beginning. I have not been able to find any Field Notes for the R. A. Lusk survey.

The Joseph Mathers survey was surveyed June 21, 1857 and calls to begin on the east line of T. J. Chambers and the S. E. line of Hugh Davlin at a stake and cites two Black Jacks as witnesses. It then goes N 60° E 1,150 varas to Thos. Mudds N. W. corner and calls for same trees as Mudd. It then goes S 30° E 2,681 1/2 varas put a stake and calls for two Black Jacks. It then goes S 60° W 1,150 varas put a stake and calls for two Post Oaks. Then N 30° W 2,681 1/2 varas to beginning.

The larger of the two Hannum surveys was surveyed June 22, 1876 and calls to begin at the S. W. corner of the Mudd survey citing two Black Jacks as witnesses. Then goes N 30° W 786 varas with Mudd's line to S. E. corner V. Mendez. Then S 60° W with Mendez line 493 varas to stake on E. line of Concepcion Charle. Then S 30° E with C. Charle 786 varas to stake N. W. corner J. Trudoe on Charle E. Line. Then N 60° E 493 varas to beginning. The Survey-

or states that this is a corrected survey to have Patent cancelled and certifies that it does not conflict with the Charle survey. The Mendez survey was never patented which occupies the position of the smaller Hannum survey.

The smaller Hannum survey was surveyed December 6, 1876 by the same surveyor that surveyed the larger Hannum survey and calls to begin at the S. E. corner of the Mather on W. line Mudd survey. Then S 30° E with Mudd line 254 varas intersect the N. E. corner A. B. Hannum (Patented Survey). Then S 60° W with same 493 varas to stake on C. Charle E. line. Then N 30° W with C. Charle 254 varas to stake on Mathers S. line. Then N 60° E 493 varas with Mathers to beginning. The surveyor states that this survey was surveyed December 6, 1876 by adopting former work.

John H. Tyler made Application for Survey to the Robertson County Surveyor, B. E. Satterfield, filed for record January 25, 1922 and recorded in Volume C, page 107 of the County Surveyors Records' of Robertson County, Texas, filed in this office February 17, 1922.

Field Notes of a survey of 108-acres of land made for John H. Tyler, surveyed by B. E. Satterfield dated February 10, 1922, were filed in this office on February 17, 1922.

A letter, Item 6 in S.F. 12481, from the General Land Office, to John H. Tyler dated March 16, 1922 informing him that "It will be necessary for the Surveyor to submit to this office, for consideration, a complete, certified sketch showing work done by him on the ground." This letter ask for the surveyor to indicate which original corners were identified, giving size and kind of trees found etc. The last paragraph reads "Your file will be given further consideration upon receipt of this information. Please refer to S.F. 12481."

A letter, Item 7, in S.F. 12481, dated September 25, 1923 from the General Land Office to John H. Tyler reads in part "It is desired that you submit the necessary information in connection with your field notes on 108-acres of supposed vacant land in Robertson County, about which I wrote you on March 16, last."

A surveyor's statement by Quinn Walker, Licensed State Land Surveyor, was filed in this office on April 16, 1924 apparently attempting to satisfy the request made in the above mentioned letters dated March 16, 1922 and September 25, 1923.

A letter from the General Land Office to John Tyler dated April 29, 1924 informed him that the Field Notes had been examined and approved, classified and made subject to sale to him.

An "Application and Obligation to Purchase School Land Without Settlement" dated April 30, 1924 by John Tyler was filed in this office June 17, 1924.

A "Duplicate Award And Receipt" in Scrap File No. 12481, Date of Award June 17, 1924 to John H. Tyler and signed by J. H. Walker, Acting Commissioner is marked "Posted".

The file jacket of S.F. 12481 is marked "Land Forfeited July 1, 1927" and signed by J. T. Robison, Commissioner.

An Application to Re-Purchase Forfeited School Land" by John H. Tyler, dated November 19, 1927 was filed in this office November 19, 1927 and was awarded to him December 6, 1927 on this same 108-acres of land and was given School File No. 146221.

This land was again forfeited August 26, 1941.

Since that time the General Land Office has considered this land as "Public School Fund Land."

#### Construction:

The north and east lines of the Purdy Survey are well marked by very old occupation. The call distance from the Little Brazos River to the northeast corner, as occupied, fits. The south lines and the west lines of the John Trudoe Survey are well marked by very old occupation where same joins the J. Webb and L. Purdy Surveys. I have adopted the occupied position of these lines and corners as being correct in lieu of not being able to identify any corners in this entire area as being Original Corners from the Field Notes calls for stakes and marked trees.

The Chambers Survey and the Charle Survey call for the northwest corner of the Purdy Survey as their southwest corner. The Chambers Survey calls for the northwest corner of the Purdy at the south end of its River Meanders and then goes N 60° E 11,050 varas, the same bearing as the Purdy, but not calling specifically for the Purdy line. The Purdy north line call is 9,623 1/2 varas. The difference in the call length of the south line of the Chambers south line and the Purdy north line is  $11,050 - 9,623 \frac{1}{2} = 1,426 \frac{1}{2}$  varas.

The Charle Survey begins at the northwest corner of the Purdy and meanders the River north and proceeds in a clockwise direction back to the beginning. It calls to cross the Little Brazos and Lost Creek on its north line. It calls for witness trees at its northeast and southeast corners and calls to pass the northeast corner of the Purdy at 1,427 varas, which is 1/2 vara different from the difference gotten by subtraction of the Chambers and Purdy calls. As previously stated, the northeast corner of the Purdy fits the call distance from the Little Brazos, I have plotted the Purdy northwest corner its call from its northeast corner. By plotting the Charle from the northwest of the Purdy, as called

for, the creek calls along its north line will not fit, nor will the occupation along its east line. By shifting the Charle N 60° E, approximately 700 varas, the three creek calls fit good as well as occupation on its east line and the calls in the Hannum Surveys.

The Trudoe and the Charle were surveyed by the same surveyor at approximately the same time. The Trudoe having been surveyed May 22, 1835 and the Charle having been Titled July 16, 1835, The Trudoe calls for the northeast corner of the Purdy in the south line of the Charle and then calls for the Charle southeast corner 1,420 varas from the Purdy corner, whereas, he called that distance to be 1,427 varas in the Charle Field Notes. This small difference may ordinarily be considered insignificant, but, in this case I feel that it is significant, for reasons to be stated later. From the southeast corner of the Charle, the Trudoe calls to go with the Charle line N 30° W 1,132 varas to stake in prairie and then N 60° E through small prairies and P. O. woods. From an examination of the Trudoe's Field Notes, it can be seen that the only lines the surveyor ran were the most southerly south line and the east line, which are the only ones he needed to run as he could plot the remainder from adjoining surveys. On these two lines he calls for witness trees at the corners and topographic features along the lines.

The key to the answer of whether or not the John Tyler Survey was located on Unsurveyed School Land or on Patented or Titled land lies in the true location of the Charle Survey and the weight given to the call for adjoinder of the Hannum Surveys. If the passing call in the Charle Field Notes of 1,427 varas from the northeast corner of the Purdy is used to position the east line of the Charle it will not fit the creek calls, nor will it fit any occupation. If the creek calls on the north line are used to position the Charle east line then the occupation fits and the width of the Hannum Surveys fits. From all the evidence, record and ground, that I have been able to uncover, the creek calls should be used to construct the Charle, disregarding the distance of its passing call of the Purdy Survey northeast corner. By doing this, it harmonized all the calls in the Field Notes of the Charle Survey and all other surveys except the one passing call distance.

An explanation of how this mistaken call could have occurred is in order. The beginning call in the Charle Survey is for a corner that is continually changing in a northeast-southwest direction as the river moves. Therefore, if the surveyor of the Charle Survey began at a point easterly of where the Purdy corner would plot and its calls followed, then the creek calls on its north line would fit and the Charle east line would be located the same distance farther easterly as he began easterly of the plotted Purdy corner. This appears to be what happened. It stands to reason that the surveyor ran the west, north and east lines of the Charle as evi-

denced by his topo calls and calls for witness trees at the northwest, northeast and southeast corners, but did not run the south line because he did not need to. He could compute the distance from his southeast corner to the northwest corner of the Purdy. The same holds true for the Trudoe Survey, made by the same surveyor, he did not need to run that line as he could compute that distance and he could just measure northerly from the southeast corner of the Charle and set the northerly northwest corner of the

Trudoe and never realize that the actual distance from the northwest corner of the Trudoe to the southeast corner of the Charle was farther than he thought it to be.

In 1876, D. H. Francis, surveyor of the Hannum surveys realized that the Charle Survey east line was farther east than had been previously thought, as evidenced by his remarks in the larger Hannum Corrected Field Notes that the corrected survey was made to have Patent cancelled and that the corrected survey does not conflict with the Charle Survey. The original Field Notes of the Hannum surveys called to join the Charle Survey and were the same width as the Mathers Survey and located directly under the Mathers. The corrected Field Notes located the east corners of the Hannum surveys in the same place and shortened their north and south lines from 1,150 varas to 493 varas to remove them from conflict with the Charle, while still calling for the east line of the Charle.

#### Conclusion:

The General Land Office was not satisfied with the Field Notes filed with John Tyler's Application that is known as the John Tyler Survey. The General Land Office wrote letters to Mr. Tyler from 1922 to 1924 requesting that the surveyor show which corners he identified in order to determine that there was unsurveyed land that could be filed on. The surveyor never replied, but in 1924 another surveyor, Quinn Walker, sent in a report stating that he ran the south and east line of the Charle Survey and found the surveys to be as surveyed by Satterfield, but never answered any of the questions that the General Land Office had earlier requested. He reported the distance from the northeast corner of the Purdy Survey to the southeast corner of the Charle to be 2,420 varas (called 1,420 varas) where he set a rock. He did not say he found anything for the corner. He reports that he then ran N 30° W with a marked line and at 926 varas enter Public Road and continue with Public Road at a total distance of 1,132 varas pass the southwest corner of the John Tyler Survey of land as located by B. E. Satterfield, County Surveyor of Robertson County, Texas. Continuing N 30° W at a total distance of 1,608 passed 4 feet east of a large Hickory Tree with very old land marks on the east side of

same. Continuing N 30° W at 2,262 varas pass the northwest corner of said Tyler Survey as located by said Satterfield.

Quinn Walker's report raises more questions than it gives answers. In his entire report he does not identify any corner that he purports to be a survey corner. His distance from the northeast corner of the Purdy to the purported southeast corner of the Charle is 1,000 varas long of the call, yet the Public Road he runs with is some 700 varas west of where the distance would place it and he has not identified the road in any way as being the survey line. He claims that he passed the west corners of the Tyler Survey without describing them. It is extremely suspicious to me that he found the southwest corner of the Tyler Survey the exact call distance of the Trudoe Survey from the southeast corner of the Charle Survey and the distance of the westline of the Tyler to be it's exact call distance. The Field Notes of the Tyler Survey calls only for a stake at its southwest corner and does not mention how far it is from the Charle corner.

In my opinion, neither surveyor of the Tyler Survey identified any original survey corner or line, therefore, their surveys are suspect, at best, and should not be relied on for the location of any of the old survey lines.

John Tyler was a "Vacancy Hunter" and his name shows up all over the state and many of the the "so called" vacancies that bear his name are just as suspect as this one is as to whether or not there should have been an award given.

It is my recommendation that the John H. Tyler Survey be declared located on Title Land.

Clinton H. Sumrall  
Licensed State Land Surveyor