

Also, in paragraph 4, he says, "I was not permitted to search for any of the rock mounds allegedly placed by the original surveyor."

When he returned for his second survey after instructions from the General Land Office to run a connecting line from the Dod and Phillip Young corners ~~to~~ NE 56, Block D to the Dod Corner at NW 1, Block 1, he told me that before doing that he was going to make a diligent search for some original Barton corners. I told him we were not wealthy enough to finance such a fruitless search and told to do exactly what the Land Office had suggested and nothing more. I pointed out to him that the Barton survey was made in 1880 and that in the seventy-nine years to date, no Barton corners had been found except those on the North and East Block Lines of ~~Survey B~~ ^{Block B}, fifteen miles to the North and five miles East of where we were. I mentioned that diligent search had been made by Saunders, Pickens, Huffman, Pierce, Ratchford, Dod, Phillip Young, and others over this long period and that no corners even approximating the Barton calls had been found, infact, it was now practically certain that, except for his adjoiners, Barton's remaining work was in reality an "office survey." I told him that, in view of these facts, I did not believe that he, Carney, could accomplish the impossible after seventy-nine years and, that, in any event we could not afford to finance such a search.

In paragraph five he says, "there is every indication that the ranch was surveyed before fencing and no evidence of fences having been moved (and not much repair) in the past 30 or 40 years."

In the first place, this would seem to ^{be} a contradiction of his statement in paragraph 3, wherein he states "she must have moved her North fence each time the South fence was moved." More importantly, it ignores the fact that Mrs. Mueller and I told him in Alpine at our first meeting that Mr. Hodges had surveyed for our fence lines in 1914 and I again told him at the ranch. Since this was simply a survey to establish fence lines, it was not required that it be recorded at the Land Office. Mr. Hodges has long since died.

In paragraph six he says, "Col. Miller did tell me that the Dod mound at NW 1, Blk. 1 had been bodily moved between the time he first saw it and his taking his lawyer to see it on the ground - it was gone when the lawyer arrived and was returned later. Mueller was not positive that it was in its original position when he again saw it."

This is either a malicious lie or the man is incapable of understanding plain English, spoken before a reliable witness who was with us at the time. What I actually told him was that the cap-stone bearing the chiseled inscription "NW 1 Dod" had dissappeared for a time when we first instigated our law-suit in 1945, and was later returned to the mound.

When I first saw the Dod Corner, in 1944, it was pointed out to me by Mr. Phil Bode, who was with and worked for Dod on the survey and had personally chiseled the inscription on the cap-stone.

He was then, and is now, a resident of Del Rio and drove out with me to the area. He, unhesitatingly, walked directly to the mound and, examining the cap-stone, said, "See this? ~~E~~, personally, chiseled this on this rock at Mr. Dod's direction."

During the period the cap-stone had dissapeared and fearing its removal might prove damaging to us at the trial, I employed two surveyors a Mr. Saunders and a Mr. Conklin from Sonora and Ozono, respectively, to re-loacte the Dod Corner at NW 1 from an-existing and recognized Dod corner on the north line of Block L. When they arrived, we went first to the Dod Corner at NW 1, where we were joined by Mr. John Gallaway, Jr., the owner of Survey 1. To our amazement the cap-stone was back in place on the mound. The surveyors checked the Dod witnessed calls for the corner and they checked out correctly. Mr Gallaway then said, "Hell, if all you guys want to do is prove that this is the Dod Corner, I'll swear to that at the trial." This seemed to settle the matter and no further surveying was done.

Furthermore, when Mr. Carney was taken to this corner he saw and made note of the cap-stone bearing the inscription NW 1 Blk 1 DOD. He checked the witnessed bearings and indicated to me that they were correct. He then knew - or must have known - that the Dod Corner was in its original position and nothing but an abnormal desire to injure us could have prompted his statement to you that he doubted it in the least.

county 39330

Extracts from
letter to Land
Office written by
Col. Mueller in
regard to
J. T. Carney, Jr.
Survey of his
ranch.

counter 39331

51-6
FILE NO. Val Verde
County Sketch File
Filed 19 BILL ALICORN, Com'r
By _____