

BRAZORIA CO.

Rolled Sketch No. 25-A

BRAZORIA - GALVESTON COUNTIES

J. D. FREEMAN'S REPORT

Received March 29, 1935

M.A. 27941 - 42; M.A. 28255 and 84

Contents

Surveyor's Report

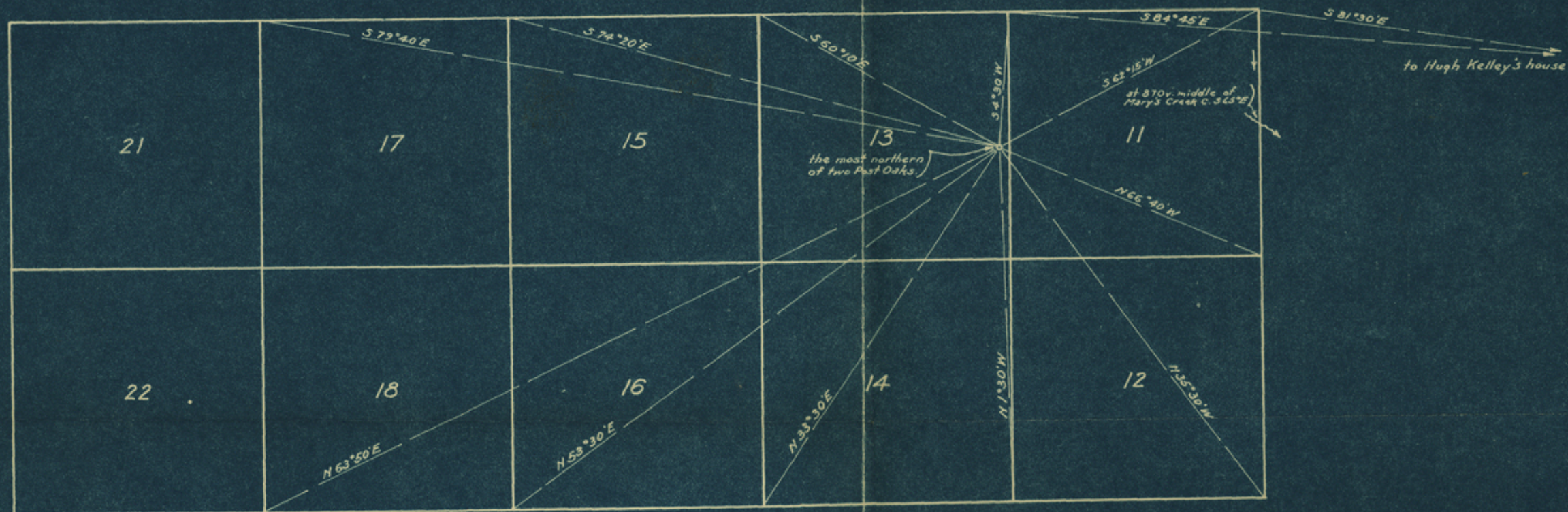
Supplemental Statement

Copy Court Decree J.L. Prichett et al
vs. A. Sundt - No. 17, 356

B.P. Sk. showing Power's calls for
2 P.O.'S on clear creek, -
(Stanolind O. & G. Co.)

Copy - Separate conclusions of law
and facts in above styled case.

counter 42749



at 870v. middle of Mary's Creek c. 365° E
 to Hugh Kelley's house

Sketch of
 Clear Creek Series
 H. T. & B. Surveys 11 to 18 & 21 + 22
 Brazoria Co., Texas
 Scale 1" = 1000v.

8n

counter 72750

FREEMAN'S REPORT No 25

MA 279412 B
MA 282574 84

Place with Freeman's Report
received 3-29-35

9n'

counter 42751

Brayton Co. RLD. SK. #254

Recd 6/15/35

J. L. Pritchett et al vs #17356 In Dist
Court. Galveston.
A Sundt et al vs County Texas

Came the defendant A Sundt
by his attorney. and excepts to
the petition of plaintiffs herein
filed and says the same is
insufficient in law & of this
prays the judgment of the
court

W M Jerdane
Atty for deft Sundt

And again coming said defendant
A Sundt by his attorney says
that he is not guilty of the wrongs
injuries and trespasses alleged
against him in said petition
of plaintiffs. and of this prays
himself upon the country

W M Jerdane
Atty for said deft

17356

Que Dist Court

J L Pritchett
et al

x

A Sundt et al

Original answer
of A Sundt-

Filed July 5. 1895
Alfred Eastman Dec 6
By Edmund D. Prue

W M Jordan
for dist Sundt

counter 12755

D-2
No 1

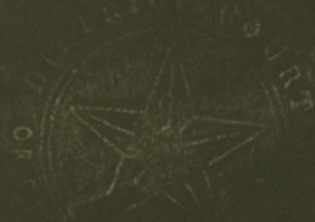
Bozoria Co. Rld. Sk. 25A

THE STATE OF TEXAS
COUNTY OF GALVESTON.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of Original Answer of A. Sundt, - - - - -

in cause No. 17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29 day of May A. D. 1934.



J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By

C. D. Holman

Deputy.

Recd 6/10/35

17356 J. L. Pritchett et al } In District Court
 vs } Galveston Co.
 A. Smith et al } October Term 1896

Now comes the defendant Laura Disney one of the defendants herein and for answer herein demurs to that part of plaintiffs petition which seeks a judgment against this defendant on the alleged warranty of title to the land in controversy alleged to have been given by this defendant and says said petition in the particular named is wholly insufficient in law and does not show any cause of action as against this defendant. Whereof this defendant prays the judgment of the Court.

This defendant denies the allegations of said petition to the effect that this defendant made a warranty of title to the land in controversy herein and says the same are not true in manner & form as alleged in said petition. All of which this defendant is ready to verify.

This defendant admits the truth of all allegations of said petition except insofar as relates to a warranty of title being made by this defendant to the land in controversy and joins in

plaintiffs prayer for judgment against the
defendants A Sundt, M. A. Bierwith and
F. A Bierwith for the land in controversy.

And this defendant prays to be allowed
to recover all costs incurred by her in
this cause and that this defendant
be protected against the payment of
any costs in this cause. And this de-
fendant prays for all other general and
special relief to which this defendant
may be entitled by reason of the
premises.

Creston Rose
Atty for Defendant
Laura Disney

17356
J. L. Pritchett et al
vs

A Sundt et al
Answer of Deft
Laura Disney

Filed Nov. 14, 1896
Alvin Easton and George
By Edwin Prince

THE STATE OF TEXAS
COUNTY OF GALVESTON.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of Answer of Deft. Laura Disney, - - - - -

- - - - -
in cause No. 17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29 day of May A. D. 1934.

n J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By C. D. Thomas Deputy.

J. L Pritchett Et Al () In the District Court of Galves-
No. 17356 VS () ton County, Texas.
A. Sundt Et Al ()

To the Honorable W. H. Stewart Judge of said Court-:

Now comes the plaintiffs J. L. Pritchett and H.C. Pritchett and leave of the Court having first been had and obtained for that purpose files this their first amended original petition in lieu of the original petition heretofore filed by plaintiffs herein, as in their said petition these plaintiffs complain of the defendants A. Sundt and Martin Bierewinth, L.M. Disney and Laura Disney represent-:

I

That these plaintiffs are each bona fide resident citizens of Walker County in the State of Texas, and the defendant A. Sundt is a resident citizen of Galveston County in the State of Texas, and the defendant ^{Rivermouth} Martin Bierewinth is a resident citizen of Chestnut in the State of Illinois and the defendants L.M. Disney and Laura Disney are each resident citizens of Harris County in the State of Texas,

II-

That on or about January 20th, 1893 plaintiffs were in the quiet and peaceable possession and enjoyment of all that certain tract or parcel of land in Galveston County Texas, described as follows, to-wit-: Being all of the William Henry Survey granted by the State of Texas to Benjamin C. Franklin assignee of Wm. Henry by patent No. 106 Vol. N. 11 dated March 6th, 1854 and being more particularly described by metes and bounds as follows, to-wit-:

(2)

Beginning at a stake on the south-west boundary line of tract No. 1 surveyed for A.H.Jackson; thence north 45'W. with said Jackson's line at 380 vrs. branch at 458 varas a stake the west corner of A.H.Jackson's tract No.1 and south corner of Robert Hoppell's tract No. 2 from which a spanish oak 7 inches in diamater bears N.66' 30" E.4 varas at 905 varas a stake for north corner of this survey on south-west boundary line of said Hoppell's survey. thence south 45'west at 1460 varas the County line a stake for west corner of this survey ; thence S. 10'W with the County line 1500 varas a stake for the south corner of this survey thence N.45'E at 510 varas a branch runs north east at 2770 varas the place of beginning. That thereafter the defendants A. Sundt and Martin ^{Bierwinth} ~~Bierwinth~~ did unlawfully enter upon and dispossess plaintiffs of all that certain part of said land described by metes and bounds as follows te-wit:- 37-59/100 acres in Galveston County, Texas bounded as follows:- Beginning at a sk.s.45'W.442 vrs.from the west corner of the Wm.Henry as established by John Maxcy of Austin, Texas. thence east 256 vrs.to sk.for cor. thence S.10'W 820 vrs.to sk.for cor. thence S.45'W ^{56.2} ~~522~~ vrs. to sk.for cor. thence N.80'W ^{219.3} ~~2200~~ vs.to sk for cor. thence N.10'E 822 55/ vs.to place of beginning, containing 37-59/100 acres. And said defendants Sundt and ^{Bierwinth} ~~Bierwinth~~ has ever since and does now unlawfully withheld from these plaintiffs the possession of said 37-59/100 acres of said land to plaintiff's great damage in the sum of three thousand dollars (\$3,000.00).

III-

That on or about the 20th day of January, 1893 plaintiffs, J.L.Pritchett and H.C.Pritchett purchased said

(3) 1

first described tract of land containing three hundred and twenty acres of land of the defendants L.M. Disney and Laura Disney, and they conveyed the same to these plaintiffs by general warranty deed, a copy of which deed is hereto attached and marked Exhibit A and asked to be considered as a part hereof as fully as if set out at length herein; that in and by virtue of said deed the said defendants L.M. Disney and Laura Disney bound themselves, their heirs, executors and administrators to warrant and forever defend all and singular the said premises unto these plaintiffs their heirs and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, and in consideration of said conveyance and warranty of title so made to them as aforesaid, plaintiffs paid the said Disney and wife the full sum of ten dollars per acre in cash for said three hundred and twenty acres of land. Plaintiffs represent that the field notes of said deed made to them as aforesaid by the said Disney and wife cover and describe three hundred and twenty acres of land in superficie, and the said Disney and wife sold and conveyed said land to plaintiffs and described it in the deed and represented it as well to contain three hundred and twenty acres, and they put plaintiffs in possession of all of said land as above described save and except 37-59/100 acres. But the said 37-59/100 acres was and is a part of the land so sold and conveyed to plaintiffs by said Disney and wife and is fully covered by the description in the deed from Disney and wife to plaintiffs. Said defendants Sundt and ^{Bierwinth} ~~Bierwinth~~ has been in the possession of the said 37-59/100 acres of said land since plaintiffs first purchased the same from said defendants Disney and wife as aforesaid which was at the time

B-3

(4)

unknown to these plaintiffs, and the said defendants Sundt and ^{Bierewinth} Bierewinth are now in the possession of the same as plaintiffs allege in their own wrong without right and has appropriated and does now appropriate to their own use the rents, revenues and profits of said land to plaintiff's further damage in the sum of two hundred dollars. That the annual rents of said 37-59/100 acres of land is worth two hundred dollars. That these plaintiffs and their vendees are in the possession of all of said three hundred and twenty acres of land save and except the said 37-59/100 acres as aforesaid.

Wherefore plaintiffs bring this suit, pray process of law, citation to the defendants herein, and that the non-resident defendant ^{Bierewinth} Bierewinth be served as provided by statute in such cases, and upon a hearing of this cause that they have judgment for the title and possession of said 37-59/100 acres of land against the defts. A. Sundt and Martin ^{Bierewinth} Bierewinth, and a writ of possession therefor, and all process necessary thereto, but if the Court holds said defts. Sundt and ^{Bierewinth} Bierewinth or either of them to be entitled to said 37-59/100 acres of land, then plaintiffs ask that they have judgment for the value thereof against the debt. Disney and wife with interest thereon from the 20th of Jany. 1893, on their general warranty of title and they ask that by virtue of said warranty said Disney and wife be compelled by this Court at their own costs and expense to prosecute and maintain this suit plaintiffs further ask for costs of suit, and for general relief and as in duty bound they will ever pray.

Autoluson Campbell Sears
Attys. for plaintiffs.

State of Texas ()
County of Brazoria()

KNOW ALL MEN BY THESE PRESENTS:-

That we, L.M.Disney and Laura Disney, his wife both of the County of Brazoria, state of Texas, for and in consideration of the sum of three thousand, two hundred dollars (\$3,200.00) to us in hand paid by J.L.Pritchett and H.C.Pritchett the receipt of which is hereby acknowledged in full, have granted, sold and conveyed and by these presents do grant, sell and convey unto the said J.L. Pritchett and H.C.Pritchett both of the County of Walker State of Texas, all that certain tract or parcel of land three hundred and twenty (320) acres of land situated in the County of Galveston, State of Texas, and being all of the William Henry Survey, granted by the State of Texas to Benjamin C. Franklin assignee of Wm.Henry by patent No. 106 Vol No.11 dated March 6th 1854, and being more particularly described by metes and bounds as follows, to-wit:-
Beginning at a stake on the south-west boundary line of tract No. 2 surveyed for A.H.Jackson; thence N.45'W with said Jackson's line at 380 vrs. branch at 458 varas a stake the west corner of A.H.Jackson's tract No.one and south corner of Robert Hoppell's tract No.2 from which a spanish oak 7 inches in diamater bears N.66'30" E 4 varas at 905 varas a stake for north corner of this survey on south-west boundary line of said Hoppell's survey. Thence south 45'W at 1460 varas the County line a stake for west corner of this survey; thence south 10' N with the County line 1500 varas a stake for the south corner of this survey; thence N.45'E at 510 varas a branch runs north east

Exhibit A

at 2770 varas the place of beginning.

To have and to hold the above described premises together with all and singular the rights and appurtenances thereto in any wise belonging, unto the said J.L.Pritchett and H.C.Pritchett their heirs and assigns forever; and we do hereby bind ourselves, our heirs, executors and admrs. to warranty and forever defend all and singular the said premises unto the said J.L.Pritchett and H.C.Pritchett their heirs and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness our hands at Houston, Texas this 20th day
January A.D.1893

L.M.Disney
Laura Disney

The State of Texas ()
County of Harris ()

Approved - A
Before me Alfred Wisbey a Notary Public in and for Harris County, Texas, on this day personally appeared L.M.Disney and Laura Disney wife of L.M.Disney, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and considerations therein expressed, and the said Laura Disney wife of the said L.M. Disney having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she the said Laura Disney acknowledged such instrument to me to be her act and deed and she declared she had willingly signed the same for the purposes and considerations therein expressed, and that she did not wish to retract it.

(seal)

Given under my hand and seal of office, this
20th day of January.A.D.1893

Alfred Wisbey
Notary Public Harris Co.Texas.

Filed for record Jan.30th,1893 at 12 O'clock M.recorded Feb.
4th,1893 at 2-30 P.M.

Note- the words "and H.C.Pritchett" interlined by the Clerk
attest Geo. H.Scem Jr.CC G. Co.
by G.F.Burgess deputy

Feb 13 1895
1 Com (u) com 1.50

1 Petn (amd) 3.00

No 17356
J L Pritchett et al
vs

A Sanndt et al

1st Amended
Original petition

This suit is brought
as well to try title
As for Damages

FILED

FEB 18 1895

Alex Easton
Clerk D. C. G. Co.

THE STATE OF TEXAS }
COUNTY OF GALVESTON. }

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of 1st. Amended Original Petition, - - - - -

- - - - -
in cause No. 17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29 day of May A. D. 1934.

n J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By E. P. Holman Deputy.

Recd 6/15/30

H. C. Pritchett, et al. § In the District Court of
No. 17356. vs § Galveston County
A. Sundt, et als. § S T A T E O F T E X A S

To the Defendants in the above entitled cause or W. M. Jerdone and J. B. and C. J. Stubbs their Attorneys of record.

Gentlemen:--You will hereby take notice that the Plaintiffs have filed in the District Court of Galveston County, State of Texas, in the above numbered and entitled cause the following ~~papers~~ title papers which they propose to offer and use in evidence upon the trial of said cause, to wit:

1st.--Certified copy of patent for the land in controversy from the State of Texas to Benjamin C. Franklin assignee of William Henry, dated March 6, 1854, No. 106, Vol. 11,

2nd.--Certified copy of deed to land in controversy from Benjamin C. Franklin to Julia ~~R.~~ Franklin, dated April 30, 1862, recorded in Book T on page 387 of the deed records of Galveston County,

3rd.--Certified copy of deed to land in controversy from Julia E. Franklin and husband to Fred. Butterfield assignee, etc., dated May 24, 1866, recorded in Book 35, page 317 of the deed records of Galveston County,

4th.--Certified copy of deed to land in controversy from Fred. Butterfield assignee, etc. and in his individual capacity and his wife Caroline M. Butterfield to Jno. W. O'Brien, dated April 5, 1883, recorded in book 44 on page 541 of the deed records of galveston County,

5th.--Certified Copy of deed to land in controversy from Thomas R. Franklin and wife Julia E. Franklin to Jno. W. O'Brien, dated September 20, 1883, recorded in Book 47 on page 605 of the deed records of galveston County,

6th.--Original deed to land in controversy from Jno. W. O'Brien and wife to Wm. Disney, dated May 22, 1889, recorded in book 72 on pages 40 to 42 both inclusive of the deed records of Galveston County,

7th.--Original deed of trust ~~re~~covering land in controversy from Wm. Disney to H. M. Trueheart and Lucian Minor, dated May 22, 1889, recorded

in Book 71 on pages 356 to 359 both inclusive of the mortgage records of Galveston County,

8th.--Original assignment of notes to secure which above mentioned deed of trust was made from Jno. W. O'Brien to Mrs. A. M. Perry, recorded in Book 85 on page 628 of the mortgage records of Galveston County,

9th.--Original release of the above mentioned deed of trust and notes secured thereby from Mrs. A. M. Perry and Lucian Minor Trustee to Wm. Disney, dated June 29, 1892, recorded in Book 101 pages 633 to 635 both inclusive of the mortgage records of Galveston County,

10th.--Original deed to land in controversy from Wm. Disney to R. P. Wetmore, dated March 25, 1890, recorded in Book 80 on page 296 of the deed records of Galveston County,

11th.--Original deed to land in controversy from R. P. Wetmore to Wm. Disney, dated January 30, 1892, recorded in Book 106 on pages 239 to 240 both inclusive of the deed records of Galveston County,

12th.--Original deed to land in controversy from Wm. Disney to L. M. Disney, dated July 20, 1892, recorded in Book 104 on pages 352 and 353 of the deed records of Galveston County,

13th.--Original deed of trust covering land in controversy from L. M. Disney to Wm. T. Austin, Trustee, for use of H. Müller, dated July 20, 1892, recorded in Book 108 on pages 362 to 365 both inclusive of the Mortgage records of Galveston County,

14th.--Original release of the last above mentioned deed of trust and notes secured thereby from H. Müller and Wm. T. Austin to L. M. Disney, dated January 20, 1893, recorded in Book 115 of pages 18 to 21 both inclusive of the mortgage records of Galveston County,

15th.--Original deed to land in controversy from Louise B. Richardson and Carrie L. Cooke and husband to J. L. Pritchett and H. C. Pritchett, dated January 20, 1893, recorded in Book 107 on pages 620 to 622 both inclusive of the deed records of Galveston County,

16th.--Certified copy of deed to land in controversy from L. M. Disney and wife to J. L. and H. C. Pritchett, dated January 20, 1893, recorded in Book 107 on pages 618 and 619 of the deed records of Galveston County.

Hutchinson Campbell
Leas

Attorneys for Plaintiffs

by C. & R.

We hereby waive service upon us of the foregoing notice and accept service thereof and waive the filing of the instruments described in said notice prior to trial of said cause ~~and also waive the making of affidavit of the loss^{of} and inability to produce the originals of the certified copies referred to in said notice.~~

*Jr W. J. Jordan
atty for deft. A. Sundt*

17352

H.C. Pritchett et al

vs

A Sundt et al

Notice of filing
title papers

Served Jan 21st 1896

11¹⁵ a.m.

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District
Court in and for the County of Galveston, State of Texas, do hereby
certify that the above and foregoing is a true and correct Photostatic
Copy of Notice of filing title papers, - - - - -
- - - - -
in cause No. 17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et
al,- as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal
of said District Court, at office, in Galveston, Texas, this the 29th
day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.
By C. J. Thomas Deputy.



193772

Rec'd 6/15/30

H. C. Pritchett Et Al () In the District Court of Galves-
No. VS () ton County, Texas.
A. Sundt Et Al ()

To the defendants A. Sundt or his attorney of
record..... Jerdone and... *J. M. Bierewitz & his wife* ~~Bierewitz~~ or
his attorney of record J. B. and C. J. Stubbs, L. M. Disney ^{or}
~~his~~ ^{their} attorneys of record Messrs. Austin & Rose, you will take
notice that five days from and after the service hereof, the
plaintiffs, H. C. and J. L. Pritchett will apply to the Clerk
of the District Court of Galveston County, Texas, for a commis-
sion to take the depositions of the witness John W. Maxcy who
resides in Travis County, ~~Texas~~, in the State of Texas his
^{when taken / as evidence} answers ^{to be used} in the trial of the above styled and numbered
cause on behalf of the plaintiffs.

Interrogatories to the witness John W. Maxcy.

Int.#1

please state your age and present residence and your
occupation?

Int.#2

How long have you been engaged in your present occupa-
tion, and what experience if any have you had in your present
business? Answer fully and particularly.

Int.#3

Do you know the parties to this suit, or any of them
if so, please state which of the parties you know, and how long
you have known them?

Int.#4

This is a suit between the plaintiffs and defendants
involving a small portion of land embraced in the Wm. Henry
320 survey in Galveston County, Texas. Now please state what
acquaintance if any you have with the Wm. Henry 320 survey of land
in Galveston County, Texas. Have you ever been on the ground

embraced in the said survey, if so, when were you there, how came you to go there, at whose instance did you go, and what was your business on the occasion that you speak of, if you say that you have ever been upon the ground?

Int.#5

If you say that you have actually surveyed the Wm. Henry survey of land, then please state what surveys of land join the Wm. Henry survey on the south, what on the north, what on the east and what on the west?

Int.#6

If you say that you surveyed the Wm. Henry survey then please state if you know who originally surveyed this tract of land and who originally surveyed the A. H. Jackson and Robert Hoppel surveys, which of these surveys were surveyed first if you know, and what is your means of knowing. Please state the order of these surveys as they were originally made and by whom made, and give the dates of the different surveys as well as you can?

Int.#7

When you undertook to re-survey the Wm. Henry Survey please state how you first begun and where you begun surveying what tracts if any besides the Wm. Henry you surveyed at the time and what was your purpose in making the survey of any other tracts, if you say that you surveyed any other tracts, and what if anything did you discover in regard to corners, lines or marks or evidences of a former survey upon the ground, either of the Wm. Henry or any of the other tracts that you surveyed, if you say that you surveyed them. Please state specifically how you begun your work, and what evidences you found of a former survey in connection with the survey of the Wm. Henry at the time you mention, what marks if any you found upon the ground, and whether or not the surveys were located in a prairie country or in timbered country, and if in timber country, state what portion or either of them was in timber, and state whether or not you found any lines of the Wm. Henry survey or adjoining surveys well marked or otherwise? State fully and particularly all you found upon the ground in the way of marks and lines made by the surveyor in the original location of these tracts of land.

Int.#8

If you say that you found corners and lines established upon the ground of the Wm. Henry or any of the adjoining surveys called for in the field notes of the William Henry, then please state how they compare with the field notes of the Wm. Henry and the adjoining surveys, and whether or not there was evidence found upon the ground of these surveys including the William Henry having been actually made by the surveyor upon the ground.

Int.#9

counter 72774

Brazoria Co. Rld. Sk. 25A

If you found anything to differ from the actual calls in the Wm. Henry survey upon the ground, please state what it was if any thing, and what the facts show with regard to the same as actually made upon the ground? If there was any variance or difference whatever between the original field notes of the Wm. Henry survey and the course and distance actually upon the ground found by you, then explain if you can any cause for the discrepancy or any reason if any that you may have discovered to explain such discrepancy or difference if any?

Int. #10

Please state whether or not from the evidence found by you upon the ground and your experience as a surveyor, you are prepared to say whether or not the Wm. Henry survey of land was actually surveyed upon the ground at the time of preparing the original field notes, if you are prepared to say so, then please state whether or not such was the case; and what the evidence upon the ground are to show that fact?

Int. #11

Does any one of the lines of the Wm. Henry survey run near the County line between Galveston and Brazoria Counties, if so, which line is it of the William Henry?

Int. #12

Do you know when the County line at this particular point above referred to was actually surveyed, if surveyed at all?

Int. #13

Do you know whether or not at the time the Wm. Henry Survey was originally made, the County line between Brazoria and Galveston Counties at this point was actually surveyed upon the ground susceptible of a definite location on the ground, if so please state all you know in this regard, and please state what the facts and evidences as you found them upon the ground at the time that you say that you re-surveyed the Wm. Henry survey were?

Int. #14

Please state whether or not at the time the Henry survey was made there was anything to show the existence of a County line between Galveston and Brazoria Counties at the point where the Wm. Henry strikes the County line, if there was, please give such evidences as you found upon the ground, and if there was not, please state specifically all that you saw, and all the facts that you know from which you make this answer?

Int. #15

How did the surveyor who pretended to have located the County line at that point make it? Please state whether he did so by an actual survey upon the ground or otherwise, and whether he left any marks upon the ground at that point to indicate the County line or otherwise? Please state fully and particularly how the County line was located at this particular point, and state whether or not there was any error, or whether it was correctly done, and if there was any error in the location as called for in the field notes, please state in what particular there was error, and state particularly whether or not that error can be verified? *✓ place*

Int. #16

At the date of the original survey of the Wm. Henry please state whether or not there was any vacant domain adjoining any one of the lines of the Wm. Henry, if so, what lines and how long if you know after the location of the Wm. Henry was it *that before* such vacant domain was taken up?

Int. #17

From what you discovered upon the ground if anything, while you were re-surveying the Henry, can you state whether or not the Wm. Henry survey was actually surveyed upon the ground and each corner established, if so, please answer what the facts were as appeared to you at the time upon the ground?

Int. #18

Did you ever compare the old County line of Galveston County or the County map of Galveston County as it was made about the time of the location of the Wm. Henry survey with the Wm. Henry, survey, and if so what conclusions did you draw from the comparison of the old map as it existed at that time with the Wm. Henry survey, as to the location or otherwise of the Wm. Henry survey upon the ground, and as to whether or not the west line of the Wm. Henry survey was made to fit the map or the map to fit the west line of the Wm. Henry survey? Please state fully and particularly all that you know and gathered from the investigation, if you say that you have made one on the line asked in this question?

Int #19

Do you know anything of surveys Numbers one and two A C H & B if so, will you state whether or not they are in the vicinity of the Henry survey adjoining it or otherwise? Did you ever make any examination of the field notes of these surveys and compare the same with the Wm. Henry or any other survey connected therewith, if so, what did you discover as to the line of the said surveys Numbers one and two, were they correct in all respects or otherwise, and if incorrect in any respect how do those incorrections affect the Wm. Henry or the adjoining surveys if at all, state fully all you know in regard thereto and how you know it?

Int.20

Is there any evidence that the surveyor who made those surveys knew where the west line of the Henry survey was, and whether or not the same was respected by him in making the surveys Numbered one and two above referred to?

Int.#21

At this particular point where the W. Henry strike the county line of Galveston and Brazoria Counties, please state whether or not this County line there is well defined or well marked line or otherwise, and state for what distance is it at this point is the condition that you mention exists?

Int.#22

Did you ever compare or examine the field notes of the ~~X~~ Stevens survey the one that adjoined the Henry Survey, if so how does the field notes of that survey compare with the field notes of the adjoining surveys that were made prior to the location of the Stevens survey?

Int.#23

Which surveys as located were located first the ^{Henry} Stevens Magee or the Sloan? How does the field notes of the Stevens survey compare with the field notes of surveys Numbered one and two A C H & B?

Int.#24

What information if any, did the surveyor have as to the location of the lines of the adjoining surveys at the time of making the ~~X~~ Stevens as appears from the field notes of the Stevens? How do the calls of the Stevens survey compare with the calls of the adjoining surveys, and which are the senior surveys?

Int.#25

Do you know any reason from an actual survey and examination upon the ground by you of the Henry and adjoining surveys, why the Henry survey should be made to yield to the other surveys adjoining it in case of any conflict of lines or dispute between such surveys, if so, state what you found upon the ground upon which you base such a conclusion, and if your conclusion is otherwise, state from what you draw such conclusion state all the facts in connection with such ~~facts~~ ^{information} known to you?

Int.#26

How does the H. Stevens survey compare or agree with the R. A. ~~McGee~~ ^{McGee} survey and which is the older of the two? State

counter 42777

Brazoria Co. Rld. Sk. 25A

in what respect the conflict exists, and what conclusion you draw from such conflict?

Int.#27

Will you please attach to your answers a map of the Henry and adjoining surveys and explain as best you can what seems upon the ground to be the facts as regards the location of the County line and the location of the various lines of the different surveys in that immediate vicinity, and state fully how the call in the Stevens survey for the S.E. Corner would affect that survey and at this point where the Stevens and Number two intersect how is the County line, is it well marked or otherwise, and was it at the time these different surveys were made, and from what you gather from the field notes and the examination upon the ground, what was the intention of the surveyor who originally surveyed the Stevens with regard to the Stevens extending beyond south east corner of Number two? State fully all the facts within your knowledge from which you draw this conclusion, and how you arrive at the opinion that you now have in regard to it?

Int.#28

What would be the effect with regard to established lines and senior surveys ~~of~~ stopping the Henry survey ^{near line} at where the County line now seems to be, and then running Numbers one and two A C H & B. ~~to~~ the Stevens line ~~and~~ to the County line, would there or not be any vacant land left anywhere around the adjoining surveys, and if so, where and if the Wm. Henry is not stopped at the County line but is permitted to run its full course and distance for its quantity of land what would be the effect with regard to vacant lands and the adjoining surveys? Answer fully and particularly this question?

Int.#29

Now please state what effect would be to begin the Wm. Henry survey at where the County line now seems to be and run it backwards from that point, how would it agree with the call in the Henry and other surveys for natural objects and established lines upon the ground & C., What surveys would come in conflict with the Henry by so running the lines of the Henry survey? State fully and particularly all you may know in answer to this question?

Int.#30

What would be the effect of changing the present location and position of the surveys as they are shown to exist upon the map that you attach to your answer as to the calls for natural objects and established lines be affected by such a change? How would it affect the older surveys in that vicinity.

Int.#31

Observing the lines of the different surveys are ^{counter 72778}

shown to exist upon the map which you attach to your answers following the lines as located upon said map for the different surveys, what is the effect upon the natural objects, and the ability ~~XXX~~ to identify ~~the~~ location upon the ground of the established lines of the different surveys?

Hutchinson Campbell & Sears
Attys for J. L. & H. C. Ritchett

The State of Texas ()
Galveston County ()

We hereby accept service of the within and foregoing direct interrogatories, and waive the issuance and service of copy of the same and time, and agree to cross the same at once and ~~that the clerk of the court may take the commission and attach the same to the original interrogatories, and not be required to issue copy of the interrogatories as provided by statute~~ *and agree that the deposition of the witnesses may be taken by any officer authorized by law to take same without commission.*
This day of August A.D. 1895

..... *Christine Rose*

Attys. for L. M. Disney and wife.

..... *H. M. Jundt*

Attys. for A. Sundt

..... *James A. Paul & Philo*

Attys for Martin Bierewith and wife.

Brazoria Co. Rld. Sk. 25A

H C Pritchett et al } In Dist Court
17356 } Galveston County
A Sundt et al }

Cross interrogatories propounded
by the defendant A Sundt
to the witness John R Maxey

x Int 1. If in answer to the 4th interrogatory
you say, you know anything
about the Jm Henry survey
State in what county, this
survey is situated, if you
know & give your means
of knowledge. -?

x Int 2. If you say, you ever surveyed
the Jm Henry survey, then
give its boundaries, and the
field notes of the same

Int 3 Have you in making your
answers to the direct inter
rogatories propounded to
you, stated any facts within
your own knowledge or
have you stated your
conclusions & inferences

W M Jerdone
for deft A Sundt

Brazoria Co. Rld. Sk. 25A

Cross Interrogatories proposed by Deft M. Bennett & wife.

- 1x Who assisted you in making the surveys mentioned in your answers to direct interrogatories?
- 2x Attach hereto all memoranda from which you testify: Also attach all letters received ^{by you} from any source relating to this land or ^{to what} your testimony ^{would be} in this case: If you have not the originals then account for the loss of them and attach hereto copies:
Attach copies of all letters written by you relating to this land, or as to what your testimony would be in this case.
- 3x Where do you expect to reside during the next six months?
- 4x ^{any interest} What interest, if any, have you in this property? ^{for the result of this suit?} or ^{in the result of this suit?} or ^{in the result of this suit?} or ^{in the result of this suit?}
- 5x Who made the survey of the tract, whose boundaries conflict with this one made by you? Where does he reside?
- 6x Attach hereto the surveys ^{a comparison of} from which you have drawn the conclusions set out in your answers to direct interrogatories?

M. Bennett & wife
By their attys James D. Farley & John J. Smith

Brazoria Co. Rld. Sk. 25A

Answers to X-Interrogatories propounded by
W. M. Jordon in Cause No 17356. styled
Jb. C. Pickett et al vs A. Sundt et al

X Int no 1.

The Wm Henry survey is mostly in Galveston
County, the western portion being in Brazoria
I fixed the Henry on the ground, and
the County line from its beginning call
on Clear Creek, by platting up this work
I got the relative position of the Henry
and County line as shown on sketch at-
tached to direct interrogatories.

X no 2.

I am not able to ~~state~~ the Henry field
notes in detail. A certified copy of them
can be had from the General Land office
or the County Surveyor of Galveston Co.
The distances and boundaries are shown
on sketch, and are in substance correct
and conform to the original field notes. The
Henry calls to begin on the SW line of
the Jackson at a point 3800rs south of
Chico Bayou. Thence N 45° W along the line
of Jackson's Leoppel 9050rs. Thence S 45° W
14600rs to a point in County line
thence with County line S 10° W
15000rs to corner thence N 45° E at 5100rs comes
Chico Bayou continuing ^{2770 m} to the place of
Beginning.

X Int no 3.

I have stated first the facts, as I actually

found them on the ground. From these facts I have drawn logical conclusions in some instances. I have endeavored to give such conclusions as are entirely trustworthy and in conformity with the practice of boundary surveying, and the decisions of the highest courts in similar suits.

John W. Maxey
Surveyor

THE STATE OF TEXAS.)
COUNTY OF TRAVIS.)

I, F.M. Covert, a Notary Public within and for said State and County, do hereby certify that the foregoing and annexed answers of John W. Maxey, the witness before named, were taken before me, and that they were duly subscribed and sworn to by said John W. Maxey, and that the answers so sworn to were to the cross interrogatories.

Witness my hand and seal of office
this 27th day of August, A.D. 1895.

F. M. Covert

Notary Public, Travis County, Texas.

Brazoria Co. Eld. Sk. 25A



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MISS SUE SMITHER, ASST. IN MATHEMATICS.
MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas, Oct. 19th, 1893.

Mr. John W. Maxcy,

Austin, Texas.

Dear Sir:

I hand you herewith copy of letter received from Hon. W. L. McGaughey. The intimation in this letter is that the Jackson, Horbel and Henry surveys are older than the McKissick. I inferred from what you said to me that the McKissick was older than the Jackson and consequently older than the Henry, and that the corner of the Jackson would have to be determined from the corner of the McKissick. Please advise me upon this point, and oblige.

Yours very truly,

H. C. Pritchett

Dictated.

Brazoria Co. Ad. Sk. 25A



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Huntsville, Texas.

been recognized so by the general land office. Hoping this will be
 satisfactory to you, I remain, Yours respectfully,

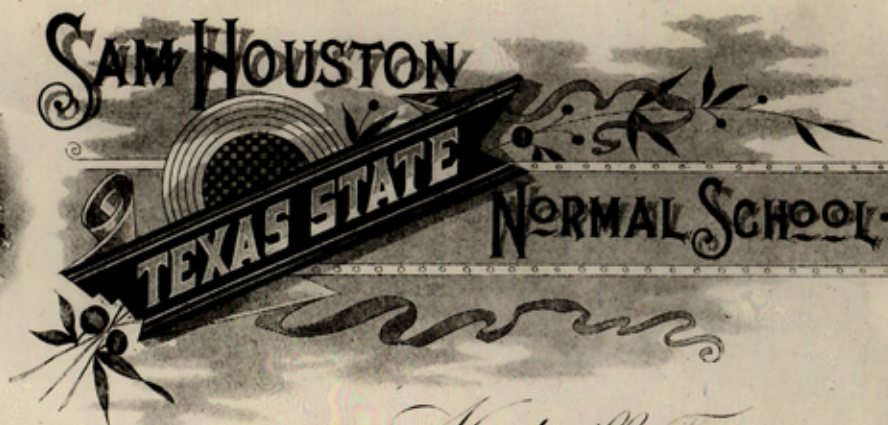
SIGNED

A. Sundt,

by E.K.



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MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas. Sept. 16th, 1893.
Galveston, Texas.

Mr. H. C. Pritchett,
Huntsville, Texas.

Dear Sir:

In answer to your letter of the 12th inst. I refer you to the general land office of the State of Texas. The William Henry survey lies in Galveston County. I am aware that Mr. Disney and some others have been claiming that the William Henry survey runs over into Brazoria County. Mr. H. Kempner of Galveston, Shepherd, Stephens & Co. of Brazoria, Mr. Bierwirth of Chestnut, Ill. and myself have been quarreling over this matter a year. At last the land office suggested that the Galveston County line be run from where it crosses Clear Creek to its crossing of Chegger Bayou indicated by a three prong cotton-wood tree which is an old established land mark, recognized by the land office, reaffirmed and confirmed by all the surveys which have been made in that locality, including your own survey. The William Henry, if you will carefully examine your field notes you will find that you are limited to the Galveston County line and you cannot cross the line into Brazoria County. My survey adjoins yours and lies in Brazoria County. It has cost all of the parties named considerable money to establish these facts. The last requirements of the general land office was to run the Galveston County line and the County surveyor of Brazoria County under the supervision of Capt. Edmundson established this line and it has



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MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas.

Dec. 13th, 1896.

Mr. Jno. W. Maxcy,

Austin, Texas.

Dear Sir & Friend:

Will you oblige me by giving me a vara table as you used it in practical work in surveying and as it is used in computation in the land office. In practical surveying, I usually used 33 $\frac{1}{3}$ inches as a vara, 1900.8 varas to the mile, 5645 square varas to an acre, 177 acres to a labor (Will you kindly give me the correct spelling of this word?) and 25 labors to a league. Will you tell me where I can find some information on this subject of Spanish System of Land Measurements? I saw a full account of it in some book several years ago but I am unable at present to recall the book in which I saw it. The numbers which I mention I know are not exact as there are some small decimals, but these are about what I remember as the ones in practical use.

I am,

Very truly yours,

H. C. Pritchett
Prin. S. T. N. I.

Dictated.

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MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas. Oct. 17th, 1893.

Austin, Texas.

Mr. H. C. Pritchett,

Huntsville, Texas.

Dear Sir:- Yours of the 11th inst. has been received. I will say in reply that the question, whether the Wm. Henry runs across the county line is still doubtful. Mary Sloan's survey calls for beginning on Wm. Henry's South corner, and runs S 10 degrees W with the county line 1173 varas to the three cottonwoods called for by the county line. Wm. Henry's survey begins on the S. W. line of survey No 1, A. H. Jackson, and runs N 45 degrees W, passing the West corner of No 1, at 458 varas. By construing backwards from the county line, surveys Nos 1 and 2 will be thrown in conflict with Sarah McKissick's survey, as shown on the accompanying sketch.

Should however, said conflict does not exist, then Wm. Henry's survey will run across the county line. This doubt can only be removed by an examination on the ground, by running a connection line from the three cottonwoods to the East or West corner of No 1, both of which corners call for witness trees.

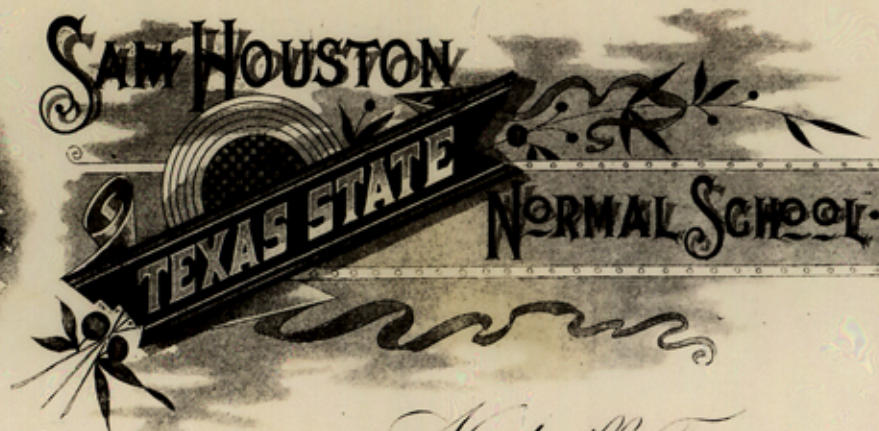
The county line between Galveston and Brazoria counties, has never been run. The surveyor established a corner on Clear Creek, and ran from the same S 45 degrees W 2000 varas. Thence S 15 degrees W 4460 varas. Thence S 6 1/2 degrees E 5100 to the three Cottonwoods on Chigo Creek. From this data the Surveyor calculated the course of the county line from the corner on Clear Creek to the corner on Chigoe Creek to be

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16

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S 10 degrees W, and the call of Henry's survey for the county line, was for a line not established on the ground.

The question, which survey will hold in case the Henry survey runs across the county line, cannot be decided by this Office, but must be left to the courts to be determined.

Very respectfully,

SIGNED

W. L. McLaughley

(C).

Commissioner.



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copy.

Austin, Texas, Sept 24 1893

Prof H. O. Pritchett

Hennsville I hear Sir:- Yours of
the 19th containing copy of Dr Sundt's
letter received. I thoroughly investiga-
ted the points involved in the Hm
Henry before locating it upon the
ground and am well satisfied that
I have it as the original surveyor put
it. As nearly as I can learn there
seems to be a concert of action among
certain parties in Galveston to get
more land than they are entitled to
The Henry survey is older than
any north west or south of it and
is entitled to its full complement
The Case for the County Line & Con

L 17-2

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side of Secondary importance and
will not in my judgment estop the
survey. It is more than probable
that at the time the survey was made
the County line was not established
and was imaginary. I send you a
sketch (please return when you are
through) that shows a similar case
to yours. - I & N RR Co survey from
no. 6 call on the N & for the County
line. From this work and found
them to go beyond the County line
as shown on sketch. I corrected these
survey and had them patented by
the General Land office exactly as shown
on this sketch. The Sterns Survey.

L 18-2

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was made many years subsequent to the
Heum and surrounding survey and
will get only that which is left after the Con-
ditions and other surveys are satisfied.
You might advise Dr Sundt that you cannot
agree with him about the County line
and from what they tell me in the Land
office he has wholly misunderstood the
suggestions of that office I am sure you have
a good array of facts in your favor and one
that will in my judgment force the other
survey back and leave the Heum intact
as I have located it. With best wishes
Dear

yours Sincerely
John W. Maxey

L-19

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Copy

Austin, Texas, Oct 23 1895 ✓

Prof H C Pritchett

Heintzville, Texas } Dear Sir:- In an-

swer to yours of the 19th -

The McKissick is a younger survey
than the Henry but the space now
occupied by the McK was originally occu-
pied by a titled league made for Jno.

R Williams which the courts have
held to be valid and will hold over

the McKissick The same field notes
apply to both surveys as the McK is

a copy of the Williams notes. The
Jackson & Hoppe get their calls

from the Williams The Henry gets
its position from the Jackson and its cross-

ings on Chicago Bayou and will in my

L20-4

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Judgment occupy the space and position
in which I have placed it. The call
for the County line in the Henry
notes will not estop the Henry line,
for as the General Land office admits
the surveyor calls for a line that had
never been run. I cannot see how
your survey could be placed other
than the way I show it. With best
wishes and kindest regards I am

Sincerely Your friend
John Macey



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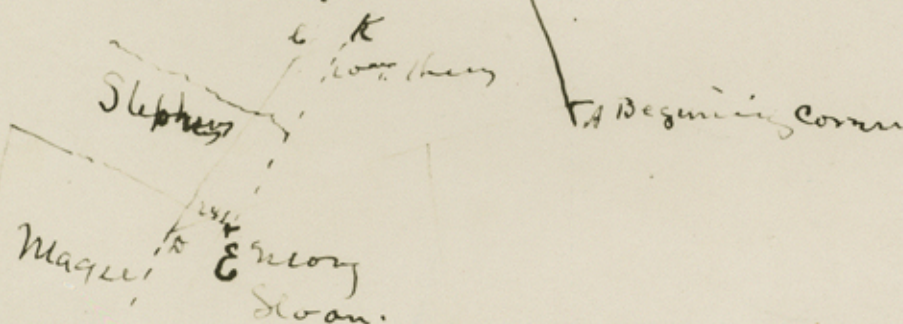
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MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas, Sept. 19-93

Mr. John Morsey
Austin.

Dear Sir & Friend,

I intended writing you immediately on receipt of
your letter inclosing map of Survey of ~~Wm. Henry~~
tract but as you came on the evening of the train & so I
hoped to see you shortly I deferred. I went to Austin
this summer retraced the lines run - found the
corners except the one in the Murphy inclosure
which I judged had been removed - The portion owing
adjoining surveys to the Wm. Henry on closing
in on it on all sides & we are going to locate with
with them I judge -



I found on going down a few days since that Dr. Sundt
who owns the Hensell Stephens had begun to - & the
old rail road iron & fence a strip of the Wm. Henry
241 rods wide & about 800 rods long. I wrote him about
it & I inclose copy of his letter.

L-22

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MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Huntsville, Texas.

Sent often as if the thing were settled.
I have no copy of the original patent - & I recede
this request - That you go to the Land Office
look at the record... of the "Three Hundred and
Twenty" 3207 acres of land situated in the
County of Galveston, State of Texas and being all of
the Wm Henry Survey granted by the State of Texas
to Benjamin C. Franklin, Assignee of Wm Henry by
Patent No. 106 Vol. No. 11 dated Nov. 6th 1854 & more
particularly describing metes & bounds as follows. To wit

Beginning at a stake on the South West boundary line of
Tract No. 1 survey for A. H. Jackson. Thence
N 45° W with said Jackson's line of 380 rods. thence
at 458 rods a stake, the West corner of A. H. Jackson's
Tract No. 1 & South corner of Robert H. Hulse's Tract No. 2
from which a Spanish oak 4 inches in diameter bears
N. 66° 30' E. 44 rods. at 905 rods a stake for North corner
of this survey on South west boundary line of said
Hulse's survey. Thence S 45° W of 1460 rods. The County
line a stake for West corner of this survey.
Thence S 10° W with the County line 1500 rods a stake for
the South corner of this survey. Thence N 45° E of 510 rods.

counter 72796

Brazoria Co. Rd. 5th 257A



SAM HOUSTON

TEXAS STATE

NORMAL SCHOOL

FACULTY.

H. C. PRITCHETT, PRINCIPAL, PROFESSIONAL WORK.
H. F. ESTILL, LANGUAGE.
MISS L. W. ELLIOTT, HISTORY AND LITERATURE.
MISS LULA MCCOY, ELOCUTION AND DRAWING.
J. L. PRITCHETT, MATHEMATICS.
R. B. HALLEY, PHYSICS AND CHEMISTRY.
WALTER COLEMAN, PHYSIOLOGY AND NATURAL HISTORY.
MISS ANNIE ESTILL, GYMNASTICS.
MISS FRANCIS ABERCROMBIE, MUSIC.
MISS BERTHA KIRKLEY, ASST. IN LATIN.
MISS SUE SMITHER, ASST. IN MATHEMATICS.
MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR.

Texas State Normal School

Huntsville, Texas.

I have no doubt that you would all discuss questions
over fully before making the survey & that you
established the beginning corner correctly - but is
his claim that the Wm Henry must stop at the
County line a correct one. The Henry is older
than all surveys lying north west & south
of it. - I am aware of the fact that monuments
& established lines will hold & govern over corner
& distance, that if I begin a survey at B & say go
to C. S 45° W 1460 to the line of an old survey
that I must stop when I reach that survey whether
to distance be 1400, 1450, or 2000 rods - else I
will touch the line of another survey. But is a corner
line such a line as this? When the Wm Henry
was surveyed all south west & north west
open country. & the Stephens especially was
recently land until recently. Now is the Henry
line to stop at the county line? Granting that he is
correct that ^(which I doubt) the county line is 7.16. instead of S. C.
does that make any difference? Stockwell told me that
he told these people that they had no right to this
strip, & says they are "on the beat" & they refused to
accept his survey, but now you see they refer to the
county line.

Boxer's Co. Rd. St. 25th



SAM HOUSTON TEXAS STATE NORMAL SCHOOL

Texas State Normal School

Huntsville, Texas.

FACULTY.

H. C. PRITCHETT, PRINCIPAL, PROFESSIONAL WORK
H. F. ESTILL, LANGUAGE
MISS L. W. ELLIOTT, HISTORY AND LITERATURE
MISS LULA MCCOY, ELOCUTION AND DRAWING
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MISS ANNIE ESTILL, GYMNASTICS
MISS FRANCIS ABERCROMBIE, MUSIC
MISS BERTHA KIRKLEY, ASST. IN LATIN
MISS SUE SMITHER, ASST. IN MATHEMATICS
MRS. ROSA BUCHANAN, RHETORIC AND GRAMMAR

a branch runs north-east at 2770 or so the place
of beginning "

Please see if this description occurs, with the
description given in the Record, for pot. 26.106
Vol. 11. of date Nov. 6-¹⁸⁵⁴~~1857~~ & will you oblige
Col. McGokey a statement what you can about it
& whether the ~~Mr~~ Henry must stop at County line,
& if so has that line been established legally &
that the said office accepts it as a closed matter.
I will greatly appreciate whatever you may
do for me in this matter & especially all
that you give this matter your personal
attention. I shall be greatly obliged for this

If the Henry must stop at County line & that line is
already established as Dr. Smith says - then that ends
the matter - & there is no use in my going into any
suit to recover -

With much regard I am

Yours truly

H. C. Pritchett.

Sent bill for services
in above matter will be later.

Brayonia Co. Rd. 5K. 25A

Answers to X Interrogatories propounded by
Messrs James B & Chas J Stubbs, in Cause of
H C Pritchett et al vs A Sundt et al
X NO 1.

Clay Connolly, Flagman, Clayton Simmons
and Joe Randall chairmen.

No 2

I attach all correspondence which I have
had relative to this suit, including copies
of letters that were forwarded to me. The origi-
nals are probably in the possession of the
recipients and could be had through them.
I have never made any statement as to
what I would testify, but have tried to
ascertain all facts in the case that lead to
my placing the X on the survey where I
have. See sketch attached to direct inter-
rogatories for data asked for.

I also attach copies of letters written to
Prof Pritchett by myself. These are taken
from my impression book.

No 3.

Austin, Texas.

No 4

I have no interest in this suit in any
manner shape or form nor any interests
that would be affected by the decision

No 5.

Nos 1 & 2 were surveyed by Mr H C Annell
Stearns in 1875. His present abode is in
Brazoria Brazoria Co. Texas. The R A
McFee was surveyed by R G Mills

Brazoria Co. Rd. Sk. 25A

whose residence is unknown to me
the Mary Sloan was surveyed by me
heart in 1851. The H. Stearns Survey
was made by R. B. Harris in 1889.
I do not know his present whereabouts
but he formerly resided in Brazoria, Tex.
X No 6.

See sketch attached to direct questions
John W. Maxcy
Surveyor.

THE STATE OF TEXAS)
COUNTY OF TRAVIS)

I, F. M. Covert, a Notary Public within and for said
State and County, do hereby certify that the foregoing
and annexed answers of John W. Maxcy, the witness before named, were taken
before me, and that they were duly subscribed and sworn to by said John
W. Maxcy, and that the answers so sworn to were to the cross interrogato-
ries.

Witness my hand and seal of office
this 27th day of August, A. D. 1895.

F. M. Covert

Notary Public, Travis County, Texas.

Brazoria Co. Add. Sk. 254

Filed Aug 31. 1895
Alex Easton alk. v. Lee,
W. J. C. Sawyer, C. L. by

L-28

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District
Court in and for the County of Galveston, State of Texas, do hereby
certify that the above and foregoing is a true and correct Photostatic
Copy of Deposition of John W. Maxcy - -----

in cause No.17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et
al,- as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal
of said District Court, at office, in Galveston, Texas, this the 29th
day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By C. J. Thomas Deputy.

* Note of Clerk:

The answers of witness John W. Maxcy, to the direct
interrogatories,- are not amongst the file of the papers in this
cause. —

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct ~~Photostatic~~ ~~Copy~~ "Blue Print"- of a map or sketch, found amongst the papers ----- in cause No. 17,356 entitled J. L. Pritchett, et al, vs. A. Sundt, et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29th day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.
By C. D. Holman Deputy.



County 12803

335
70 acs
268
52
320

Brazoria
Co.
Galveston

Cot.
Mar. Steen

S. Cot.
Wm. Henry

N.E. Cor.
Magee

NSOW 1344

Scale: 60 ft. = 1 inch
Var. 9.12 ft.
Sun 1893
Exhibit "B"

Max's
Corner

Rec'd 6/10/31

11/12
Recd 6/14/35

J. L. Pritchett, et al. § In the District Court of
No. 17356. vs § Galveston County
A. Sundt, et als. § S T A T E O F T E X A S

To the Defendants in the above entitled cause or V. M. Jerdone
and J. B. and ~~A~~ J. Stubbs their Attorneys of record.

Gentlemen:--You will hereby take notice that the Plaintiffs have
filed in the District Court of Galveston County, State of Texas, in the
above numbered and entitled cause the following ~~papers~~ title papers which
they propose to offer and use in evidence upon the trial of said cause,
to wit:

1st.--Certified copy of patent for the land in controversy from the
State of Texas to Benjamin C. Franklin assignee of William Henry, dated
March 6, 1854, No. 106, Vol. 11,

2nd.--Certified copy of deed to land in controversy from Benjamin C.
Franklin to Julia E. Franklin, dated April 30, 1862, recorded in Book T
on page 387 of the deed records of Galveston County,

3rd.--Certified copy of deed to land in controversy from Julia E.
Franklin and husband to Fred. Butterfield assignee, etc., dated May 24,
1866, recorded in Book 35, page 317 of the deed records of Galveston
County,

4th.--Certified copy of deed to land in controversy from Fred. But-
terfield assignee, etc. and in his individual capacity and his wife Car-
oline M. Butterfield to Jno. V. O'Brien, dated April 5, 1883, recorded
in book 44 on page 541 of the deed records of Galveston County,

5th.--Certified Copy of deed to land in controversy from Thomas R.
Franklin and wife Julia E. Franklin to Jno. V. O'Brien, dated September
20, 1883, recorded in Book 47 on page 605 of the deed records of Galves-
ton County,

6th.--Original deed to land in controversy from Jno. V. O'Brien and
wife to Wm. Disney, dated May 22, 1889, recorded in book 72 on pages 40
to 42 both inclusive of the deed records of Galveston County,

7th.--Original deed of trust ~~re~~covering land in controversy from Wm.
Disney to W. M. Trueheart and Lucian Minor, dated May 22, 1889, recorded

Brazoria Co. Rld. SK. 25A

in Book 71 on pages 356 to 359 both inclusive of the mortgage records of Galveston County,

8th.--Original assignment of notes to secure which above mentioned deed of trust was made from Jno. V. O'Brien to Mrs. A. M. Perry, recorded in Book 85 on page 628 of the mortgage records of Galveston County,

9th.--Original release of the above mentioned deed of trust and notes secured thereby from Mrs. A. M. Perry and Lucian Minor Trustee to Wm. Disney, dated June 29, 1892, recorded in Book 101 pages 633 to 635 both inclusive of the mortgage records of Galveston County,

10th.--Original deed to land in controversy from Wm. Disney to R. P. Wetmore, dated March 25, 1890, recorded in Book 80 on page 296 of the deed records of Galveston County,

11th.--Original deed to land in controversy from R. P. Wetmore to Wm. Disney, dated January 30, 1892, recorded in Book 106 on pages 239 to 240 both inclusive of the deed records of Galveston County,

12th.--Original deed to land in controversy from Wm. Disney to L. M. Disney, dated July 20, 1892, recorded in Book 104 on pages 352 and 353 of the deed records of Galveston County,

13th.--Original deed of trust covering land in controversy from L. M. Disney to Wm. T. Austin, Trustee, for use of H. Muller, dated July 20, 1892, recorded in Book 108 on pages 362 to 365 both inclusive of the Mortgage records of Galveston County,

14th.--Original release of the last above mentioned deed of trust and notes secured thereby from H. Muller and Wm. T. Austin to L. M. Disney, dated January 20, 1893, recorded in Book 115 of pages 18 to 21 both inclusive of the mortgage records of Galveston County,

15th.--Original deed to land in controversy from Louise B. Richardson and Carrie L. Cooke and husband to J. I. Pritchett and H. C. Pritchett, dated January 20, 1893, recorded in Book 107 on pages 620 to 622 both inclusive of the deed records of Galveston County,

16th.--Certified copy of deed to land in controversy from L. M. Disney and wife to J. I. and H. C. Pritchett, dated January 20, 1893, recorded in Book 107 on pages 618 and 619 of the deed records of Galveston County.

Antoine Campbell & Son.

Attorneys for Plaintiffs

The State of Texas
 Hall County, I before me the undersigned
 Authority on this day appeared J. L. Pritchett
 and H. C. Pritchett who upon oath say
 that they are the plaintiffs in the suit
 of Pritchett et al vs Sund et al No 17,356 on
 the docket of the Dist Court of Galveston
 County, Texas. That Plaintiffs and
 each of them have made diligent search
 for the originals of the different instru-
 ments contained in the hereto attached
 notice of filing certain deeds and
 we are unable to produce or find
 the originals where in the hereto attached
 notice we file certified copies. we have
 filed all of the original deeds we have
 in our possession. And only where we
 are unable to procure the originals have
 we filed certified copies. If we ever had
 the original deeds where copies are mentioned
 as having been filed in the hereto attached notice
 we have lost them And we are unable to
 produce the originals. though we have made
 diligent search for them. We make the hereto ^{attached} copy
 of notice of filing a part of this affidavit
 to show what deeds in the chain of title to
 the land sued for we are unable to produce
 originals and where the letter D appears upon
 said attached notice we are unable to produce
 the originals of the deed mentioned opposite and the
 attached notice is a part of this affidavit

H. C. Pritchett
 J. L. Pritchett

The State of Texas Subscribed and sworn to before me this day
 Hall County Jan 21st day of Jan A.D. 1886

J. S. Wynne Notary
 Public Hall County Texas

19356

J. Le Pritchett et al

vs

A Sundt et al

Affidavit of loss
& inability to produce
originals of title papers

Filed July 23. 1896
Ulex Eastman Currier & Co
By Edwin Bruce

Brazoria Co. Rld. Sk. 25A

counter 12808

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District
Court in and for the County of Galveston, State of Texas, do hereby
certify that the above and foregoing is a true and correct Photostatic
Copy of Affidavit of loss & inability to produce originals of title papers,

in cause No.17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et
al,- as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal
of said District Court, at office, in Galveston, Texas, this the *29th*
day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By *C. D. Johnson* Deputy.



115

County 12347

6/15

Rec'd 6/15/35

J. L. Pritchett, et al. §§ In the District Court of
No. 17356. v s . §§ Galveston, County, Texas.
A. Sundt, et al. §§ October Term, A. D. 1896.

Now come the Plaintiffs and the Defendant . M. Disney and move
the Court to file its findings of fact and conclusions of law in the
above entitled and numbered cause.

Hutchinson Campbell & Sears
Attorneys for Plaintiffs. -

Austin Rose
Attorneys for Defendant,
L. M. Disney. -

Brazoria Co. Rd. Sk. 25A

17356

J. L. Pritchett et al

vs

A. Lund et al

Motion for
findings of fact
and conclusions
of law

Filed Nov 23. 1896

Alex Easton Clerk

By Edw. Bruce
By

Brazoria Co. Eld. St. 257A

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of Motion for Findings of Fact and Conclusions of Law, in cause No.17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et al, as the same appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the *29th* day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By *E. D. Holman* Deputy.



Recd 6/15/30

17356 J. L. Pritchett et al } In District Court
 vs } Galveston Co.
 A. Sundt et al } October Term 1896

Now comes the defendant
 L. M. Disney and makes this his
 appearance and answer in this cause
 and says that he does not take any
 issue in this cause with the Plaintiff
 as to the allegations contained in plaintiff's
~~petition~~ petition but admits the truth
 of said allegations and joins in Plaintiff's
 prayer for recovery and judgment for the
 land ^{in controversy herein} against the Defendants A. Sundt
~~et al~~ and Mr. A. Bierwith ^{et al} F. A. Bierwith his wife
 and this defendant prays that he have judg-
 ment herein for all costs incurred by him
 herein and that he be protected against
 the payment of any ~~other~~ ^{attorney} costs of this
 cause - and he prays for all other
 further general and special relief to which
 he may be entitled by reason of the
 premises.

Austin Rose
 attys for Deft L. M. Disney

17356
J. L. Pritchett et al
vs
A. Smith et al

Answer of Deft
Levi. Disney

Filed Nov. 14 1896
Allan Easton Lewis et al
By Edwin Bruce
Ky

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District
Court in and for the County of Galveston, State of Texas, do hereby
certify that the above and foregoing is a true and correct Photostatic
Copy of Answer of Deft. L. M. Disney, -----

in cause No. 17,356 entitled J. L. Pritchett, et al, vs. A. Sundt,
et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal
of said District Court, at office, in Galveston, Texas, this the 29th
day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.
By C. D. Thomas Deputy.



STANOLIND OIL AND GAS COMPANY

FAIR BUILDING
FORT WORTH, TEXAS

April 1, 1935.

4021
MA27941-2
MA28255484

The General Land Office,
Austin, Texas.

Atten: Mr. C. F. V. Blucher.

Dear Sir:

As per our recent conversation, we are enclosing a blueprint of our sketch showing Powars' calls for the "most northern of two Post Oaks" in his Clear Creek series of H. T. & B. R.R. Co. Surveys.

Trusting that this will be of assistance to you in checking the general report of that area on file in your office, we remain

Very truly yours,

STANOLIND OIL AND GAS COMPANY

By

C. C. Zethraeus
C. C. Zethraeus

CCZ/s
encl

acknowledged 4-2-35 B

RECEIVED

Apr 2 1935

REFERRED TO MAP

Brazoria Co. Old. Sk. 25A

+

counter 12818

STANOLIND OIL AND GAS COMPANY

712 MAIN STREET

HOUSTON, TEXAS

June 14, 1935 .

*Brought to office by
Merris Wilkerson & Brounks
on 6-15-35*

The Commissioner of the General Land Office
Austin, Texas

*This with accompanying B/p
received 6/15/35
C.F. Blucher*

Attention: Mr. Blucher

Dear Sir:

In accordance with the verbal request I am furnishing you a blue print of a large detail of that area adjacent to the Galveston-Brazoria County line between the B. T. Masterson and R. A. Magee surveys.

This large scale sketch shows a portion of the county line with reference to those survey lines, fences and other topographic features that were shown on the smaller scale map of the general area which you have previously been furnished.

On this sketch we have placed the description contained in the judgments handed down in those two lawsuits over the area in question.

The first judgment was in the case of Pritchard vs Sundt et al, and from the papers in this judgment it is evident, as well as recited, that the description contained in the judgment was taken from the survey work of Mr. John Maxey of Austin.

It seems perfectly evident to me, from the correspondence contained in papers of this suit, that Mr. Maxey was the surveyor for the plaintiff, Pritchard, and that it was his contention that the William Henry Survey should be given its full called distance even though it ran beyond the county line for which it called. We have shown with a long dashed line the description, as we interpret it, taken from the judgment in this case and have colored this line on the plat in red. We feel that the corner of the Henry survey as called for in the above description and as established by John Maxey was at the point "A", arrived at by measuring the called distance of 1460 vrs from the Jackson & Hoppel Surveys along the fence line which he evidently took for the Northwest line of the Henry survey. We feel that this is evident because from the Jackson & Hoppel Surveys he could only have arrived at the point "A" and then arrived at the North line of the Magee Survey with the dimensions furnished, and this being true the area outlined in red and within the lines "B", "C", "D", "E" and "F" appears to be land involved in this litigation.

You will note that the East line of the land involved is on, or very nearly on, the West line of the Sloan and Henry Surveys as it has been previously shown on the map and in the report previously furnished by Mr. Freeman. And it may be of interest to you to know that the west line

Brazoria Co. Rld. Sk. 25A

counter 72819

June 14, 1935

2

The Commissioner of the General Land Office

of the Sloan and Henry Surveys so shown was so shown by conclusions separate and apart from the conclusions of the court. In reading the conclusions of the court, however, it is also pertinent to remark that he very definitely states that at the time the judgment was rendered the county line was not, and had not been, marked.

Some two or three years after this judgment was rendered the county line as it exists today was marked, and the plaintiff in this case, Mr. Pritchard, conveyed to The Southwestern University an area lying west of the County line as it was then established, and east of the fences labelled old fences on the plat. They also attempted to convey in the same conveyance an area lying North of the line B, C, and South of the fence between the lines L and K. By subsequent conveyance the grantees in that deed have apparently recognized the inferiority of their title to the last named area, but have recognized and claimed their title between the old fences shown and the present county line.

The suit we have discussed, it will be understood, was between the assignees of William Henry and the assignees of Hennel Stevens.

In 1921 litigation developed between the assignees of Hennel Stevens and the owners of A, C, H and B Survey No. 2. The owners of the Eastern portion of the Hennel Stevens Survey claimed the land lying East of the line marked H, I extended Northward to and intersecting with the line B. C. extending westward. Judgment rendered in this suit gave title to the claimants holding under A. C. H and B Survey No. 2 to all of that land east of the line H, I and South of the line B. C. and lying within Survey No. 2, and gave title to those claimants that were assignees of Hennel Stevens by a description which began at the point G and followed the short dashed line through the line H, I, J, K, L and back to G, (colored yellow on the map).

At this time, of course, the County line was well marked and monumented and the description contained in this judgment called for the County line as the East line of the tract described. By reason of this judgment the present assignees of Hennel Stevens have recently constructed their fences along the County line from the point K to the point M, allowing the fences running a short distance westward and then in a southerly direction from M. to remain.

Southeast of this fence between the point J and M the land is owned by Peter McDonald. The balance of the area as far North as the line L, K is owned and claimed by Mr. Hiram Moore and Mrs. Frances C. Rasmussen.

All of the land between the County line and the East line of A. C. H and B. Survey No. 2 lying North of the fence line labelled L, K and

Brazoria Co. Rld. SK. 25A

No 1

counter 72820

June 14, 1935

3

The Commissioner of the General Land Office.

extending to the existing fence line some 1800 feet to the North is claimed by Mr. Gilbert Sneed.

I trust that this large scale detail and discussion of the area involved is in accordance with your wishes and verbal request.

Very truly yours,

STANOLINE OIL AND GAS COMPANY

PTW:LL

By

Chas. J. Wilkins x

Brazoria Co. RLSK. 25A

No 2

counter 72821

*Brazoria - Galveston
Counties*

*MA 27941-2
MA 28255484*

STANOLIND OIL AND GAS COMPANY

Supplemental Statement.

2909 Gulf Building
Houston, Texas
March 18, 1935

*Rec'd 3-29-35
Blucher*

J. H. Walker
Commissioner of the General Land Office
Austin, Texas

*This accompanies J. H. Walker Report
rec'd. March 29th, 1935, and is filed
under that date - March 29th, 1935*

*J. H. Walker, Comm.
C. F. Blucher, clk.*

Dear Sir:

Supplementing the attached report, in so far as it relates to the supposed vacancy on the County line lying Southwest of the William Henry Survey and East of ACH&B Survey No. 2, I wish to present the following discussion:

The field notes of the Hennell Stevens Survey as patented commence at the Southwest corner of Section 2, ACH&B Survey, on the East line of Section 37, and run thence East 1796 varas along the lower line of Section No. 2 to its Southeast corner; thence South 10 West 867 varas to the Northeast corner of the R. A. Magee 320 acre Survey; thence North 80 West 1344 varas to its Northwest corner; thence South 10 West 1344 varas to its Southwest corner; thence North 80 West 88 varas to a stake for corner in the East line of Section 40, HT&B R. R. Co. Survey; thence North 1928 varas along the East line of Sections 40 and 37 to the beginning. We have every evidence that this was a paper survey, and it is perfectly obvious that the surveyor was not mistaken as to the position of the South line of ACH&B No. 2, but was mistaken as to the North-South position of the R. A. Magee Survey, evidently considering it to be considerably further South than it actually is.

When the patentee, or his assigns, went on the ground to survey the Stevens as called for in the field notes, the real position of the R. A. Magee Survey was readily ascertained, and it became obvious that the field notes in the patent were incorrect. Apparently the North line of the Hennell Stevens Survey was placed considerably North of the South line of ACH&B No. 2, thus creating a conflict. The true East line of the R. A. Magee Survey was found to be on the County line as it exists today. In order to satisfy the call for the Northeast corner of the R. A. Magee, it became necessary to extend the supposed North line of the Hennell Stevens Survey to the County line, and in 1891, when H. Kempner sold the survey to A. Sundt, he called to begin at the Southwest corner of Section 2, ACH&B, and ran thence East 1990 varas along the lower line of Section 2 to its Southeast corner, calling to a point on the West line of the William Henry Survey in Galveston County, running thence South 80 West (obviously South 10 West) to the Northeast corner of the R. A. Magee Survey; thence North 80 West 1344 varas to the Northwest corner

Brazoria Co. Rld. Sk. 25A

STANOLIND OIL AND GAS COMPANY

J. H. Walker - P. 2

3-18-35

of the R. A. Magee; thence South 10 West along the West line of the R. A. Magee to its Southwest corner; thence North 80 West 287 varas to a point in the East line of Section 37, HT&B R. R. Co. Survey; thence North along the East line of Sections 37 and 36 1890 varas to a point in the East line of Section 36 and the Southwest corner of Section No. 2, ACH&B, to the place of beginning. According to these field notes, the survey is said to contain 332 acres. It was patented to contain $266\frac{3}{5}$ acres. If the call distances in the patent to the William Henry Survey are respected and we disregard the call for the County line, the survey would extend West of the County line to what is now the established East line of ACH&B No. 2. The land claimed by A. Sundt, and his assigns, according to the correction deed calling for 332 acres in the Hennell Stevens, conflicted to the extent indicated with the William Henry Survey as it was considered to exist by the people who owned it.

A controversy arose between J. L. Pritchett et al., who owned the William Henry Survey, and A. Sundt et al., who owned the Hennell Stevens Survey. It was styled J. L. Pritchett et al. vs. A. Sundt et al., No. 17356, District Court, Galveston County, Texas. Judgment therein was rendered on November 19, 1896, and these persons who owned or purported to own the Hennell Stevens Survey recovered all the land in controversy lying West of the County line as it existed in 1896, which we understand is the same position which it occupies today.

In view of what will be said hereafter about the Southeast corner of ACH&B Survey No. 2, it is perfectly obvious that the East line of the Hennell Stevens Survey could never have extended to the County line for the reason that it of necessity had to stop at the Southeast corner of ACH&B No. 2, and the East line of ACH&B No. 2 was never coincident with the County line, although it was at one time considered to be.

In the Pritchett case, referred to above, the most significant thing is that the court specifically held that the William Henry Survey stopped at the County line as it existed in 1896, which, as we remarked, is apparently the same position which it occupies at this time. We attach hereto a photostat of a certified copy of the judgment in the Pritchett case, as well as a photostat of the findings of fact and conclusions of law which the court prepared at the time he rendered judgment. Of course, this judgment was probably not conclusive as to those persons who owned tracts out of the William Henry Survey lying North of the supposed North line of the Hennell Stevens Survey, but the judgment in the Pritchett case is certainly persuasive as to the true position of the Southwest line of the William Henry Survey.

Brazoria Co. Rld. SK. 25A

STANOLIND OIL AND GAS COMPANY

J. H. Walker - P. 3

3-18-35

As we remarked above, the ACH&B Survey No. 2 and the Hennell Stevens Survey were at an early date placed in conflict with each other, so that the North line of the Hennell Stevens, as claimed by the owners of that survey, actually extended North of the South line of the ACH&B Survey No. 2 a considerable distance. The owners of the South Half ($S\frac{1}{2}$) of ACH&B Survey No. 2 and the North portion of the Hennell Stevens Survey went into litigation because of this conflict in the surveys, and the owners of the land in the ACH&B Survey No. 2 prevailed. A survey became necessary in this litigation, and the South line of ACH&B Survey No. 2 was fixed at approximately the same position in which it is shown on the attached plat. Incidentally, of course, the East line of the survey and the Southeast corner were also fixed and determined by the judgment in this case. The East line is fixed in approximately the same position which was shown on the attached plat. The case in the trial court was split up into several different parts by orders of severance as to the various defendants and only one of these cases reached the Court of Civil Appeals, but it is the one which definitely fixes the South line of the survey and, as said, incidentally the East line of the survey. It is styled Oscar J. Wolf et al. vs. W. F. Scott et al., and is reported in 253 S. W. 905, where the judgment of the trial court was affirmed. We have noted from photostats of papers from the General Land Office in our file that this case has come to the attention of your office, and we, therefore, do not attach a copy of the judgment of the trial court. We consider, however, that this judgment was conclusive as fixing the East line of the survey.

If we assume that the judgment in the Pritchett case, referred to above, fixed the Southwest line of the William Henry Survey, we are led to the obvious conclusion that no patented survey covers the area indicated on the attached plat as being record public land. It is true that there are persons who claim to own this land, and are at this time exercising dominion over the same. In fact, certain of the parties in the Wolf-Scott case recovered judgment for all of the area indicated to be vacant North to the first fence line indicated on the plat. The remainder of the supposed vacancy is occupied and claimed by the grantee of D. J. Ryan who at one time owned the North Half ($N\frac{1}{2}$) of ACH&B Survey No. 2, and considered, as did the persons who owned the South Half ($S\frac{1}{2}$), that the East line of ACH&B No. 2 extended to the County line.

Yours very truly,

A. W. Bounds

A. W. Bounds

AWB:M
encl. (4)

Brazoria Co. Rld. Sk. 254

6/15
Rec'd 6/15/35

J L Trilchett NO 17356-
et al } In District
 } Court Galveston
 } County Texas
A Sundt et al

Come the defendants A
Sundt and M^{rs} Berwith ^{et al} by their attorneys. and with
leave of the Court file this
their amended original
answer in lieu of original
answer filed herein Feby
5th 1895. and say-

1st That they except to the
petition of the plaintiffs herein
filed. and the allegations
therein contained & say the
same are insufficient in
law & of this pray the
judgment of the Court
Jas B & Chas J Stubbs &
W M Jerdone
Counsel for said depts

And again saying the
said defendants by their
said attorneys say that
they disclaim any interest in
the Hm Henry survey as the
same is described & set out
in plaintiffs petition. by its
notes and bounds as being
wholly in Galveston County
Texas- but they say that
if in the description of the

counter 42825

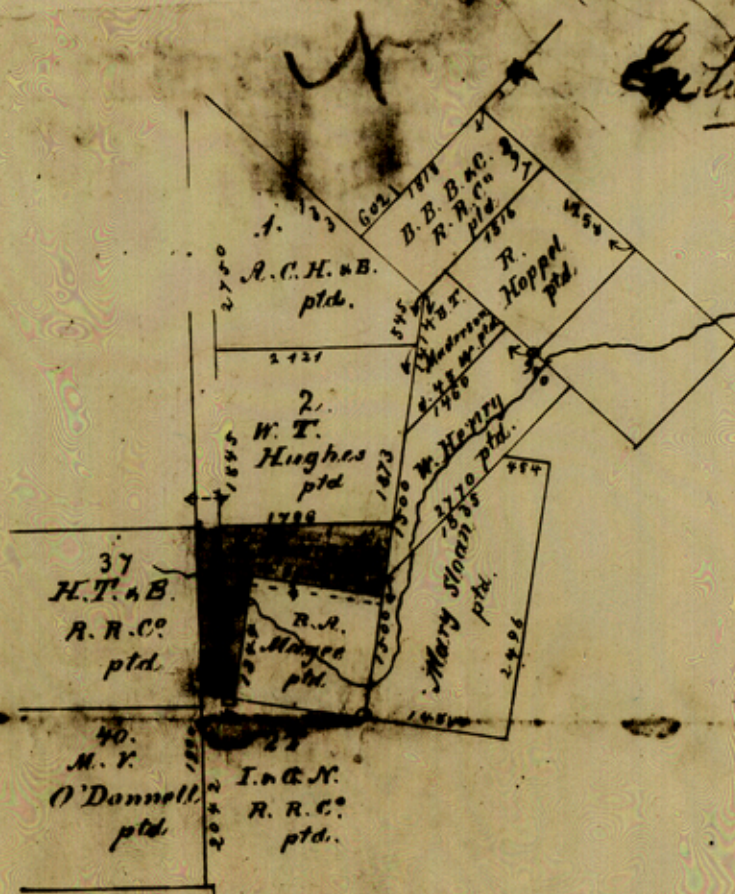
Brazoria Co. Rld. S. H. 25A

land herein sued for it is
intended to embrace any land
of the H Stevens survey - that
lies West of the county boundary
line between Galveston & Brazoria
counties as now established
North of the R A Mayee survey
and South of the W F Hughes
survey or Survey No 2. As
the same appear and are
shown on the plat or map
hereto attached marked
Exhibit "A". and made a part
of this answer. And situated
in Brazoria County Texas
then as to that - they these
defendants plead not guilty
of the trespasses &c and
put themselves upon the
country

Geo B + Chas J Stubbs &
Attorneys
Counsel for said depts

Brazoria Co., Rld. Stk. 25A

Exhibit A



8

H
3

Brazoria Co. Rld. Sk. 25A

17356

Gue Dist Court

—

J R Philchett
et al

A Sundt et al

—

Amended original
answer —

Filed Nov 12. 1896

Wm Carter CLK Dec 6

By Edwin Bruce Dy

Geo B & Chas J Stubbs
Wm Jordan
per d

counter 42828

Brazoria Co. Ald. S. K. 2574

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of Amended Original Answer, -----

in cause No. 17,356 entitled J. L. Pritchett, et al, vs. A. Sundt, et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29th day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By C. D. [Signature] Deputy.



17.356

Bitchet et al } W. J. Smith
 vs } Grant of Galveston
 Sundt et al } County of Galveston
 Term 1896

Separate Conclusions of Law & Fact.
 The land in controversy contains between
 37 & 38 acres, situated in Brazoria
 County on the County line between
 said County & Galveston County -

If the Henry Survey extends over
 the county line, then the plaintiff has
 shown regular chain of title to themselves
 from the Sovereignty of the Soil, but
 if said Survey does not extend over the
 County line then the plaintiffs have
 no title whatever -

The Henry Survey was made by Brown
 the County Surveyor of Galveston County
 in the month of February about the 18th
 of February 1848, and the said Brown
 in the same month surveyed the County
 line - The County line of Galveston
 County was established by the Congress
 of the Republic of Texas in the year
 1841, and that part of the County
 line between Brazoria & Galveston Count-
 ies, runs between a certain point at

blew creek, to the head of Dickinson Bayou, in a straight line, and those two points are only a very few miles apart, and well defined, and there is no difficulty in locating those two points, but it is prairie between those two points and no stakes seem to have been placed on said prairie line, but both points are in timber and said Surveyor Brown who made said Henry Survey, during the same month filed in the Surveyors office at Galveston the field notes of the county line between the aforesaid two points, but ran different courses and distances between said two points, by which it could be easily calculated in a few minutes, the actual course and distances between said two points, in a straight line, without actually on the ground marking the line in the prairie - At the time that the said Surveyor Brown located said Henry Survey of 320 acre certificate, the land adjoining said county line between said two aforesaid points was vacant public land on both sides of the said county line - The north boundary

line of said Henry Survey is through prairie without any marked boundaries and also ^{its} ~~the~~ western boundary line and Southern boundary line are through prairie without marked boundaries, except that its Southern boundary line calls for Ohjao Branch or Creek at distance of 510 varas, and it is just about 510 varas from the true county line to said Ohjao Branch or Creek, but ~~if~~ if the survey is given its full distance called for in its Northern and Southern Boundary lines it would make the distance to said Ohjao Branch or Creek about 1000 varas, when in fact the distance to said Ohjao Branch or Creek is only about 510 varas from the true County line - If you give said Henry Survey its full distance regardless of the true county line, it would contain a few acres above 320, but if you make its Western boundary line coincide with the county line, the survey would be a few acres less than 320 - The patent to the Henry Survey was issued in the year 1854, and

Brazoria Co. Old. 5th 25A

its field notes are as follows, Beginning
 " at a stake on the S. W. line of Alexander
 " A Jackson's Survey, thence N 45° West
 " with said Jackson line 380 varas a
 " branch 438 varas a stake the West
 " corner of A H Jackson's Survey No 1
 " and the South corner of Robert Hoppell's
 " Survey No 2. from which a Spanish
 " oak bears N 66½° E 4 varas, 905
 " varas a stake for the North corner
 " of this Survey on the S. W. line of Robert
 " Hoppell's Survey. Thence S 45° W 1460 varas
 " to county line a stake for the N. N. West
 " corner of this Survey - Thence S 10° W
 " with the County line 1500 varas a
 " stake for the South corner of this
 " Survey - Thence N 45° East 510 varas
 " a branch 2770 varas to the place of
 " beginning.

The patent also ~~states~~ states that the
 land is in Fabretho County -
 The amount paid by plaintiffs to Sis-
 -ney, ~~for~~ who gave them deed with gen-
 -eral warranty, for that part of the land
 in controversy, including interest thereon
 from the time plaintiffs was dispossessed
 of the land by defendant Sundt, amount-
 to \$446 ⁵⁸ -

Separate conclusions of law -
The Supreme Court of Texas has in many cases held that in the early days when it was difficult to ascertain the true boundary line of a colony or the true boundary line of a County, ~~and~~ a patent or grant for land by defined miles and bounds, where the land so granted or patented was ~~was~~ public domain, the grant or patent would confer a good title to all the land embraced in the grant or patent according to its field notes, even though it should be found to ~~be~~ be situated within the ten border leagues, or not situated within the limits of the Colony, or not wholly within the County or extended over the boundary line between two counties - In the case

Prateria Co. Rld. Sk. 25A

at bar, of the patent, although issued many years after the true county boundary line had been clearly ascertained, had specified alone the course and distance, it would according to said rulings of the Supreme Court, have vested the patentee and those holding under him with a perfect title, for then the land being vacant unappropriated public domain, the Government had the power and right to issue title to the same, and the patent would necessarily convey full title, and there would be nothing in the grant or patent to show that it was not the intention of the Government by its grant or patent to confer full title to all the land embraced in the calls for course and distance - But the patent in the case at bar under which the plaintiffs claim title does not purport to convey all the land embraced in the course and distance, but on the contrary limits and confines the Western boundary line of the ~~patent~~ patent to the County line between Saharten & Brazoria Counties, and the same Surveyor who established the county line in the same

Brazoria Co. Rld. SK. 25A

month in which he made the survey
 limits the Western boundary line of the
 survey ~~by~~ to the county line. The
 very language of the patent is as
 follows "Thence S. 45° W 1460 varas
 to county line a stake for the W. N. West
 corner of this survey - Thence S 10° W.
 with the county line 1500 varas to
 a stake for the South corner of this
 survey &c" Although the 1460 varas
 goes beyond the county line, yet it calls
 for the county line, and then calls to
 run with the county line, and I hold
 that it could not, from the language of
 the patent, have been the intention to grant
 beyond the county line, and the plaintiffs
 have no title to the $37\frac{59}{100}$ acres of land
 in controversy lying West of the county
 line, and their title to that part having
 failed they are entitled to recover back
 from their warrantor L M Disney, the
 amount paid therefor, with interest thereon
 from the date of their ouster amounting
 principal and interest to \$446⁵³—
 And accordingly judgment has been rendered
 against the plaintiffs for the land in con-
 troversy and in their favor against their
 warrantor L M Disney for said sum of \$446⁵³—

Brazoria Co. Rd. Sk. 257A

and the plaintiffs and their warrantor
Disney in open court appealed from
the judgment & in open court gave
notice of appeal & are allowed
10 days from and after the adjourn-
ment of this term of court to file
statement of facts.

Dec 3rd 1896 Wm H Stewart

Judge 10th Ind. Dist.

Brazoria Co. Old Sk. 25A

Brazoria Co. R/D. SK. 25A

197 3 5 6

Pritchett et al
vs
Sundt et al

Separate Conclusions
of Law & Fact

Dated Dec 23. 1896
Attest Courtroom & cts
By Ernest Duce Dy

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District Court in and for the County of Galveston, State of Texas, do hereby certify that the above and foregoing is a true and correct Photostatic Copy of Separate Conclusions of Law and Fact, - - - - -
- P - - - - -
in cause No.17,356, entitled J. L. Pritchett, et al, vs. A. Sundt, et al,- as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal of said District Court, at office, in Galveston, Texas, this the 29th day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By C. D. Holman Deputy.

J L Ritchett } #17356-In the
et al } District Court
x } of Galveston
A Sundt } county.
et al }

W. B. Smith vs J L Ritchett & A Sundt.

Came the defendants in
the above entitled and
numbered cause by attorney
and represent to the
Court.

- 1 That this is a suit by the
plaintiffs in trespass to try
title against the defendants
for about 37 $\frac{1}{2}$ acres of land
alleged by the plaintiffs
to be a part of the Wm Henry
survey - which lies wholly
in Galveston county.
- 2 That defendants claim said
piece of land as it is de-
scribed by metes & bounds. & is
a part of the H Stensen survey
& lies wholly in Brazoria
county.
- 3 That whether said piece
of land is in Galveston or
Brazoria counties & so
whether owned by plaintiffs
or defendants. involves the
true location upon the
ground of the boundary
line between said counties
And that an actual survey
of the same in accordance
with the line as fixed by

law is necessary in order
for this Court to arrive
at any proper judgment
in said cause.

And to that end they ask
the Court to appoint a
suitable person to make
an actual survey of said
line on the ground as it is
and its relation to the land in controversy
established by law, and
to report his action thereon
to this Court.

Wm Jordan &
Jos B Stubbs
for depts Burroughs and
Sundt.

#17356

J L Pritchett
et al

A Sundt et al

Motion for
survey -

FILED March 21 1896

Alex. Easton

Clerk D. C. G. Co

By J A Gungler Dp' y

Wm Jordan
Jas B Stubbs

entered 72812

The State of Texas,
County of Galveston.

I, J. C. G E N G L E R, Clerk of the District
Court in and for the County of Galveston, State of Texas, do hereby
certify that the above and foregoing is a true and correct Photostatic
Copy of Motion for Survey, - - - - -

- - - - -
in cause No. 17,356 entitled J. L. Pritchett, et al, vs. A. Sundt,
et al, - as the same now appears of record on file in my office.

TO CERTIFY WHICH, witness my official signature and Seal
of said District Court, at office, in Galveston, Texas, this the *29th*
day of May A. D. 1934.

J. C. G e n g l e r,
Clerk District Court, Galveston County, Texas.

By *C. D. Dohman* Deputy.

6/15



DETAIL
IN THE VICINITY OF
BRAZORIA GALVESTON
COUNTY LINE

SCALE 1 = 72.0 VRS.

7/10
COUNTY 42895

This accompanies letter of 6/14/35 from
Standard Oil & Gas Co, received 6/15/35-

C.F. Blucher

Brazoria Co.
Rolled St. 25-B

counter 42846

No⁴