

LIBERTY CO. RLD. SK. NO. W. C.

Sketch & Report Re. M.A. 27689-90

Surveyed By Wm. J. Colegrove

Filed April 4-25-34

FLAT FOLDER

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Houston, Texas  
April 19, 1934

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Mr. J. H. Walker,  
Land Commissioner,  
General Land Office,  
Austin, Texas

MA 27689

MA 27690

Wm. J. Colegrove

See Frank E. Daugherty's Map & Report -  
Liberty County Rollover Ak. "I.P."

Dear Sir:

The attached report, as to discussion and findings of the vacancy as applied for by the writer, is not in the form of an official record, for the reason that Mr. R. F. Gray and myself are not licensed State Land Surveyors of the State of Texas. However, we are both graduate Engineers with many years experience in the field of surveying and engineering involving many difficult problems of this nature in several States, Canada, Mexico and South America, and that the survey was conducted under my personal supervision and computation, and drafted by Mr. R. F. Gray.

The writer has been on location work in Canada, South America and the States, on large wild and virgin tracts and is familiar with many of the difficulties that confront the Surveyor in this class of work and has qualified several times as expert witness in both the lower and higher Courts.

Mr. R. F. Gray held the commission of United States Deputy Mineral Surveyor in Wyoming for a number of years and has wide experience as Surveyor and Engineer in the mountain States area and has qualified as an expert in courts of record.

We feel that our discussions and findings may be of help and offer this document as such, and not as an official document, without you see fit to adopt it as such.

Thanking you for any consideration, I beg to remain,

Yours very truly,

*Wm. J. Colegrove*  
Wm. J. Colegrove

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4-20-34

SURVEY REPORT

STATE SCHOOL LAND VACANCY, IN NORTHWESTERN LIBERTY COUNTY  
BOUNDED BY THE  
HARPER, DEVERS, TARKINGTON, VOTAW, AND NEWMAN SURVEYS.

Surveyed for Wm. J. Colegrove of Houston, Texas, by  
R. G. Partlow, County Surveyor of Liberty County, Texas, and  
H. O. Compton, Deputy, under his application for a survey,  
filed with the County Surveyor of Liberty County, December 29th,  
1933 and January 1st, 1934.

The survey of the vacancy as above entitled required  
the rerunning of one or more lines of the following grouped  
surveys; Jordan West, John Pleasants, James Eldridge, Charles  
Smith, William Barker, T. F. Pinckney, Thomas Devers, Clayton  
Harper, Jose Coronado, James McCoy, Barton Tarkington, Thomas  
Newman and Isom Parmer, together with meandering of a portion  
of the East Fork of the San Jacinto River, abutting the group  
along the West. The inclusion of the river and other distant  
and apparently unrelated survey lines was required in confirming  
lines of closer surveys, some of them either in dispute or shown  
in conflict on the official State Land Office maps. A portion  
of this area has been in controversy ever since it was surveyed,  
with the Clayton Harper League as the butt of the controversy,  
and as it now appears, the loser of about two Labors, or more  
correctly as having been patented as a league while actually con-  
taining but twenty three and a fraction labors.

The problem sharply divides into two divisions; that of  
the long narrow strip between the Votaw and Tarkington Surveys;  
and that of the smaller rectangular area at the western end of  
the vacancy. The former showed no particular difficulty. Portions  
of the paralleling lines of the Tarkington, Votaw, Pleasants and

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West Surveys are through a heavily timbered area, where the lines are evidenced by very old timber markings and quite readily followed in substantial agreement with their calls. The latter problem involves the unravelling of two surveys in error, also apparently in conflict, the Thomas Devers and the Clayton Harper.

An abstract map prepared in advance showed such gross irregularities and conflicts that it was impossible to make sense out of it. Therefore the entire area of the Smith, Barker, Pinckney, Devers, Harper, Tarkington, and Votaw Surveys, together with portions of abutting surveys and three miles of the river were first carefully mapped as to recognized physical boundaries and relative positions of the tracts as existing on the ground. Comparisons of courses and distances were noted and marked on the map side by side with their calls. Working from the map additional trips were made to the field to supply missing data, investigate discrepancies, and make corrections as required. From this map the relative positions of the Devers, Pleasants and Tarkington Surveys were definitely established, a controversial point since the filing of the first Clayton Harper Survey. The map also disclosed three other important points; that the Tarkington and Votaw Surveys do not have a common line but range from 160 varas to 230 varas apart; that the 300 varas closing failure of the Thos. Devers is in its North boundary line, which was found 334 varas long of its call; and that the Clayton Harper is 500 varas narrower North and South than it appears by description. The Tarkington with its South boundary line away from the Votaw North boundary line still has in excess of 100 acres over its called area. The Devers has a small excess over its called acreage. Examination of this tract indicates there was a computation error in adjusting the original survey to a closed traverse. The Clayton Harper, as stated, loses about two labors. Its problem is therefore serious; it took a major portion of the time of the investigation, and is one of the principal problems of this report.

MEMORANDUM

REFER TO SECOND PARAGRAPH- PAGE 32 OF  
REPORT ON STATE LAND VACANCY, LIBERTY COUNTY.

Title to the Clayton Harper League actually passed from the State to Hardin and his Co-claimants, their heirs and assigns, with the passing and receipt of money for the tract on December 31, 1842. Subsequent inclusion of lands outside the bounds of the original tract will not lie as to valid title, nor may they be held under the Letter of Patent, unless the State stood on notice of such intent and it was with its consent. There is nothing of record as such which would give color of title to any lands other than those originally receipted for. The subsequent correction survey and final issuance of Letter of Patent in 1875 were administrative acts of the State's officials only, to complete the transaction of the actual passing of color of title previously. Hardin and his Co-claimants are presumed to have had a general, and some of them a specific knowledge of the bounds of that tract, the survey record of which was defective.

The State might cancel the survey record because of its inaccuracy and supercede it by a corrected one, but such act could not affect the physical bounds of the tract, title to which had passed, altho certain administrative acts yet remained to be done to complete the transaction. The matter of the record is an administrative function, while the latter is a matter affecting a contractual obligation and the two must not be confused.

The work of the surveyor in making a new survey was to perfect the record of the tract as passed to and held by the claimants, subject to priorities of other claimants, and to report on conflicts with any other lands. Failure in his appointed task to return a correct survey, cannot give the heirs and assignees color of title to lands outside the original tract thru taking advantage of errors of that survey, since the original marking on the ground of the tract's bounds was definite and complete, and identification possible at all

times since, (although difficult to retrace because of the faulty records), as evidenced by the fact identification has actually been made from original markings even at this late day; and only through the surveyor's lack of competence or diligence, or his integrity, is the record defective and incomplete. A new survey which included land not in the original grant and did not disclose such inclusion, but by its inaccuracy or vagueness, carelessly or deliberately made, gave the impression of covering the original tract only, would be to perpetrate a fraud on the State.

*Alfred Polyan*

Local recognition of a common line between the Devers and Harper Surveys seems to be pretty general, but confirmation of this line has been lacking. The original corners had long been lost and the notes of the two surveys, both in error, did not offer much help in finding them. The river, forming the West boundary of the group, was recognized as probably offering one of the best helps, in itself a natural monument of the highest dignity, shaping like the arch of a strongly bent bow. The river was meandered from a point in the Jose Coronado to the Southwest corner of the Wm. Barker Labor, common with the Northwest corner of the Chas. Smith one third league. Fortunately in this meandering, three, with the probability of a fourth, of Magruder's original meandering corners, well authenticated, were tied in. The river fronting the Smith was not meandered, but the Southwest corner, one of the four above mentioned, was tied in with the whole survey and found to conform well with the Smith river calls and other points. With these ties to the original meanderings, the river is seen to have shifted its channel many places, but still holding well to its general course. Half way along the west end of the Harper the river makes an abrupt change in its course, forming another natural monument somewhat like a chair seat in profile, of the greatest importance for definitely placing the Harper League, qualifying the notes of its survey and confirming a common Harper-Devers boundary and corners. This is detailed elsewhere in this report.

It is necessary here to digress and give a brief history of the Clayton Harper League Surveys, the problems involved, and some conclusions in order to lay premises for the findings of this report.

The Magruder 1839 Survey of the Clayton Harper League was suspended by the General Land Office because of apparent conflict with the Thos. Devers Survey. It was later cancelled and superceded upon filing of the Tompkins Survey in 1856, which

latter was used as the basis for description when Letter of Patent was finally issued to the Harper heirs some twenty years later, closing a long period of quarreling, charges of fraud and litigation among heirs and others interested.

That this conflict with the Devers was one of erroneous description and not of fact is evidenced from the following circumstances; Magruder surveyed both tracts together with a number of others up and down both sides of the river, all contiguous about the same time 1838-39, and it is hardly reasonable that he would overlap two adjacent surveys necessitating the driving of two parallel lines some 500 varas apart through a heavily timbered virgin section for several miles, as his call of 2500 varas with the Tarkington West boundary line would indicate if strictly interpreted, when as a fact he calls for a common line with the Harper in his notes of the Thos. Devers Survey. Such a common line as Magruder calls for is in evidence 40 varas long of his call. Beginning in the river bottom of the San Jacinto East Fork 150 varas from the West bluff at a meander corner marked by one of the two original witness trees, a Magnolia, along the East side of an old channel of the river still acting as an overflow; thence running Easterly into an open cut-over area after leaving the river bottom, closely and at a small angle with the accepted Devers North boundary line, North of it for a third the way to an intersection, then crossing to the South, showing up again toward the East end of the Devers and on to the Tarkington as a very old line marked on hardwoods, paralleled by a younger timber cruiser's line on pines, crossing the Devers East boundary line 61.0 varas South of the present accepted Northeast corner, Continuing on without deflection to an intersection with the Tarkington League West boundary line, 487 varas North of its Southwest corner, and witnessed as a corner by three very old Magnolias and the old charred stump of a fourth Magnolia, one of the original called witness trees. It must be here noted that

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Magruder calls for an intersection though the insert makes the notes following inconsistent with this intersection call, and thus requiring a critical inquiry into this section of the notes and survey.

His next course with the Tarkington West boundary line reruns 2013 varas instead of 2500 varas as called by the insert, which is the same call as for the Tarkington West boundary line. He calls the Tarkington Northwest corner, not noting any witness trees however, but he does not call the Southwest corner as should be the case for same authentic distance calls, nor does he call the same witnesses at his intersection corner as those called for the Tarkington Southwest corner. His reason for this miscall is dubious, and at the same time there is serious doubt that this miscall is his own. Possibly Magruder had no distance call for this line, i.e. not recorded in the field, or more likely he intentionally omitted this measurement in his report when a bad closing failure of some 630 varas developed in his latitudes, making his report as a tentative one to hold the filing until such time as a field correction could be made. The old report bears a notation, "not finished", apparently in Magruder's hand and dated five months after date of the report; and it is here to be noted also that the 2500 vara insert is not in Magruder's hand, but with a different and bolder ink used, distinctly similar to that used for the receipt of money endorsed on the back of the report by A. P. Thompson, three years later. The evidence here, supported by other evidence from the detail of the West end of the tract, is that the above 2500 vara call is not authentic; a "convenience" call taken from the Tarkington record to make the report complete when Hardin made payment for the tract, which by coincidence fairly compensated the gross closing error at the Northwest corner of the tract, in the meantime not corrected by Magruder in the field or by amended notes.

The Tompkins 1856 Survey of the Clayton Harper Lg., was quite evidently an attempt to correct the description of the same tract surveyed by Magruder in 1839 without altering the original boundaries, since it seems there was never any actual conflict with the Devers tract. But there is strong suspicion that this survey was largely a "protracted" or "office" survey. In fact about the only confirmation of a field survey is of the line with the Tarkington North boundary line, which he calls 2075 varas as against Magruder's 2050 varas, now found 2079.5 varas as rerun, the short upper East boundary line and his North boundary line, which latter does not agree altogether in course or chainage with the present resurvey, but is borne out in part by natural object calls not in other Surveys of record and which he must have gotten from the field. His running of the North boundary line of the Clayton Harper Lg., is 9360 varas, 182.3 varas over the present rerunning of 9177.7 varas, and 82.3 varas over Magruder's call of 9277.7 varas which latter is noted as an even 100 varas over the present rerunning. He gives the Jose Coronado 2396 varas for its South boundary line, 82 varas over its call of 2314 varas given by Magruder, the same amount by which he differs with Magruder for the Harper line. Note here that in his report his Harper North line call of 9360 varas is written over the number 9275, and that his Harper South line call of 7707 varas is written over the number 7622, both cases differing by 85 varas, 3 varas more than his over-calls of the Harper North boundary line and the Coronado South boundary line by Magruder. As to the rest, he has repeated Magruder's three errors and added some of his own. His courses in bearing, with two exceptions, are Magruder's, varying by a single even degree, one out by fifteen degrees, the other equal, more than a coincidence since a third of his lineal measurements show variance. He repeated the miscall of quadrant for the seventh meander course, miscalling it southeast instead of southwest as it should be to fit the river's course, the

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error of which an actual field survey would have revealed, as well as the absence of the fourth course, or its equivalent in making a Northwest corner closure, and also makes the error of calling the second meander course 160 varas instead of 460 varas, to be consistent with the other repeated meander calls. His South boundary line is short 944 varas of Magruder's call and 984 varas of the line on the ground, to be compared with the departure error of 974.3 varas for the seventh course noted above as miscalled Southeast instead of Southwest. He does not correct the overlap in description with the Devers made by his distance call of 2500 varas with the Tarkington West boundary line. Instead he particularly calls the Tarkington Southwest corner, West boundary line, same distance and the Northwest corner for this course of the Harper League. His river meanderings follow the river less than a thousand varas, then go up onto high land and wind up in the timber over on the Devers tract some thousand or more varas South 70 degrees East from the physical Harper Southwest corner, common, supposedly, with the Devers Northwest corner. No field evidence could be found now of an old line meeting the Tarkington Southwest corner from the West, such as Tompkins calls for, and so far as can now be learned there is no community tradition of one such. With all these errors and misfits with the ground lines, Tompkins traverse still closes perfectly in departure, out only 13.6 varas in latitudes. There is nothing to indicate the Tompkins survey altered any of Magruder's physical boundaries of the Harper League, nor corrected any of his field errors.

Since the Harper League bounds the smaller rectangular area of the vacancy with a portion of its controversial South boundary line, settlement of this line in question had first to be made. In order to find out what use could be made of the Harper Survey notes, as would enable a retracement of the surveys and identification of the boundaries, clearing up if possible the question of conflict, a critical study of the Harper League records had to be made as outlined in the preceding paragraphs. As stated before

there is no evidence of an alteration of any of Magruder's lines by the Tompkins survey. Despite the status of the Tompkins survey as the official Letter of Patent survey, it is still in error and not convincing; it cannot possibly be made to fit the physical boundaries, nor can a retracement of the tract be made with its notes without resorting to Magruder's notes, which latter must be taken as the best evidence of the tract's original boundaries, unchanged when subsequently patented.

By taking Magruder's survey and working off the Devers Northwest corner for a starting point, in preference to the Coronado Southwest corner which is less well authenticated and still quite open to question and where it appears Magruder made a bad closing blunder, it has been readily possible to "follow the footsteps of the surveyor", eliminate his three errors and discrepancies, confirm his South boundary line of the Harper as a common line with the Devers continuing as a right line, without offset, to an intersection with the Tarkington West boundary line, establishing the absence of conflict between the two surveys; and finally to make a satisfactory reconciliation of the notes and closures consistent with the resurvey.

S U R V E Y    D E T A I L

A magnetic variation of  $9^{\circ}-0'$  E. was used throughout this survey, using a transit. Most of the chaining was done in feet, and so recorded, converted here into Texas varas.

The resurvey begins at the S. W. corner of the Chas. Smith Survey, common with the N. W. corner of the William B. Duncan Survey, a meander corner on the East Fork of San Jacinto River, a large cypress stump in the river, from which another cypress stump bears S.  $63^{\circ}$  W. 11 vrs., fitting the calls of the original field notes, there being no remaining evidence of the magnolia also called for. This corner was traced out and well established and authenticated by the County Surveyor before the trees, bearing their original legends, were cut, and has since been well recognized by surveyors and the community as the true corner of these two surveys.

THENCE S.  $89^{\circ}-20'$  E., 7.2 vrs., South of and parallel to a well maintained fence row a part of the way, 1340.6 vrs. (line call 1340 vrs.) to a point in the vicinity of the lower S. E. corner of the Chas. Smith Survey common with the N. E. corner of the Wm. B. Duncan Survey in the West boundary line of the James Eldridge Survey, a hub along the West side of an old tram at a junction road, now used as a public road, course N. W. The original corner and its witness trees are gone, and there is no evidence left for its identification, falling as it does, in a slash at the tram road junction, but it is held in the community that the corner originally fell within the tram road close to this point.

THENCE thru slash N.  $3^{\circ}-07'$  E. 551 vrs. to an old pine knot stake, well recognized as the N. W. corner of the Jas. Eldridge Survey and the inner S. E. corner of the Chas. Smith Survey, from which a Sweet Gum 18" dia. marked "X" bears S.  $71^{\circ}-15'$  W. 25 vrs., a Black Gum 18" diameter marked "X" bears

N.  $79^{\circ}$  30 W. 6.3 vrs., and a Pine 14" diameter marked X bears  
S.  $67^{\circ}$  E. 4.9 vrs.

THENCE N.  $89^{\circ}$ -45' E., passing subdivision corners of  
Smith and Eldridge Survey, at 296.4 vrs., 683.3 vrs., and  
1471.0 vrs.; 2708.1 vrs., to an old pine knot stake (2748 vrs.  
call), recognized by some as the upper S.E. corner of the Chas.  
Smith Survey and the lower S.W. corner of the Thos. Devers in the  
North boundary line of the James Eldridge Survey, whence a  
Black Gum 18" diameter Marked X on W.  $\equiv$  on N.  $\equiv$  on S. sides,  
also marked as a line tree, bears East 18 vrs.

THENCE N.  $89^{\circ}$ -45' E. 194.1 Vrs. to pine knot stake for  
lower S.E. corner of the Thos. Devers Survey and N.E. corner of  
the James Eldridge Survey in the West boundary line of the John  
Pleasants, whence a white Oak 28" diameter marked  $\overline{X}$  bears  
N.  $52^{\circ}$  W. 4.3 vrs., and a Red Oak 28" diameter marked  $\overline{X}$  bears  
West 2.7 vrs. This corner was established by the County Surveyor  
of Liberty County in 1915, as one of several in boundary settlements  
over timber rights, involving portions of the Smith, Devers,  
Pleasants and Eldridge Surveys, while the area was still virgin  
and lines undisturbed.

The departure of this corner from the starting point at  
the S.W. Corner of the Chas. Smith is 4273 vrs., which is 55 vrs.,  
over the called departure of 4218 vrs.

The call of the Smith upper South boundary line is  
2748 vrs.; that of the Devers 130 vrs., a total of 2878 vrs.  
This line measures 2902.2, an excess of 24.2 vrs. The pine  
knot for the South East corner of the Smith gives the Smith a  
shortage of 39.9 vrs., and an excess to the Devers of 64.1 vrs.,  
showing this corner in all probability of being out of place,  
altho there is no other conclusive evidence of its location.

J O H N    P L E A S A N T S

BEGINNING at the S.W. corner of the John Pleasants Survey, common with the S.E. Corner of the James Eldridge, a pine knot stake set by the Liberty County Surveyor in 1913 and then authenticated from the original called witness trees, of which one, the 30" Sweet Gum, now dead with markings rotted off, is still standing N.  $38^{\circ}$  E. 10.4 Vrs. Another, a Magnolia marked  $\bar{X}$  in 1913, bears S  $80^{\circ}$  E. 35.2 vrs. The original Magnolia stump still stands. This Pine knot stake stands 7.2 vrs., West of the North one of two big shot holes made by geophysical crews. THENCE North without course along an old marked line of the Pleasants and Eldridge Surveys at  $2888^3$  vrs. (call  $2886^7$  vrs.) the N.E. corner of the James Eldridge Survey common with the lower S.E. corner of the Thos. Devers, a pine knot stake with witnesses as previously described.

Continuing this same line with the Thos. Devers Survey, N.  $0^{\circ}$ -15' W. at 4120.3 vrs., a point marking the intersection of the easterly projection of the long South boundary line of the Thos. Devers with this line, its own lower East boundary line; at 5009.2 vrs., the N. W. corner of the John Pleasants (call 5000 vrs.) also the inner S.E. corner of the Thos. Devers, a pine knot stake, whence a 30" dead pine snag marked  $\bar{X}$  bears N.  $38^{\circ}$  W. 3 vrs. No other witness trees remain. This corner is another of those established by the County Surveyor in the boundary settlement of 1915.

For this line the sum of the calls for the Eldridge and Devers lines is 5052.7 vrs., 52.7 vrs. over the Pleasants call of 5000 vrs., for the same line. The Devers line call of 2166 remeasures 2120.9 vrs., a shortage of 45.1 vrs., which however is more than made up in its upper East boundary line as noted later. The remeasurement indicates an excess of 1.6 vrs. for the Eldridge and 9.2 vrs. for the Pleasants.

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BEGINNING at the N.W. Corner of the John Pleasants as noted above. THENCE N.  $89^{\circ}-32'$  E. 225.0 vrs., the upper S.E. Corner of the Thos. Devers and the S.W. corner of the F. H. Votaw Survey in the North boundary line of the John Pleasants, another of those established by the County Surveyor in the 1915 boundary settlement, an old pine knot stake whence a 24" white Oak marked  $\bar{X}$  bears N.  $82^{\circ}-30'$  E. 5.7 vrs. Continuing N.  $89^{\circ}-32'$  E; at 1593 vrs., the stump of a pine in the edge of a button willow pond 5 vrs., South, standing in 1915 and then noted and recorded as a line tree of the Pleasants North boundary line. The Southward projection of the Barton Tarkington League, West boundary line intersects 2 vrs., West of this pine stump. (Course stump to Tarkington S.W. corner N.  $1^{\circ}-0'$  W. 337.6 vrs.) Continuing same course; 2668 vrs., Tarkington's Bayou 15 vrs., wide; 3487 vrs., an old tram road course North; at 4183 vrs., an old tram road course North; at 5007.7 vrs., the N.E. corner of the John Pleasants and N.W. corner of the Jordan West Surveys, a rock set in the ground, whence a 7" runted Maple with a very old X bears S.  $16^{\circ}-30'$  W. 10 vrs., and a sweet gum marked X bears N.  $23^{\circ}-30'$  W. 23.2 vrs. From this corner across to the Tarkington South boundary line 338.4 vrs. This corner is noted in Eubanks report of the Votaw Survey as a stake with a red oak and maple for bearing trees. The oak is still standing dead. This corner was noted by the County Surveyor in 1915, and that it was a rock with the witnesses here noted. There is an old pine knot stake near by which was probably the one found by Eubanks. This rock and the one 2008 vrs., East in the North boundary line of the Jordan West are known to have been set in the Seventies' by A.N.B. Tompkins when the Jordan West was divided in an estate settlement, and both are well known and recognized corners.

THENCE from this corner along the Jordan West North boundary line with the F. H. Votaw South boundary line S.  $89^{\circ}54'$  E. 2008 vrs., a rock in the North boundary line of the Jordan West long recognized as marking a point in this North boundary



line as noted in the preceding paragraph. From this rock across to the Tarkington South boundary line 361.7 vrs.; at 5756.7 vrs., the call distance for the N. E. corner of the Jordan West Survey, no corner could be found. The point falls in the open prairie, recently burned over, and no evidence of the Mulberry post marking this corner could be found. There are no fences or other evidences to mark its location.

BEGINNING at the N. W. corner of the Chas. Smith and S. W. corner of the Wm. Barker Surveys, a meander corner on the East Fork of the San Jacinto River, a stake from which a 36" Sweet Gum, dead and down, bearing the mark  $\bar{X}$  bears S.  $48^{\circ}$  E. 7.1 vrs. and the stump hole for the 20" Magnolia, dead and gone, bears N.  $11^{\circ}$  W. 5.6 vrs.

THENCE S.  $89^{\circ}-35'$  E., 1130 vrs. a branch, course South, called by Smith's Survey at 1120 vrs.; 1322 vrs into a graded road from the North; 1866 vrs., leave road which turns South; 1966 vrs., a branch, course S. W. called by Smith's Survey at 1957 vrs.; 1972 vrs., a stake, 6 vrs., East of the branch, for the S. E. corner of the Wm. Barker and S. W. corner of the Thos. Devers Surveys in the North boundary line of the Chas. Smith, Whence an 18" Magnolia marked with an old  $\bar{X}$ , standing on the E. bank of branch, bears N.  $8^{\circ}-15'$  W. 21.6 vrs. The two Oaks for witnesses called by the Barker Survey, none given by Devers, are missing. The stake, Magnolia, and the distance call from the branch are the only evidence here of the corner. The distance from the starting corner is 6 Vrs. over the call of 1966 vrs. for the South boundary line of the Wm. Barker, while the road indicates a division line.

THENCE with the Devers - Smith boundary line marked irregularly by fences and sub-division corners;

East 4548 vrs., an iron pipe for the North east corner of the Chas. Smith Survey. No witness trees or other evidence authenticates this corner as being correct. Continue this same line past the corner, across the lower leg of the Thos. Devers Survey to 4738 vrs. at an intersection with the Devers-Pleasants

boundary 4120.3 vrs., from the Pleasants S. W. corner and 1232.0 vrs. from the Devers lower S.E. corner as noted previously in the notes of the John Pleasants West boundary line. The departure call of this point of intersection from the river meander station, the point of beginning at the S.W. corner of the Wm. Barker Labor, is 6662 vrs. This distance remeasures 6710 vrs., an excess of 48 vrs.

THENCE N.  $0^{\circ}-15'$  W. 888.9 vrs., to a corner of the Devers with the N.W. corner of the John Pleasants Survey, previously described.

THENCE N.  $89^{\circ}-32'$  E. 225.0 vrs., to the upper S.E. Corner of the Thos. Devers previously described.

THENCE North with an old marked line for the Thos. Devers East boundary line; 203 Vrs., the call distance for the Northwest corner of the F. H. Votaw Survey; No corner mark, witnesses or other evidence of this corner or the North boundary line of the Votaw Survey leading out to the East is to be found; Eubanks has only the distance call of 203 vrs., for this corner, no witnesses described. Continue North; at 844 vrs., a very old hacked line crosses, Course S.  $89^{\circ}-42'$  E.; at 905 vrs., the Northeast corner of the Thos. Devers Survey, an old pine knot stake, whence a 10" Black Gum marked X bears N.  $32^{\circ}-30'$  W. 7 vrs.; a 16" Black Gum marked X bears S.  $82^{\circ}$  E. 15 vrs. This corner is another of those established by the County Surveyor in the 1915 boundary settlement and is accepted as the Thos. Devers Northeast corner. The old hacked line crossing at 61.0 vrs., South of this corner was not found when first rerunning the Devers East boundary. Later work establishes it as the original Harper South boundary common with the Devers North boundary. It is detailed later in this report, noted here to make the record of the Devers East boundary line complete and for further reference. The latitude difference across the East end of the Devers from the lower Southeast corner to the upper Northeast corner is

3028 vrs., 42 vrs., over the call of 2986 vrs. Referring back to notes of the Pleasants West boundary line, note the Devers lower East boundary line shortage of 45.1 vrs. The upper East boundary line is over by 85 vrs. Establishment of the old marked line 61.0 vrs., South of the N.E. Corner as the original Devers North boundary line reduces this 42 vrs., excess to a shortage of 19 vrs.

C L A Y T O N      H A R P E R

Beginning at the Northwest corner of the Barton Tarkington League, a corner of the Clayton Harper League, which is a stake long recognized by surveyors and land owners as marking the position of the original corner, whence the stump of a Black Gum, turned over alongside of its hole answers the call of N.  $5^{\circ}$  E. 4.5 vrs., for the original 30" Black Gum witness. This witness tree stood until about 1927. The other witness tree, a pine, is gone.

THENCE with the Harper-Tarkington boundary line, N.  $89^{\circ}$ -20' E.; 1900 vrs., across a newly graded road course North; at 2079.5 vrs., the upper Southeast corner of the Clayton Harper League, an old goose neck iron pin with a stake alongside, whence a 10" Pine marked X bears N.  $4^{\circ}$  E. 8.2 vrs.

THENCE with the Harper McCoy boundary line N.  $0^{\circ}$ -35' E. 603.8 vrs., to the Northeast corner of the Harper League, an old pine knot with a goose neck pin alongside, whence an 18" Red Oak marked X bears N.  $35^{\circ}$  E. 11.2 vrs., a 10" pine marked X bears S.  $81^{\circ}$  E. 5.5 vrs., a 10" pine marked with a turtle, Kirby Company's mark, bears S.  $57^{\circ}$ -30' W. 16 vrs. The original witness trees for this corner are gone, but the corner has long been recognized as marking the location of the original Northeast corner of the Clayton Harper League.

THENCE N.  $89^{\circ}$ -20' W. with the Harper- McCoy boundary line, well marked with timber markings, fences and property corners; at 2350 vrs., Tarkington's Bayou (called by Magruder at 2317 vrs., Tompkins at 2350, McCoy reestablishment Survey at 2261 vrs.); at 5191 vrs., the Southwest corner of the James McCoy and Southeast corner of the J. B. Fenner tracts, an old 1 inch iron rod, whence a 20" Pine marked X bears N.  $23^{\circ}$ -45' E. 14 vrs. The witness trees of the first McCoy Survey, and those of the McCoy Reestablishment Survey of 1892 are missing. The corner is, however, well established and accepted as correct. 35 varas North of the corner a very old hacked line runs East. Chainage from the Northwest corner of the McCoy falls 3015 vrs., in this old hacked line, the original line call of 3015, 3050 vrs., the present Southwest corner. J.N. Dark in his reestablishment Survey of 1892 calls the West line at 3041 vrs., Magruder had no calls for this Survey as it was Junior to the Harper. The original call of the South boundary line was 5189 vrs., 2 vrs., less than the present rerunning, of 5191 vrs., Tompkins calls it at 5160 vrs., in 1856. Dark in 1892 calls it 5130 vrs. Tarkington's Bayou as a natural monument gives the following calls to the Southwest corner; Tompkins at 2810 vrs., Dark at 2889 Vrs., present resurvey 2841 vrs. The stream's channel is rather tortuous here. Probably the traverse crossings varied, accounting mostly for the irregularity of calls. The present location of the McCoy-Fenner corner will have to be accepted, although the corner has probably been shifted about over a small area, still not far from its original location.

From this corner West along the boundary of the Clayton Harper League and the two abutting surveys to the North, the J. B. Fenner and the Jose Coronado, it is difficult to select a line from the conflicting evidence of non-conforming occupied lines, natural and artificial marks etc. The line selected fairly fits the natural monument call of the small lake, with a giant white oak for a witness tree such as called for, to locate the corner.

counter 46580

THENCE from the McCoy-Fenner corner N.  $89^{\circ}-00'$  W. 1702 vrs., the Cleveland-Plum Grove Road 80 vrs., North of an angle point of the road turning West; 1800 vrs., about the intersection with a former location of the Cleveland-Plum Grove Road between the Coronado and Fenner tracts; 3110 vrs., cross highway paralleling the H.E. & W.T. RR; East and West road 91 vrs., South; 3144.0 vrs., Main line H.E.& W.T. RR., course N.  $27^{\circ}-10'$  E.; 3159.5 vrs., North  $27^{\circ}-10'$  E. 60.9 vrs., parallel to main line of railroad, to a Tee Rail Right-of-Way marker 13.9 vrs., from center line of track and 4.2 vrs. from West Right-Of-Way fence; 3570 vrs. East shore small oval lake; 3690 vrs., West shore of same, line crosses 17 vrs. North of South end of lake; 3986.7 vrs., a stake for the Northwest corner of the Clayton Harper League and the Southwest corner of the Jose Coronado Labor, whence a 50" White Oak, down, bears N.  $43^{\circ}$  E. 15 vrs. The Spanish Oak and Sassafras, also called for this corner, are missing.

Magruder does not call this lake in his Harper Survey. In his adjoining Jose Coronado Survey Notes of March 8, 1838, he calls for a lake 14 vrs. wide in the South boundary line of the Coronado 229 vrs. from the Southwest corner, a much smaller lake and much closer to the corner than the one intersected by this survey. Such a small lake lies across the occupied Coronado North boundary line not far from the Northwest corner and the river. Its possible bearing on the survey, in relation to establishing the original meander station for the initial starting point of the Harper Survey, was not realized when the field work was being done, and owing to protestations of the owner against trespassing, the Coronado boundaries being a "touchy" subject in the community, it was not tied in with the rest of the survey. Tompkins calls a lake 380 vrs. from the corner, or 285 vrs., if using his first call to the corner of 9275 vrs., written over by his correction figure of 9360 vrs. In this survey the center of the lake (i.e. the mean of shore calls) to the corner is 366.7 vrs. The West shore distance is 296.7 vrs. to be compared with the Tompkins 285 call above.

BEGINNING at this reestablished corner, referred to here-  
 after as the Northwest corner, and numbering it meander Station No.1,  
 thence down stream closely with the meanders of the San Jacinto River  
 East Fork along its East side with the following meander courses;

Surv.Sta. to Sta.	Course	Distance Varas
1-50	S.33 <sup>0</sup> -15'W.	136.3
50-51	S.22 <sup>0</sup> -15'W.	151.2
51-52	S.40 <sup>0</sup> - 0'W.	82.8
52-53	S. 0 <sup>0</sup> -15'E.	46.8
53-54	S.73 <sup>0</sup> - 0'E.	33.1
54-55	S.69 <sup>0</sup> -15'E.	100.8
55-56	S.25 <sup>0</sup> - 0'E.	30.2
56-57	S.22 <sup>0</sup> -30'E.	90.0
57-58	S.34 <sup>0</sup> -15'W.	129.6
58-59	S.37 <sup>0</sup> -45'W.	46.8
59-60	S.21 <sup>0</sup> -30'W.	97.2
60-61	S.71 <sup>0</sup> -15'W.	68.4
61-62	S.48 <sup>0</sup> -30'E.	122.4
62-63	S.75 <sup>0</sup> -15'E.	68.4
63-64	S.24 <sup>0</sup> - 0'E.	33.8
64-65	S.28 <sup>0</sup> -15'W.	68.4
65-66	S.68 <sup>0</sup> - 0'W.	72.0
66-67	N.76 <sup>0</sup> -30'W.	140.4
67-68	S.15 <sup>0</sup> - 0'W.	61.2
68-69	S.66 <sup>0</sup> -45'W.	50.4
69-70	N.44 <sup>0</sup> -45'W.	93.6
70-71	S.27 <sup>0</sup> -30'W.	154.8
71-72	S. 3 <sup>0</sup> -30'E.	108.0
72-73	S.34 <sup>0</sup> - 0'W.	86.4
73-74	S.63 <sup>0</sup> -15'W.	126.0
74-75	S. 8 <sup>0</sup> - 0'W.	72.0

522-30W.  
Blucher

Surv.Sta. to Sta.	Course	Distance Varas
75-76	S.75 <sup>0</sup> -45'W.	72.0
76-77	N.87 <sup>0</sup> - 0'W.	64.8
77-78	S.51 <sup>0</sup> -30'W.	97.2
78-79	N.66 <sup>0</sup> -15'W.	122.4
79-80	S.87 <sup>0</sup> -30'W.	90.0
80-81	S.50 <sup>0</sup> - 0'W.	86.4
81-82	S.84 <sup>0</sup> -30'W.	43.2
82-83	S.27 <sup>0</sup> -30'W.	64.8
83-84	S.50 <sup>0</sup> -30'W.	86.4
84-85	S.33 <sup>0</sup> - 0'W.	46.8
85-86	S.40 <sup>0</sup> - 0'E.	153.0
86-87	S.16 <sup>0</sup> - 0'W.	83.5
87-88	S.35 <sup>0</sup> -30'W.	64.4
88-89	S.10 <sup>0</sup> -45'W.	36.9
89-90	S. 5 <sup>0</sup> -45'E.	193.0
90-91	S. 0 <sup>0</sup> -45'E.	108.0
91-92	S.80 <sup>0</sup> -15'E.	72.0
92-93	S.16 <sup>0</sup> -30'E.	113.8
93-94	S.15 <sup>0</sup> -30'W.	75.6
94-95	S.76 <sup>0</sup> - 0'W.	72.0
95-96	S. 9 <sup>0</sup> -30'W.	90.0
96-97	S.71 <sup>0</sup> - 0'E.	93.6
97-98	S.52 <sup>0</sup> -15'E.	90.0
98-99	S. 4 <sup>0</sup> - 0'W.	50.4
99-100	S. 3 <sup>0</sup> - 0'E.	75.6
100-13	N.85 <sup>0</sup> -45'W.	413.9

Traverse closing line Sta. 13 to Sta. 1 Course N.29<sup>0</sup>-48'E.  
 3140.2 vrs., a computed line.

Station 100 is a meander station at the West end of a  
 narrow lane accepted as the Harper-Devers boundary. Station 13 is  
 a corner stake, whence a 16" Magnolia marked } B bears S.27<sup>0</sup> W.  
 8.6 vrs., one of two witness trees called for at the Southwest corner  
 of the Clayton Harper League, and the Northwest corner of the Thos.  
 Devers Tract, an original meander corner of these two surveys.

THENCE back to Station 100 and continuing down stream with its meanders across the Thos. Devers, T. F. Pinckney and Wm. Barker tracts with the following meander courses;

Surv. Sta. to Sta.	Course	Distance Varas	Surv. Sta. to Sta.	Course	Distance Varas
113-100	S. 85°-45'E.	413.9	115-116	S. 9°-0'W.	43.9
100-101	S. 2°-0'W.	75.6	116-117	S. 39°-45'W.	57.6
101-102	S. 55°-30'W.	183.6	117-118	S. 21°-0'W.	140.4
102-103	S. 2°-0'E.	205.2	118-119	S. 25°-30'E.	84.6
103-104	S. 31°-45'E.	64.8	119-120	N. 88°-30'E.	77.9
104-105	S. 38°-45'E.	104.4	120-121	N. 68°-15'E.	84.8
105-106	S. 23°-0'E.	97.2	121-122	S. 35°-30'E.	122.4
106-107	S. 11°-0'W.	144.0	122-123	S. 3°-0'E.	50.4
107-108	S. 79°-0'W.	144.0	123-124	S. 69°-30'W.	152.8
108-109	S. 37°-0'E.	100.8	124-125	S. 30°-30'E.	65.9
109-110	S. 18°-15'W.	75.6	125-126	S. 44°-30'E.	61.2
110-111	S. 64°-45'W.	57.6	126-127	S. 20°-45'E.	50.4
111-112	N. 41°-15'W.	93.6	127-128	S. 36°-0'E.	104.4
112-113	N. 86°-30'W.	75.6	128-129	S. 15°-15'E.	76.0
113-114	S. 39°-30'W.	75.6	129-130	S. 89°-15'E.	44.3
114-115	S. 65°-45'E.	118.8			

Traverse closing line Sta. 130 to Sta. 13, Course N. 12°-35'W. 1800.0 vrs., a computed line.

Station 130 is the Southwest corner of the Wm. Barker Labor and the Northwest corner of the Chas. Smith, an original meander corner of the river marked by a stake, whence a 36" Sweet Gum, dead and down, bearing the mark X bears S. 48° E. 7.1 vrs. and the stump hole for the 20" Magnolia, dead and gone, bears N. 11° W. 5.6 vrs. This corner is well authenticated and was tied into other points of the survey as described previously in this report.

THOS. DEVERS SURVEY

The Thos. Devers tract fails to close its traverse by 297.7 vrs. in departures as shown in Table No.4 below. Comparison with notes of the resurvey shows the probability that the North line call is the result of an error in adjusting the survey to a closed traverse. Correcting this error in the North line to 7286 vrs. shows substantial agreement with resurvey. Additional confirmation of the common West end corner of the Harper-Devers line, is shown by comparison of the results of the old and new traverses to the Devers-Barker corner in N.B.L. of the Chas. Smith Survey. This corner is itself well authenticated by agreement with a six vara call East of a branch, and six varas long of the Barker-Smith common line call, marked at the West end by a 36" Sweet gum, down, bearing old called markings. The closure lines of these two traverses differ by 19' in bearing, and 11.2 varas in length; Table below.

Courses and distances from the original Patent description, beginning at its N.W. Corner, and the S.W. Corner of the Clayton Harper League.

TABLE No.4

LINE	COURSE	DIST.	N.	S.	E.	W.
13-14	S. 23 <sup>o</sup> - 30' W.	45		41.3		17.9
14-15	S. 7 <sup>o</sup> - 0' E.	514		510.2	62.6	
15-16	South	200		200.0		
16- E.	East	2106			2106.0	
	South	500		500.0		
	East	214			214.0	
	South	500		500.0		
S.B.L.	East	4566			4566.0	
Tip W.B.L.	South	1235		1235.0		
Tip S.B.L.	East	130			130.0	
Lo. E.B.L.	North	2166	2166.0			
	East	225			225.0	
Up'r E.B.L.	North	820	820.0			
N.B.L.	West	6988				6988.0
	Totals		2986.0	2986.5	7303.6	7005.9
	Diff'rnce to close		0.5			297.7
	Totals		2986.5			7303.6



Table below is a table of the called courses of the Devers tract from its N.W. Corner, (Sta. 13, the S.W. Corner Harper League), to its corner with Wm. Barker Labor on the N.B.L. of the Chas. Smith Survey, together with latitudes and departures for computing the length and course of a right closing line or resultant between the two corners, for comparison with the same line computed from the notes of the 1934 resurvey. Table 7 combines the traverse of meanders in Table 3 of the map, with the Barker S.B. L. giving closing line 131-13. Refer also to page 21 of this report.

New Surv. Table 7- Line 131-13-N.  $53^{\circ}10'$  W. 2953.6-N. 1770.6-W. 2364.0  
 Old Surv. Table 6- Line 131-13-N.  $53^{\circ}29'$  W. 2942.4-N. 1751.5-W. 2364.7  
 Differences  $0^{\circ}19'$  11.2 19.1 0.7  
 New Surv. using Var.  $8^{\circ}40'$  E. N.  $53^{\circ}30'$  W. 2953.6-N. 1756.9-W. 2374.3  
 Differences  $0^{\circ}01'$  11.2 5.4 9.6

TABLE NO. 6

LINE	COURSE	DIST.	N.	S.	E.	W.
13-14	S. $23^{\circ}30'$ W.	45		41.3		17.9
14-15	S. $7^{\circ}0'$ E.	514		510.2	62.6	
15-16	South	200		200.0		
16-	East	2106			2106.0	
	South	500		500.0		
	East	214			214.0	
-131	South	500		500.0		
131-13	Totals			1751.5	2382.6	17.9
Closing Line	N. $53^{\circ}29'$ W.	2942.4	1751.5			2364.7
			1751.5	1751.5	2382.6	2382.6

TABLE NO. 7

LINE	COURSE	DIST.	N.	S.	E.	W.
13-100	S. $12^{\circ}35'$ E.	1800.0		1756.8	392.1	
130-131	S. $89^{\circ}35'$ E.	1972.0		13.8	1971.9	
131-13	N. $53^{\circ}10'$ W.	2953.6	1770.6			2364.0
			1770.6	1770.6	2364.0	2364.0

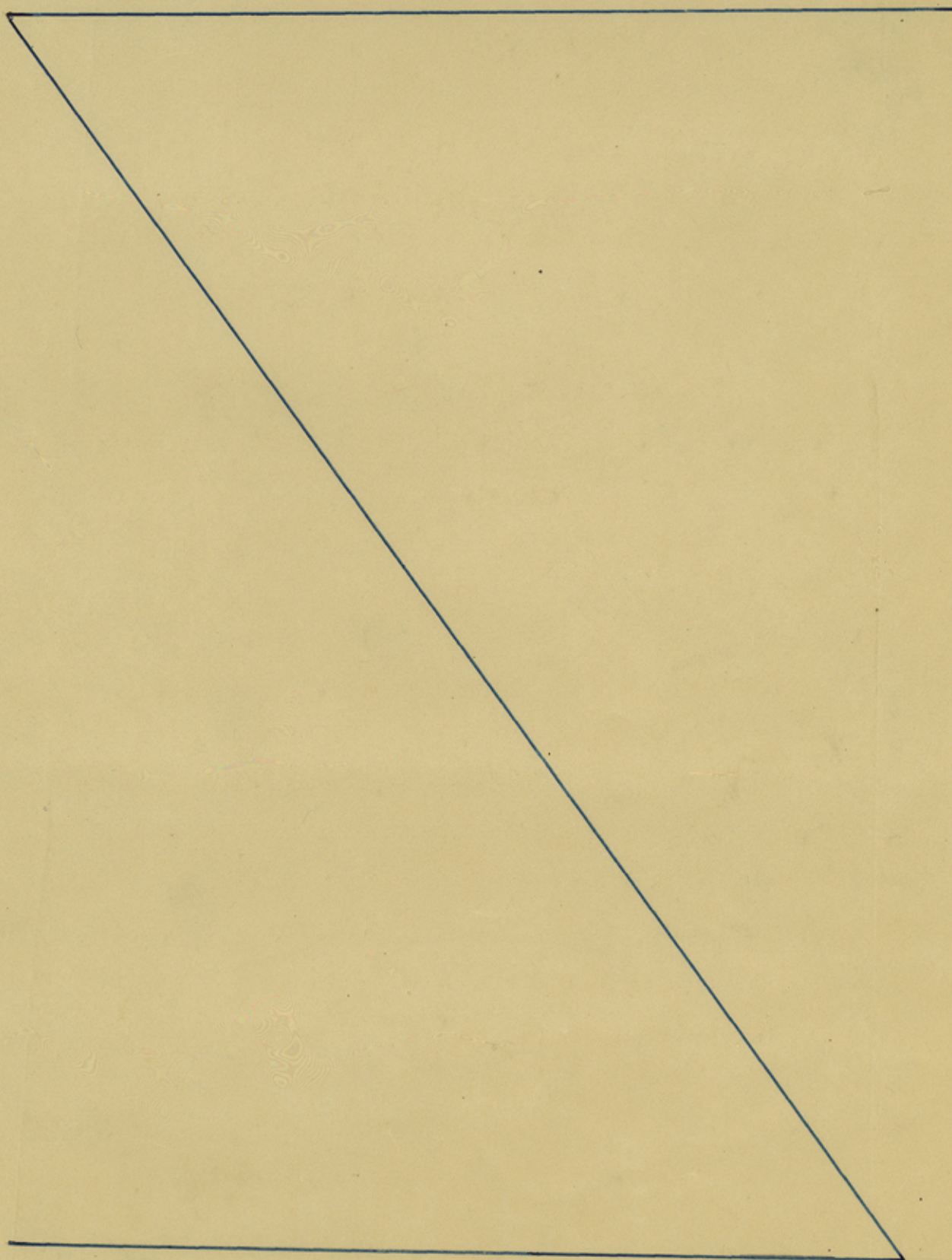
The 50" White Oak for this corner has been down so long any markings it might have once borne are obliterated. A 48" White Oak marked X is called for. Another large Oak, also down some distance North, could answer if it did not throw the line badly out of course. It would then conform fairly with the Tee Rail Right-of-Way marker of the railroad, with a course through the rail of N.  $88^{\circ}$ -0' W. from the McCoy-Fenner corner. To shift the line as little as 20 varas South would be to miss the lake, a natural monument call, while the corner would have to be shifted South about 100 varas, line course S.  $89^{\circ}$ -30' W., to bring the line into conformity with the 1400 varas of road East of the Railroad and some occupied lines thence Eastward.

Reestablishing the corner as here done gives a shortage to the combined Fenner and Coronado boundaries of 131.3 vrs., the remeasurement being 3986.7 vrs. against their combined calls of 4118 vrs.

A right line from the Northeast to Northwest corners of the Clayton Harper League bears N.  $89^{\circ}$ -12' W. 9177.7 vrs. 100 vrs. short of Magruder's call of 9277.7 vrs. It passes 13 vrs. North of the established McCoy Southwest corner, between it and the old hacked line running East, very well confirming the course to the reestablished N.W. Corner. Magruder calls a due West course. For a course of N.  $89^{\circ}$ -12' W. the latitude distance of this line is 1128.6 varas, alone closely compensating the latitude closing failure of the Magruder Survey of 143.9 vrs., while the 100 vara shorter length almost compensates the departure closing failure of 112.2 vrs. The evidence is that this corner fairly represents a reestablishment of the North line and Northwest closing corner of the Clayton Harper League in close conformity with their original locations as made by both Magruder and Tompkins in their separate surveys. As to whether or not the corner represents an identity with the meander station on the river given as the initial station of the original survey, is left for later discussion.

The question of present ownership and agreement of abutting claimants as to the boundary line in this area of the

survey is not involved, and must be dissociated from the question of original location of the survey lines affecting each other. Reestablishment of this line and lost corner as here done serves its purpose as an aid in following the old surveys. It makes a good starting point, well tied in to the East, for initiating the following meandering of the river.



CLAYTON HARPER LG.

BEGINNING at the S.W. Corner of the Clayton Harper tract, Sta. 13, and mapping Magruder's meander courses back Northward, with course 7-8 corrected as to quadrant call to read S-52<sup>0</sup>-0'W. 610 vrs., the meanders fit the general topography and bend in river's course as indicated by meandering along the East side 1934, as far as Sta. 5. Continuing Northward, Sta. 1 is seen to fall some 500 vrs. North of the N.W. Corner. Then by mapping the same courses southward in order from the N.W. Corner, Stations 5 up and 4 down meet apparently in the same point forcing out entirely Course 4-5, call S.1<sup>0</sup>-30' E. 500 vrs. This Course 4-5 appears to compensate the overcall of some 500 vrs. of the line with the Tarkington W.B. L., and dropping it out effects a fairly good, (1 in 330), closure of the remaining meander courses with the two corners, as well as a good closure of the entire tract, as shown elsewhere by comparative traverse computations. A Comparison of the closing lines of the old and new traverses to these corners indicates a difference of 23 minutes in bearing and 13.4 vrs. in length. Refer to P. 20 of this report, Tables below, and map exhibit.

Table 5 below, is a table of the called river meanders, (Magruder's) across the west end of the Harper Lg. between the N.W. Corner, (Sta. 1), and the S.W. Corner, (Sta. 13), with latitudes and departures for computing the course and length of a right closing line or resultant, for comparison with same line computed from the notes of the 1934 resurvey, as shown in traverse Table No.2, of the map, (Refer also to page 20 of this report) in this, Course 4-5 has been dropped, and bearing of Course 7-8 corrected to fit the ground, both as noted above.

A Traverse of the Harper Lg. by resurvey closes as follows:

N.2945.5    S.2945.5    E.11465.1    W.11465.1  
By substituting the old meanderings of Table 5, for the new meanderings of Table No.2, across the West end, the closure by latitudes and departures becomes:-

N.2762.8    S.2785.1    E.10868.1    W.10856.5

TABLE NO.5

LINE	COURSE	DIST.	N	S	E.	W.
1-2	S.51°-0' W.	320		201.4		248.7
2-3	S.20°-0' W.	460		432.3		157.3
3-4	S.30°-0' W.	120		103.9		60.0
5-6	S.46°-30' W.	590		406.1		428.0
6-7	S.40°-0' W.	140		107.2		90.0
7-8	S.52°-0' W.	610		375.6		480.7
8-9	S.10°-0' E.	180		177.3		31.3
9-10	S.35°-0' E.	100		81.9	57.4	
10-11	South	112		112.0		
11-12	S. 7°-0' E.	390		387.1	47.5	
12-13	S.23°-30' W.	395		362.3		157.5
13-1	Totals			2747.1	104.9	1653.5
Closing Line	N.29°-25' E.	3153.6	2747.1		1548.6	
			2747.1		1653.5	

COMPARISON OF CLOSING LINES 13-1

New Surv. Table 2	N.29°-48' E.	3140.2-	N.2724.9-	E.1560.2
Old Surv. Table 5	N.29°-25' E.	3153.6-	N.2747.1-	E.1548.6
Differences	0°-23'	13.4	22.2	11.6
New Surv. using Var. 8°-40' E.	N.29°-28' E.	3140.2-	N.2734.0-	E.1544.7
Differences	0°-03'	13.4	13.1	3.9

## S U M M A R Y

In order to properly support points covered in the discussion following and other parts of this report, a few fundamentals of the law's "rule of reason", as it applies to surveys, are here given, namely; the rule of dignity of calls, first and highest to natural objects, second to artificial objects and marks, third to courses and fourth to distances; a corollary to the foregoing rule is that courses and distances must give way to physical boundaries, and that called area gives way to all else; the corner named as the starting point of a survey has no higher dignity per se than any other unless supported by other evidence; measurements of a survey are recognized as subject to errors involving precision and the personal equation as well as errors of recording and computation, each standing by itself, and may be rejected, qualified or corrected without necessarily vitiating the rest of the survey; a corollary to the preceding is that physical surveys stand over those computed. The foregoing rules are universally attested by decisions and authorities and need no elaboration.

Before entering in a further discussion, five points are here outlined for ready reference, namely; first, that Magruder's Survey of the Clayton Harper League was incomplete and did not close on his named starting point; second, that the 2500 vara call with the Tarkington West boundary line is not authentic evidence; third, that Tompkins survey was incomplete, i.e. he did not make a field survey of the West and South boundaries of the League; fourth, that with the relative position of the Jose Coronado and Thos. Devers tracts as occupied on the ground, the corner of one or the other mentioned as the Northwest and Southwest corners respectively of the Clayton Harper League, must give way to recognition of the physical boundaries and the conduct of its survey; fifth, that a group of surveys to the North, beginning with the Coronado, are so "out of joint" with abutting surveys across the river as to discredit their

evidence in proving lines further South.

The first, second and third points have been covered earlier in the report with this note to be added here; Magruder in naming the meander station he did for a starting point, which fits the station call for the last and next to last meander calls of the Peter Ornice, named it the Southwest corner of the Coronado, when in reality it more nearly fits the position of the Northwest corner of the Coronado, i.e. as it now occupies the ground 500 vrs. north, the width of the Coronado Labor, but that thru some confusion of record or incompleteness of survey, is not the same point closed upon. The best evidence is that his closing North line of the Harper ran closely along the line as restored by this survey, whether his South line of the Coronado or not is not known, but that it stopped short 250-350 varas of a true intersection with his meander line, and that Tompkins perpetuated this line as far as the point found in this survey for a corner. Tompkins stopped here; if he found the Coronado in substantially its present position, Magruder's 500 vara non-closure with his starting point, (his notes must have indicated more nearly 630), was not so apparent if he, Tompkins, closed in with the Tarkington Southwest corner, for the call error of 487 vrs. (present remeasurement) in the East boundary with the Tarkington line, fairly compensated the 500 vara non-closure at the Northwest corner. He did not therefore undertake to run out the remaining West and South lines to effect any correction, but merely accepted Magruder's meanderings, changing them slightly to be consistent with his own half of the survey, with "convenience" corrections in three instances, to effect a good closure. He gave his South boundary a computed length to close nearly 1000 varas short, by reason of a miscalled bearing for the seventh meander course. No further proof is needed that he did not run the South and West boundaries, than his repetition here of Magruder's bearing error of misreading, recording or transcription. Tompkins could be excused for not wanting to undertake a survey thru that tangle of river bottom.

A point here on the bearing error of the seventh meander course. The recording of this course as S. 52° E. 610 vrs. requires changing to S. 52° W. 610 vrs; first to fit the physical course of the river; second to effect closure of the two surveys of which this course is common, the T. J. Williams League on the West and the Clayton Harper on the East. Some records of the T. J. Williams Lg. show this course S. 52° E., others S. 52° W.; With the course reading S. 52° W. the Williams closes perfectly. The conformity for the Harper is not so close but it is noted that the discrepancy between Tompkins call of 7707 vrs. (7625) and Magruder's call of 8651 vrs. for the South boundary is 944 vrs. (1026), and with the resurvey measurement of 8691 vrs. the discrepancy is 984 vrs. (1069 vrs.) to be compared with a departure error of 961.4 vrs. for S. 52° E. 610 vrs., instead of S. 52° W. 610 vrs. It is evidently a transcription error as indicated by the perfect balance of the Williams League Notes. More of Tompkins survey later as to a starting point for retracement.

The order of discussing the fourth and fifth points will be reversed, in order to bring out certain points of the written record in advance of taking up those of a more physical character, before leading up to a conclusion.

By reference to a good abstract map of this area it will be noted that an identity of meander calls for the Magruder Surveys abutting the river from both sides indicates that only one meandering of the river was made. This meander line thus served as a range line or base for cutting off his surveys and computing their widths, and further serves as a very definite line for locating the surveys with reference to each other. The conformity of calls of the Chas. Smith and the Samuel C. Belding Lg., later the Martin B. Lawrence, is exact, so far as they abutt each other. Original notes of the Barker and Belding (Pinckney) Labors are incomplete and do not conform across the river and also there is an even 200 varas discrepancy in latitude differences through here, which nonconformity continues through the last meander calls for the Thos. Devers 11 Labors, East side, and T. S. Williams Lg. on the West. From there



Northward the conformity is identical thru the Harper, with its first meander call identical with the last of the Peter Ornice; second, to fifth with those of the Thos. Devers, One-third League; sixth to eleventh with Williams' first to sixth, and 395 vrs. of his seventh for the Harper twelfth and last call. The remaining 45 varas of Williams' seventh makes the first for the Thos. Devers 11 Labors, next course calls identical, with the discrepancy as noted in their closing calls.

The 200 vara South course in the Devers, which fits its latitudes on the ground, is the amount of the latitude discrepancy thru here, indicating a dropped call on the West side and a probable excess width of 200 varas either to the Belding (later Lawrence) or Williams Leagues. This difficulty about here is insufficient to reflect on the rest of the surveys. Returning to the Peter Ornice, the nonconformity of the Jose Coronado and T. J. Williams indicates a separate meandering for those tracts. Continuing on Northward thru the J.C. Devers, the J. S. Booth in its Junior Survey notes of a corrected survey made in March 1859, calls identical courses with the J. C. Devers. However, the occupancy of the Booth is 500 vrs. South of where it would be thus placed. A Latitude table prepared from the abstracts indicates a 243 vara width between the Booth tract and T. J. Williams Labor, altho the Booth calls the Williams N. W. Corner and witnesses. The John Breeding Survey wedged in here later with a 343 vr. width, an even 100 varas more than noted above, either taking from the Williams or forcing both the Williams and Coronado still further South than the 500 vara forcing by the Booth occupied territory.

This "out of position" of the Coronado and three other surveys to the North throws in a conflict of some 500-600 varas with the Harpers first calls, as indicated by the latter's position with reference to the other surveys to the West and South, but makes only a moderate conflict with the Harper's actual North closing line as probably originally run and retraced by this survey, no more than the 100 varas extra width the Breeding tract acquired.

To take the Coronado Southwest corner as a starting point for initiating a resurvey of the Harper, merely because so named originally, would be not only to throw the Harper into conflict with the Thos. Devers to the South, but to throw it out of accord with those three surveys across the river, each serving by itself to aid in locating the Harper. The written record of the Coronado is so much out of accord with the physical facts that its Southwest corner as a starting point for retracement of the Harper League bounds must therefore give way to more authentic evidence.

Since the Southwest corner of the Coronado is questioned as a starting point it is necessary to look for other evidence, i.e. natural or artificial monuments which will positively identify the Survey and its bounds. The North and East bounds have been authenticated except as to the Tarkington common line call of 2500 vrs. That is not only a fourth dignity call which would have to give way before monuments as well as course, but it is questioned as authentic in Magruder's Survey. Tompkins repetition of it adds nothing to its dignity for it is very evident he conveniently abstracted the call from Magruder's notes in light of the evidence that he did not run the West and South bounds, altho his specific call of the Tarkington Southwest corner and its witnesses must be given consideration. This corner evidently served as a convenient stopping point.

If Tompkins had conducted a clock-wise survey and continued Westward from this Tarkington corner, he would have run into conflict with the Devers almost at once. And if he had ever reached the Harper Southwest corner, he could not have followed the river but half way before crossing into the Williams League, Devers one-third League and Peter Ornice one-third League. If he had conducted a counter-clockwise survey starting at the Coronado he would have soon left the river as stated before. Starting at the Devers Northwest corner or any point in its line crossing the river bottom for the Harper Southwest corner and running Eastward with his distance call for the South boundary line he would have fallen short of the Tarkington line by 600 to 1000 varas according to his starting point, and some 500 varas to the North of the Tarkington Southwest Corner.

Had he run to meet the Tarkington Southwest corner he would have had a line with two right angles in passing around the Devers, or a right line with a hiatus course of S. 86-1/2° E. His right line call of N. 89° E. dispels the possibility of either. It would seem that with this array of evidence, it is a certainty he conducted no field survey of the West and South bounds of the Harper League.

The notation on the Magruder Survey shows that the official reason for cancellation was implied conflict. The presumption is that the resurvey was ordered to correct the survey lines if there was conflict, or correct the record if none. With no evidence to support a change of the Magruder South and West bounds, their acceptance implied by not being rerun, and never in conflict, it would seem that the original bounds stand and that the survey returned is still in error as not representing the correct location of those bounds. Those bounds are in reality readily identified and consistent with their notes as returned by Magruder. The key to their identification is the natural monument afforded the river.

The Southwest corner of the Clayton Harper League and the Northwest corner of the Thos. Devers tract of eleven Labors, is a stake set in this survey, elsewhere referred to in this report, (Sheet No.20), as meander Station 13, whence a 16" Magnolia marked B with a long slash or rupture about three feet in length on its Northeast side to the left of the B, extending to the heart of the tree with sides of the rupture barked over, bears South S. 27° W. 8.6 vrs. This witness tree is identified as one of two witness trees for the above corner as an original meander station of the Magruder Surveys. The small oak also called for is gone. It answers within 15 vrs. over the calls from other West end corners of the Devers, and corners of the Smith and Barker Surveys, also 40 vrs. over the distance call of 8651 varas to the Tarkington Survey. Fitting the original meander calls of the river Northward from the corner shows a good conformity with the present river location. Station 80 to 85 of the new meandering are along an abrupt high bank or bluff behind which, to the South east, there is no evidence of the river ever having had a channel. The seventh meander course of the Harper League,

identical with the second meander course of the abutting T. J. Williams Lg., on the West side of the river, parallels this bluff of the river closely, less than 100 varas away, and fits the abrupt change of course around this bluff as well. Continuing a retracement of the original meander calls for the Harper, which are identical with similar calls for the abutting surveys of the T. J. Williams League, Thos Devers one-third League and Peter Ormice one-third League across the river, to their end, it is seen that the last call falls very closely to 500 varas North of the relocated point for Southwest corner of the Jose Coronado. By reference to the map exhibit, it is seen, that by mapping the same courses Southward from the above Jose Coronado Southwest corner, Station 4 going down meets Station 5 coming up, apparently in the same point, in reality passing by a few varas to the Southeast. By coincidence, course 4 - 5, with its nearly South course, (S.1<sup>o</sup>-30'E. 500 vrs.) then appears as a false course, when in reality it is because of a false starting point for going South as appears when the mapping is continued onward. Before Station 5 is reached high ground is met and there is no return to the river until Station 7 of the Seventh course 7 - 8 is passed by 400 varas, passing over an old field on high ground 15-20 feet above the river, 300 varas to the rear of the bluff skirted by the river, Stations 80 to 85. Continuing Southward, Station 13 for the Southwest corner would fall 500 varas South of the witnessed corner. Continuing this mapping Southward, would superimpose the Pinckney on the Barker, the Barker on the Smith, and then set the West end of the Smith across the river onto the Lawrence (originally Samuel C. Belding League) with corners 500 varas South of its two river corners, about which there can never be any question. It is hardly necessary to go as far South as this except for additional confirmation. The river's bend and bluff along Stations 80 to 85 must be regarded, along with the rest of the river, as a natural monument of the highest dignity definitely locating the immediate vicinity of the Harper League's West bounds, which conforms so closely with that delineated with the foregoing

corner as a starting point, as to leave no further doubt as to this corner's authenticity, nor to the line originated by it and terminating in an intersection with the Tarkington West boundary line 487 varas North from the Tarkington Southwest corner, and forming the North boundary of a vacancy between the Devers and Tarkington Surveys and the Votaw Survey to the South; as below described, viz;

BEGINNING at the Southwest corner of the Clayton Harper League and the Northwest corner of the Thos. Devers 11 Labors, a stake whence a 16" Magnolia witness tree marked B bears S.  $27^{\circ}$  W. 8.6 vrs., as previously described; Thence S.  $89^{\circ}-42'$  E.; at 290 vrs., a point 16 vrs. South on the West bank of the river channel witnessed by and equidistant 7 vrs. from three Pig Nut trees, 2-16" diameter the other 12" diameter and each marked  $\bar{X}$ , a point evidently marking the location of a corner set in recent years for the Devers from its North line call of 6988 vrs. from the Northeast corner, now found to be 7032 vrs. from the present accepted Northeast corner. Timber markings indicate two lines continuing Westward from about this corner, one directed toward the beginning corner, the other passing here 12 vrs. to the South and 30 vrs. thereabouts to the South of the beginning corner. It was followed Westward 425 vrs. as far as the old channel skirting the West bluff. It is to be noted this witnessed point on the river channel is 290 vrs. from the beginning corner in accord with the Devers non-closure of 297.7 vrs. for its North line. Thence continuing S.  $89^{\circ}-42'$  E; cross the river into cut over area; at 400 vrs. a small lane 28 vrs. South marks the first of occupied lines running Eastward with numerous observed courses about N.  $89^{\circ}30'$  E., a  $0^{\circ}-48'$  divergence with the course of the line being followed as the old line; about 2600 vrs. intersect occupied lines for Harper-Devers boundary; at 3952 vrs. Cleveland-Plum Grove Road. 3710 vrs. note marked line 8 vrs. North Course N.  $89^{\circ}-30'$  E, about 25-30 years old; 7180 vrs. a 12" scrub Holly with very old blazes East and West; 7193 vrs. a 6" Holly with very old blazes East and West; also a 24" White Oak bearing 3 blazes on its North side; 7322 vrs. intersect the East boundary line of the Thos. Devers 11 Labors 61.0 vrs. South

from its present accepted Northeast corner as previously described; the original Northeast corner of the Devers calling for a Chink-a-pin is gone; thence following the same course S.  $89^{\circ}-42'E$ , with a very old marked line, chiefly on Magnolias, and a much younger line on pines marked with typical timber cruiser's markings; 8646.5 vrs. an old blazed line N.  $0^{\circ}-15'E$ .; 8678 vrs. intersect the accepted West boundary line of the Barton Tarkington League, Course S.  $0^{\circ}-45'E$ . 2013 vrs. from its Northwest corner and S.  $0^{\circ}-45'E$ . 487 vrs. to its Southwest corner; continue past the intersection 8691 vrs., 13.0 vrs. East of the line just given, to a point in a very old North and South blazed line of large Magnolias extending both ways from this point as previously described in the Tarkington League retracement notes. This point bears evidence of being the original point of intersection of the Harper League South boundary with the Tarkington West boundary line, since straightened, and the location of the original Harper League Southeast corner. The rotting charred stump of a large Magnolia tree is 5.0 vrs. North and 1.5 vrs. West. Its original size can only be estimated, but judging from the earth mound thrown up when the tree fell, it was a very large tree. The trunk is gone. A 30" Magnolia is called for N.  $27^{\circ}W$ . 5.7 vrs.; a 6" Holly S.  $33^{\circ}W$ . 2.0 vrs. The Holly is gone but there is a Holly sprig bearing N.  $60^{\circ}W$ . 2 vrs., the only Holly to be found about . 12.0 vrs. South in a line of other blazed Magnolias is a very old 16" Magnolia, blazed with long slashes North and South, and carrying on its Southwest face about a rotted spot, the plainly visible markings of a portion of the letter S, the upper half of X with two hacks above and all of the letter B, i.e. ; a 16" hollow Magnolia marked  $\bar{X}$  bears S.  $23^{\circ}-15'W$ . 21.5 vrs.; A 12" hollow and stunted Magnolia, 0.5 vrs. to one side, West, of the first noted line, and marked  $\bar{X}$  bears N.  $79^{\circ}-30'W$ . 46.5 vrs.

This Harper-Devers line was not traced thru the timber between the first marked trees East of the Plum-Grove Road and the second of the small Holly trees West of the Devers East boundary. When it was found in running the line from East to West, as the field work was carried out, that it was running such a true course

for the Southwest corner, further clearing of the line for a traverse was abandoned and the traverse completed along a cleared line following the present accepted and occupied Devers-Harper boundary, which shows an observed bearing of N.  $89^{\circ}-30'$  E.

BEGINNING at a pine knot at the N. E. corner of the Thos. Dever Survey, as it has been long recognized on the ground, from which a 12" Black Gum marked X bears N.  $32-1/2^{\circ}$  W. 7vrs. and a 16" Black Gum marked X bears S.  $82^{\circ}$  E. 15 vrs.;

THENCE N.  $89-1/2^{\circ}$  E. in an extension of the North line of the Thomas Dever Survey for the South line of the Clayton Harper League 1351.9 vrs. to a corner in the West line of the Burton Tarkington League, for the N. E. corner of this survey;

THENCE S.  $0^{\circ}-45'$  E. with said line, at 579.2 vrs. a pine knot at the S. W. corner of the Burton Tarkington League, from which a 12" Sweet Gum marked X bears N.  $41^{\circ}$  W. 9 vrs.; a 14" White Oak marked X bears S.  $70^{\circ}$  E. 17.3 vrs. and a 30 inch Black Gum marked X. bears S.  $65-1/2^{\circ}$  E. 18.7 vrs. at 713.3 vrs. (total distance) the S. E. corner of this survey in the North line of the F. H. Votaw Survey;

THENCE S.  $89^{\circ}-59'$  W. with the North line of the Votaw survey 1361 vrs. to the N. W. corner of said Votaw Survey in the East line of the Thomas Dever Survey 203 vrs. North of the most Eastern S. E. corner of said Dever Survey. Said most Eastern S. E. corner being an old pine knot from which a 24" White Oak marked X (old) bears N.  $80-1/2^{\circ}$  E. 5.8 vrs;

THENCE North with an old marked line 702 vrs. to the place of beginning, containing 170 acres of land.

BEGINNING at the Northwest corner of the Burton Tarkington League, previously described; Thence following an old marked line S.  $0^{\circ}$  -45'E.; 160 vrs. Tarkington's Bayou closely paralleling the line for the next 100 vrs. thence Southeast; another old marked line to be noted intersects here at the Bayou, course S.  $0^{\circ}$ -15'W.; 1800 vrs. evidence of another old line about 15 vrs. East Course South; 2013 vrs. intersect old marked line Course N.  $89^{\circ}$ -42'W.; old line noted at Tarkington's Bayou fades out 31.5 vrs. West; the other noted line is 13.0 vrs. East and plainly marked, running in a good line toward the Tarkington Southwest corner for the next 125 vrs., then fading out in the slash; three Magnolias with very old witness markings indicate a corner with the old line from the West. This old line bears evidence of being the original South boundary line of the Clayton Harper League, running to an intersection corner in an original marked line for the West boundary of the Barton Tarkington League, 13.0 vrs. East of this point indicating a "belly" or "swing" in the old Tarkington line. Completed detail of this corner and its witnesses is given in the notes of this Harper line. Thence, continuing same course S.  $0^{\circ}$ -45'E.; 2500 vrs. the Southwest corner of the Barton Tarkington League, an old pine knot stake, whence a double Sweet Gum snag 24" diameter, marked X in crotch bears S.  $31^{\circ}$ W. 9 vrs.; a 34" Black Gum marked X bears S.  $68^{\circ}$  E. 18 vrs.; a 14" White Oak marked X bears S.  $73^{\circ}$ -30'E., 17.2 vrs.; a 12" Sweet Gum marked X bears N  $36^{\circ}$ -30'W. This corner figured in a litigation some twenty years ago among the Tarkington heirs. It is therefore well known and authenticated as the established corner of this League, 2633.3 vrs. to the North line of the F. H. Votaw Survey.



Beginning at the S. W. corner of the Barton Tarkington League as heretofore described, Course N.  $89^{\circ}$  - 26' E., into a very old hacked line, at 1009 vrs. crossed Tarkington's Bayou 15 varas wide and very deep, (Called in original notes 1000 vrs. from S. W. Corner), out of virgin timber 5600 yrs. old field pine from this point to open prairie, at 9950 vrs. intersected a North and South line fence in the open prairie, which later proved to be the West B. L. of the Thos. Newman Survey, 230 vrs. North of corner of an old Pine Knot Stake and Iron Pipe stake, set in clump of Myrtle bushes. This corner is known as the upper S.W. corner of the Thos. Newman Survey.

Beginning at an old Pine Knot Stake, set in the South edge of a graded road running East and West, 2 vrs. North of a corner, of a North and South line fence, which is well known among old settlers as the N. W. Corner of the Thos. Newman and N. E. Corner of the Barton Tarkington Surveys, as the original corner called for in the original field notes of these Surveys. Thence S.  $1^{\circ}$  - 0' E. at 2796.4 vrs., intersected the South line of the Barton Tarkington at its S. W. Corner, (call distance 2761.5 vrs.), at 3030 vrs. (call distance 2930 vrs.) an old Pine Knot and I. P. Stake, the upper S. W. Corner of the Thos. Newman Survey or the 6th corner as called for in the original field notes. This old corner stake is recognized by old settlers and the adjoining property owners as the original location of the Upper S. W. Corner of the Thos. Newman Survey.

Beginning at this stake, the Upper S. W. Corner of the Thos. Newman, thence N.  $89^{\circ}$  E. at 414 vrs. (399 vrs. call distance) an old Pine Knot Stake marking the N. E. Corner of the F. H. Votaw and N. W. Corner of the Isom Parmer Surveys, in the upper South line of the Thos. Newman, at 1140 vrs. a Pine Knot stake buried in the middle of a graded road, the inner S. W. corner of the 5th corner as called for in the original field notes, of Thos. Newman

Survey, and the N. E. corner of the Isom Parmer Survey, which original bearing trees are down, but are still identified by their stumps.

Beginning at the N. W. corner of the Isom Parmer and the N. E. Corner of the F. H. Votaw as described in the above paragraph, and in the R. C. Eubank's Report; Thence S.  $1^{\circ}$ - $0'$ E. at 921 vrs., an old I. P. Stake, set by Eubanks as the S. E. corner of the F. H. Votaw Survey. Thence N.  $89^{\circ}$ - $30'$  W. at 262 vrs. (call 259)vrs., an old Iron Buggy axle, driven into the ground, also set by Eubanks as the lower S. W. Corner of the Votaw in the East line of the Jordan West Survey. Thence N.  $1^{\circ}$ - $0'$ W. at 614 varas (call distance of the Votaw) for the inner S. W. Corner of the Votaw and the N. E. Corner of the Jordan West. No corner found as described by Eubanks (Prairie burned clean), at 921 vrs. intersected the South line of Thos. Newman and the North line of the F. H. Votaw, 151.3 vrs. East of the upper S. W. Corner of the Thos. Newman, the beginning corner.

Beginning at the upper S. W. corner of the Thos. Newman; Thence S.  $89^{\circ}$ - $59'$ W. with the North line of the F. H. Votaw survey 9949 varas to the S. E. corner of another tract of State School Land Surveyed for William J. Colgrove;

THENCE North  $0^{\circ}$ - $45'$  W. with East line of above mentioned School land 134.1 varas to the S. W. corner of the Burton Tarkington League; a pine knot from which a 12 inch Sweet Gum marked X bears N.  $41^{\circ}$  W 9 varas, a 14" White Oak marked X bears S.  $70^{\circ}$ E. 17- $\frac{3}{10}$  vrs. and a 30 inch Black Gum marked X bears S.  $65-\frac{1}{2}^{\circ}$  E. 18.7 vrs.;

THENCE N.  $89^{\circ}$ - $26'$  E. 9950 vrs. along an old marked line to a stake for corner 2801 varas South of the N. E. corner of the Burton Tarkington League for the S. E. corner of said League;

THENCE South 229- $\frac{1}{2}$  vrs. to the place of beginning, containing 319- $\frac{1}{2}$  acres of land.

CLAYTON HARPER LG.

Accepted Line 7 Extension of Harper-Devers Occupied and Accepted Line N. 89° 30' E. 7

Original South Boundary Harper League Old Marked Line S. 89° 42' E. 1356 v.

THOS. DEVERS

STATE SCHOOL LAND VACANCY (COLEGROVE No 1)

BARTON TARKINGTON LG.

T.J. WILLIAMS LG.

CLAYTON HARPER

THOS. DEVERS II LA.

STATE SCHOOL LAND VACANCY (COLEGROVE No 2)

F. H. VOTAW

JOHN PLEASANTS

STATE SCHOOL LAND VACANCY LIBERTY COUNTY TEXAS

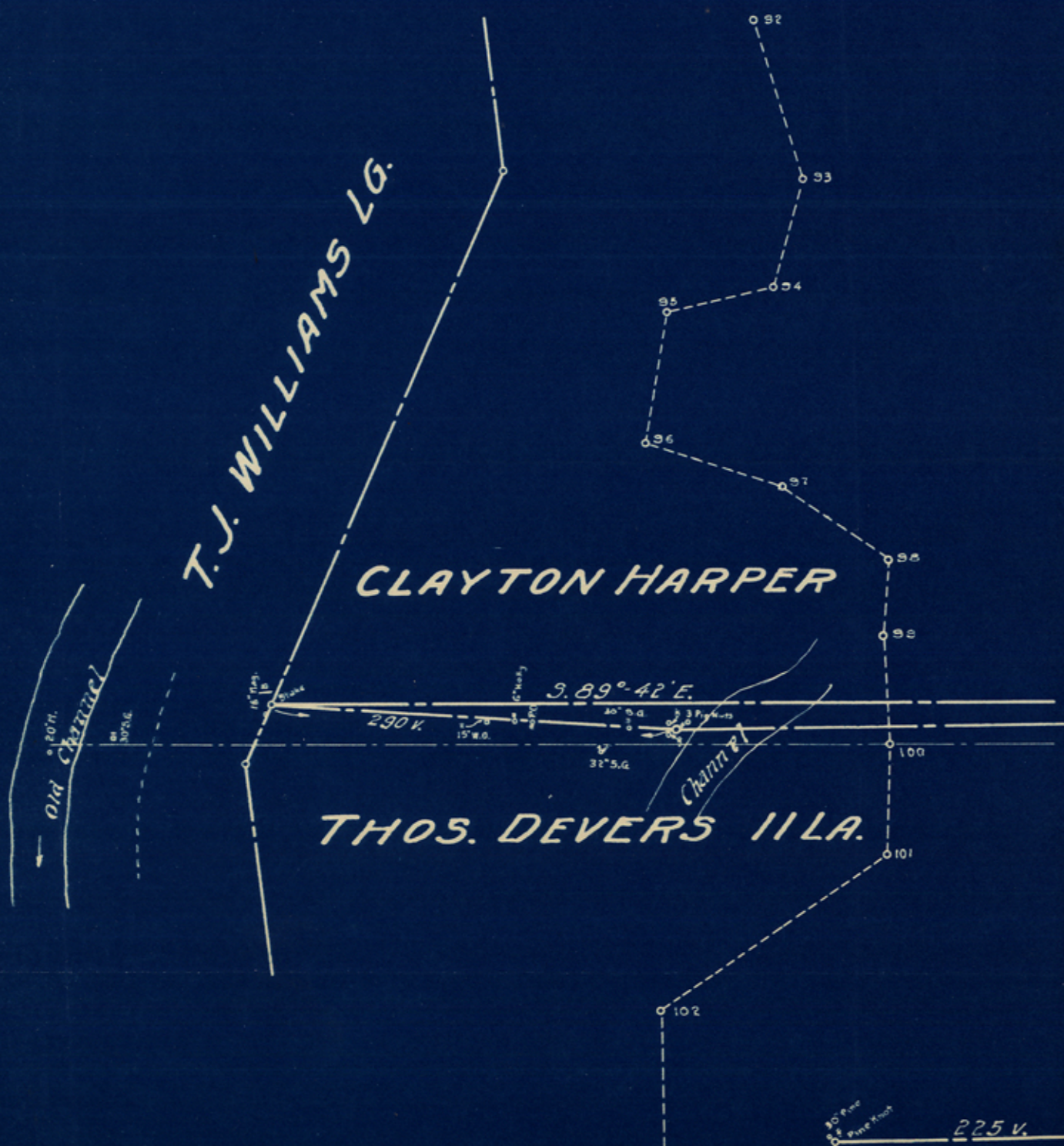
Scale 1" = 100 Varas

Drawn from the notes of the Official Survey supplemented by private notes of W. J. Colegrove, Lse Applicant.

Survey No. 76603

R.E. Gray 4-24-34

RIVER END (WEST) OF HARPER-DEVERS BY LINE



*Handwritten notes in red ink:*  
1931  
1930

IN FLAT FOLDER

Liberty COUNTY ROLLED SKETCH NO. "W.C."

Sketch & Report on Vacancy in N.W. Liberty Co.  
M.A. 27689-90  
MF-18735 - MF. 18734

SURVEYED \_\_\_\_\_

BY W<sup>m</sup> J. Colegrove

# 22<sup>00</sup>

FILED April 25, 1934

12-17-37  
J.L.W.

counter 76604