

IN THE MATTER OF THE BOUNDARY LINE CONTEST BETWEEN JEFF
DAVIS, REEVES and EL PASO COUNTIES, PENDING BEFORE HON. W. L. MCGAU-
HEY, COMMISSIONER OF THE GENERAL LAND OFFICE.

The Counties Of Reeves and El Paso, represented by their
respective County Judges, Geo. M. Fraser and Allan Blacker, respect
fully present to the Hon. Commissioner of the General Land Office,
the following facts.- Showing as they do- that the boundary lines now
sought to be disturbed and re-adjusted is not subject to the proceed-
ing, now pending before you, the Commissioner, for the following rea-
sons.-

First. Jeff Davis County was carved out of Presidio County
March 15th 1887

Sayles Statutes, Art. 821 A.

Second. Reeves County was created out of the territory of
Pecos County, April 14th 1883.

Sayles Statutes Art. 883 A.

Third. El Paso County was created in 1850 Jan. 3rd.

Sayles Statutes Art. 772.

Fourth. Pecos County was created in 1871, May 3rd.

Sayles Statutes Art. 887.

Fifth. Presidio County was created May 12th 1871.

Sayles Statutes Art. 880.

As to Pecos and Presidio, they had a line in common-viz,

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from the mouth of San Francisco Creek where it empties into the Rio Grande, and San Martin Springs- and El Paso and Pecos has a common line between them, namely- from San Martin Springs to the mouth of Delaware Creek where it empties into the Pecos river.

In the year 1879 it was satisfactorily shown to the County Court of Pecos County that the boundary line between Pecos and Presidio Counties extending from the mouth of San Francisco Creek to San Martin Springs aforesaid was not sufficiently definite and well defined. On such information the County Court of Pecos County at its July Term 1879 took the proper legal action under Article 686 Sayles Statutes to put in motion the necessary proceedings to establish and make the said boundary line between the points aforesaid definite and well defined.

Thereupon the proper proceedings were had in due form of law and regularity, by the said County Court of Pecos County under and by virtue of Article 686, 687, 688, 689, 690, 691, 691A and 691 D. of the Statutes aforesaid, which said Statutes were strictly complied with in every particular.

All of which will more fully appear, by certified copy of said proceedings, taken from the records of Pecos County and certified to by the Clerk and Keeper thereof, Frank Rooney, under the seal of the Court, which transcript is herewith presented and asked to be taken in connection with the foregoing and what may follow herein- It is marked " Exhibit A ".

A copy of the proceedings as far as the law required were made out certified and forwarded to the County Court of Presidio County within the time, terms, and limitations required by the Statute by the County Court of Pecos County at the time -- Mr. E. W. Bates--.

The time and place were appointed for the meeting of the Surveyor appointed by Pecos County and the Surveyor who should be appointed by Presidio County. The Surveyor for Presidio County did not

appear at the time and place appointed and did not take part in the ~~xx~~ subsequent establishment by lines run and monuments erected of the line between said Counties, from point to point aforesaid to make it definite and well defined. The surveyor of Pecos County thereupon proceeded as the law authorized him to do - namely by Article 69I A, before cited - and he acted alone.

The said Surveyor of Pecos County run marked and defined by lines and monuments the said line between the mouth of San Francisco Creek and San Martin Springs as the boundary line between Pecos and Presidio Counties - and also established additionally the line between Pecos and El Paso Counties from San Martin Springs to the mouth of Delaware Creek aforesaid. In this latter part of this line Presidio County was not interested, but in its establishment as aforesaid El Paso County has heretofore ^{acquired} and now acquires therein.

The said survey was duly returned, platted, approved and recorded by the County Court of Pecos County and is now part of the record of said Pecos County - and from that time 1879, the said boundary line, so established, marked and monumented, became, has been and now is by law the boundary line between Pecos and Presidio Counties, between the mouth of San Francisco Creek and San Martin Springs See later part Art. 69I A Sayles Statutes.

This said line was in law fixed and established as before stated in the year 1879, long before the creation of Jeff Davis County. A copy of the proceedings as far as the law required were

The County of Presidio was in all things, law and fact, bound by the Statutory proceedings attested by the record in " Exhibit A " heretofore mentioned and the affidavits attached hereto. About this it is apprehended there will be no dispute. Such being the case the rights of Jeff Davis County after its creation should not be greater than were the rights of its mother County, Presidio, out

of which it was carved.

If there was any fraud in the establishment of said line, this is not the tribunal to ferret the fraud out, that duty rests alone in the judiciary of the proper locality.

The present tribunal is special and limited and can exercise only the power delegated to it. The law on this subject is expressed and the powers of the special tribunal cannot be enlarged or restricted in one way or another. If there were mistakes in the establishment of said lines the mistake can only be corrected by a Court invested by law with equity powers. This tribunal is void of equity powers.

As stated the boundary line has been established in due form of law and no action by any County which was a party to the proceedings or which was created out of the territory of the County that was a party thereto can now raise the question about the correctness and integrity of the line so fixed.

We respectfully refer to the appended affidavits of E. W. Bates, Allen Blacker and John M. Fraser, in support of the fact recited herein on the point of Pecos County being supplied with a copy of the proceeding of the Pecos County Court of date xxxk 9th July 1879, and copied into "Exhibit A". The said affidavits will be appended and marked " Exhibits B, C, & D "

A Blacker
County Judge of El Paso County

If the Commissioner however concludes, that he will hear this matter notwithstanding the foregoing facts, then these representatives beg leave to be heard on the merits of the issues, that have sprung out of the last survey and especially commend to him a thor

ough consideration of the affidavits they have already filed and also the testimony of experienced Surveyors, who are familiar with the Country involved and who can and will give the Commissioner valuable information as to the locality of San Martin Springs, which testimony they will tender.

A. Blacker
County Judge of El Paso Co.

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