

Hamilton Co Bdry Line 4 22

Mills & Hamilton
County Boundry

Aug. 2. 1906

See Mills Co Bdry Line 9

Mills County)
vs)
Hamilton County)

No. 1375.

April 17, 1900.

This day came on to be heard the above cause No. 1375.

Thereupon came both parties, plaintiff and defendant by counsel and announced ready for trial and a jury having been demanded herein, the Court proceeded to empanel the same. Thereupon came a jury of twelve good and lawful men, to-wit: W. B. Leverett and eleven others, citizens of San Saba County who were duly and legally chosen, elected, empanelled and sworn to try this cause; and defendant, Hamilton County, thereupon submitted its general demurrer to plaintiff's first amended original petition to the Court, which being heard by the Court, the Court is of the opinion that the law thereon is with the Plaintiff. It is therefore ordered and decreed by the Court that such general demurrer of the defendant, contained in its first supplemental answer, be and the same is in all things overruled, to which ruling the defendant in open Court excepted.

And thereupon the trial of this cause was proceeded with, and the **Jury** having heard the pleadings of parties the defendant, Hamilton County, thereupon in open Court, and in the hearing of the jury, admitted as true without proof, and without issue raised the following facts as alleged by plaintiff in its first amended original petition; that is to say 1st, That plaintiff, Mills County, is a duly and legally organized County in and of the State of Texas, its residence being Mills County, Texas, and the defendant Hamilton County, is a duly and legally organized and created County in and of the State of Texas, its residence being Hamilton County, Texas.

2nd, That this suit is brought by plaintiff by an order of its Commissioner's Court acting as such, legally made and entered.

3ed, That this is a suit for the purpose of establishing the boundary line between plaintiff and defendant under the Act of the 25th Legislature of the State of Texas, entitled "An Act to amend title XXIII, Chapter 4 of the Revised Civil Statutes of Texas, relating to County lines, by adding thereto Article 308 A" as the

Hamilton Co Entry Line 4

same appears at pages 222 and 223 of the General Laws of Texas, passed at the regular session of the Twenty Fifth Legislature and published by authority of the State.

4th, That plaintiff and defendant are adjoining counties a portion of the East line of plaintiff being the West line of defendant.

5th, That the County of San Saba is the County in an adjoining Judicial District whose boundaries are not affected by this suit and whose County seat is nearest the County seat of plaintiff.

6th, That the citizens residing on a strip of territory about one mile and a quarter in width along the whole length of the line dividing plaintiff and defendant are undetermined in which County they live, some claiming to live in Hamilton County and paying taxes in that County and not in Mills County; and others claiming to live in Mills County and not in Hamilton County and paying taxes in Mills County, and other some refusing to pay taxes or render assessment of their property in either County and yet others who have paid taxes in both Counties; all of which confusion and uncertainty is wholly occasioned by the contending claims of plaintiff and defendant as to where the dividing line between them is situated; plaintiff claiming the same to be about one and one-quarter miles easterly from where defendant claims it to be.

7th, That plaintiff County was created as alleged by plaintiff in its first amended original petition and that the boundaries of plaintiff are as in said petition alleged; and that defendant County was created as alleged in said petition and that its boundaries are as therein alleged.

Which admissions being submitted to the jury and the facts thereabout being withdrawn as issues in this case, and the Jury having heard the evidence introduced, and the hour of adjournment having arrived, the Jury were, by the consent of Counsel for both parties, released and allowed to separate until to-morrow morning at 8:30 o'clock under instructions from the Court that they must not discuss this case among themselves nor with any other person nor allow any person to mention the same in their hearing. Court thereupon adjourned until April 18, 1900 at 8:30 a.m.

This entry having been inadvertantly omitted from the minutes of April 17, 1900 is here intered now for then.

Mills County)
 vs)
 Hamilton County)

No. 1375.

April 18, 1900.

Court met at 8:30 a. m. and thereupon came the Jury herein empannelled and came both parties by Counsel and the trial of this Cause was proceeded with and the Jury having heard the evidence introduced and the hour of adjournment having arrived, the Jury were again allowed to separate under instruction, thereupon Court adjourned ^{from the Court heretofore given and} until to-morrow morning at 8:30 o'clock..

This entry having been inadvertantly omitted from the minutes of April 18, 1900, is here entered now for then.

Mills County)
 vs)
 Hamilton County)

No. 1375.

April 19, 1900.

Court met at 8:30 a.m. and thereupon again came the Jury herein empannelled and came both parties by Counsel, and the trial herein was proceeded with; and the Jury having heard the conclusion of the testimony and having heard the argument of Counsel, were instructed by the Court in writing to find, as upon special issues.

"First, Has it been shown to you satisfactorily by a preponderance of the evidence that the line claimed by plaintiff to be the true boundary line between plaintiff and defendant, is the true boundary line between plaintiff and defendant?

Answer "yes" or "no".'

Following which the Jury were in said writing instructed that in case they answered such first special issue in the affirmative then they should proceed no further; but in case they answered same in the negative then they should consider the next special issue therein submitted, to-wit:

"Second, Has it been shown to your satisfaction by a preponderance of the evidence that the line claimed by defendant to be the true boundary line between plaintiff and defendant is the true boundary line between plaintiff and defendant.. Answer-yes, or no."

Following which the jury were instructed that in the event they answered such second special issue in the affirmative then, they need proceed no further, but if they answered same in the negative, then they should consider the third special issue therein submitted to them, to-wit:

"Third, At what point, if any, do you locate and establish the true boundary line between plaintiff and defendant? Answer this issue by stating same fixed and definite point as established by the evidence in this case as a beginning point from which the line should be run as called for in the law creating the County of Mills and further state to what point said line should run so as to fix and establish the true boundary line between plaintiff and defendant".

Following which they were instructed that if they answered either the first or the second special issue-yes, then they should answer the following special issue:

"Fourth, Has it been satisfactorily shown by the evidence that the line is sufficiently marked and identified on the ground, and sufficiently and accurately run from the beginning point? Answer-yes, or no".

Which instructions, as upon special issues, were read to the Jury by the Court and thereupon the Jury retired with said special issue instructions, and the first amended original petition of plaintiff, and the first amended original answer of defendant being the pleadings handed them by both parties, and in charge of the proper officer, to consider of their verdict and findings; and afterward on the same day returned into open Court in charge of the same officer and presented to the Court their verdict and findings herein, which was read by the Court and by it received and approved and ordered entered in the Minutes, which is here done, as follows:

"We, the Jury, find a verdict as follows: to the first proposition-yes. To the 4th proposition-yes.

W. B. LEVERETT, Foreman"

Wherefrom and wherefore it appears to the Court, and is the opinion of the Court, that the boundary line between plaintiff and defendant Counties as claimed by plaintiff, Mills County, in its first amended original petition filed herein, and which is described

by field notes set out in exhibit A to said petition, and which is mapped and platted as shown by exhibit B to said petition, is the true boundary line between plaintiff and defendant, and should be established, located, adjudged and decreed to be such, and hereafter be regarded as the true boundary line between plaintiff and defendant Counties. And further from said verdict and findings of the Jury aforewritten it appears to the Court and is the opinion of the Court that such boundary line between plaintiff and defendant as claimed by plaintiff in said first amended original petition, field notes of which are set out in said exhibit A to said petition, and which line is mapped and plotted as shown by said exhibit B to said petition, is sufficiently marked and identified on the ground and is sufficiently and accurately run from the beginning corner; and should be established, located, adjudged and decreed to be the true boundary line between plaintiff and defendant Counties, as shown by said field notes in said exhibit A, and as mapped and plotted in said exhibit B; and should hereafter, as so shown and plotted be established to be, and regarded as the true boundary line between plaintiff and defendant Counties; and that all territory which by such establishment would thereby fall in the area of Mills County should be regarded to be and to have been the territory of Mills County; and that plaintiff should recover all costs of this suit of and from defendant.

It is therefore ordered, adjudged and decreed by the Court that the boundary line between Mills County, plaintiff herein and Hamilton County, defendant herein, being a portion of the East line of Mills County, and the West line of Hamilton County be and the same is here-now adjudged and decreed to be the line alleged by Mills County in its first amended original petition in this suit, which line upon the ground is marked, located and described as follows:

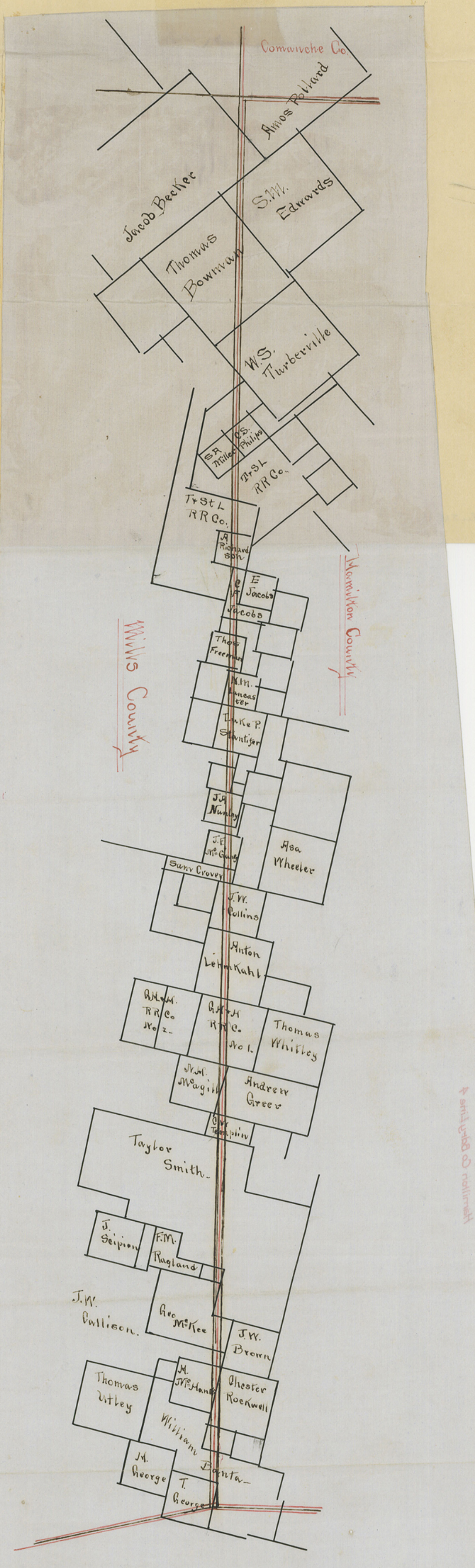
Beginning N 60 E., nine and one-half miles from the original N. W. corner of Hamilton County and the S. W. corner of Comanche County, as provided by Act of the Twenty-fifth Legislature of Texas creating said Mills County; the present corner being situated on the Amos Pollard League survey N. 71 W 669 varas and N. 30 W. 1542 varas from the S. E. corner of said Pollard League and N. E. corner of Jacob Becker Survey, said line described as follows: beginning at the N. W. Corner

of Hamilton County, a planted stone from which a P. O. 24 inches in
 * 192 yrs. the 40th mile stone of Mills County; Thence S. 30 E at
 diameter marked H. & M. bears S. 30 E 776 varas, Thence S. 30 E at *
 584 yrs. a P. O. line tree at 1350 varas cross N. line of Jacob Becker
 Survey N. 71 W 669 varas from its N. E. Corner; at varas N. prong
 41st mile stone of Mills County; *
 of Cow House Creek; at 1900 varas the 42nd mile stone of Mills County,
 from which a L. O. marked H. bears S. 42 E 31 varas, another marked
 M. S. 30 E 101 varas. Thence S. 30 East at 630 varas cross Hamilton
 and Brownwood road; at 1900 varas 43ed mile stone of Mills County.
 Thence S. 30 E at 1900 varas the 44th mile stone of Mills County.
 Thence S. 30 E. at 1900 varas the 45th mile stone of Mills County.
 Thence S. 30 E. at 1900 varas the 46th mile stone of Mills County.
 Thence S. 30 E. at 1790 varas cross the Lampasas River, at 1900
 varas the 47th mile stone; Thence S. 30 E. at 400 varas cross the S.
 line of A. Richardson Survey S. 71 W. 380 varas from the S. E. corner
 of said survey, at 1900 varas, 48th mile stone of Mills County; Thence
 S. 30 E. at 1376 varas cross the N line of the William Lancaster Sur-
 very N. 71 E. 73 varas from the N W. corner of said survey, at 1900
 varas the 49th mile stone of Mills County. Thence S. 30 E at 1800
 varas cross the S. line of L. P. Standfer Survey N. 71 E. 519 vars
 from the S. W. corner of said survey, at 1900 varas the 50th mile
 stone of Mills County. Thence S. 30 E at 1900 varas the 51st mile
 Stone of Mills County. Thence S. 30 E. at 1050 varas pass N. 60 E.
 35 varas from M. C. Girk Post Office, at 1900 varas the 52nd mile
 stone of Mills County; Thence S. 30 E. at 145 varas cross the N line
 of J. W. Collins survey N. 71 E 294 varas from the N. W. corner of
 said survey, at 1900 varas the 53ed mile stone of Mills County;
 Thence S. 30 E. at 1380 varas cross S. Lampasas, at 1511 varas cross the
 N. line of the G. H. & H. R. R. Survey No. 1 N. 71 E. 678 varas from
 the N. W. corner of said survey, at 1900 varas the 54th mile stone
 of Mills County, from which a L. O. Marked M. bears S. 22 E. w1 varas,
 another marked H. bears N. 71 E. 28 varas; Thence S. 30 E. at 1564
 varas cross the N. line of the W. H. Magill Survey, S. 71 W. 60 varas,
 from the N. E. corner of said survey, at 1900 varas the 55th mile
 stone of Mills County; Thence S. 30 E at 1150 varas cross the S.
 line of Andrew Greer Survey, N. 71 E. 214 varas from the S. W. cor-
 ner of said survey, at 1900 varas the 56th mile stone of Mills County;

* Thence S. 30 E at 328 yrs. crosses E. line of said
 Becker Sur., at 1660 yrs. cross the S. prong of Cow
 House Creek, at 1900 yrs.

5308
 17
 19
 54211

Thence S. 30 E. at 307 varas cross the N. line of Taylor Smith Survey 3532 varas from the N. W. corner of said survey, at 507 varas pass through Hurst Gap, at 1900 varas 57th mile stone of Mills County, a Pecan marked H. & M. bears N. 30 W. 180 varas; Thence S. 30 E. at 1900 varas the 58th mile stone of Mills County; Thence S. 30 East, at 1900 varas the 59th mile stone of Mills County; Thence S. 30 E. at 1900 varas a Mesquite tree 8 inches in diameter marked H. & M. for the 60th mile of Mills County; Thence S. 30 E. at 1900 varas the 61st mile stone of Mills County. Thence S. 30 E. at 810 varas cross the N. line of J. George Survey N. 71 E. 858 varas from the N. W. corner of said survey, at 1529 varas the S. W. corner of Hamilton County, a planted stone S. 60 W. 6 miles and varas from the N. W. corner of Coryell County as located by E. Brown, Surveyor of Lampasas County, a correct plot of which as shown by the plot marked exhibit B. to the plaintiff's first amended original petition is as follows:



THE STATE OF TEXAS }
 COUNTY OF SAN SABA } I, W. V. Dean, Clerk of the District Court
 in and for said State and County, do hereby certify that the
 above and foregoing is a true and correct copy of the plat
 forming a part of the judgment in cause No. 1375, Mills County
 vs Hamilton County, as the same appears of record in the Minutes
 of the District Court of San Saba County in Vol. G, at page 502.

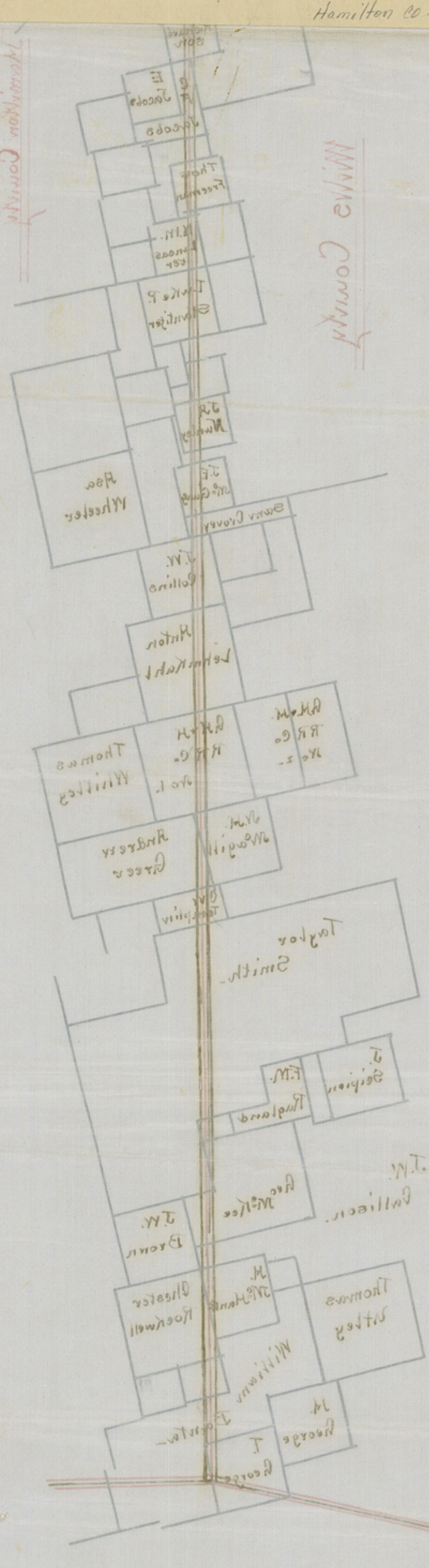
Witness my hand and seal of office at office in San
 Saba, this the 10th. day of May, A. D., 1908
 W. V. Dean
 Clerk Dist. Court San Saba Co. Tex.

The line of J. George Survey N. 71 E. 858 varies from the N. W. corner
 of said survey, at 1328 varies the S. W. corner of Hamilton County,
 a planted stone S. 80 W. 8 miles and varies from the N. W. corner
 of Copell County as located by E. Brown, Surveyor of Lampasa County,
 a correct plot of which as shown by the plot marked exhibit B. to
 the plaintiff's first amended original petition is as follows:

Center 54213

Hamilton Co. Bdry. Line #4

Hamilton Co Bdry. Line 4



THE STATE OF TEXAS,
 COUNTY OF SAN SABA, J. W. V. Bear, Clerk of the District Court
 do hereby certify that the
 above and foregoing is a true and correct copy of the plat
 forming a part of the judgment in case No. 1078, Mills County
 vs. Hamilton County, as the same appears of record in the minutes
 of the District Court of said County in Vol. 2, at page 508.
 Witness my hand and seal of office in San
 Saba, this 10th day of May, A. D. 1908.
 Clerk District Court San Saba Co. Tex.

[Handwritten signature]
 Clerk District Court San Saba Co. Tex.

Center 54213

which said line as shown by said field notes and mapped in said plot is decreed and adjudged by the Court to be the true boundary line between Mills County and Hamilton County and shall hereafter be and be regarded as the true boundary line between said Counties and all and singular the municipal rights and powers pertaining to Counties, in and to all territory West of said line heretofore in dispute between plaintiff and defendant shall be and is hereby vested in Mills County as a Municipal organization, and all claim and interest in or to about or concerning such territory, as a Municipal organization is hereby divested out of Hamilton County. And it is further ordered and adjudged that the plaintiff, Mills County do have and recover of and from the defendant, Hamilton County all costs in this behalf expended which shall be paid by the Commissioners Court of Hamilton County in like manner and pro rata as other claims of a similar description are settled and paid by said Court.

The State of Texas)
 County of San Saba)

I, W. V. Dean, Clerk of the District Court in and for said County and State do hereby certify that the above and foregoing is a true and correct copy of the Judgemnt, and also a true and correct copy of the plot constituting a part of said judgment in Cause No. 1375, Mills County vs. Hamilton County, as the same appears of record in Vol. G page 494 et seq of the Minutes of the District Court of San Saba County, Texas.

In testimony whereof I hereunto sign my name and affix the seal of the District Court at office in San Saba, this the 10th day of May 1906.

W. V. Dean

Clerk Dist. Court San Saba Co., Texas.

THE STATE OF TEXAS,
COUNTY OF HAMILTON.

How Oliver Clerk

of the County Court in and for said County, do hereby certify that the foregoing instrument of writing, dated the 10th day of May A. D. 1906, with its certificate of authentication, was filed for Record in my office on the 21st day of June A. D. 1906, at 7:30 o'clock A. M. and duly Recorded the 21st day of June A. D. 1906, at 5:30 o'clock P. M. in the Sub Records of said County, in Book 32 on Page 471.

Given under my hand and seal of office, at HAMILTON, the day and year last above written.

How Oliver Clerk
County Court, Hamilton County, Texas.

By *J. D. G. Foster* Deputy.

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NO. 1375.

MILLS COUNTY
-vs-
HAMILTON COUNTY.

CERTIFIED COPY OF JUDGMENT AND
PLAT.

May 10" 1906,

Filed for record
June 21" 1906, at 7³⁰
o'clock am
Book "32" page 471.

Geo. W. Oliver,
Clerk.