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Hon W. L. McLaughley  
Commissioner Gen. Land Office  
Austin Texas

Dear Sir:

In the pending contest between Hunt & Kaufman Counties in reference to the boundary line between them, I beg leave to submit the following views in behalf of Hunt County.

In November 1846, M. H. Wright the duly qualified surveyor, surveyed established and marked the boundaries of Hunt County. In making that survey he established and marked the S. E. Corner thereof as shown in his report of said survey now on file in your office. From that point he ran Westward and marked the South boundary line of said County, marked the consecutive miles by proper natural objects as fully described in his said report. The said South boundary line was well defined and for thirty five years no question was ever raised by any one in regard to the correctness of the line so run.

In 1881 or 1882, the County Court of Kaufman County attempted to establish another line as the boundary between Hunt and Kaufman Counties.

At that time Hunt County regarded the attempt of Kaufman as unauthorized because the line as originally run and

marked by M. H. Wright was well defined and marked having been established, as before stated, in 1846. in accordance with the laws then in force.

For this reason Hunt County regarded all the acts of Kaufman County through its Court and surveyor, and the acts of the then Commissioner of the General Land office as being without authority of law and therefore null and void.

I believe it is a well recognized principle of law, that, in order to render the acts, judgments, or decrees of a Court, or of any one acting under authority thereof, valid such Court must have jurisdiction of the subject matter, and if a Court assumes *Juris* jurisdiction where it is not given by law, its judgments and orders are absolutely void, and may be attacked at any time by any one interested in the subject matter, and may be treated as nullities, having no force, and conferring no rights on any one and no rights can be acquired by virtue of such illegal acts, orders or decrees.

The foregoing proposition can not, and will not be questioned.

Then let us apply the principle to the facts now before us.

In 1846, in accordance with the laws then in force, M. H. Wright made a survey of the South boundary line of Hunt County, and marked the same plainly; the miles all being plainly marked by natural objects, except one. The bearing trees with the marks made on them by the surveyor were standing in 1881 and are standing now.

The locality of the line was well known in 1881 and is well known now. The line was not in any part of it indefinite or illy defined, and no necessity existed for a survey even for the purpose of ~~that~~ tracing. <sup>The same.</sup> The report of N. Y. Kinney Special Surveyor for Hunt County filed in ~~this~~ your office the day of Dec 1891. shows these facts beyond question, and they are not denied by Kaufman County.

Then what authority did the County Court of Kaufman County have for making the order for a survey in 1881?

"When a County line has been once, marked upon the ground and established in accordance with law it can not be said to be indefinite, though it may be incorrect."

"None of the Statutes seem intended to give the Commissioners' Court power to correct what may have been incorrect in the establishment of a County line upon the ground"

If a County line has once been definitely

fixed upon the ground by an actual survey made, reported and approved as required by the statute a County Court has no power to order another survey made and thereby establish another boundary line."

James v Powers - 65 Tex. Rep. 207

In view of the facts presented in the report of H. Y. Kincey before referred to, can it be said that the line between Kaufman and Hunt was not sufficiently defined and well defined in 1881. when the order for a survey was made by the County Court of Kaufman County, or when the survey was made by L. H. Bryant in 1882. or at the time the Commissioner of the Gen Land office made his ruling recognizing the line run by Bryant as the true boundary line between Hunt and Kaufman Counties, Certainly not.

Then the order made by said Court was void and all the proceedings thereunder were void, and being void no right ever accrued by virtue of them, and no lapse of time can ever cure or make valid that which was absolutely void in the beginning.

Another thing I wish to call attention to is that Kaufman County was organized long after Hunt County.

The boundaries of Kaufman County were established in 1848. By reference to the ~~title~~ of the act creating Kaufman County and to the field notes of the survey of the boundaries on file in your office it will be seen that Kaufman County calls for and is based on the South boundary line of Hunt County and the N.E. Corner of Kaufman County, as laid out and marked by their own survey is - North 78 varas and East 279 varas from the S.W. Corner of the J Roark 320 acre survey and can be easily ascertained if any doubt existed as to its true locality.

And again the N.E. Corner of Kaufman County is the N.W. Corner of Van Zandt County and the South boundary line of Hunt County is a straight line running east and west. There is no doubt as to the exact locality of the N.W. Corner of Van Zandt County and a reference to the field notes of the Roark survey will show that the <sup>N.W.</sup> Corner of Kaufman County was well known when the County Court of Kaufman County attempted to have another corner established.

And again the field notes of the survey of the boundaries of Kaufman County

shows that the S.W. Corner of Hunt County  
is 9 miles 1022 varas South of the N.E.  
Corner of Collins County. and that Kaufman  
runs  $13\frac{1}{2}$  miles East from that point.  
There has never been any question  
about the locality of the N.E. Corner of Collins  
County and hence the S.W. Corner of Hunt  
was well known or could have been  
easily ascertained from this point alone  
But there has never been any question  
about the S.W. Corner of Hunt County  
The line is well marked all the way  
from the original N.E. Corner to the  
S.W. Corner. and there was never any neces-  
sity for another survey to be made to  
determine its locality, after the origi-  
nal survey was made by Wright in  
1840

The original line as run by M. H.  
Wright may not have been correct.  
Yet the line as marked must be regard-  
ed as the true line. and I respectfully  
submit that M. H. Wright was as liable  
to be accurate in making his survey in  
1840. as was L. H. Bryant when he made  
the pretended measurement from Red River  
Southward  $68\frac{1}{2}$  miles. over hills and val-  
leys with visions of a County seat  
at Perull ~~in~~ in his mind in  
1887.

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I respectfully ask that if further surveys  
is deemed necessary that the surveys  
be directed to run from the original  
S.E. Corner of Hunt County as marked  
by W.A. Wright in 1846. Westward on  
the line run and marked by him and  
that the N.E. Corner of Kaufman County  
be designated from the said established  
from the E. S.W. Corner of the Roach  
320 acre survey as called for in  
the original survey

Respectfully Submitted

J. S. Sherrill  
Atty Gen Hunt County

12-7-91

Nil

x/Hunt Co. Bd. of Line  
Beaumont  
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Hunt Co Bdry Line 4

Hunt & Kaufman  
Boundary Line

Brief Argument  
of Counsel for  
Hunt Co.

Filed in the Genl. Sd Office  
Dec. 7<sup>th</sup> 1891.