

MILLS COUNTY.

#

No.1375. vs.

#April 17.,1900.

HAMILTON COUNTY.#

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 plaintiffs 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 the 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 Commissioners Court acting as such, legally made and entered.

3rd. 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

Mills Co. Bary Line 2

Chapter 4 of the Revised Civil Statutes of Texas, relating to County ~~in~~ lines, by adding thereto Article 808a" as the same appears at pages 222a 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 evidenced introduced, and the hour of adjournment having arrived, the jury were, by consent of counsel for both parties, released and allowed until to morrow morning at 8:30 o'clock under instructions from ^{to separate}

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 entered now for then.

Mills County. #
No.1375. vs. # April 18. 1900.
Hamilton County #

Court met at 8:30 A.M. and thereupon came the jury herein empanelled 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 instructions from the Court as heretofore given; and thereupon Court adjourned 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. #
No.1375. vs. # April 19. 1900.
Hamilton County. #

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 the 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 the defendant to be the true boundary line between the plaintiff and defendant ~~is~~ ^{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 the 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 some 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 afterwards 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 herenow 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 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 plotted 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 a forewritten 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 ter-

ritory of Mills County; and that the plaintiff should recover all costs of this suit of and for m 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 herenow 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, ~~xx~~ 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 diameter marked H & M bears S.30 E. 776 varas, Thence S.30 E. at 192 varas the 40th. miles stone of Mills County; Thence S.30 E. at 584 vrs. a P.O. line tree, at 1350 varas cross N. line of Jacob Becker Survey N~~x~~.71W. 669 varas from its N.E. corner; at varas N. prong of Cow House Creek at 1900 varas 41st. mile stone of Mills County. Thence S.30 E. at 328 varas crosses E. line of said Becker survey; at 1660 varas ^{the} cross S. prong 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. andther marked M. S 30 E. 101 varas. Thence S.30 E. ast at 630 varas cross Hamilton and Brownwood road; at 1900 varas 43rd. mile stone of Mills County; Thence S.30 E. at 1900 varas 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. ~~mi~~
mile stone of Mills County; Thence S. 30 E. at 1376 varas cross the N.
line of William Lancaster survey 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. Standifer survey
N.71 E. 519 varas 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 on J.W.
Collins survey N.71 E. 294 varas from the N.W. corner of said survey, &
at 1900 varas the 53rd. mile stone of Mills County; Thence S.30 E. at
1380 varas cross S. Lampsas. 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. 31 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. 50 vars. 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 ~~Gregg~~ Greer survey N.71 E. 214 varas
from the S.W. corner of said survey, at 1900 varas the 56th. mile stone
of Mills County; Thence S.30 E. at 305 var. cross the N. line of Taylor
Smith survey 3532 varas from the N.W. corner of said survey, at 507 va-
ras 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 E. at
1900 varas the 59th. mile stone of Mills County; Thence S.30 E. at 19

1900 varas a Mesquite tree 8 inches in diameter marked M.M. for the
c. 57324

60th. mile stone of Mills County; Thence S.30 E. at 1600 varas the 61st
st. mile stone of Mills County. Thence S.30E. at 810 varas cross the
N. line of J.George survey N.71E. 858 varas form the N.W.Corner of said
survey, at 1529 varas the S.W.corner of Hamilton County, a planted~~xxxx~~
stone S. 60 W. 6 miles and ...varas from the N.W.corner of Coryell
County, as located by E. Brown, surveyor for Lampasas County, a cor-
rect plot of which as shown by ^{the} plot marked exhibit B to the plaintiffs
first amended origiaal petition, is as follows;

COMANCHE CO

Thomas Pollard

Jacob Beer

S M Edwards

Thomas Bowman

W.S. Tuttorville

S M Miller

T & S L R R Co

T & S L R R Co

Richard

E Jacobs

C & J A Co

Thos Freeman

Wm Hancock

Luke P Sandifer

J A Nunly

J W Carey

Isa Wheeler

Sam Greer

J W Collins

Anton Lehnkuhl

G H & H R R Co no 2

G H & H R R Co

Thos Whitrey

J H Magill

Andrew Greer

O W Tomplin

Taylor Smith

J Scipion

F M Rogland

J C Callison

Geo Mc Kee

J. W. Brown

Thomas Utly

H. M. Hanks

Chester Rockwell

H George

Wm Santa

J George

Mills County

Hamilton County

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 and 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 Commissioner's 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, L.W. Rector, Clerk of the District Court in and for San Saba County, Texas, do hereby certify that the above and foregoing eight pages and plot are a true and correct copy of the final decree in cause No. 1375, in District Court, San Saba County, Texas, styled Mills County v. Hamilton County, which said judgment was rendered by said Court, April 19, 1900, and duly entered in the minutes of said Court in Book "G" pages 494 to 503 inclusive.

And I further certify that in said cause no appeal has been perfected, ^{and no writ of error sued out} and no statement of facts filed by either party.

In Testimony Whereof, I hereunto set my name and affix the Seal of said Court, at my office in San Saba Texas, this 6th. day of Sept



L. W. Rector --- Clerk,
 District Court, San Saba County, Texas.

By R. W. Burlison --- Deputy

Case 57327

final judgment - no appeal being taken nor writ of error

Mills County
v
Hamilton County.

Judgment of District
Court of San Saba County
Establishing boundary
line between them!

Certified Copy.

see Hamilton Co Bary Line 4

Filed in Paul Land
Office Oct 8th 1900

Geo. J. Ferrell
Chf Clerk

of color ask for it
won't be asked on
as this office don't
put hands on it
please visit the
asked for 3/14/1900

W. J. Evans

cat. no. 57328