

THROCKMORTON & SHACKELFORD

BOUNDARY LINE

- with Field notes -

Request for Ruling and Opinion

by

Attorney General

August 22, 1949

100-1000

D-264



SHACKELFORD COUNTY

B-4

Office of The County Attorney

Albany

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Texas

August 22, 1949.

Honorable Price Daniel,
The Attorney General of Texas,
Austin, Texas.

Re: Request for Ruling and Opinion
by the Attorney General.

Dear Mr. Attorney General:

On August 17, 1949, I first learned of the Request dated June 15, 1949, made by Mr. D. D. Williams, County Attorney of Throckmorton County, for a Ruling by the Attorney General on the Boundary Line between Throckmorton County and Shackelford County, and whether certain lands belonging to the J. A. Matthews Ranch Company should be placed on the Unrendered Rolls of Throckmorton County, should it refuse to pay taxes thereon to Throckmorton County.

Although Mr. Watt R. Matthews, Manager of said J. A. Matthews Ranch Company, is well known to said County Attorney, and to the County Judge of Throckmorton County, who inspired said Request, no copy or notice of such Request was given to said Ranch Manager, or to any of the owners of said Ranch living in Albany, Fort Worth, Houston, Throckmorton County, and other places, and no copy or notice of said Request was given to any of the Officials of Shackelford County, all of whom were just as vitally interested, concerned and affected, by any Opinion thereon the Attorney General might render, as was any Official of Throckmorton County.

Likewise, no copy or notice of the Opinion rendered by the Attorney General, through his Assistants, Hon. H. D. Pruett, Jr., and Hon. W. V. Geppert, dated and sent to said County Attorney D. D. Williams on July 15, 1949, was given to any Official of Shackelford County, or to Mr. Watt R. Matthews, Manager of said J. A. Matthews Ranch Co., who resides in and is a legal voter in Throckmorton County, or to any of the various owners of said Ranch scattered over Texas, and I did not get to see a copy of said Opinion until August 18, 1949.

In view of the above situation, and since the important vital parts of the Statement of Facts presented by County Attorney Williams were incorrect, and formed an untrue premise for an Opinion by the Attorney General, I feel that without hesitation you will reopen the question, and review all of the facts, and reform your ruling and opinion to accord with the facts established by the Exhibits duly sworn to and certified, which I present to you herewith, and I will forthwith send a true copy of same both to the County Attorney and County Judge of Throckmorton County.

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EXHIBIT A: Affidavit of Thomas L. Blanton: "I began practicing law in Albany in 1897, in the same suite of offices I now occupy. J. A. Matthews was then County Judge, and owned the lands on both sides of the boundary line between Shackelford and Throckmorton Counties, now owned by the J. A. Matthews Ranch Co. Upon his retirement from office I formed a partnership with him under the firm name of Matthews & Blanton in the law and land business, which terminated some time after I married his daughter in September, 1899. I am intimately familiar with all the records and history of Shackelford County. During part of each summer during the past 50 years I have spent on the Matthews Ranch and am familiar with its lands. From 1897 until his death I knew W. A. Eaheart, who was not educated, and what he knew about surveying was acquired in the field, and he was County Surveyor because no one better qualified was available. His instruments and equipment were old and not of the best. In 1897 I learned all about the survey and field notes he made in 1889 of the boundary line between Shackelford County and Throckmorton County. He was never appointed by the County Court as required by Article 1582, Revised Statutes. He did not file his Report and field notes with the County Court as required by Article 1587, Revised Statutes. His field notes were never approved by the County Court of either County. He did not designate the initial corners of surveys and the end of each boundary mile as required by Article 1583, Revised Statutes. He did not give an accurate description of the corners and lines of surveys on or near said boundary as required by Article 1584, Revised Statutes. In the summer of 1899 with an expert surveyor, axmen, chain-carriers and cook, I spent about three weeks surveying the surveys along the South Base line of the E. T. R. R. Co. Block, from Blind Asylum Survey No. 1 adjacent to Albany 27 miles West into Jones County, and again spent several weeks in 1907 making a similar survey, and ascertained that the work done by Eaheart in 1889 was inaccurate, and was never recognized or followed by either County. His field notes appearing on pages 89, 90, 91, 92, 93, 94 and 95 of Volume 3 Minutes of Commissioners Court of Shackelford County were transcribed into same by Eaheart



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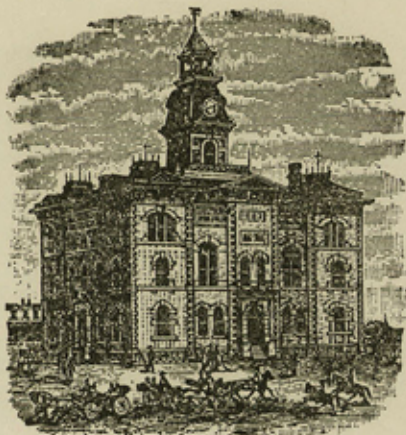
Texas

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himself in his own handwriting and signature. Much confusion prevailed prior to 1923, parts of surveys being assessed by both counties. Early in 1923 Shackelford County made a verbal agreement with Throckmorton County fixing and establishing their boundary line along the North survey lines of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 which line since 1923 has been generally accepted and recognized as their boundary by both counties and everyone concerned, and taxes paid accordingly.

EXHIBIT B: Affidavit of R. T. Rankin, who for 3 years has been Tax Assessor and Collector for Throckmorton County, having been a Deputy for 8 previous years, and is familiar with the business and taxable lands in said County. That prior to 1923 parts of the same surveys were assessed by both Throckmorton and Shackelford Counties, and much confusion prevailed. The survey and field notes made by W. A. Eaheart in 1889 were not correct and not made in accord with applicable statutes, Articles 1582, 1583, 1584 and 1587, Revised Statutes, and were never adopted or followed by Throckmorton County. That both Throckmorton County and Shackelford County for all purposes since 1923 have recognized and accepted the South survey lines of E. T. R. R. Co. Surveys 223, 224, 225, 226, 227, 228 and 229 owned by the J. A. Matthews Ranch Company as the agreed South boundary line of Throckmorton County, and lands have been assessed accordingly.

EXHIBIT C: Affidavit of Watt R. Matthews, who was born in Shackelford County on February 1, 1899, and for the past 35 years has lived in Throckmorton County, and continuously since January 1, 1924, as Manager has had charge of rendering and paying the taxes on lands owned by the J. A. Matthews Ranch Co., and has under his personal supervision said lands and business. That he is intimately familiar with the history of the Boundary Line between Throckmorton County and Shackelford County, the lands on both sides of said line being under his control. That the North line of the tier of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100 continuously since 1923 has formed the established boundary line between Throck-



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morton County and Shackelford County, and such line has been generally accepted and recognized by both Counties and by everyone concerned. That the survey and field notes made by W. A. Eaheart in 1889 were not made in accordance with the provisions of the applicable Statutes, Articles 1582, 1583, 1584 and 1587, and were never accepted or approved either by Shackelford County or Throckmorton County, and confusion prevailed in both counties until the early part of 1923 when Throckmorton County and Shackelford County agreed on their boundary line, which they have accepted and recognized ever since.

EXHIBIT D: Affidavit of Charles H. Arendt who has lived in Shackelford County all his life, since 1890, and been Sheriff and Tax Collector since 1941, and is familiar with the records and lands in Shackelford County. That as far back as he can remember the South lines of E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227 and 228 have formed and constituted the North Boundary line of Shackelford County, Texas.

EXHIBIT E: Affidavit of T. Keller Matthews who was a Tax Assessor and Collector for Throckmorton County. That following an agreement between Throckmorton County and Shackelford County in 1923, the South Survey lines of the tier of E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228 and 229 have formed the South Boundary Line of Throckmorton County.

EXHIBIT F: Affidavit of Judge Richard Dyess who for ten years was County Judge of Shackelford County, and theretofore had been Tax Assessor for Shackelford County, and who since 1933 has been and now is the Tax Assessor and Collector for the Albany Independent School District of said Shackelford County, embracing E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100, the North line of which since 1923 he swears has formed the North line of Shackelford County, and he cites numerous particulars wherein the W. A. Eaheart Survey and field notes made in 1889 were not made in accordance with the provisions of applicable statutes, and that said field notes were never filed with the County Court of either County, and were never recorded by the Clerk of either County, and that prior to 1923 1,065 acres of E. T. R. R. Co. Surveys 223, 225, 227, 228 and 229, and



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a part of Survey 226, were assessed and paid for in Shackelford, the fractional remainder of such Surveys being assessed by Throckmorton County, which prior to 1923 created confusion and caused extra trouble to the Tax Assessors, and extra trouble, expense and abstracting to the owner, and that early in 1923 by acquiescence and general understanding the North line of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 became the established North boundary line of Shackelford County, *and has since been generally recognized as the boundary line between Shackelford County and Throckmorton County*'

EXHIBIT G: Affidavit of W. Roy Fant, a former Tax Assessor and Collector of Throckmorton County, who swears that prior to the year 1923 the major portion of E. T. R. R. Co. Surveys Numbers 223, 225, 227, 228 and 229 was rendered in and assessed for taxes by Throckmorton County, and the remainder of such Surveys were rendered in and assessed by Shackelford County, and that following an agreement between Throckmorton County and Shackelford County establishing their boundary line in the early part of 1923, such confusion ended, and the South base lines of E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228 and 229 became established as the South boundary line of Throckmorton County, and since 1923 both Shackelford County and Throckmorton County have recognized the above agreed lines as the established boundary between the two counties.

EXHIBIT H: Certified copy of an ORDER passed by the Commissioners Court of Throckmorton County, Texas, by unanimous vote on June 7, 1949, approving "the South Boundary of Throckmorton County, as it passes through the Matthews Ranch, as the same as it has been for the past Twenty-five years, same boundary being that agreed upon at the time and has been intact since that time, the said agreed line being described by Section Lines as follows: 'The South boundary lines of Section 223, 224, 225, 226, 227, 228, 229, E. T. R. R. Surveys, which sections are to be considered wholly within Throckmorton County, and the North boundary lines of Sections Nos. 10, 17, 44, 45, 72,



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73 and 100, E.T.R.R. Surveys which Sections are to be considered wholly within Shackelford County'."

EXHIBIT I: Certified copy of an ORDER passed by the unanimous vote of the Commissioners' Court of Shackelford County, Texas, on October 26, 1948, approving "the north boundary of Shackelford County, as it passes through the Matthews Ranch, as the same as it has been for the past twenty-five (more or less) years, same boundary being that agreed upon at that time and has been held intact since that time, the said agreed line being described by Section Lines as follows: The North boundary lines of Sections Nos. 10, 17, 44, 45, 72, 73 and 100, E. T. R. R. Surveys, which Sections are to be considered wholly within Shackelford County, and the South boundary lines of Sections Nos. 223, 224, 225, 226, 227, 228 and 229, E. T. R. R. Surveys, which Sections are to be considered wholly within Throckmorton County."

EXHIBIT J: Certified copy of an ORDER passed by the Commissioners Court of Shackelford County, Texas, on May 15, 1889, appointing W. A. Eaheart as Surveyor to run the North, West, and South Boundary lines of Shackelford County.

From the above sworn statements of officials and citizens thoroughly familiar with the situation and history of said Eaheart Survey and said Boundary Line, and the above certified Records, it is clearly apparent from said Exhibits A., B., C., D., E., F., G., H., I., and J. that:

- (1) Said W. A. Eaheart was not a competent Surveyor for establishing a boundary line between counties.
- (2) That he did not have or use the necessary equipment for running such a County boundary line.
- (3) That said W. A. Eaheart did not comply with the provisions of Article 1583, Revised Statutes, in designating initial corners, and the end of each mile in said boundary, in the manner required by Article 1583, Revised Statute.
- (4) That said W. A. Eaheart did not comply with the provisions of Article 1584, Revised Statutes, in that he did not give an accurate description of the corners and lines of E. T. R. R. Co.



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Surveys Nos. 223, 224, 225, 226, 227, 228 and 229, whose South Survey lines were contiguous to the boundary line between said corners, as he was required to do by said Article 1584, Revised Statutes.

- (5) That said W. A. Eaheart did not comply with the provisions of Article 1584, Revised Statutes, in that he did not give an accurate description of the corners and lines of E. T. R. R. Co. Surveys Nos. 10, 17, 44, 45, 72, 73, 100, 101, 128, 129, and 156, whose North Survey lines were contiguous to said County Boundary Line, as he was required to do by the provisions of Article 1584, Revised Statutes.
- (6) Said W. A. Eaheart did not comply with the provisions of Article 1587, Revised Statutes, in that he did not make due return of the Field Notes and Map to the County Court of Shackelford County, and did not have such Field Notes and Map recorded by the Clerk of said County Court, as he was required to do by Article 1587, Revised Statutes.
- (7) When the County Commissioners' Court of Throckmorton County, in June, 1889, appointed Surveyor Stribling, to assist in surveying the boundary line, such Order required the Field Notes and Map of said survey to be returned to and filed with the said Commissioners' Court of Throckmorton County, Texas, which was never done, and the said provisions of Article 1587, Revised Statutes, were disregarded also as to Throckmorton County,
- (8) That without doubt, said W. A. Eaheart on November 16, 1889, himself transcribed in his own handwriting in Volume 3 on pages 89, 90, 91, 92, 93, 94 and 95 his said Field Notes, which on said page 95, of said Minutes, he wrote his own Certificate and signed his own signature thereto, which can be definitely established by the present County Surveyor, who has held the office continuously for about 35 years, and by a comparison of said Minutes with the Surveyor Records of Shackelford County, while W. A. Eaheart was County Surveyor, by any expert on handwriting and signatures.
- (9) That said Survey and Field Notes made in 1889 by W. A. Eaheart were never approved either by the Commissioners' Court of Shackelford County or by the Commissioners' Court of Throckmorton County.



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- (10) Said Survey and Field Notes made by W. A. Eaheart in 1889, were repudiated, and were never accepted, and were never recognized by any of the County Officials of Shackelford County, or by any of the County Officials of Throckmorton County.
- (11) That prior to the year 1923, much confusion prevailed both in Shackelford County and in Throckmorton County as to said undetermined boundary line between the two Counties, and until 1923 fractional parts of the same Surveys were rendered for taxes, assessed by, and paid to, both Shackelford County and Throckmorton County, which caused much confusion, annoyance, expense, and unnecessary extra abstracting, by all concerned.
- (12) That early in 1923 a parol agreement was reached between the County Commissioners of Shackelford County, and the County Commissioners of Throckmorton County, establishing the boundary line between Shackelford County and Throckmorton County along the North base line of E. T. R. Co. Surveys Nos. 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156, which was acquiesced in by the owner of the land on both sides of the agreed line, and said agreed line has been the established boundary line between the two Counties continuously since the early part of 1923, and that such agreed boundary line has been generally recognized, accepted and acquiesced in by said two Counties and everyone else concerned continuously since the year 1923.
- (13) That the Curative Boundary Line Act, passed by the Legislature of Texas, in 1925, which is now Article 1606, Revised Statutes of Texas, made permanent the said boundary line between said two Counties as agreed upon in the early part of 1923.

ORDER OF THE COMMISSIONERS' COURT OF SHACKELFORD COUNTY ON MAY 15, 1889, APPOINTING W. A. EAHEART TO SURVEY THE NORTH, WEST, AND SOUTH LINES OF SHACKELFORD COUNTY WAS WHOLLY WITHOUT AUTHORITY OF LAW, AND THE SURVEY AND FIELD NOTES MADE BY W. A. EAHEART IN 1889 WERE ILLEGAL

County Attorney D. D. Williams, and the Attorney General's Office, have both overlooked the fact that Article 1582, of the Revised Civ-



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il Statutes of Texas (Act of 1879 in force and effect in 1889), gave no authority whatever to a Commissioners' Court to appoint a Surveyor to establish a boundary line between Counties, but such authority by such law was lodged in "The County Court of any County," and only the County Court, and not the Commissioners' Court, possessed such authority.

Such Article 1582 states:

"Whenever it appears to the satisfaction of the County Court of any County."

In the case of TRAVIS COUNTY vs. WILLIAMSON COUNTY, 4 S. W. (2d) 610, the Court held:

"The trial court correctly held the 1883 survey illegal because made under orders of the Commissioners Court, instead of the County Court of the respective counties at interest as required by the Statutes in force at that time." Writ of Error was denied by the Supreme Court.

Therefore, the Order made by the Commissioners Court of Shackelford County, Texas, on May 15, 1889, appointing W. A. Eaheart to survey and establish the North, West, and South boundary lines of Shackelford County, Texas, was wholly without any authority of law whatsoever, and the survey and field notes made by W. A. Eaheart in 1889 were illegally made, without authority of law, and did not establish the North Boundary Line of Shackelford County.

Although the illegal appointment of W. A. Eaheart on May 15, 1889, by the Commissioners Court, wholly without any authority of law, and the illegal Survey and field notes made by W. A. Eaheart 1889 based upon said illegal appointment, are decisive of the Question submitted by County Attorney D. D. Williams to the Attorney General on June 18, 1949, and the Opinion thereon rendered July 15, 1949, I have nevertheless presented to the Attorney General all of the facts related to the controversy so that it may be seen that since 1923 the Boundary Line between Throckmorton County and Shackelford County has become permanently established by agreement, recognition, acquiescence, and Article 1606 of the Revised Statutes.

TEXAS JURISPRUDENCE, Volume 11, Section 17, on page 541, announces the law in Texas, as follows:



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“ACQUIESCENCE IN OR RECOGNITION OF ESTABLISHED LINE.—A boundary line may be fixed by agreement between adjoining proprietors; and, in a boundary dispute between individuals evidence is admissible to show that the parties acquiesced in or recognized a particular line as being the boundary between their tracts. THESE RULES ARE APPLICABLE, IT SEEMS, WHERE THE CONTROVERSY RELATES TO THE DIVISIONAL LINE BETWEEN COUNTIES.”

In the case of HUNT COUNTY vs. RAINES COUNTY, 288 S. W. 808, The Commission of Appeals, Section B, of Texas, in its opinion by Mr. Presiding Justice Powell, held that the same rule applies between Counties as it does individuals on agreed divisional lines, acquiesced in and recognized for a number of years. This opinion was adopted as the law by the Supreme Court of Texas on page 809.

In the said case of TRAVIS COUNTY vs. WILLIAMSON COUNTY, 4 S. W. (2nd), 612, the Court held:

“In the case of George v. Thomas, 16 Tex. 89, 67. Am. Dec. 612, it was held:

‘Where the parties have agreed upon and marked a boundary line, and the possession is in accordance with it for such a length of time as may give title by disseisin, the line cannot be disturbed, although found to be erroneously established, unless there be clear proof that the possession was not adverse. 4 Shep. 23.’

The authority of 9 C. J. 231, also reannounces the well-established rule as to boundary agreements, that:

‘While execution of the agreement by taking possession of the land is necessary, it is not necessary that this possession should have been continued for the period requisite to acquire title by adverse possession. A possession for such time as will show the intent is sufficient.’

The Commission of Appeals held in the case of Hunt County v. Raines County, 116 Tex. 277, 288 S. W. 808, that the above rules as to a divisional line between individuals were applicable to a divisional line as between counties.”

The Commission of Appeals, Section B, of Texas, in denying a



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Writ of Error in said case of WILLIAMSON COUNTY v. TRAVIS COUNTY, 15 S. W. (2nd) 578, held:

“While counties are not proprietors, but are governmental agencies of the state, they nevertheless have peculiar rights in the determination of their boundary lines. Such boundary lines determine the limits within which the county, as an agency of the state, functions, and over which it has and exercises jurisdiction. The establishment of its boundary line, therefore, is a process of recovering control over the lands rightfully within its jurisdiction, for the purposes of exercising its possession in the manner provided by law for the interest of its inhabitants and the state at large. This is precisely the nature of the relief had by a landowner in determining his boundary line. The only difference is in the degree of interest, and not in the kind of relief sought. Both are ‘case of boundary’.”

TEXAS JURISPRUDENCE, Volume 7, Section 54, on page 194, says:

“PAROL AGREEMENT. — A disputed boundary line may be fixed by parol agreement between adjoining land owners, which, when fairly and honestly made, will be recognized as binding upon them and those claiming under them, even though a mistake was made and the true line was not ascertained. Such agreements, when fairly made, are favored by law; they are approved and encouraged by the courts on the ground of convenience, policy, necessity and justice, and as being in the interest of peace and tranquility.”

I respectfully request the Attorney General to set aside and void his Opinion rendered July 15, 1949, on the incorrect hypothesis presented by County Attorney Williams on June 18, 1949, and to rule and give his Opinion on the following questions:

QUESTION 1: Was the appointment of W. A. Eaheart on May 15, 1889, by the Commissioners Court of Shackelford County to survey and establish the North, West and South lines of Shackelford County, made without authority of law?

QUESTION 2: Were the Survey and field notes made by W. A. Eaheart in 1889 under appointment made by the Commissioners Court of Shackelford County on May 15, 1889, attempting to lo-



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cate the North boundary line of Shackelford County illegal and made without authority of law?

QUESTION 3: Where prior to 1923 the boundary line between Shackelford County and Throckmorton County was in controversy, and parts of the same surveys were claimed by the two counties as being within their boundaries, and fractional parts of the same surveys were rendered in, assessed by, and paid to both Throckmorton County and Shackelford County, causing confusion, annoyance, expense and extra abstracting both to the counties and individuals, and in the early part of 1923 Shackelford County and Throckmorton County verbally agreed upon their boundary line, and made a verbal agreement that the North survey lines of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 should constitute the North boundary line of Shackelford County, which line has been accepted, acquiesced in, and recognized by both Counties as their boundary line continuously since the early part of 1923, does such line under the provisions of Article 1606 constitute the boundary line between said counties?

Respectfully submitted,

Matthews Blanton,
County Attorney, Shackelford County, Texas.

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REFERRED TO MAP

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EXHIBIT A

THE STATE OF TEXAS,
County of Shackelford.

I, Thomas L. Blanton, being duly sworn according to law, upon my oath do solemnly swear: that I began practicing law in Shackelford County in 1897, in the same suite of offices I now occupy. At that time J. A. Matthews, who established and owned the ranch now known as that of the J. A. Matthews Ranch Co., was the County Judge of Shackelford County. After Judge J. A. Matthews retired from office in November 1898, I formed a partnership with him under the firm name of Matthews & Blanton, in the law and land business, which terminated after I married his daughter in September 1899. I was the District Judge of Shackelford County during the eight years following January 1, 1909. I am intimately familiar with all of the records and history of Shackelford County. I have spent part of each summer during the past 50 years on the J. A. Matthews Ranch in Throckmorton County, and am familiar with the lands embraced within its boundaries.

From 1897 until their respective deaths I was intimately acquainted with W. A. Eaheart, surveyor, and with W. A. Williams, William Posey and P. G. Holcomb, who are mentioned as his Chain Carriers, for a survey he made in 1889.

Mr. W. A. Eaheart was not an educated surveyor, but had picked up all of his knowledge about surveying from practical work in the field, and his instruments and equipment were old and not of the best, and he was elected Surveyor of Shackelford County because in that early day it was difficult to find one with better qualifications to hold the office. He was also a County and District Clerk of Shackelford County. The record of the Field Notes he made of the Northern and Western Boundary lines of Shackelford County in 1889, as same appear in Volume 3 on page 88 to 95 inclusive, of the Minutes of the Commissioners Court of Shackelford County, Texas, for November 16, 1889, show very clearly to one familiar with the then situation, that he prepared them in a document prefaced with a purported Order of the Commissioners Court purporting to approve and order such field notes recorded, and that J. C. Dodson began to copy such document and through error wrote "has in company with the Surveyors of Throckmorton, Haskell and Jones Counties" which words on said Minutes were marked through with pen and ink, as the Surveyors for Haskell and Throckmorton Counties had not assisted in any way in making such survey, and the surveyor appointed by Throckmorton County had given no assistance in surveying the West and South lines of Shackelford County, and all of the remainder of said field notes were written upon said Minutes by W. A. Eaheart himself. I can state positively that the transcript of said field notes on pages 89 to 95 inclusive of said Volume 3 of the said Minutes of the Commissioners Court of Shackelford County, Texas, down to and including the last words of said document, "W. A. Eaheart, Surveyor" are in the genuine handwriting and signature of said W. A. Eaheart, and that he wrote same himself upon said Minutes, and signed same himself on said Minutes "W. A. Eaheart Surveyor," as I know well his handwriting and signature.

I attach to this affidavit a Certified Copy of said Field Notes as they appear in said Volume 3 on pages 88 to 95 inclusive of said Minutes of said Commissioners' Court of Shackelford County, Texas, for November 16, 1889.

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On August 17, 1949, I learned of the Request dated June 18, 1949, which Mr. D. D. Williams, County Attorney of Throckmorton County, filed with the Attorney General of Texas requesting a ruling upon the proper boundary between Throckmorton and Shackelford Counties, and whether certain lands belonging to the J. A. Matthews Ranch Company should be placed on the unrendered rolls of Throckmorton County should it refuse to pay taxes on same in Throckmorton County. No one connected with the said J. A. Matthews Ranch Company, and no official of Shackelford County, was given any notice whatever of such Request, or of an Opinion thereon that was rendered by the Attorney General on July 15, 1949. Information of the above reached us in Albany on August 17, 1949.

The Facts presented by Mr. Williams to the Attorney General are not true, and his statement in the vital particulars is incorrect, and forms a false premise for any just ruling or opinion, and shows that he is not at all familiar with the subject he presents.

Through the courtesy of a Throckmorton official, I have just been permitted to inspect the document which as his EXHIBIT B Mr. D. D. Williams sent to the Attorney General with his said Request on June 18, 1949, purporting to be a true copy of said Eaheart Survey and Field Notes "as same appears of record in Volume 3, pages 88-95, Commissioners' Court Minutes of Shackelford County, Texas," which purported certified copy was authenticated by Margaret Darling, Deputy County Clerk of Shackelford County, on June 11, 1945, and which has upon it a certificate from the County Clerk of Throckmorton County, Texas, showing that it was filed with him for record on November 20, 1945, and recorded in Book 597, at page 73 of the Deed Records of Throckmorton County, Texas.

The above purported copy of the Eaheart Survey and Field notes which as his EXHIBIT B Mr. D. D. Williams sent to the Attorney General, wholly fails to show the deleted words which are marked through with pen and ink on page 88 of Volume 3 of said Commissioners' Court Minutes (see true certified copy attached to this affidavit), and his said EXHIBIT B sent by Mr. Williams to the Attorney General on June 18, 1949, wholly fails to show that it is from the Minutes of November 16, 1889.

Mr. Williams' said EXHIBIT B which he sent to the Attorney General on June 18, 1949, shows the surveyor's certificate on the last page of said field notes to begin:

"I, J. W. Eaheart, Special Surveyor appointed by the Hon. Commissioners Court of Shackelford County"
and shows that it is signed "W. A. Eaheart, Surveyor."

J. W. Eaheart was a brother of W. A. Eaheart. I knew both of them well from 1897 until their respective deaths.

From what I learned about said Eaheart survey and field notes after I came to Albany in 1897, said document embracing said field notes was undoubtedly recorded by W. A. Eaheart himself on November 16, 1889, in said Volume 3 at page 89 to 95 inclusive before any member of said Commissioners' Court had ever inspected it or even had it under consideration. The records of Shackelford County show conclusively that said field notes were never filed with the County Court, and were never recorded by the Clerk either in the Minutes of the County Court, or in the Deed Records of Shackelford County, as required by Article 1587 of the Revised Civil Statutes of Texas, then in force and effect. The boundary between Shackelford and Throckmorton County as attempted to be located by said Eaheart field notes, was

never thereafter accepted, or approved, or adopted, by said Commissioners' Court of Shackelford County, Texas, at any time following said November 16, 1889. But on several occasions and in numerous ways said Eaheart Survey and Field Notes made in 1889 have been definitely repudiated by Shackelford County. Not until Mr. Williams' said EXHIBIT B as a purported certified copy, was filed for record in Throckmorton County on November 20, 1945, said Eaheart survey and field notes have never been filed with the County Court, or recorded by the Clerk, in Throckmorton County, Texas, as required by said Article 1584 of the Revised Statutes of Texas, and have never been accepted or approved, or adopted, or in any way recognized by the Commissioners' Court of Throckmorton County, Texas.

While in running his Survey West across the Northern part of Shackelford County, said Eaheart left a number of marked stones and a number of calls for objects, he did not comply with the requirements of Article 1583 of the Revised Civil Statutes of Texas.

When running West 7 miles near the South boundary lines of E. T. R. R. Co. Surveys Nos. 223, 224, 225, 226, 227, 228 and 229 W. A. Eaheart did not give any accurate description of any of the lines or of any of the Corners of any of said surveys, and though running 7 miles West near the North lines of E. T. R. R. Surveys Nos. 10, 17, 44, 45, 72, 73 and 100 said Eaheart made only two references that could apply to any of said 7 surveys, he being required under Article 1584 of the Revised Civil Statutes of Texas to "give accurate description of the corners and lines of surveys on or near said boundaries," his first reference being:

"Thence West 325 varas cross West line of the Robertson Survey" (which presumably was Survey No. 44)
and his second and only other reference to any of said 14 surveys being:

"Cross West line of E. T. R. R. Co. Survey No. 100".

Mr. Proctor K. Clarke, who has been the County Surveyor of Shackelford County, Texas, continuously for the past 35 years, is an educated, well trained Civil Engineer and Surveyor, and from the report he made on November 5, 1948, on the survey and field notes made of the boundary line between Shackelford and Throckmorton Counties by W. A. Eaheart in 1889, I quote the following:

"The line ran by Cobb in 1879 and Eaheart in 1889 do not coincide, even approximately. The actual value of Mr. Eaheart's line is very questionable.

"His notes do not state the Latitude or Longitude of his beginning point. There is no evidence in his notes that he ran a curved parallel of Latitude, which would have been the proper method.

"There is no evidence in his notes that he was attempting to carry out the Acts of the Legislature creating Shackelford and the adjacent Counties.

The task of proving that the Eaheart line was correct would be almost impossible.

Any good lawyer who had received even a smattering of scientific education could defeat any attempt to prove the legal or mathematical accuracy of this line.

"The principal reason why there are so many uncertain County lines in this part of the State is that the Commissioners' Courts have had a habit of employing surveyors of only moderate skill who possessed instruments of only ordinary grade and who were forced for reasons of economy to employ inexperienced men from

other walks of life as assistants."

Proctor K. Clarke,
Licensed State Land Surveyor of Texas,
Albany, Texas, Nov. 8, 1948."

Prior to 1923 the South 213 acres out of each of said Surveys 223, 225, 227, 228 and 229, embracing 1,065 acres, were assessed for taxes by the Tax Assessor of Shackelford County, and were rendered and paid for in Shackelford County, and likewise during part of the time preceding 1923 parts of Survey 226 were assessed by Shackelford County, and were rendered in and paid for to Shackelford County, and only the remaining fractional parts of said surveys were assessed by and paid for to Throckmorton County, causing confusion, expense, annoyance and extra abstracting.

At the instance of Judge J. A. Matthews, in the early part of 1923, a verbal agreement was had between the County Commissioners of Shackelford County and the County Commissioners of Throckmorton County establishing the North Survey lines of E. T. R. R. Co. Surveys Nos. 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 as the North boundary line of Shackelford County, Texas, and establishing the South Survey Lines of E. T. R. R. Co. Surveys Nos. 223, 224, 225, 226, 227, 228 and 229 as the South boundary line of Throckmorton County, Texas, and beginning with the tax year of 1923, and for every year since, the taxes upon all of said E. T. R. R. Co. Surveys Nos. 223, 224, 225, 226, 227, 228 and 229 have been rendered in, assessed by, and paid to Throckmorton County, Texas, and beginning with the tax year of 1923, and for all years since the taxes upon all of said E. T. R. R. Co. Surveys Nos. 10, 17, 44, 45, 72, 73 and 100 have been rendered in, assessed by, and paid to Shackelford County, Texas, and said North Survey lines of said E. T. R. R. Co. Surveys Nos. 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 continuously since 1923 have been generally accepted and recognized as the established North boundary line of said Shackelford County, Texas, and since 1923 the South Survey Lines of said E. T. R. R. Co. Surveys Nos. 223, 224, 225, 226, 227, 228 and 229 have been generally accepted and recognized as the established South boundary line of Throckmorton County, Texas.

After the Legislature passed what is known as the curative boundary line Act in 1925, which is Article 1606 Revised Statutes of Texas, it has been generally recognized, acquiesced in, and accepted by Throckmorton County and Shackelford County, and by everyone concerned, that the said line verbally agreed upon in the early part of 1923 was the established boundary between the two Counties, was by said 1925 Act fixed as the permanent established boundary between Throckmorton County and Shackelford County, until last year (20 years after said curative Act of 1925 was passed) the Honorable County Judge of Throckmorton County on his own responsibility in an effort to obtain more taxable property for his County directed the Tax Assessor of Throckmorton County to slice off and assess 223 acres off of the Northern part of said Surveys 10, 17, 44, 45, 72, 73, 100 and 101 in Shackelford County and place same on his Rolls in Throckmorton County, but the County Commissioners of Throckmorton County at a meeting of their Commissioners' Court on June 7, 1949, refused to sustain his action, and then passed an order directing the Tax Assessor to void such assessments on his Rolls, and approved the said Boundary Line between the two Counties which has existed for the past 25 years since 1923.

If the Eaheart 1889 line were correct, and if it were now legal for Judge Condron to get it adopted, Throckmorton County would lose

nearly one thousand acres and some valuable oil property to Shackelford County. The County Commissioners of Throckmorton County have been very wise in not trying to disturb the boundary that was agreed upon in the early part of 1923, and which has become permanently fixed and established by the curative Act of 1925, Article 1606, Revised Statutes of Texas.

During the summer of 1899, I was employed as attorney to recover certain surveys of land along the Clear Fork River in Jones County, lying just West of the Western boundary line of Shackelford County, and it was necessary for me to definitely establish their lines and corners in preparation for pending litigation. I then learned that the survey work of W. A. Eaheart was inaccurate and unreliable, and that as a witness on the stand he could not convince jurors and courts that lines surveyed by him were correct, so I employed Mr. Ben F. Reynolds of Throckmorton, one of the best and most reliable surveyors I have ever known, and two ax-men, and two chain-carriers, and a cook, and with a chuck wagon, I spent three weeks in the field with my surveying party.

We began at a well known corner of Blind Asylum, Survey No. 1, adjacent to Albany, and we ran and identified on the ground the South Base Line of the Block of the East Texas Railroad Co. Surveys, along the South lines of Surveys 30, 31, 58, 59, 86, 87, 114, 115, 142, 143, 168, 169, 189, 190, 202, 203, 209, 210, 214, 215, 216, 217, 218, 219, 220, 221 and 222, said line being 27 miles long East and West, and Mr. Reynolds tied up his work with established corners with the Texas & Pacific Railroad Co. Block of land, and the G. H. & H. Ry. Co. Surveys and the T. & N. O. Ry. Co. Surveys that were embraced within the small triangle between the two big blocks of land. The above work showed convincingly that the boundary lines W. A. Eaheart attempted to establish in 1889 (ten years before) was inaccurate and incorrect. In the litigation that later followed the lines established by Mr. Reynolds stood up in Court, and based on same the J. S. Underwood Survey No. 1 was recovered by verdict of the jury and judgment of the Court, affirmed on appeal, and was patented by the Land Office.

Later in 1907 I spent several weeks surveying in the field with Mr. B. F. Reynolds as Surveyor, and two ax-men, and two chain-men, and a cook with chuckwagon, and surveyed for Mr. J. M. Proctor and Dr. J. S. Scott of Monroe City, Missouri, their block of surveys in the Northwestern portion of Shackelford County (now known as the Dawson & Conway lands), and we ran many tie lines North and South while running West from the N. E. Corner of E. T. R. R. Co. Survey 161, and we again had occasion to check the work W. A. Eaheart surveyed in 1889, and we then again definitely ascertained that the Eaheart 1889 lines were inaccurate and incorrect, and that no reliance could be placed upon same.

I attach the list of lands and form of rendition used by J. A. Matthews Ranch Co. in rendering same for taxes to Throckmorton County continuously since 1923.

Thomas L. Blanton.

Sworn to and subscribed by the said Thomas L. Blanton before me, the undersigned authority, on this the 20 day of August, A. D. 1949. Given under my hand and seal of office at Albany, Texas.

Ann Coker. 1848

(SEAL)

Notary Public, Shackelford County, Texas.

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nearly one thousand acres and some valuable oil property to Shackelford County. The County Commissioners of Throckmorton County have been very wise in not trying to disturb the boundary that was agreed upon in the early part of 1888, and which has become permanently fixed and established by the curative Act of 1928, Article 1606, Revised Statutes of Texas.

During the summer of 1893, I was employed as attorney to recover certain surveys of land along the Clear Fork River in Jones County, lying just West of the Western boundary line of Shackelford County, and it was necessary for me to definitely establish their lines and corners in preparation for pending litigation. I then learned that the survey work of W. A. Eshart was inaccurate and unreliable, and that as a witness on the stand he could not convince jurors and courts that lines surveyed by him were correct, so I employed Mr. Ben F. Reynolds of Throckmorton, one of the best and most reliable surveyors I have ever known, and two ax-men, and two chain-carriers, and a cook, and with a chuck wagon, I spent three weeks in the field with my surveying party.

We began at a well known corner of Blind Asylum Survey No. 1, adjacent to Albany, and we ran and identified on the ground the South Base line of the Block of the East Texas Railroad Co. Surveys, along the South lines of Surveys 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, said line being 27 miles long East and West, and Mr. Reynolds tied up his work with established corners with the Texas & Pacific Railroad Co. Block of land, and the G. H. & H. Ry. Co. Surveys and the T. & N. O. Ry. Co. Surveys that were embraced within the small triangle between the two big blocks of land. The above work showed convincingly that the boundary lines W. A. Eshart attempted to establish in 1889 (ten years before) was inaccurate and incorrect. In the litigation that later followed the lines established by Mr. Reynolds stood up in Court, and passed on same the J. S. Underwood Survey No. 1 was recovered by verdict of the jury and judgment of the Court, affirmed on appeal, and was patented by the Land Office.

Later in 1907 I spent several weeks surveying in the field with Mr. B. F. Reynolds as Surveyor, and two ax-men, and two chain-men, and a cook with chuckwagon, and surveyed for Mr. J. M. Proctor and Dr. J. S. Scott of Monroe City, Missouri, their block of surveys in the Northwestern portion of Shackelford County (now known as the Dawson & Conway lands), and we ran many lines North and South while running West from the N. E. Corner of E. T. H. R. Co. Survey 161, and we again had occasion to check the work W. A. Eshart surveyed in 1889, and we then again definitely ascertained that the best 1889 lines were inaccurate and incorrect, and that no reliance could be placed upon same.

I attach the list of lands and form of rendition used by J. A. Matthews Ranch Co. in rendering same for taxes to Throckmorton County continuously since 1928.

Thomas I. Blanton

Sworn to and subscribed by the said Thomas I. Blanton before me, the undersigned authority, on this 31st day of August, 1949. Given under my hand and seal of office at Albany, Texas.

AUG 31 1949

Notary Public, Shackelford County, Texas

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CERTIFIED COPY OF DOCUMENT IN VOLUME 3 ON PAGES 88
TO 95 INCLUSIVE OF THE MINUTES OF THE COMMISSIONERS' COURT OF SHACKELFORD COUNTY, TEXAS,
FOR SATURDAY, NOVEMBER 16, 1889:

"Whereas it appearing to the Court that W. A. Eaheart a practical and competent Surveyor was heretofore appointed by the Court to assist in surveying, marking and establishing the boundary lines boundary line (marked through with pen and ink) between Throckmorton, Haskell and Shackelford Counties and also the boundary line between Jones and Shackelford Counties and whereas it appearing to the Court that the said W. A. Eaheart after giving the Bond and taking the oath of office prescribed by law has in company with the Surveyors of Throckmorton, Haskell and Jones Counties (marked through with pen and ink) has surveyed marked and established said lines in the manner prescribed by law and has submitted to this Court the field notes and Map of said line so established. It is therefore ordered by the Court that the map and field notes be and the same are hereby in all things approved, and the Clerk is hereby instructed to record the same and transmit a certified copy of the same together with a certified copy of the order of Court approving same to the Commissioner of the General Land office as required by law.

"Plat and field notes of a Survey of the N & West lines of Shackelford County surveyed in accordance with an order issued out of the Commissioners Court of said County May 15th 1889. Beginning at the N. W. Corner of Stephens County on the Nancy Williams Survey one mile 585.6 vrs North and 4387.7 East from the S. W. Corner of said Survey a stone set in ground Mkd on the S. side N. E. Cor. Sd. C. O. and N W Cor. S Co from which a double prong Mes. 12 bears S 82° 45' W 46.3 vrs an Elm 14 brs N 22° 15' E 29 vrs. a Mes 8 brs S 72° 30' E 25.7 Thence West at 148.5 vrs creek 1243 vrs. set Stone mkd S. L. T. C. IXM 1900.8 vrs set 1st Mile Stone mkd N L S C I M Thence West at 1243 vrs Set Stone mkd SLTCXM at 1565 vrs cross E line of Wm. Bramlett Survey No. 3,971.6 vrs South from N. E. Corner 1900.8 varas Set 2nd Mile Stone mkd NLSCIIM from which a Mes bears S 23° 1' E. 11.5 vrs Thence West at 1243 vrs set Stone Mkd S L T C X I M 1900.8 vrs Set 3d Mile Stone mkd N L S C I I I M from which a Mes brs 12 S 7° 46' W. 28.6 vrs. Thence West at 389.4 vrs the East line of Wm Bramlett Survey No. 4, 971.6 vrs S of its N E Corner 580 vrs branch 796.8 Shirley at 1200 vrs branch at 1243 set Stone Mkd. S L T C X X I I M from which a Mes. 6' bears 56° 30' E 9 vrs. Do 4' bears S 15° 26' W 7.4 vrs at 1565 vrs a branch 1875 vrs branch 1900.8 vrs set 4th Mile Stone Mkd. N L S C I V M. Thence West at 826.4 vrs the West line of said Survey No. 4. 976.2 vrs South of its N. W. Corner at 1243 vrs. set Stone mkd S L T C X I I I M from which a Mes 12' brs S 75° E 19.2 vrs at 1664.2 cross the E line of the W. S. Riddle Survey 415 vrs S of its N E Corner located from the N W Corner of the said Riddle Survey 1900.8 vrs set 5th Mile Stone Mkd N L S C V M from which a P. O. 18' brs S 27° 30' E 38 vrs Thence West at 1243 vrs set Stone Mkd S L T C X I V M from which a Mes 10' bears N 31° 41' W 5.3 vrs 1900.8 vrs Set 6th Mile Stone Mkd. N.L.S. C. V. I. M. Thence West at 1093 vrs cross the N W line of T. E. & L. Co. Survey No. 656 55.8 vrs N 45° W from its most Eastern corner 1243 vrs set Stone Mkd S.L.T.C.XV.M. 1900.8 vrs Set Seventh Mile Stone Mkd N L S C V I I M Thence West at 637.5 vrs set Stone on Albany and Throckmorton Co. road Mkd. Co. LINE at 1243 vrs set stone Mkd S L T C X V I M from which a Mes brs 4' S 28° 44' W 5 vrs at 1360 vrs branch 1380 vrs Knox branch 1420 vrs same branch 1460 vrs Same branch 1490 vrs. Same branch 1560 vrs Cattle trail Ry Survey 1597 vrs Irvin Branch 1900.8 vrs. set 8th

Mile Stone Mkd. N L S C V I I I M Thence West at 92.9 vrs. top bank of Clear fork of Brazos River point from which the lower River Corner of T.E. & L. Co Survey No. 653 brs N 24³/₄ W 133.8 vrs and S 45 W 18.4 vrs at 1243 vras set stone Mkd. S. L. T. C. X V I I M at 1313 varas set Stone of Ft. Griffin and Camp Cooper Road Mkd C. O. LINE 1900.8 varas set 9th Mile Stone Mkd N. L. S. C. I X M from which a Mes 5' bears S 49° 38' E 19.6 varas Thence West at 1238 varas cross S. W. line of T. E. & L. Co Survey No 484 188 varas S 45° E. of its most western corner 1243 varas set stone Mkd S. L. T. C. X V III. M 1263 varas branch 1900.8 varas Set 10th Mile Stone Mkd N. L. S. C. X. M. Thence West at 325 varas cross west line of the Robertson Survey 682 varas S from its N. W. Corner 1243 varas Set Stone Mkd. S. L. T. C. XIX. M. variation 10° 2' 1263 varas branch 1900.8 varas set 11th Mile Stone Mkd. N. L. S. C. XI. M Thence West at 1243 set Stone Mkd. S. L. T. C. XX. M. variation 10° 13' 1900.8 varas Set 12th Mile Stone Mkd. N. L. S. C. X II. M. Thence West at 1243 varas set stone Mkd. S L T C X X I. M. 1900.8 varas Set 13th Mile Stone on top of a Hill Mkd. N. L. S. C. X I I I. M. from which a Mes 6' bears N 39° 25' W 79 varas—Thence West at 906 varas Branch 1243 varas Set Stone Mkd. S. L. T. C. X X I I. M 1543 varas Branch 1900.8 varas Set 14th Mile Stone Mkd. N. L. S. C. XIV. M. Thence West at 1243 varas set Stone Mkd. S. L. T. C. X X I I I. M 1432 varas Branch 1900.8 varas Set 15th Mile Stone Mkd. N. L. S. C. X V. M. from which a Mes 5' bears N 35¹/₂ W 9.3 vrs Do 5' bears 66 W 57 varas Thence West at 1243 varas Set Stone Mkd. S. L. T. CXXIV. M. in head of a drain 1900.8 varas Set 16th Mile Stone Mkd N. L. S. C. X V I. M. from which a Mes bears S 19° 47' E 55.6 varas Do Bears N 43° 27' E 48.2 varas Thence West 1243 varas set Stone Mkd S. L. T. C. X X V. M. from which a Mes 4' bears S 23° 45' W 14.8 varas Mes 5' bears N 54° 3 9' E 87 varas 1900.8 varas Set 17th Mile Stone Mkd N. L. S. C. X V I I M from which a Mes 5' bears S 38° 2' E 13.5 varas Thence West at 699 varas Creek 876.7 varas cross West line of E. T. R. R. Co. Survey No. 100 and West line of No 101 88.4 varas S of their common North Corner not found but located by running 2 miles or 3800 varas North from the S W Corner of Survey No 99 found on the ground 1243 varas set Stone Mkd S. L. C. XXVI M 1900.8 vrs. Set 18th Mile Stone Mkd. N.L.S.C. XVIII M from which a Double Elm 8' bears S 26° 50' W 63 vrs Do S. 27° 23' W 63 Thence West 28.8 varas branch 1020 varas branch. 1243 vrs. set Stone Mkd. S. L. T. C. XXVII. M. variation 10° 3' A Mes 4' bears N 66 E 2 vrs A Mes 3' S 7° 30' W. 7.1 vrs at 1760 varas branch 1900.8 varas Set 19th Mile Stone Mkd. N.L.S.C.XIX. M Thence West variation 9° 55' at 610 cross deep ravine 1058 dry branch 1243 varas set Stone Mkd S.L.T.C. XXV. II.M. from which a Mes bears S 51° 8' W. 11.5 varas Do 5' S 70° 50' E 23.8 varas 1900.8 varas Set 20th Mile Stone Mkd N.L.S.C.XX.M Thence West at 1243 varas set stone Mkd S.L.T.C. XXIX. M. from which a Mes 6' bears S 25° 50' W. 12.2 varas 1900.8 varas Set 21st Mile Stone Mkd N. L. S. C. XXI. M from which a Mes 12' bears S 15° W 30 vrs Thence West at 154 vrs Clear Fork of Brazos River at water edge 31.5 varas wide course N. W. at 1243 vrs set Stone Mkd S. W. T. Co. Sept 4th 1889 from which a Mes 4' bears N 37° 15' E 26.7 varas Do 3' N 8° 58' W 10.8 vrs Do 3' S 67° 28' W 23 varas—15 varas North of the McKenzie Trail. Bearings to this stone Marked X at 1720 varas pass 777.4 varas North of N. E. Corner of the Sarah Blythe Survey 1900.8 varas Set 22nd Mile Stone Mkd. N.L.S.C. X X I I. M. from which a Mes. 4' bears N 42° 5' E 14 vrs Thence West at 75 varas drain, 553 varas drain, 898 vrs branch, at 1729 varas pass 73 varas South of the S. E. Corner of the Antonio Rodriguez Survey 1900.8 varas Set 23rd Mile Stone at crossing of the McKinzie trail from which a Mes 4' bears S 65° 23' E 7.3 varas Thence West at 188 varas branch 348 same branch,

1900.8 vrs Set 24th Mile Stone Mkd N L S C X X I V. M. from which a Mes 4' bears S 9° 43' W 52 vrs Thence West 1900.8 varas Set 25th Mile Stone Mkd N. L. S. C. X X V. M. from which a Mes. 5' bears S 1° 30' W 5.8 vrs Thence W at 164.6 vrs pass 95.3 varas South of the S. W. Corner of Antonio Rodriguez Survey at 1522.6 varas pass 791.3 varas South of N. W. corner of A/ B. & M. Survey No. 1. 1900.8 varas Set 26th Mile Stone Mkd N. L. S. C. X X V I. M. from which a Mes 5' bears S 8° 51' W 28.1 varas A Mes 5' bears N 75° 56' W 26.8 varas Thence West at 1384.3 varas pass 791 varas south of N. W. corner of H. & T. C. R. R. Co. Survey No. 12 1900.8 varas Set 27th Mile Stone Mkd N.L.S.C. X X V I I. M. Thence West Variation 9° 48' at 648 varas Road Stone on Haskell Road Mkd. C O. LINE 1246 varas cross West line of No 11 and E line No 10 H & T.C.R.R. Co Surveys 791.3 varas S of their common N corner (not found) 1900.8 varas Set 28th Mile Stone Mkd N. L. S. C. X X V I I I M. from which a Mes bears N. 47° 13' E 22.2 varas Mes 6' bears N 70° 15' W 26.8 varas Thence West at 1107.7 varas the West No. 10 & E line No 9 H. & T. C. R. R. Co Survey 791.3 varas South of their common N. Corner 974 branch 1900.8 vrs Set 29th Mile Stone Mkd N. L.S.C. X X I X M. Thence West at 969.4 varas the West line of Sect. No. 9 & The East line of Sect. No. 8 H & T C. R. R. Co Survey 791.3 varas South of their common N. Corner (not found) at 1795 varas branch 1900.8 varas set Stone for the N. W. Corner of Shackelford County Mkd N W. CO. R. S. CO. Sept 20 1889 from which a Mes 12' bears S 11° 40' E 12.2 varas A Mes 8' bears S 23° 18' W. 26.8 varas. A Mes 10' bears N. 60° 10' W. 36 varas A Branch bears West 24 varas Thence South variation 9° 45' at 1258 varas cross S line of H & T. C. R. R. Co Survey No 8 and N. line of 16 969.4 varas West of their common E Corner (not found) 1900.8 varas Set 1st Mile Stone Mkd W. L. S. C. I. M. A Mes bears N 35° 32' W 27.7 varas Do bears N 20° 46' E 30.8 varas Thence South at 1406 varas cross S line of H. & T. C. R.R. Co Survey No 16 793 varas West of its S. E. Corner, not found but located by running due east from the S.W. corner of H. & T. C. R. R. Co Survey No. 17 at 1515 pass 62.6 varas west from the N. W. Corner of Sur. No. 157 1900.8 varas Set 2d Mile Stone Mkd. W. L. S. C. II M. Thence South 1692 varas pass 60.9 varas W of the S. E. Corner of said No. 157 (found) 1900.8 varas 3d Mile Stone Mkd. W. L.S. C. III. M. Thence S at 1841.2 varas the S line of 164 62.6 varas W of its S. E. Corner (not found) 1900.8 varas Set 4th Mile Stone Mkd W.L.S.C. IV. M. Thence South 1841.2 varas S line of 167 and N. line of 170-543 varas E of their common W. Corner 1900.8 varas Set 5th Mile Stone Mkd W.L.S.C.V.M. Thence South at 1841.2 varas S line of 170 & N line of 175 B.B.B.& C. R. R. Co. Surveys 543 vrs E from their Common W corner (not found) 1900.8 varas Set 6th Mile Stone Mkd. W.L.S.C.VI.M. Thence S at 1841.2 varas S line of said No. 175 & N line of 177, B. B. B. & C. R. R. Co. Surveys 543 varas E from their common West corner (not found) 1900.8 varas Set 7th mile Stone Mkd W.L.S.C. V II. M. Thence South at 1841.2 varas cross S line of said Survey No. 177 & N line of No 28 H. T. & B. R. R. Co. Survey 543 varas E from their common West corner (not found) 1900.8 varas Set 8th Mile Stone Mkd. W. L. S. C. V. III. M. Thence S at 1868 varas pass 47.7 varas West of the N. E. Corner of H. T. & B. R. R. Co. Survey No. 26 (found) 1900.8 varas Set 9th Mile Stone in a drain Mkd. W.L.S.C. IX. M. Thence South at 1568.7 varas cross South line of said No. 16 29½ varas West of its S. E. corner (found) at 1865.7 varas The South line of the M G Norcop 160 acre Survey 541.2 vrs West of its S. E. Corner 1900.8 varas Set 10th Mile Stone Mkd. W.L. S. C. X. M. Thence South at 100 varas cross N line of F Luders Survey 1446 varas West of its N. W. Corner 1900.8 varas Set 11th Mile Stone Mkd. W.L.S.C. XI. M. Thence South 771 the S' line of the said

Luders Survey 1446 varas East of its S. W. Corner at 1801 varas South line of the Doc Sims Survey 494 varas East of its S.W. Corner 1900.8 varas Set 12th Mile Stone Mkd. W.L.S.C. XII.M. variation 9° 55' Thence S at 1811 varas the S line of E. T. R. R. Co. Survey 1004.1 varas West of its S. E. Corner (not found but located from the S. W. Corner of E. T. R. R. Co. Survey No. 99 found as shown on sketch of North line) 1900.8 varas 13th Mile Stone Mkd W.L.S.C. XIII. M. Thence S at 1688 varas Chimney Creek 1811 varas South line of E T R R Co Survey No 214—1004.1 varas West of its S. E. Corner (not found) 1900.8 varas Set 14th Mile Stone Mkd W.L.S.C. XIV. M. Thence S at 1811. South line of Survey No. 215 1004.1 varas West of its S. E. Corner 1900.8 varas Set 15th Mile Stone Mkd W.L.S.C. XV.M. Thence S at 242 varas Road Stone on Albany & Jones Co Road Mkd CO. LINE, 265 vrs N line of the W H Watson Survey 59 vrs. East of its N. W. Corner 1900.8 varas Set 16th Mile Stone Mkd. W.L.S.C. XVI. M. Thence S. at 257.6 varas cross S line of said Watson Survey 59.7 vrs N 84 E. from its S. W. Corner at 1207 varas 1900.8 varas Set 17th Mile Stone Mkd. W. L. S. C. XVII.M. Thence South at 242 vrs cross S line of T & P R. R. Co. Survey No. 2 and N line of No 5 Blk.No.14-510 N 84 E. from their common West Corner 1900.8 varas Set 18th Mile Stone Mkd W.L.S.C. XVIII. M. Thence S. at 44 varas right bank of Dead Man Creek, 84 varas left bank at 1555 vrs Left bank same creek 1596.5 varas right bank 1900.8 vrs set 19th Mile Stone Mkd W.L.S.C. XIX. M. Thence South at 212 vrs Road Stone on Rising Sun road Mkd Co LINE 222.8 vrs the S line sect. 8. & N line of Sect 15 113 varas N 84. E. from their common West Corner at 648 varas long Creek 1900.8 varas 20th Mile Stone Mkd W.L.S.C. XX. M. Thence S at 227 vrs cross S line of No 14 & N line of No 19, 16 vrs S 84 W from their common E Corner 1900.8 vrs Set 21st Mile Stone Mkd W.L.S.C. XXI. M. Thence South at 209.5 varas South line of Sect 19 & N. Line of 24 198.6 vrs from their common E Corner at 1895 varas Spring Creek 1900.8 vrs Set 22d Mile Stone Thence South at 202 vrs the S line of No 24 & N line of No 29 377.3 vrs from their common E corner 1900.8 vrs Set 23d Mile Stone Mkd. W.L.S.C. XXIII. M. Thence South at 197.2 vrs S line of No 29 & N line of No 36 560 vrs from their common East corner 1900.8 varas Set 24th Mile Stone Mkd. W.L.S.C. XXIV. M. Thence S at 199 vrs cross S line of No 36 & N line of No 41 208 varas N 84 E from their Common Middle of 1-2 mile corner variation 10°—1900.8 varas Set 25th Mile Stone Mkd W.L.S.C. XXV.M. Thence S at 182 varas cross S line of No 41 and N line of No.46 33.7 varas N. 84 E. from their common middle or 1/2 mile corner variation 9° 50' 1900.8 varas Set 26th Mile Stone Mkd W L S C. XXVI.M. Thence S at 171.9 varas the S line of No 46 and N line of No 51 167.7 varas S 84 W. from their Middle or 1/2 Mile corner 1900.8 varas Set 27th Mile Stone Thence S variation 9° 35' 189.5 varas cross S line of No 51 and N line of No. 54, 607.7 varas from their common West corner 1900.8 varas Set 28th Mile Stone Mkd W L S C X X V III. M. Thence South at 201.6 varas cross S line of Sect No. 54 and N line of 59. 406.8 vrs from their common West corner 529 varas Road Stone on Abilene Road 1900.8 varas 29th Mile Stone Mkd W.L.S.C.XXIX.M. A Mes 6' bears S 62° 36' E. 11.8 vrs Do 7' bears N 22° 16' W 20.7 vrs Thence S at 437 varas branch 1797 vrs cross N line of B. A. Survey No. 17, 769.7 vrs West of its N E Corner at 2282 varas Set Stone for the S.W. Corner of Shackelford County due West from the S. W. Corner of Stephens County as established July 31st 1889 A Mes 7' bears N 68° 31' E 40.9 vrs A Mes 7' bears S 11° E. 36.6 vrs Bearings Mkd X

I, W. A. Eaheart Special Surveyor appointed by the Hon Commissioners Court of Shackelford County Texas at their May term 1889 to survey the N.-W&S lines of Shackelford County do hereby certify that

the foregoing Field notes and plats thereto attached show correctly the N & W lines of said County as run by me on the ground assisted by the duly appointed Surveyor from Throckmorton County as far as the S. W. Corner of Throckmorton County.
Survey completed Oct 19th 1889

W A Williams	{	Chain Carriers on N line
Wm Posey		
W A Williams	{	Chain Carriers on S W Lines
Wm Posey		
P. G. Holcombe		

W. A. Eaheart Surveyor.

THE STATE OF TEXAS,
County of Shackelford.

I, W. D. (Dub) Macon, Clerk of the County Court of Shackelford County, Texas, do hereby certify that the above and foregoing is a true and correct copy of the document recorded in Volume 3, on pages 88 to 95 inclusive, of the Minutes of the Commissioners Court of Shackelford County, Texas, for Saturday, November 16, 1889, as same appears upon said Minutes.

Witness my hand and seal of office at Albany, Texas, on this the 19th day of August, A. D. 1949.

(SEAL)

W. D. (Dub) Macon,
County Clerk, Shackelford County, Texas.

RECEIVED TO WAB

AUG 31 1949

RECEIVED

Survey completed Oct 19th 1889
 S. W. Corner of Throckmorton County.
 the duly appointed Surveyor from Throckmorton County as far as the
 N & W lines of said County as run by me on the ground assisted by
 the foregoing field notes and plats thereto attached show correctly the

Chain Carriers on N line		W A Williams
		Wm Posey
Chain Carriers on S W Lines		W A Williams
		Wm Posey
		F. G. Holcombe

W. A. Eshart Surveyor.

THE STATE OF TEXAS,
 County of Shackelford.

I, W. D. (Dub) Macon, Clerk of the County Court of Shackelford
 County, Texas, do hereby certify that the above and foregoing is a true
 and correct copy of the document recorded in Volume 3, on pages 88 to
 95 inclusive, of the Minutes of the Commissioners Court of Shackel-
 ford County, Texas; for Saturday, November 16, 1889, as same ap-
 pears upon said Minutes.

Witness my hand and seal of office at Albany, Texas, on this the
 19th day of August, A. D. 1949.

(SEAL)
 W. D. (Dub) Macon,
 County Clerk, Shackelford County, Texas.

REFERRED TO MAP

AUG 31 1949

RECEIVED

Shackelford Co. - Bday Line #76
 58716

B-4

Inventory of Property

Owned by J. A. Matthews Ranch Co., Albany, Texas, and rendered for Assessment of _____
(List of property and form of inventory used continuously since 1923)

Taxes for the year 19²³, by Watt R. Matthews (Manager of Ranch)
to Tax Assessor for THROCKMORTON COUNTY, TEXAS

Real Estate

ABSTRACT NO.	CERT. OR SCRIPT NO.	SURVEY NO.	ORIGINAL GRANTEE	ACRES RENDERED	VALUE
217		97	C.I.R. M. V. Hoover	70	
844		98	C.I.R. M. V. Hoover	54.5	
1384		64	C.I.R.	160	
1404		63	C.I.R.	141.65	
1385		130	C.I.R.	75	
1207		40	C.I.R.	52	
1403		41	C.I.R.	173.25	
1095		38	C.I.R.	173.2	
1199		39	C.I.R.	53	
1386		18	C.I.R.	54	
1094		19	C.I.R.	173.25	
1387		17	C.I.R.	54	
1093		16	C.I.R.	164.50	
237		20	C.I.R.	100	
1145		15	C.I.R.	153	
938		21	C.I.R.	85	
979		14	C.I.R.	153.75	
978		13	C.I.R.	154.5	
1415		22	C.I.R.	145	
911		35	C.I.R.	70	
904		37	C.I.R.	60	
880		129	C.I.R.	52	
835		42	C.I.R.	2.16	
186	439		Jno. Carr	640	
229	494		Thos. Mounts	320	
228	494		Thos. Mounts	320	
189	19		Joseph Dalton	320	
190	19		Joseph Dalton	320	
259	480	480	T. E. & L. Co.	320	
260		481	T. E. & L. Co.	320	
261		482	T. E. & L. Co.	320	
262		484	T. E. & L. Co.	316.42	
1030	957		Mrs. Jane Tevis	640	
	29				
187	152		W. M. Cassell	379	
	14				
250	50		S. A. University	320	
999			J. B. Robertson	480	
1413		1	J. A. Matthews	437	
1408		2	J. A. Matthews	472.5	
1276		1	J. A. Matthews	391	
1432			J. A. Matthews	10.91	
1433			J. A. Matthews	12.14	
1434			J. A. Matthews	6.36	
987	294	6	A. B. & M.	480	
919		6	A. B. & M.	160	
18	294	5	A. B. & M.	640	
1097	413	4	A. B. & M.	640	
(Balance of property on next page)					

Total Value of Lands - - \$_____

Value of Personal Property - \$_____

Grand Total of All Property - \$_____

76

LIST OF PERSONAL PROPERTY

NUMBER

VALUE

Horses and Mules

Cattle

Bulls

Yearlings

Hogs

Carriages, buggies, wagons, automobiles, bicycles, motorcycles, or other vehicles or whatsoever kind

Manufacturers' tools, implements and machinery

ABSTRACT	CERT. OR	EXEMPT	ORIGINAL GRANTEE	ACRES	VALUE

STATE OF TEXAS,

County of _____

I, _____

do solemnly swear or affirm that the above inventory rendered by me contains a full, true and complete list of all taxable property owned or held by me in my name for _____ in this _____

_____, subject to taxation by the law, on the first day of January, A. D. 19_____, and that I have true answers made to all questions propounded to me touching the same, so help me God.

Subscribed and sworn to before me this _____ day of _____, 19____.

Tax Assessor

Deputy

RECEIVED

AUG 31 1949

REFILED TO MAP

Total Value of Lands \$ - - -

Value of Personal Property \$ - - -

Grand Total of All Property \$ - - -

cont. 58418
Shackelford Co. Bday. line #76

B-4

Inventory of Property

Owned by J A M Ranch Co., Albany, Texas, and rendered for Assessment of _____

(List of property and form of inventory used continuously since 1923)

Taxes for the year 19 23, by Watt R. Matthews (Manager of Ranch)

to Tax Assessor for THROCKMORTON COUNTY, TEXAS

Real Estate

ABSTRACT NO.	CERT. OR SCRIPT NO.	SURVEY NO.	ORIGINAL GRANTEE	ACRES RENDERED	VALUE
17	291	3	A. B. & M.	640	
1088	152	2	A. B. & M.	640	
16	152	1	A. B. & M.	640	
1099	198	20	P. W. Reynolds	477.5	
23		19	B. & B.	64.19	
1104	21-397	230	E. T. R. R.	640	
196	21-398	231	E. T. R. R.	640	
1105	21-398	232	E. T. R. R.	640	
197	21-399	233	E. T. R. R.	640	
986	21-399	234	E. T. R. R.	640	
	21				
198	400	235	E. T. R. R.	640	
1200	21-400	236	E. T. R. R.	640	
199	91-394	223	E. T. R. R.	640	
918		224	J. S. Curtis	160	
984	21-394	224	J. S. Curtis	480	
*193	21-395	225	E. T. R. R.	640	
985	21-395	226	E. T. R. R.	640	
194	21-396	227	E. T. R. R.	640	
1178		228	E. T. R. R.	640	
195	21-397	229	E. T. R. R.	640	
1401	87	4	B. & B. F. L. Gober	320	
1388	82	2	B. & B. F. L. Gober	261.5	
29	90	5	B. & B. F. L. Gober	320	
28	87	3	B. & B. F. L. Gober	320	
27	82	1	B. & B. F. L. Gober	147	
4	154	5	A. B. & M.	640	
1087	291	4	A. B. & M.	640	
1417	154	6	A. B. & M.	320	
13	163	3	A. B. & M.	268	
	4135				
255	4263		N. Thompson	4592	
	3245				
21	3346		Wm. Burkett	320	
185	664		C. Cooper	640	
	3002				
243	3103		W. M. Redfield	1476	
230	32		J. W. Morton	320	
998			W. D. Reynolds	444	
1049			M. V. Hoover	500.5	
	4				
1180	767	1	G. C. & S. F.	628.5	
1402	4-747	2	G. C. & S. F.	628.5	

Total Value of Lands - - \$ _____

Value of Personal Property - \$ _____

Grand Total of All Property - \$ _____

76

LIST OF PERSONAL PROPERTY	NUMBER	VALUE
Horses and Mules		
Cattle		
Bulls		
Yearlings		
Hogs		
Carriages, buggies, wagons, automobiles, bicycles, motorcycles, or other vehicles or whatsoever kind		
Manufacturers' tools, implements and machinery		

VALUE	ORIGINAL GRANTEE	SURVEY	CERT. NO.	ABSTRACT
610	A. B. & M.	3	281	17
610	A. B. & M.	1	152	16
1009	P. W. Reynolds	20	198	1009
28	B. & B.	19		28
1104	E. T. R. R.	230	21-297	1104
198	E. T. R. R.	281	21-298	198

STATE OF TEXAS,

County of _____

I, _____

do solemnly swear or affirm that the above inventory rendered by me contains a full, true and complete list of all taxable property owned or held by me in my name for _____ in this _____, subject to taxation by the law, on the first day of January, A. D. 19____, and that I have true answers made to all questions propounded to me touching the same, so help me God.

Subscribed and sworn to before me this _____ day of _____, 19____

Tax Assessor

Deputy

REFERRED TO MAP

AUG 31 1949

RECEIVED

B-4

RECEIVED

AUG 31 1949

REFERRED TO MAP

EXHIBIT B

THE STATE OF TEXAS,
County of Shackelford.

I, R. T. Rankin, being duly sworn, upon my oath, do depose and state:

That for the past three years I have been the duly elected and qualified Tax Assessor and Collector of Throckmorton County, Texas. That for eight years previous thereto, I was Deputy Tax Collector and Assessor for said County, under T. Keller Matthews who for four years was Tax Assessor and Collector, and under W. Roy Fant who for four years was Tax Assessor and Collector for Throckmorton County, and I am thoroughly familiar with the business of said office and the properties in Throckmorton County assessed for taxes.

That during said years E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228 and 229, of 640 acres each, owned by the J. A. Matthews Ranch Company, have formed and constituted the South tier of surveys on the agreed South boundary line of said Throckmorton County as it was agreed to and established 25 years ago, and has been generally recognized as the South boundary line of Throckmorton County ever since 1923.

That both Throckmorton County and Shackelford County for all purposes since 1923 have recognized and accepted the South line of the above 7 surveys as the Agreed South Boundary Line of Throckmorton County, and the above 7 surveys have been rendered in, assessed by, and all taxes thereon paid to, Throckmorton County, and the South tier of 7 surveys just below them, being Numbers 10, 17, 44, 45, 72, 73 and 100, have been rendered in, assessed by, and all taxes thereon paid to, Shackelford County continuously since and including 1923.

That prior to 1923 the South 213 acres out of each of said Surveys 223, 225, 227, 228 and 229, embracing 1065 acres, were assessed for taxes by the Tax Assessor of Shackelford County, and were rendered and paid for in Shackelford County, and likewise during part of the time preceding 1923 parts of Survey 226 were assessed by Shackelford County, and were rendered in and paid for to Shackelford County, and only the remaining fractional parts of said surveys were assessed by and paid for to Throckmorton County, causing confusion, expense, annoyance and extra abstracting.

The survey and field notes made by W. A. Eaheart for Shackelford County in 1889, were not followed either by Throckmorton County or by Shackelford County as fixing the boundary line between the two counties, as such survey and field notes were not made in accord with the provisions of law:

(1) Because said field notes made by said Eaheart in running 7 miles made no reference whatever to said upper tier of 7 surveys, Numbers 223, 224, 225, 226, 227, 228 and 229, and made only two references that could apply to any of said lower tier of 7 surveys, Numbers 10, 17, 44, 45, 72, 73 and 100, he being required by Article 1584 of the Revised Civil Statutes of Texas to "give accurate description of the corners and lines of surveys on or near said boundaries," his first reference being:

"Thence West 325 varas cross West line of the Robertson Survey" (which presumably was Survey No. 44) and his second and only other reference to any of said 14 surveys being:

"Cross West line of E. T. R. R. Co. Survey No. 100."

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(2) The Order of the Commissioners' Court of Throckmorton County appointing C. K. Stribling "to proceed at the time and place to assist in running and establishing said line and corners in the manner as provided by law" therein ordered that said C. K. Stribling "shall report his action together with the field notes and description of said lines and corners aforesaid to this Court," and said Stribling did not make any such report to said Court, and did not file with it, or with the County Clerk "the field notes and description of said lines and corners" and no order was ever passed by the Commissioners' Court of Throckmorton County approving said survey, and it did not ever adopt the boundary attempted to be fixed by W. A. Eaheart. Although in 1945, about 20 years after the Legislature of Texas had passed the curative law (Article 1606 Revised Statutes of Texas) adopting the South boundary line of Throckmorton County as agreed to by the two counties in 1923, some one procured a certified copy of the Minutes of the Commissioners' Court of Shackelford County embracing the field notes of said Eaheart Survey, and filed such Certified copy for record in Throckmorton County on November 20, 1945, which instrument was sent as *Exhibit B* by Mr. D. D. Williams to the Attorney General of Texas.

(3) Surveyor Eaheart was required by Article 1583 of the Revised Civil Statutes of Texas, to place at the initial corners of the surveys and at the end of each mile in said boundary a post of hewn cedar, cypress or Bois d' arc, at least 8 inches in diameter, 5 feet long, set in the ground not less than 3 feet, or a mound of earth or stone not less than 2 feet high, or a stone monument, which law he failed to comply with.

Under such situation it was not incumbent upon the Tax Collector and Assessor of Throckmorton County to recognize or follow the Eaheart Line which it was impossible to identify and locate on the ground, hence it was not followed, and confusion prevailed in both Shackelford and Throckmorton Counties until 1923, when early in that year said two counties reached an agreement upon their said boundary line, and beginning with the year of 1923 and ever since Throckmorton County has collected all taxes upon said North tier of surveys, Numbers 223, 224, 225, 226, 227, 228 and 229, and Shackelford County has collected all taxes upon said South tier of surveys Numbers 10, 17, 44, 45, 72, 73 and 100, and the line between said two tiers of surveys, which in 1923 Throckmorton County and Shackelford County agreed upon as their boundary, was recognized by everyone as the fixed and established boundary line between the two counties until last year, 1948, I was directed by the County Judge of Throckmorton County, Texas, acting on his own responsibility, to assess and collect taxes on 20 acres of said Survey No. 10, on 25 acres of said Survey No. 17, on 34 acres each of said Surveys 44, 45, 72 and 73, and on 42 acres of said Survey 100, aggregating 223 acres off of the Northern part of said Southern tier of 7 surveys, which I did as he directed, which taxes if same had been collected would not have brought to Throckmorton County as much as \$20.00. However, on June 11, 1949, an Order was passed unanimously by the Commissioners' Court of Throckmorton County, Texas, ordering me to void the said assessment upon said 223 acres, and reaffirming the established boundary line agreed upon in 1923 by Throckmor-

ton and Sheckalferd Counties, which Order is fully set forth in *Exhibit G* sent by Mr. D. D. Williams to the Attorney General.

R. T. Rankin,
Tax Assessor and Collector of Throckmorton County, Texas.

Sworn to and subscribed by the said R. T. Rankin, as Tax Assessor and Collector, before me, the undersigned authority, on this the 18 day of August, A. D. 1949. Given under my hand and seal of office at Throckmorton, Texas.

Bernard B. Gilmore,
County Clerk, Throckmorton County, Texas.
By Sallie Tom Thorp, Deputy.

(SEAL)

B-4
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EXHIBIT C

THE STATE OF TEXAS,
County of Shackelford.

Before me, the undersigned authority, on this day personally appeared Watt R. Matthews, known to me to be a credible citizen, who being by me first duly sworn, upon his oath deposes and states:

My name is Watt R. Matthews. I was born in Albany, Shackelford County, Texas, on February 1, 1899. For the past 50 years I have lived in Shackelford and Throckmorton Counties. For the past 35 years I have lived in Throckmorton County, and continuously since January 1, 1924, I have had charge of rendering and paying the taxes on the lands now owned by the J. A. Matthews Ranch Company, for which I am Manager, and have under my personal supervision its lands and business.

I am intimately familiar with the history of the boundary line between Throckmorton County and Shackelford County, as I am Manager of, and have under my control and supervision of the lands adjacent to both sides of said boundary line. The North line of the tier of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100 (which are under my personal supervision), continuously since 1923 has formed the established boundary line between Throckmorton County and Shackelford County, and such line has been generally accepted and recognized by both Counties and by everyone concerned, and since 1923 this established boundary line between said two Counties has been made irrevocably permanent by Article 1606 of the Revised Civil Statutes of Texas, passed by the Legislature of Texas in 1925 to stop boundary disputes on lines definitely established by agreement.

With great surprise I have just learned that dated June 18, 1949, Mr. D. D. Williams, as County Attorney for Throckmorton County, who is a new-comer and has been in Throckmorton County only about 5 years, and who is wholly unfamiliar with the subject, filed with the Attorney General of Texas, a request for a ruling and opinion by the Attorney General on the question of the proper location of the boundary line between Throckmorton County and Shackelford County, which request embraced a wholly incorrect and erroneous statement of facts, and with his brief urging the Attorney General to rule his way, covered 10 pages of typewritten matter on legal size paper, to which he attached 8 Exhibits aggregating many additional pages.

Although I was designated by Mr. Williams in his said request as a vitally interested party, Mr. Williams did not furnish me with a copy of his request and exhibits, and he gave me no notice whatever of it.

Although naturally Shackelford County whose boundary line was the subject, was a vitally interested party, affected and interested equally as much as Throckmorton County, Mr. Williams did not furnish a copy of his request to any official of Shackelford County, and did not permit any official of Shackelford County to have any knowledge of what he was doing.

And to my greater surprise, I have just learned that under date of July 15, 1949, without first having given either Shackelford County or myself any notice of what was going on, and without advising us of our being tried, condemned and executed in absentia, stating its subject Re: "Boundary Line between Throckmorton County and Shackelford County," the Attorney General of Texas, through his Assistants, H. D. Prewett, Jr., and W. V. Gappert, rendered a 10-page typewritten Opinion, attached to which is an additional 11 page typewritten explan-

atory Opinion, all sent to Mr. D. D. Williams at Throckmorton, Texas, on June 15, 1949, with no notice thereof given either to me or any official of Shackelford County, although I was mentioned in said Opinion as a vitally interested party, and both of which Opinions are based upon the untrue statement of facts sent by Mr. Williams. There is a terse old saying that "an opinion based upon a false premise can never be correct." I have had such a high regard for the Attorney General of Texas and his office, that I did not believe that anyone in it would thus attempt to deprive a citizen and a County out of their rights guaranteed by the Constitution of Texas, the Statutes of Texas, and the Constitution of the United States, which guarantee that no one shall be deprived of property except after notice and due process of law.

The entire Opinion of the Attorney General's Assistants dated July 15, 1949, is based upon a false premise. After quoting as facts the unverified statements made by Mr. D. D. Williams, they state:

"It appears from the above that the line between Shackelford and Throckmorton Counties was surveyed and located by W. A. Eaheart in 1889 by an actual survey made, reported and approved in accordance with the applicable statutes."

Such was not the case. That was a false premise. Such boundary line was not "surveyed and located by an actual survey made, reported and approved in accordance with the applicable statutes."

The said line between Shackelford and Throckmorton Counties was not surveyed and located by W. A. Eaheart in 1889 by an actual survey made, reported and approved in accordance with applicable statutes, because:

(1) Said W. A. Eaheart did not establish the lines and corners of said boundary in the manner prescribed by law, as required by Article 1582 of the Revised Statutes of Texas;

(2) The Commissioners' Court of Shackelford County when employing Eaheart by its order of May 15, 1889, did not direct him to ascertain and establish the N. E. Corner of Shackelford County which was an essential necessity in locating and establishing the North boundary line of Shackelford County, as required by said Article 1582, Revised Statutes; and Eaheart did not fix the Northeast corner of Shackelford County.

(3) Said Eaheart did not designate the initial corners of the surveys and the end of each mile in said boundary in the manner specifically required by Article 1583 of the Revised Statutes of Texas;

(4) Said Eaheart in his field notes did not give accurate description of the corners and lines of surveys on or near said boundaries, as specifically required by Article 1584 of the Revised Civil Statutes of Texas. In running 7 miles West said Eaheart did not describe any corners or lines of any of E. T. R. R. Co. Surveys 223, 224, 225, 226, 227, 228 and 229, which were on said boundary, and he in no way described the corners or lines of the lower tier of 7 surveys, but merely indefinitely referred to only two surveys in said lower tier of 7 sections of 640 each, Numbered 10, 17, 44, 45, 72, 73 and 100, E. T. R. R. Co., the first reference being:

"Thence West at 325 varas cross West line of the Robertson Survey 682 varas from its N. E. Corner"
and the second reference being:

"876.7 varas cross West line of E. T. R. R. Co. Survey No. 100 and West line of 101"
the West line of Survey 101 being in fact 1900 varas West of the West line of Survey 100.

(5) Said W. A. Eaheart did not "make due return of the field

notes and map to the County Court, and same were not recorded by the Clerk, as is specifically required by Article 1587, Revised Statutes of Texas, then in force and effect.

Mr. D. D. Williams' *EXHIBIT B* which he sent with his said Request to the Attorney General did not disclose that it was a purported copy of a document appearing in Volume 3 on pages 88 to 95 inclusive of the Minutes of the Commissioners' Court of Shackelford County, Texas, for November 16, 1889, or that it had been prepared by said W. A. Eaheart, and headed by an order purporting to approve it, and was certified to by him, and signed by him as Surveyor, and that it thus was recorded upon said Minutes without ever having been considered and passed upon by the Commissioners' Court, and no order has ever been passed by the Commissioners' Court of Shackelford County, Texas, approving the said Survey and field notes made by Eaheart in 1889.

(6) The 1889 Order of the Commissioners' Court of Throckmorton County appointing C. K. Stribling "to proceed at the time and place to assist in running and establishing said line and corners in the manner as provided by law" therein ordered that said C. K. Stribling "shall report his action together with the field notes and description of said lines and corners aforesaid to this court," and I understand said Stribling did not make any such report to said Court, and did not file with it, or with the County Clerk "the field notes and description of said lines and corners" and no order was ever passed by the Commissioners' Court of Throckmorton County approving said survey, and it did not ever adopt the boundary attempted to be fixed by W. A. Eaheart.

Under the above mentioned situation it was not incumbent upon the Tax Assessors of the two Counties to recognize or follow the Eaheart line, which was impossible to identify and locate on the ground as related to survey lines, hence it was not followed by said Tax Assessors, and confusion prevailed in both Shackelford County and Throckmorton County until the early part of 1923, when Shackelford County and Throckmorton County reached an agreement on their said boundary line, and following said agreement beginning with the tax year of 1923, and continuously ever since, Throckmorton County has collected all taxes upon the North tier of Surveys, being E. T. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228 and 229, of 640 acres each, and since 1923 beginning with that tax year and ever since Shackelford County has collected all taxes upon the South tier of Surveys, being E. T. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100, and the line between said two above mentioned tiers of surveys, which in 1923 Throckmorton County and Shackelford County agreed upon as their boundary, has been generally recognized and accepted by both of said Counties and everyone else concerned as the fixed and established boundary between Shackelford County and Throckmorton County.

Prior to 1923 the South 213 acres out of each of said E. T. R. Co. Surveys Numbers 223, 225, 227, 228 and 229, embracing 1065 acres, were assessed for taxes by the Tax Assessor of Shackelford County, and were rendered and paid for in Shackelford County, and for a while before 1923 parts of Survey 226 were assessed by both counties, which caused confusion, extra work and expense, and extra abstracting.

It was to end said confusion and extra expense that caused Shackelford County and Throckmorton County to agree upon and definitely fix their boundary line in 1923, and this agreed line became definitely and permanently fixed and established by the curative Act passed in

1925 by the Legislature of Texas, known as Article 1606 of the Revised Statutes of Texas.

Watt R. Matthews.

Sworn to and subscribed by the said Watt R. Matthews before me, the undersigned authority, on this the 19th day of August, A. D. 1949. Given under my hand and seal of office at Albany, Texas.

Ann Coker,

(SEAL)

Notary Public, Shackelford County, Texas.

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AUG 31 1949

REFERRED TO MAP

EXHIBIT D

THE STATE OF TEXAS,
County of Shackelford.

I, Charles H. Arendt, being duly sworn, upon my oath, do depose and state: I have been Sheriff and Tax Assessor and Collector for Shackelford County, Texas, continuously since the year 1941, and I am familiar with the records of my office, and with the taxable lands situated in Shackelford County.

Before being elected to office I resided for many years in the Northeastern part of Shackelford County. I was born in Shackelford County in 1890, and have lived in such County all of my life. Ever since I have been in office the North lines of E. T. R. R. Co. Surveys Nos. 223, 224, 225, 226, 227, 228 and 229 have formed and constituted the established North boundary line of Shackelford County, Texas, which line has been generally recognized as far back as I can remember, and ever since I have been Tax Assessor and Collector of Shackelford County, Texas, all of the above mentioned surveys have been rendered, assessed and paid for in Shackelford County, Texas.

Charles H. Arendt,

Sheriff, Tax Assessor and Collector of Shackelford County, Texas.

Sworn to and subscribed by the said Charles H. Arendt, before me, the undersigned authority, on this 18th day of August, A. D. 1949.

Given under my hand and seal of office at Albany, Texas.

Ann Coker,

(SEAL)

Notary Public in and for Shackelford
County, Texas.

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EXHIBIT E

THE STATE OF TEXAS,
County of Throckmorton.

I, T. Keller Matthews, being duly sworn, upon my oath do depose and state: that for four years, 1943 to 1946 inclusive, I was Tax Assessor and Collector for Throckmorton County, Texas, and was familiar with the business and records of said office, and with the taxable lands in said County.

Prior to 1923 a fractionable part of Surveys 223, 224, 225, 226, 227, 228 and 229, E. T. R. R. Co., was rendered and assessed for taxes in Throckmorton County, and the remaining fractional part of said surveys were rendered and assessed for taxes in Shackelford County.

That following an agreement between Throckmorton County and Shackelford County establishing their boundary line in 1923, the said tier of E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228, and 229, have formed the South boundary of Throckmorton County, and have been assessed for taxes by Throckmorton County ever since and including the year 1923, since which time both Throckmorton County and Shackelford County have recognized said tier of surveys as constituting the established boundary between said two counties.

E. Keller Matthews,

Sworn to and subscribed by the said T. Keller Matthews before me, the undersigned authority, on this the 18 day of August, A. D. 1949, at Throckmorton, Texas. Given under my hand and seal of office.

Bernard B. Gilmore,

(SEAL)

County Clerk, Throckmorton County, Texas.
By Sallie Tom Thorp, Deputy.

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REFERRED TO MAP

EXHIBIT F

THE STATE OF TEXAS,

County of Shackelford.

I, Richard Dyess, being duly sworn, upon my oath, do depose and state: From 1918 until 1929, I was County Judge of Shackelford County, Texas; before that time I had been for 4 years County Tax Assessor for said Shackelford County. Continuously since 1933 I have been Tax Assessor and Collector for the Albany Independent School District, which embraces E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100, the North line of which said surveys since 1923 have formed the North line of Shackelford County, and the boundary between Shackelford County and Throckmorton County. I am intimately familiar with the records of the Commissioners' Court, and the Tax Assessor's office of Shackelford County, and with the taxable lands in Shackelford County.

After it was ascertained that a survey and field notes made in 1889 by W. A. Eaheart, attempting to fix the boundary line between Shackelford County and Throckmorton County, was not made in accordance with law, and could not be identified on the ground with relation to lines and corners, such survey and field notes were not recognized or followed by either Shackelford County or Throckmorton, and confusion prevailed in both counties. The Eaheart survey and field notes in instances did not comply with Article 1583, Revised Statutes of Texas, requiring the initial corners of surveys and the end of each mile in the boundary to be designated in the way therein specified, and did not comply with Article 1584, Revised Statutes, which required the field notes to give an accurate description of the corners and lines of surveys on or near said boundaries. The Eaheart field notes made indefinite references to only two of the said tier of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73 and 100, and made no reference whatever to any lines or corners of any of said E. T. R. R. Co. Surveys 223, 224, 225, 226, 227, 228 and 229, in running West 7 miles not far from their lines and corners of said 14 surveys.

The South 213 acres out of each of said Surveys 223, 225, 227, 228 and 229, embracing 1,065 acres, and parts of said Surveys 224 and 226, prior to 1923, were assessed for taxes by Shackelford County, and were rendered in and paid for in Shackelford County, and the remaining fractional parts of said surveys prior to 1923 were assessed by and taxes on same were paid in Throckmorton County, which created confusion and caused extra trouble to the Tax Assessors and Collectors for both counties, and extra trouble, expense and abstracting to the owner of said property.

The W. A. Eaheart 1889 Survey and field notes were never filed in the County Court of either Shackelford County or Throckmorton County, and were never recorded by the Clerk of either County, as required by Article 1587 of the Revised Statutes of Texas, and after the hereinabove mentioned situation became known the said Eaheart Survey and field notes made in 1889 were repudiated by both Counties.

Early in 1923 by acquiescence and general understanding the North line of E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156 became the established North boundary line of Shackelford County, Texas, and has since been generally recognized as the boundary line between Shackelford County and Throckmorton County.

Since becoming its Tax Assessor and Collector in 1933, I have reg-

ularly each year assessed and collected taxes for the Albany Independent School District upon said above named tier of Surveys within said School District forming the Northern boundary line of Shackelford County.

I was still County Judge of Shackelford County, Texas, when in 1925 the Legislature of Texas passed the curative law known as Article 1606 Revised Statutes of Texas, which then permanently fixed the then established boundary line of Shackelford County and Throckmorton County along the North base line of said E. T. R. R. Co. Surveys Numbers 10, 17, 44, 45, 72, 73, 100, 101, 128, 129 and 156.

Richard Dyess,

Tax Assessor and Collector for the Albany Independent School District of Shackelford County, Texas.

Sworn to and subscribed by the said Richard Dyess, before me, the undersigned authority, on this the 19th day of August, A. D. 1949.

Given under my hand and seal of office at Albany, Texas.

Ann Coker,

(SEAL)

Notary Public in and for Shackelford County, Texas.

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REFERRED TO MAP

EXHIBIT G

THE STATE OF TEXAS,
County of Throckmorton.

I, W. Roy Fant, being duly sworn, upon my oath do depose and state: I was Tax Assessor and Collector for Throckmorton County, Texas, for the four years from 1939 to 1942 inclusive, and I was familiar with the business and records of said office, and with the taxable lands in said County.

Prior to the year 1923 the major portion of E. T. R. R. Co. Surveys Numbers 223, 224, 225, 226, 227, 228 and 229, was rendered and assessed for taxes in Throckmorton County, Texas, and the remaining fractional part of said Surveys were rendered and assessed for taxes in Shackelford County, Texas.

Following an agreement between Throckmorton County and Shackelford County establishing their boundary line in the early part of 1923, the confusion incident to rendering and assessing parts of the same surveys in two counties ended, and the South base lines of said E. T. R. R. Co. Surveys 223, 225, 227, 228 and 229 became established as the South boundary line of Throckmorton County, and since 1923 all of the above numbered surveys have been rendered and assessed for taxes in Throckmorton County, and since 1923 both Shackelford County and Throckmorton County have recognized the above agreed line as the established boundary between the two counties.

W. R. Fant,

Sworn to and subscribed by the said W. Roy Fant before me, the undersigned authority, on this the 18 day of August, A. D. 1949. Given under my hand and seal of office in Throckmorton, Texas.

Bernard B. Gilmore,

(SEAL)

County Clerk, Throckmorton County, Texas.
By Sallie Tom Thorp, Deputy.

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From Commissioners' Court of Throckmorton County, Texas

EXHIBIT H

REGULAR SESSION OF COMMISSIONERS' COURT
JUNE 7, 1949

On the above date a regular session of the Commissioners' Court convened with all members present, to-wit:

Ewell Condron, County Judge;
Norman Burgess, Commissioner, Precinct No. 1;
Wm. A. Dunlap, Jr., Commissioner, Precinct No. 2;
J. T. Odell, Jr., Commissioner, Precinct No. 3;
Leo C. Ramsey, Commissioner, Precinct No. 4.

The schedule of oil values as presented by Pritchard & Abbott, Oil Valuation Engineers, is hereby approved.

Motion made by Leo C. Ramsey, seconded by J. T. Odell, Jr., that all non-producing leases be assessed at \$1.00 per acre. This motion carried.

On motion by W. A. Dunlap, Jr., and seconded by Leo C. Ramsey, it is Ordered by unanimous vote of all members present that this Commissioners' Court go on record to approve the South Boundary of Throckmorton County, as it passes through the Matthews Ranch, as the same as it has been for the past twenty-five (more or less) years, same boundary being that agreed upon at the time and has been held intact since that time, the said agreed line being described by Section Lines as follows:

The South boundary lines of Sections 223, 224, 225, 226, 227, 228, 229, E. T. R. R. Surveys, which sections are to be considered wholly within Throckmorton County, and the North boundary lines of Sections Nos. 10, 17, 44, 45, 72, 73 and 100, E.T.R.R. Surveys which Sections are to be considered wholly within Shackelford County.

It is also agreed that all of Survey 484 lies wholly within Throckmorton County. Also, it is agreed that 472.5 acres of Abst. 1408, Sur. 2, J. A. Matthews Survey is in Throckmorton County.

On motion by W. A. Dunlap, Jr., and seconded by Norman Burgess it is ordered by this Court that the Tax Assessor void assessment on 1948 rolls covering all Matthews land covered in Abstracts 1456, 1458, 1456, 1460, 1462, 1465, 1466.

The above orders were passed at a regular meeting of the Commissioners' Court sitting as a Board of Equalization. Watt R. Matthews appeared in person requesting the passage of the above orders, the Commissioners' Court of Shackelford County not being present. He was represented by legal counsel, the Hon. John H. Banks, District Attorney for the 39th Judicial District, which includes Throckmorton County, F. B. Stribling, a State licensed land surveyor also appeared before the Court in behalf of said Watt R. Matthews testifying on matters pertaining to said county line.

Ewell Condron, Co. Judge.

THE STATE OF TEXAS,
County of Throckmorton.

I, Bernard B. Gilmore, Clerk of the County Court in and for Throckmorton County, Texas, do hereby certify that the above and foregoing is a true and correct copy of:

MINUTES OF REGULAR SESSION OF COMMISSIONERS' COURT SITTING AS A BOARD OF EQUALIZATION, June 6, 1949, in so far as same affects the Agreement of Throckmorton-Shackelford County line, as the same passes through the Matthews Ranch.

Given under my hand and seal of office, in Throckmorton, Throckmorton County, this the 13th day of June, A. D. 1949.

(SEAL) Bernard B. Gilmore,
County Clerk in and for Throckmorton County, Texas.

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EXHIBIT I

CERTIFIED COPY OF AN ORDER PASSED BY THE COMMISSIONERS' COURT OF SHACKELFORD COUNTY, TEXAS, AT A SPECIAL MEETING OF SAID COURT ON OCTOBER 26, 1949, THERE BEING PRESENT I. M. CHISM, COUNTY JUDGE, PARKER T. SEARS, COMMISSIONER OF PRECINCT NO. ONE, JOHN HIGHTOWER, COMMISSIONER OF PRECINCT NO. TWO, YATES CLAYTON, COMMISSIONER OF PRECINCT NO. THREE, J. IVAN SPINKS, COMMISSIONER OF PRECINCT NO. FOUR, to wit:

"Upon motion by Commissioner Clayton, seconded by Commissioner Sears, it is ordered by unanimous vote of all members present that this Commissioners' Court go on record to approve the north boundary of Shackelford County, as it passes through the Matthews Ranch, as the same as it has been for the past twenty-five (more or less) years, same boundary being that agreed upon at that time and has been held intact since that time, the said agreed line being described by Section Lines as follows: The North boundary lines of Sections Nos. 10, 17, 44, 45, 72, 73 and 100, E. T. R. R. Surveys, which Sections are to be considered wholly within Shackelford County and the South boundary lines of Sections Nos. 223, 224, 225, 226, 227, 228 and 229, E. T. R. R. Surveys, which Sections are to be considered wholly within Throckmorton County."

STATE OF TEXAS,
County of Shackelford.

I, W. D. (Dub) Macon, County Clerk in and for said State and County, do hereby certify that the above and foregoing is a true and correct copy of an order, passed by the Commissioners' Court of Shackelford County, Texas, on October 26, 1948, as same appears of record in Volume 8, Page 466, Minutes of Commissioners' Court, Shackelford County, Texas. Other orders on other matters having no connection with the above matter were also passed.

Witness my hand and seal of office, at office, in Albany, Texas, this 17th day of August, A. D. 1949.

(SEAL)

W. D. (Dub) Macon, County Clerk,
Shackelford County, Texas.

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AUG 31 1949

REFERRED TO MAP

EXHIBIT J

CERTIFIED COPY OF AN ORDER PASSED BY THE COMMISSIONERS' COURT OF SHACKELFORD COUNTY, TEXAS, AT A MEETING OF SAID COURT ON MAY 15TH, A. D. 1889. THERE BEING PRESENT HON. J. E. COLE, CO. JUDGE, T. V. BAKER, COM'R PRE. NO. 1, J. F. BENNETT, COM'R PRE. NO. 2, G. E. WATERS, COM'R PRE. NO. 3, J. C. DODSON, CLERK, to-wit:

"And now at this time came on to be considered the matter of the boundary lines of Shackelford County it appearing to the satisfaction of the Commrs Court of said County of Shackelford, that the north west & South lines of said county are not sufficiently definite and well defined. It is ordered by the Court that W. A. Eaheart, County Surveyor of Shackelford County an experienced competent and practical surveyor be and is hereby appointed to ascertain by actual Survey the north west and south boundary lines of said County and to make and establish the lines and corners in the manner prescribed by law to wit: The North boundary line of said Shackelford County and the North West corner of said County. The west boundary line of said Shackelford County and the South West corner of said County and the south boundary line of said Shackelford County. And after taking the oath of office prescribed by law and entering into bond in the sum of one thousand dollars (\$1000.00) to be approved by this Court with two or more securities conditioned for the faithful performance of his duty the said W. A. Eaheart shall begin at the northwest corner of Stephens County on Monday the 19th day of August, A. D. 1889, and shall run the lines and establish the corners as aforesaid, in the manner prescribed by law, and shall report his action together with the field notes and description of said lines and corners aforesaid to this Court as the law requires and it is further ordered that the Clerk of this Court send by Registered mail certified copies of this order to the Clerks of the Comm'rs Courts of Throckmorton, Haskell, Jones and Callahan Counties at least ten days before the 2nd Monday in August 1889 same being 12th day of said month."

STATE OF TEXAS,
County of Shackelford.

I, W. D. (Dub) Macon, County Clerk in and for said State and County, do hereby certify that the above and foregoing is a true and correct copy of an order, which appears in Volume 3, on Pages 59 and 60, of the Minutes of the Commissioners' Court of Shackelford County, Texas, under date of May 15, 1889, and which minutes are signed J. E. Cole Co. Judge and attest J. C. Dodson, Clerk. Other orders on other matters having no connection with the above matter were also passed.

Witness my hand and seal of office, at office, in Albany, Texas, this 17th day of August, A. D. 1949.

(SEAL)

W. D. (Dub) Macon, County Clerk.
Shackelford County, Texas.