records dated Jany 3d 1879. Nov 18th
1879 is the last date in the book - Mr
Calloways name appears in the
book
Mr Calloway was not in when
I first got in the office. Mr
Calloway told me that Summer-
field and Hanson were his deputies
Mr Calloway said he was un-
well and that his deputies would
show me anything I wanted in the
Office - Mr Summerfield showed
me the records, and these were
books were pointed to me as the
records of the office -
1st Jack County File Book No 3
Jacksboro Sept 5th 1874

2d File Book No A 113 pages,
the last entry in this Book is page
64 -

3d Books M 9 is a record of
field notes -

4th Lot 1 is also a record of field
notes,

5th M 5 - 6 - 7 and 8, I did not
examine closely -

Two Books marked field notes
G & M. I dont know anything

County #75651

about of my own knowledge. Mr Summerfield said he was doing up the work at Shannon that followed the files made, and shown me in file book No 4 and that there was also some other work still to be completed, and in the completion of which he was engaged at Shannon – I then enquired of him how many books say the size of Book No 9 – would be required to contain that work – he thought about one book and a half. I asked him how these book would be marked or known. he said 9 & No 1 & 9 & No 2 and would be deposited in the Jacksboro Office as soon as com-pleted

Signed. Sam. A. Wilson

Counter # 15652

Thos F West for State. I reside in Jackboro Texas. I know the Defft I was at home on Dec 5th 1879 I know the offices of the District Surveyor it is located in the Court House. I have Examined some of the Records. and could perhaps be able to identify some of them. I Came to Austin with Lieut Newell and Defendant Calloway. I was in the offices with Lieut Newell. I saw Mr Calloway Lieut Newell and Mr Robertson go into the offices on one occasion the Sheriff was with them. he the Sheriff read writ to the parties above named. The search warrant shown me by the Atty Genl is one that was shown to me in my office in Jackboro. I was at that time and am now of Counsel for Mr Calloway in this case. I saw Mr Calloway deliver certain records & files and field notes of the Jack Land district to the Sheriff of our County. I think there were Eleven Books in all The Books shown me by the Atty Gen are similar in appearance to Books I have seen in the Jack Land District Surveyors Offices. I have seen File Book No A

Counter # 75653

in the said Office also Jack County File Book No 3 both being records of said Office - I have seen the two Books marked G & M in the Office of the Surveyors of Jack Land District - Mr Callaway showed me the Books. I saw them there in December 1879. they were then marked on the inside G & M 1 and G & M 2. When the Sheriff went to Mr Callaway, he Callaway went to the Office - took certain books from the Shelves - Lent Nevell and the Sheriff carried them over to my Office - packed them in a trunk owned by me - locked them up - and turned them over to a man who was unknown to me - I next saw the trunk in a wagon - Lent Nevell Mr Hughes and Mr Hamm were with the wagon The trunk in Court is the one I have spoken of. I ~~[illegible]~~ once had my law Office in the Court House - it was there until about three months ago - It was opposite and about 12 feet from the Surveyors Office - Mr Callaway was very constant in attendance at his Office, he seemed to be at work Sommerfield was frequently in the Office, saw him there before

5

Counter # 75654

And during the time Judge Wilson was there in Dec 1879— Left for Henrietta Sunday morning in Dec— Dont remember to have seen Summerfield since Wilson left— Am not certain however.

Think he. (Summerfield) was there several days before Wilson came — Summerfield for two or three years or since I have been in Jack, has come and remained 3 or 4 days at different times— Summerfield has told me when he was going when going off— Mostly to Pan Handle, or rather to unorganized Counties attached to Jack Land District— Never saw Calloway going to the Pan Handle— Never saw Calloway going to Pan Handle— he made Surveys in County— Have seen him do that— Dont know Chain Carriers of Calloway— Did not see Summerfield at Jacksboro after I came from Henrietta— Went in Surveyors Office with Wilson— Dont remember books— did see file book A— saw G & M 1- & 2 in Office between 10th & 15th December— Not before— Calloway has number men as ~~deputies~~ deputies only know Hamm & Summerfield— Have seen Jot Gunter there— Dont know when— Have seen Nat Gunter

Counter # 75655

there - about November or December
Dont Know how long before Wilson
was there -
Identifies file Book A when
Wilson was there - dont remember
it before - Came with Nevells -
Saw Trunk as it came down, but
dont Know whether these Books came
in it or not
Signed Thomas. F. West -

W C Walsh a witness for the State
says he is the Comdr Gen Land Office
of Texas & has been since the 1st of
August 1878. I made Affidavit in
this case and it refers to files made
by Maddox Brothers - The rule of
the Land Office is to endorse the
name of the party filing a certificate
and field note - State hands witness
certain papers and asked what they
are.
1st This paper is a copy for relocation
of Tyler Tap R R Co # 196 the original
was dated ~~September 30th 79~~ Aug 12/76
is dated September 30th 79 - The original
was in conflict and the copy was issued
to supply it - No 2 and 3 of the file presented
are field notes - field notes of each are
for 640 acres of land - The field
notes are signed by J. Summerfield

Counter # 75656

Deputy and Approved by N Calloway
District Surveyor — The filed notes are
dated Oct 27th 1879 located in Don-
=ally County — The paper No 4 is called
file entry or designation it is to show
the date at which the certificate is
deposited in the hands of the Survey-
=or, this is dated Jackboro Oct 7th 1879
This paper purports to be the origi=
=nal document and appears to be
recorded on the 3d day of Oct
this application is signed by
Gunter & Munson — It is marked
recorded and signed by N Calloway
as District Surveyor Jacks Land
District it is marked recorded in
File Book No A page 61 — Here
file Book A page 61 was handed
the Witness who states it shows a copy
of the application and is dated Jacks-
=boro Ty Oct 2d 1879 — The Record
don't give date of the issuance of
Copy — The original Certificate
upon which this Copy was issued
was in the Land Office at date and
time of issuing Copy — The original
document was compared with the
record and found Correct — Except
the file book shows "recorded
Oct 3d 1879"
The witness examines the file —
p and says the date of record

8

Counter # 75657

of the application the figure three (3) of the date has been changed it now reads Oct 3, 1879 Below the District Surveyors Signature are the words recorded Oct 3d 1879 The figure three (3) and the abreviation has been changed The preceding page 60 shows a file, made by Gunter & Munson dated Septr 30th 1879 This shows that it was filed Octr 1st 1879, and the Certificate it was recorded same day No Changes in the dates It appears from this page that the Certificate for land Nos 387. 388, 389. 401, 402, 403 404. 405. 406. 407. 408. 409. 410, 411, issued to the Denison and Pacific Railway Company for 640 acres each on the 16th day of Octr 1879 There was filed Oct 1st 1879 and recorded in file Book No A p 60 as the Certificate at the bottom Page 62 of this Book Contains a file for Certificates dated Oct 6th 1879 the Certificates are numbered 198 ~~to~~ issued to the Tyler Tap RR dated August 12th 1879 the record is dated Oct 6th 1879 The application is signed by Gunter & Munson This page shows no erasures of ~~the~~ dates

The Book is not indexed, the first page upon which there is any writing

9.

Counter # 75658

is page 14_ This is a file or record of a file dated Jackson September 30th 1879_ The Certificate of the Surveyor shows it was filed in the Jack Land District October 1st 1879, the application is made by Gunter & Munson. This was marked in the Book as recorded Oct 4th 1879_

Then are in ~~in~~ this Book pages 14 to 64 inclusive written upon_ All files or application for surveys made by Gunter & Munson_

The date of the last Certificate of Record is Oct 6th 1879_

Witness here stated I have a lot of 40 files which I took from the Gen Land Office_ I mean by files the entire papers connected with the claim for land it is the Certificate and filed notes. Each file has a certificate and two set of filed notes. Eighteen of these forty files known in the Gen Land Office as Fannin & Crip 13305 to 13322 inclusive made by virtue of Certificate #51 to 68 inclusive issued to the Denison & S.E. R R Co dated July 9 1878_ Each file of this 18 contains filed notes of two filed notes of 640 acres each. They are all certified to by J Dunmer filed Dupty Sur Jack Land Dist_ Each of filed notes describing

Counter # 75659

all together 36 Sections of land—are certified by J. Summerfield to have been made on the 30th Jany 1879. Then is also a certificate of the Dist. Surveyor that field notes are Correct & Examine Book M 10. The first ~~Book~~ record in this Book is made Jany 3d 1879. of field notes of a survey of 640 acres made by virtue of Certificate No 837 issued to East Line & R R R by Land Office December 19th 1878 Survey Jany 3d 1879. The signatures of the Chain Carriers. Duply Dist. Surveyor and Surveyor are printed in the book. The names of the Carriers are A. B. Alexander H Young. the Duply Surveyor J. Summerfield Surveyor N Calloway

This book is paged from 1 to 370 inclusive & page 371 is and Continues thereto the end of this Book as numbered in the book is 435 pages as numbered in the book is 435

This book is paged from 1 to 370 inclusive & page 371 is and Continues thereto the end of this Book as numbered in the book is 435 pages as numbered in the book is 435

11

This book is paged from 1 to 370 inclusive & page 371 is and Continues thereto the end of this Book as numbered in the book is 435 pages as numbered in the book is 435

shows a record of field notes of a survey of 640 acres in Castro County by virtue of Certificate No 51 issued to the Denison & S E R R Co July 9th 1878 - Surveyed January 30th 1879 bearings marked cross (X) over it -

The Survey in Castro was made by J Summerfield Dupty Surveyor - Chain Carriers A R Alexander A Young -

On page 461 I find a survey made by virtue of Certificate No 69 issued to the D & S E R R Co July 9th 1878 Surveyed Jany 7th 1879. Same surveyor and Chain Carriers

From page 463 to 524 inclusive I find the Surveys were all made on Jany 7th 1879 - made by J. Summerfield and approved by Callaway - the Chain Carriers were A R Alexander and A Young - this would require a man to travel about 120 miles The Surveys following these to page 542 are all made January 30th 1879 - There are in Lamb County, on page 543 survey of 320 acres of land made May 9th 1879 situated in Fisher County, signed by same parties, Surveyor, Depty, and Chain Carriers, all printed -, on page 391

* This number refers to the 2 series of pages -

12

Counter # 75661

record of field notes of 640 acres in Hutchinson County by virtue of Certificate 1813 issued to Weiss Weiss and Sanders. date of Survey Aug 13th 1879, the Nine (9) is erased and the figure (8) Eight placed above it, on the page preceding (390) the date of the Survey is June 3d 1879. this is in Hale County. From page 391 to 426 inclusive the date of the ~~date~~ Surveys are the same as on page 391 the date being erased — nearly all in Hutchinson County, Certificate issued to different parties (~~record~~), on page 427 I find record corrected field notes for 640 acres made in Smisher County, by virtue of East Line & R R R R No 1087, surveyed August 30th 1879 by W Callaway District Surveyor Chain Carriers H B Alexander & A Young. On page 430 field notes of a Survey of 640 in Carson County by virtue of Certificate No 265 issued April 16th 1861 to Patrick P Collier, surveyed July 10th 1879 on page 431 is the record of field notes of 640 acres made for the Central & Montgomery R R Co by virtue of Certificate No 29, surveyed in Hale County March 22d 1879 — On page 435 is corrected field notes for E L —

13

Counter # 75662

& R R R R Co Certificate 997 -
Surveyed November 18th 1879 -
Surveys from page 315 # to
350 inclusive in Floyd County have
no date of any Character - not
dated - Signed by Summerfield -
Callaway and the same Chain
Carries all printed like the ballance
- nothing on this book to show when
it was made -

The witness is here shown
file book marked "Jack County
file Book No 3" - Says - the first
file is dated September 12th 1874 -
signed by Wm M Morris.
On page 41 of this Book I find
file by virtue of Certificate No 145
issued to W E Linthesum, dated Oct
9th 1876. Signed M. G. Stewart. re=
=corded by W Callaway. This is the
first page upon which I find Cal=
=laways name in this book - on page
45 file is made by unlocated bal=
=lance certificate No 15, issued
to Franklin Ward Febry 9 - 1863
file made September 29th 1876
by P A O Conner, In this Book
are pasted over other files - or rather
for instance page 53. On the orig=
=inal page I find a file made by
J Hays by virtue of I & G N R R
Scrip No 227 & 3838 date May 18th 1877 -

1st Series -

14

Contract # 75663

I find posted to or over that file a file made by E Born on 17th ~~th~~ Jany 1877 by virtue of dupligate Certificate No 21/86 issued to Sarah McKinb On page 95 and 96 each on files made on September 13th 1879 by Powell & Lyage - Pages 97 and 98 are gone - 99 is blank - pages 93-94. 95. 96 and 100 are all torn. appears to be torn

The file on page 96 is dated Sept- 13th 1879. the file is on land in Hale County. On page 100 is a file dated September 15th 1879 in Archer County. Between these two pages 97 and 98 are missing, and 99 is blank. On page 101 is a file dated Sept- 18th 1879 by Henry Bolb recorded Septr 26th 1879. on page 102 is a file made Septr 15th 1879 by Albert H Purcell and recorded same day in Cottle and Motley - County -

On page 115. file made by H Bryant Oct 4. 1879 on land in Motley County and recorded the same date -

I find on page 122 file made by R McLean & Sons by virtue of Certificates No 134 and 143 inclusive - issued to the Waxahachie Tap RR Co - On Oct 6th 1879 to be surveyed in Motley County file ~~&~~ dated Oct-

15

Counter # 75664

7th 1879 and recorded same day
On page 123 are files made
by R M Lyons & Sons by virtue
of Mexican Gulf R R Cer=
=tificate No 144. 145. 146, issued
by New Land Office Oct 6th 1879
- filed in Jackson Oct 7th 1879.
recorded same day - by W Calla-
=way Dist Land District - to be
located in Motley County

page 124 is a continuation to
include certificate No 154 issued the
same Company at same time filed in
the Jack Land Office Oct 7th 1879
- to be located in Motley County -
Pages 133 to 160 inclusive of this book
are blank, page 161 is a file pasted
in, this is ~~a file~~ dated Oct 1st 1877, the
date of this record is Oct 1st 1877 -
page 162 is blank - page 163 is pasted
over and 164 is blank, 165 is pasted
over with file dated Oct 1st 1877 -
On page 169, is a file pasted in
by Gunter & Munson recorded
January 31st 1878 - to be located
in Armstrong - page 170 is blank -
page 171 is pasted over with files
- dated Jany 31st 1878 made by Gunter
& Munson, page 172 is blank, page
173 is pasted over with file by Gunter
& Munson dated January 31st 1878,
On land in Briscoe County - page

Counter # 75665

174 is blank - page 175 is pasted over with file by Gunter & Munson dated January 31st 1878. on land in Armstrong County - page 176 is blank. page 177 is pasted over with file made by Gunter & Munson dated Jany 31st 1878 on land in Briscoe & Floyd Co's page ~~1878~~ 178 is blank - page ~~1879~~ 179 is pasted over with file by Gunter & Munson dated Jany 31st 1878 on land in Armstrong County - page 180 blank - page 181 is pasted over with file by Gunter & Munson dated January 31st 1878 on land in Armstrong Co, page 183, file made by Dority Conly Ammonman April 3rd 1878 on land in Hale County, recorded certified on April 8th 1879. - page 183 is a pasted file made by Powell & Guage dated June 29th 1878 on land in Donely County - page 184 is blank - page 185 is pasted over with file made by Powell & Guage - dated June 29th 1878. On land in Swisher County, page 186 is blank - page 187 is pasted over with file by Powell & Guage dated June 29th 1878, on land in Hale County, page 188 is blank, page 189 is pasted over with file by Powell & Guage dated June 29th 1879

The last file is dated Septr 8th 1879

17

Counter # 15666

made by Daugherty on land in Knox County— record same day.
The entries in this book are not made Consecutively— are entered without much regard to date, scattered along during the years 1877. 1878. 1879 not in the order of their dates, as relates to the pages of the book—
A book marked "file Book No 1" is shown Witness— This Book Contains entries of files— The first file is dated September 3d th 1879. and recorded in office Octr 1st 1879. and record Octr 4th 1879 on land in Floyd County. File made by Gunter & Munson I find 40 files or applications in this Book made by Gunter & Munson all dated 30th September 1879— There is also in the Book, one file made Octr 2d 1879 by Gunter & Munson, and two on the 6th Octr 1879 by the same parties — All the applications in this Book are by Gunter & Munson— The record file in the book on page 15 is recorded Octr 1st 1879— All the files made on 30th sept 1879 except the first one, to include page 60 are recorded Octr 1st 1879— On page 61 is a file dated Jacksboro Texas Oct 2 1879— recorded Octr 3d 1879. 18 on Certificate 196— On page 62

Counter # 75667

is a file made Octr 6th 1879 for Gunter & Munson. date of record of same Octr 6th 1879-

Witness is shown by F. M. No 1 & by F. M. No 2 of field notes- The first file in Field Book No A on page 14 by virtue of Certificates 85 to 95 inclusive issued to Denison & Pacific R R Co. locations in Floyd County - I find surveys on these files in book G & M No 2 pages 49 to 70 inclusive. date of surveys Octr 7th 1879 by J Summerfield Deputy Surveyor- W Calloway District Surveyor approves the surveys.- Chain Carriers James Rowe- Door Brind- There are about 638 surveys in Book G & M. 2 — The first survey is in Floyd County Octr 10th 1879- The appearance of many of the dates of the field notes in the latter part of this book are that they have been changed. Originally dated Oct 4th 1879 & changed to Octr 24th 1879- The lands of these field notes are in Armstrong County- The pages in which the changes from Oct 4th to Oct 24th are found are 568 to 569 and other Book G & M No 2 is a book of printed blank field notes, with the names of J. Summerfield & W Calloway & Chain Carriers are printed—

19.

Counter # 75668

In File Book No A on pages 45-
-44-43 & 42 an files by virtue of
Certificate No 190 to 201 inclusive
issued to the Denison & Pacific
R R Co Certificates ~~dated~~ dated
16th Septr 1879- Files in Armstrong
Donley & Hutchinson Counties-
Then files recorded in Jack Land
District- 1st day of Octr 1879- I find
field notes of then files in Book
G & M No 2, on pages 566 to 589
inclusive- The Surveys appear to have
been ~~made~~ originally Octr 4 and
Octr 6th 1879- and same changed to
24th and 26th 16th and 14th Octr 1879
Books G & M 1 & G & M 2 appear
to have come from M Strickland
Statimer of Galveston- Statimers
number on both books 10154- They
purport be records of filed notes
of Jack County Land District- The
first survy in book G & M No 1 is
dated Aug 1st 1879 in Briscoe County-
Then an 286 survys in this book-
date of last survy 15th Octr 1879 on
land in Hutchinson County. Dates
in book not consecutive- A good
deal of the work in the two books G &
M 1 & G & M 2 is dated same date
In G & M No 1 I find 26 Sections
Surveyed in Moore County Octr 7th
1879- Summerfield Surveyor and

Counter # 75669

Chain Carriers before named_ In
G & M No 2 I find 22 Sections sur-
=veyed on Octr 7th 1879 in Floyd
County by same Surveyor and same
Chain Carriers_ I find in G & M
No 1, 84 Sections Surveyed on Octr
6th 1879 in Potter and Moore Coun-
=ties_ In G & M No 2 I find 68
Sections surveyed originally dated
Octr 6th 1879 Scratched out and dated
Octr 30th 1879 generally_ These surveys
are in Gray and Donley Counties_ In G &
M No 1 are 352 Blank pages_ book
Contains 638 pages as numbered_ 286
of these from 1 to 286 consecutively
are occupied by field notes, and the re-
mainder of the pages are blank printed
field notes not made out. Names of
J. Summerfield, W Galloway and
same Chain Carriers are printed to
these blanks in the same manner as
those that have been filled out_ The
Certificates of the two Surveyors are
without date_

M G is a book of field notes of
Jack Land District_ First survey Feby
28th 1878 in Briscoe County by J.
Summerfield Deputy Surveyor_ The field
notes in this book up to page 289
are dated from 28th of Feby 1878 to
31st July 1878_ On page 290 date
is 10th December 1878 in Donley County

21

Counter # 75610

Pages 291 to 302 inclusive embrace
Surveys made Jany 31st 1879 in Castro
County 12 Sections - The following
12 pages 303 to 314 inclusive are
filed notes of Surveys in Castro
County without date, and erased by
a cross made over them in purple
Ink - pages 315 to 320 inclusive
are four sections in Castro County
made by Dummerfied, dated 31st Jany
=any 1879. page 321, 322 are Surveys
640 acres each in Oldham County
date Juey 31st 1878 - The Surveys which
follow are all prior in date to Jany
31st 1879. The last Survey in this book
is Aug 15th 1878. 160 acres of land
Cherokee Furnace Co. The Chain
Carries are F L Cross and S A Jack-
=son as printed in the book

Book L No 1 First Survey in
Hartley County dated Nov 25th 1878 - J.
Dummerfied Surveyor who done the
work - Pages 292 - 293 - 294 & 295 are
written over with purple ink - "Erroneous
See page 518 &c" the ink with which
this is done is different from that used
in recording the filed notes - These
erroneous Surveys were in Floyd and
Briscoe Counties - I find on pages
132 to 299 inclusive 167 Sections dated
all on the same day to wit January 10th 1879
pages 132 to 179 inclusive in Floyd

Counter # 75671

County. 189 to 190 inclusive in Briscoe
191 & 192 in ~~Briscoe~~ Floyd, 193 to
285 inclusive in Briscoe - 286 one
Survey in Swisher County - 287 to 299
inclusive in Briscoe County - nearly all
640 acre Surveys except a few 320
acre Surveys - On pages 324 &
325 are two Surveys in Lamb County
dated July 8th 1879 - On page 327 the
month of the date has been changed
from July to January Certificate
No 38 issued to Denison & South
Eastern R R Co in Lamb Co. J
Summerfield Surveyor - Same Changes
on page 327 Certificate No 36 issued
to same Company - On page 332
is Survey in Lamb County dated
January 30th 1879. On page 333 is a
Survey in Hale County dated June
14th. 1879 - Pages 333 to 346 inclusive
are Surveys in Hale County on 14th
June 1879, 14 sections, 347 to 406 in-
=clusive are surveys in Briscoe County
dated April 21st and April 22nd 1879
Then follows on pages 407 to 426
inclusive in Hale County dated 14th June 1879
- 20 Sections - 427 to 436 inclusive
Surveys in Floyd County February
11th 1879 - 437 & 438 in Hale Co
June 14th 1879 - 439 to 488 inclusive
Surveys in Briscoe, Swisher & Arm-
=strong June 5th 1879. 489 Survey in

Counter 75672

Survey in Donoly County 940 acres in Donoly County date June 14th 1879, by Summerfield - 490 & 493 inclusive, surveys in Swisher County dated Jany 31st 1879, 494 to 497 inclusive are surveys in Castro County January 1st 1879 - 498 to 503 inclusive surveys in Hale County June 14th 1879 6 sections, 504 to 513 inclusive surveys in Hale County Dec 28th 1878 - 518 to 521 4 Sections in Briscoe County January 10th 1879. From page 522 to the end of the book the pages are blank, about 100 pages - Date of last Entry is Nov 4th 1879 which is a corrected survey -

Cross Examined.

The original application for survey of Cert No 196 and the record thereof corresponded exactly # The original application appears to have been recd Act 3d and there is no change in it. The original application as signed and returned would appropriate the land, and would be so regarded by the State in the Genl Land Office. Patents are recorded in the Land, I do not sigh the records of said Patents - The Records for Patents are partly printed, The name of Gov Comdr of Land Office - name of Grantor Grantee & discription of land are written

except that the record has the additional words, "Recorded Act 3d 1879 Walsh -

24

Counter # 75673

Prior to the administration of Gov Davis, it was customary for the Gov to sign Patents before they were filled up, a receipt with him for all such Patents_ and an account made to him of the number actually used, He would not see them used_ The Records of Patents are made before I sign them_ I find that in some instances where Patents have been returned for corrections, that the corrections are made in the original and on the record without changing date of Patent and record. It is now my rule to issue another Patent in lieu of the one in which the mistake occur_ Blank field notes some what similar to these in question are sometimes used by large Dealers_ I have Patented on blanks just like these. It is possible that I have patented as many as 38 surveys made on the same day by the same Surveyor and Chain Carriers_ I ~~nev~~ have never given any one in the Office instructions not to pass surveys made on the same day when it would have been impossible for one man to have done all the ~~wh~~ work*. A Surveyor has no right to make a sur=vey without having in his possession a certificate or other ~~certifi~~ authority_ I know of one Surveyor who offered to see me

* It is the duty of the examining clerk to refuse to pass all "Office surveys" In this class is included such surveys as are here referred to Walsh

25

Counter # 75674

fied notes made in violation of what I deemed the law - and I would not purchase them - as I considered them worthless and illegal -
My attention has been called to the fact in official, that it has been the ~~Custom~~ custom of Rail Road Surveyors to run only ~~two~~ the outside lines of the blocks, and not run the inside lines -
I came in from home on Sunday ~~=ay eve~~ 5th Oct 1879 and filed up certain certificates for T. J. R R Co I worked about two hours with my Receiver and commenced at the work again about two o'clock Monday morning Oct 6 1879 I did this as a matter of accommodation to the parties - Oct 6th 1879. The certificates were signed and dated on Sunday & delivered Monday I gave them to Mr Prendergast in time to leave on the morning train about 8 o'clock - Dougherty was with him -
In making contract for the Survey of University Lands under authority of Title LXXXI Chapter 1 Revised Statute, I was governed in my instructions to the Surveyors Messrs Hoet & Thompson, by the provisions and requirements of the act of the 16 Legislature directing the Survey of 3.050.000 acres of

Counter # 75675

land for the Capital Reserve They were instructed to make two corners of each Section with a distict mound of earth or stone, and the corners of blocks not to exceed Six miles square with mounds of earth or stone 3 feet by two by two feet-

A survey made by virtue of a Copy is really made by virtue of the original and I donot regard it as a matter of much importance that the original is described in=stead of the Copy, In such a case I would instruct the Surveyor to Cor=rect his record, and if he should so change it without making a new record I would issue Patent- I think the Surveys examined by me in this case were made in Blocks-

Re Examined ——— In block work a Surveyor would have to run one mile to each Section, and make a mound at each corner If the Surveys are in half sec=tions the labor would be greater- In Surveying a single section 4 miles would have to be run- In Surveying 2 sections together 7 miles- A man can walk 35 miles a day if well and ~~hearty~~ healthy-

The original file of Cert 196 does not

27

Counter 75676

show date of its record_ The record of this file shows Octr 3d 1879 Date of application of file Oct 2d 1879 _ in Donaly County_ date of the Survy Oct 27th 1879_ Recorded in Gd M 2 page 282_ The date on this record I think has been changed, the figue 2 inserted before 7_ I think the originale has been changed in same way_ It is I think about 200 miles from Jackboro to Donaly County_

Signed W. C. Walsh

Counter #15677

James E Ham witness for the State being Sworn testifies as follows_ I reside in Jacksboro Texas_ Have resided there some 7 years_ Am Deputy Surveyor of the Jack Land District_ Have known W Calloway District Surveyor ~~over~~ ever since I have resided in Jacksboro _Have known J. Summerfield some two years. Have seen him two or three times in the Land Office at Jacks-
=boro_ I had free access to the Land Office_ I have been Deputy Surveyor of Jack District about Six years I have been in the office a good deal but am not an Office man_ I am a fied man_ I think I have seen Summerfield at Jacksboro, two or three times since I have known him Do not know hand writing of Summer-
=field_ Think I know handwriting of Calloway, Saw Summerfield in Land Office when Wilson was in Jacksboro in December_ I reached Jacksboro the evening before I saw Wilson in the Office_ I think I would know a record of the Jack Land District_ (Here file Book A. is shown Witness) This is a file Book of the Jack Land District _Have seen it before_ (Examines File Book A As 3) This is the

Counter #15678

file book in which Jack County Surveys are recorded_ Have I think seen file Book No A in the Office though I am not positive that I ever did_ I cannot Swear that the handwriting in this book is or is not N Callaways_ Have seen Callaway Write often, and have seen him write his name often_ Some of the Signatures ~~in~~ N, Callaway in this Book look like the Handwriting of N Callaway, but I cannot say that they are_ I have seen N Callaway write a thousand times, but I cannot say whether any of this writing is his_ Nor can I state my belief about it_ The body of the record and the Signatures of N Callaway seem to have been made with the same Ink

Witness is asked to Examine File Book A No 3 and point out Callaways Signatur) and prints out ~~Callaway~~ one on page 69) This Signatur is the Signatur of N, Callaway_ I dont Know whether any of the Signatures in File Book A are the Signatures of N, Callaway_ Examines G & M 1 and G & M 2_ I have never looked inside of them before_ Dont recollect of ever having seen them before_ I may have seen them many a time_ but ~~dont~~ do not Know_

Courier #75679

Dont Know Nat Gunter has
seen W B Munson in Jacksboro
two or three times. Have never seen
Jot Gunter there. We use differ=
=ent Kinds of ink in Office. I
dont think the body of the field notes in
G & M 1 & G & M 2 are in W Calloways
handwriting, thought I cared not state
positively that they are not. The handwriting
in File Book A does not have the
appearance of that of W Calloway.
Do not think it is. thought I cared not
State positively that it ~~was~~ is not. I
think in the Jack Land Office there
is kept a record of field notes for each
County belonging to the District in
which are recorded field notes of Surveys
made in such Counties. These books are
separate, that is, each County has a
book for its Survey. In Books G & M
1 & G & M 2 I find field notes in
several Counties. Dont know what
the letters G & M on these books mean
I have no idea when I first saw
File Book A, I dont Know any thing
about this Book. I had no occasion
to examine this Book. I had a Key
to the Office & so did Mr Calloway.
Dont Know of but the two Keys. Robinson
and West had a Key that fit the Office.
Cross by Dept
I had access to the general records of

Counter # 75680

the Office, but had no occasion to examine the records except principaly those in Jack County, I think there are three or four hundred record books in the office, I think the pasted files in the old file book were pasted in to same recording, I think they are the original files,

Signed J E Hamm

Rhoades Fisher being sworn for the State, testifies as follows- I am Chief Clerk of the Gen Land Office, Exhibits a package of letters purporting to have been written by W Calloway District Surveyor of Jack Land District to Gen Land Office, 29 in number- I have experience in hand writing- Have examined 7 of these letters & they appear to be the same handwriting- Have examined the writing on page 62 of File Book A No 3 (old file book) I think the signature of W Calloway on that page is the same as those as the 7 letters I have examined- Have examined the handwriting of filed notes of Certificate 196 in file 14204 Fannin Scrip, I think the signature of W Calloway to these filed notes is the same as the one to the 7 letters above named-

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Certificate #75681

and on page 62 of File Book A No 3 above referred to— I have examined File Book A (~~record~~ new file book) I do not know the hand writing in this book I do not think it is in the handwriting of M Calloway, but it as my opinion that it is not— It has the appearance of being written carelessly. I would not undertake to say it is all the same handwriting— The Signatures in this Book, "M Calloway" I think is in the same handwriting all through the book, and in my opinion the signatures and the body of the writing in the book is in the same handwriting and that this is not ~~in~~ the handwriting of M Calloway— The hand writing in Book G & M 1 pages 281 & 282 is the same as the handwriting of the original field notes in Land Office— The date of survey in this record appears to be 27 Oct 1879— and date on original field notes is the same— On page 49 in G & M & O No a survey made in Floyd Co on the 7th Oct 1879— There are several Surveys in this book dated 27th Oct 1879 which appear to have been made Oct 7th and the 2 afterwards inserted before the 7 making 27 — The Surveys in this book are all dated in October 1879 There are 638 Surveys in this book— In book G & M No 2

33.

Counter # 7568

there are 286 Surveys made in August & October 1879 — 196 Surveys made in October — In both books 834. Surveys dated in Octr 1879 are recorded. Witness produces certain papers — These are Land Office files 42 in number — These files are numbered thus, 13305 to 13322 both inclusive. Fannin scrip — These are all dated 30th January 1879, except one which is not dated but all signed by J Summerfield and W Calloway — I believe the Signatures of W Calloway are in the same hand writing as the ones I have already examined. All 640 acre surveys — Two 640 acre surveys in each file — In file 13318 the filed notes of Survey No 11 are without date, the alternate of No 11 which is No 12 is dated Jany 30th 1879 — I think the signature of J. Summerfield is the same to all these filed notes

Files 13323 to 13334 both inclusive Fannin scrip — These are dated Jany 7th 1879 Signatures of J Summerfield & W Calloway same as the others

Files 13535 to 13544 both inclusive Fannin scrip — The first three, 13535 to 13537 inclusive are dated June 3d 1879 — 13538 to 13544 are dated June 14th 1879, signed by same Surveyors as last named filed notes. All in Hale County — Three blocks of Surveys — All appear

Cancelled #7568

to be in same handwriting_ I stated yesterday there were 29 letters signed by N Calloway. I find upon further examination that two of those letters are signed N.G. Calloway & are written from Morris_ They got in to the Package through mistake and are not the letters of N Calloway_

Files 12147 Fannin Scrip and 14204 Fannin Scrip_ 12147 has four sets filed notes, the first set incorrect, the second set being corrected filed notes_ Original dated May 6th 1878 Corrected July 8th 1879 Land in Dewisher County, Same Signatures of Surveyors_ 14204 dated Oct 27 1879 land in Donley County_ Each of the files I have heretofore named contain filed notes of two sections of land_ I have not examined the Gen Land Office to see whether there are other files of same kind there or not. On the files I find the name of Maddox & Bro endorsed & there erased, and James A Dickenson Paris Ill written on them_ I understand by this that Maddox Bro returned the papers to the Office & that then Dickenson paid the fees & had Control of the claims_ File 12147 marked Maddox Bros for Hunter & Munson_ File 14204 marked Maddox_ Maddox Bros is a firm

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Counter #15684

composed of F M Maddox & J W Maddox. The firm does a general Land Agency buisness F M Maddox does buisness in Austin Texas.

Witness after examining File Book No A (new book) and G & M 1 & G & M 2 states, In G & M 2 the Surveys are by virtue of Certificates issued to Denison & Pacific R R Co except one which was issued to Tyler Tap R R Co. In G & M 1 from page 1 to 90 inclusive are by virtue of Certificate issued to Denison & S E R R Co issued 9th July 1878 as stated in the filed notes. From page 91 to 256 inclusive to Denison & Pacific. Page 257 to 280 inclusive Beaty Deal & Forrood Certificates. All the above Certificates except the Denison & S E are same as described in File Book A. The Denison & S E Certificates are not in file Book A. The filed notes in G & M No 1 are Certificates described in File Book A except the ones by virtue of the Dennison & S E Certificate

The State here offered in evi=dence the following books purporting to be record books of the Surveyors Office of the Jack Land District towit File Book A. No 3. File Books

36

Counter # 75685

A_ M 10 M 9 L N 1_ Books
admitted in evidence)
Witness identifies 11 Land Office
files 14226 to 14236 inclusive_
Surveys in Floyd County, date
Oct 7th 1879 recorded in G & M 2
from page 49 to page 70 Two surveys
640 each in each file_ The Chain
Carriers names on the field notes
were first printed & were A R Alex-
=ander & A Young & these names are
erased and the name of James, Keene
and Ivor Brind are written as Chain
Carriers_ Hand writing of these field
notes same apparently as the other
field notes I have t mentioned before
These field notes which I have men-
=tioned are filed in Genl Land Office
for the purpose of obtaining patents
for the land.
Cross Examined
I find that a number
of the ~~Certificates~~ surveys which I
have examined were made upon the
same day. I presume this is the reason
why the same have been "arrested" in
the Land Office_ I know of no other
reason, I was chief Clerk of L. Office
under Groos. Since I have been con-
=nected with the Land Office as Chf
Clerk it has been the custom of the
37 office to patent surveys without
counter # 75686

regard to the number of Surveys that were made on the same day, the custom prevailed up to the time that Capt Walsh appointed Commissioner since that time I have had nothing to do with passing Surveys & hence cannot speak advisedly. I became Chf Clerk in Jany 1874 - I have called Comr Groos attention to the fact that a great number of Surveys which were offered for patenting appeared to be made by the same party on the same day. After I had so stated this fact to Mr Groos he ordered the Patents be issued - I have been Chf Clerk since Jany 1874 - I am familiar with all rules promulgated in the Office during the time I have been Chief Clk, I know of no rule which has been promulgated during the time have been Chief Clerk prohibiting or forbidding the issuance of Patents on Surveys when many Surveys appeared to have been made by the same person on the same day. I have frequently been the acting Commissioner during the time I have been Chief Clerk - while so acting as Commissioner during the term of Mr Groos, he being absent, I refused to issue Patents upon a number of Surveys presented to me by Mr Edwards - When Mr Groos returned I told him that I

Cantu #75687

had refused to issue the Patents becaus
I did not the surveys had even been made
in fact_ He Gross said there was no
evidence of that fact. overruled me
and ordered the Patents to be issued,
Since that time I have never objected
to surveys on that account_ The field
notes I have had occasion to examine
on this trial are in the usual shape or
form_ Except the field notes in File 14204
and in Files 14226 to 14236 inclusive,
In the files just spoken of the following
words occur (At the end of Dept Printed Survys
art) in writing, "and the survy was
actually made in the field" it is in
this particular that these field notes
differ from the others have examined,
Witness is here shown File 13543, and
asked to State what evidence it bore
of being an Office Survey, to which he
replied as an isolated Survy I can
see none_ I spoke on yesterday of
certain apparent changes in the Records
shown me_ I do not know when or why
such chages were made_

The Statement I made in my affid-
=avit as to the Certificate therein named,
was made upon information which I
had that the Certificate was issued 30th
Sept & did not believe that it left
Austin until Oct 1st & could not have
reached Jacksboro by due Course of

Cancelled #15688

mail by the 2nd of Oct

Re Examination

It was not the rule of the Gen Land Office during Gross' administration to withhold patents on Office Surveys. I do not know what has been the rule in this respect during the administration of Commissioner Nash. The Commissioner himself must be the Officer to determine the question about patenting an Office Survey.

Signed Rhoads Fisher

Counter #15689

C L Nevelle Sworn for the State, says I command Company in Frontier Batallion, went to Jacksboro Left Austin at 9 oclock on I & G N R R, and went by rail to Dallas, reached Dallas that night about 10 oclock - Thence to Ft Worth next morning litte before 10 oclock Thence to Weatherford same day by hack - Thence to Jacksboro on next day by Hack 40 miles reached then about 3½ oclock P.M. - About 70 miles from Ft Worth to Jacksboro the way I went - The next day Sheriff of Jack County executed Search warrant for book in Land Office - I was present, & W Callaway & Mr T F West were present - a man I had with me - The Books were delivered by Callaway to the Sheriff & the Sheriff delivered them to me and the books were brought by me to Austin and delivered to Judge Lee, The Books were in a Book case standing on their ends the backs exposed - The Sheriff Called for the books and Callaway took them out of the book case and gave them to the Sheriff & the Sheriff delivered them to me and I fastened them in a trunk & brought them to Austin and gave them to the Court, Judge Lee & the books were not opened from the time I received them until I delivered them

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Counter # 75690

to Judge LEE_ I reached Austin at 9 o'clock A M on the third day after leaving Jacksboro_

In going to Jacksboro, I missed the connection at Dallas and did not reach Ft Worth until 11 o'clock the next day, When if I had not missed connection I would have reached Ft Worth on the night of the same day that I left Austin_ The hack I went to Jacksboro in was a private one that I hired_ The public hack had left Ft Worth before I reached Ft Worth_ In going to Jacksboro from Austin, if all connections were made, it would take from 9.30 A M until 4 P M on the third day_ I mean by Public conveyance.

Cross Examined.

I waited about 40 minutes at Hearne, from then I went to Dallas, reached there between 9 & 10 at night, with no unusual delay, It is about 32 miles from Dallas to Ft Worth, it takes about one & half hours to make the run_ If connection is made you would reach Ft Worth Ft Worth about 1 o'clock if delayed 1 hour at Dallas_ I think with two good teams the trip could be made from Ft Worth to Jacksboro in Ten hours and in Fourteen hours.

4½

Counter # 75691

with one team_ I Know of No acquaintances in Jacksboro. I did not make ~~my~~ known my business. Sometime on the night that I reached Jacksboro about 9 oclock Mr West came to my room and told me he had reason to believe that I was then to arrest Mr Callaway, that he ~~to~~ West was Callaways Atty & that Callaway desired to surrender himself and give bond, did not want to be arrested_ I made an appointment to meet Mr West at his Office next morning _West said Callaway would be then, I went to Wests Office according to appointment. Callaway came in soon after I got there_ I arrested Mr Callaway _Could not take bond because the warrant was returnable instanter_ Callaway surrender willingly_ The arrest was made Saturday, Left Jacksboro Sunday. Callaway did not remain in my custody on Saturday night, was not in custody or under restraint at any time after I arrested him_ I did not keep him in custody because he was aware that I intended to arrest him, and made no ~~attempt~~ effort to escape, this induced me to believe that he would ~~make no effort to do so~~ not make such an effort. I left Jacksboro about 9 oclock Callaway left about an hour before I did on

Counter # 75692

the same morning with Mr West. they were in a hack. Dr Weatherford Callaway & myself stopped at differ=
=ent Hotels_ Mr Callaway had opportunities to make his escape from me but he showed no disposition to do so, When I reached Austin I first carried the Books to the Atty Genls Office, I delivered the key of the trunk to Mr Dunham_ the next day

Signed C L Rowell,

Counter # 75693

Jot Gunter, Sworn for State,
Says, I am a member of the firm
of Gunter & Munson of Sher-
=man Texas, N B Munson is
the other member of the firm,
I know Nat Gunter_ His home
is in Sherman Texas, and has
been an assistant of J Summerfield
and a Clerk in the Office of
Gunter & Munson a part of the
Summer of 1878 and during the
year 1879_ Book A of files is
I think in the handwriting of
Nat Gunter and I know his hand
writing_ I saw Nat Gunter last
about three days before I left Sher-
=man for Austin_ J. Summerfield
is a Surveyor and has been in the
employ of Gunter & Munson for
the last three years. He is a Deputy
Surveyor under W Callaway of
the Jack Land District_ He
is a practical Surveyor & consid-
ered a good Surveyor_ I know J
Summerfield's handwriting_ I
think the signatures to the field
Notes in evidence of J Summer-
=field are his genuine signatures
=han not examined all them,
Nat Gunter is my Nephew_ The
Books G & H 1 and G & H 2 are in
the handwriting of J Summer-

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Counter # 75694

=field and Nat Gunter I think

Cross examined

Summerfield was acting as Deply Surveyor Jack Land Dist=rict_ Nat Gunter was his assistant and Clerk for Gunter & Munson Summerfield has been in our em=ploy since Spring of 1876. Gun=ter and Munson do a large buisness, and have located many lands for R.R. We had work to keep Summerfield in the field nearly all during the period of the year that a man could go out and work and sustain his team upon the grass_ Sherman was Sum=merfield usual place of residence when not in the field, and when in Sherman he was engaged in closing up his work, Summerfield as a fact had the right from Coc=kaway to make up his work at Sher=man. Summerfield went to the field on a Surveying tour about the ~~10th~~ 1st of April 1879. and returned about the miadle of November of same year He was in my Service the principal portin of that time I frequentlty had communicat=ion with him while in the field

Counter # 75695

We frequently sent him communications instructing him to make surveys, and sent him blank notes and instructed him to make out field notes - I was out in the field during the last Summer ~~field~~ myself - I found Summerfield surveying and I know he frequently had Assistant Compassman. James Keene and Ivor Brind Chainman AR Alexander, & A Young F L Cross Chainman I know personally am not positive that I know Jackson, but think I recollect paying Jackson off - The Country in which our surveys are made is principally prarie, and in making corners of dirt or rock in the shape of a mound, Callaway has all the time adopted the work made by Summerfield at Sherman for us, and so has he done with other deputies, and so has his predecessors for us - Book L No 1 record of field notes made at Sherman & adopted by Callaway some of this book appears to be in the hand writing of Nat Gunter - File Book "A" I never saw that I ~~rember~~ remember until I it was shown me here, Summerfield was in

Counter # 75696

the field in Jany 1879. and came in from his Surveying trip about the first part of Feby 1879 Since Summerfield has been in our employ he has been in the field nearly all the time that the grass would support stock but in Several occasions he has had to have corn & frequently started out before grass was up sufficiently to keep stock Books G & H 1 & 2 appear to have dates changed I recollect the question came up in our Office on one occasion & from Summerfield field book containing proper dates and field memoranda, I think he made the changes, Witness looks at the books and says he identifies those of the dates he notices changed to be in Summerfields hand writing These changes were made before the Books were returned to the Office of the Jack Land District at Jacksboro We have been extensively engaged in locating lands since 1873. Locating during the years 1873-4-5 principally under contracts for Rail Roads Co's for I & G N R R, T P. R R, H & D C R R, T & P A R R & C & C We have located principally through the Jack & Bexar Office, though a little

Counter # 75697

through Young, Clay & Palo Pinto Offices - The Records of field notes in all cases have been made at our expense & in every case except one made in Sherman and then at Austin. The reason for this is that probably during the past 5 or 6 years we have located Ten thousand certificates and if the work we have put in were manuscript it would cover fifty books The work in G & M 1 & 2 is similarly done to the work put in through Bexar and other Districts

Re Examined

I think Summerfield came in from the field about the first days of Febry 1879 and went out again 1st April 1879 He went out about 300 or 400 miles west of Sherman - I went out to Pasco in Oldham County in August 1879. 400 miles from Sherman I went there in about 7 or 8 days, went by rail to Dodge City Kansas, and from Dodge City Kansas on stage & horse back to Pasco some Three Hundred miles I saw Summerfield at Pasco about the first days of September - He was then then in the employ of J T Munson

The distance from Dodge city Kansas to Ft Elliott is 196 miles and the stage runs day and night and goes through in 40 hours -

#49

Counter # 75698

My partners brother and a member of Pone and Munson Land Agents Denison Texas on the 14 making Surveys of the Capital lands my partners brother being contractor for that work. I left Pasco for home about 10 or 11 of Sept. Left Summerfield in Pasco. Dont know when Summerfield commenced Surveying for State. Think he Surveyed about one month for State Commencing in the month of August 1879. I think he told me he had Surveyed about 200 leagues for the State. I presume he was there in the employ of J D Munson. Have been through the County of Floyd. Hale &c The best season of the year to survey in that country must depend on circumstances, condition of teams &c Summerfield reached home about the middle of November. After I left him in Pasco. He came home horse back I think. A man could ride from Sherman to Pasco in 10 days. James Keene Chain-Carrier. lives in Sherman. Ivor Brind Chain Carrier the last I heard of him was on the frontier A Young Chain Carrier the last time I ~~heard~~ saw him some 6 months ago was living in Sherman. The

50

Contest # 7569

The District Surveyor would receive pay for approving the work_ The making of the work we paid for_ We paid Calloway the regular fee for approving work &c We paid him nothing more than his legal fee. We paid Summerfield by the month for his work_ I am friendly with Summerfield_ am on his bond_ I never saw Mr Calloway but once or twice in my life before I met him here_ and have had nothing to do with making his ~~work~~ bond.

Re Cross Ex,

When I went to Pasco in August 1879 I found Summerfield in employ of my brother J T Munson surveying Capital Lands_ I went there for the purpose of getting Summerfield to do work and make arrangements with Mr Munson to discharge Summerfield, and he was discharged and then went to work for us_

Jos Gunter

Counter # 75700

H B Kinney, sworn for State, says. I was P M at Austin in September & October 1879 on the 30th Sept and first days of Oct 1879 the mail left Austin for Ft Worth at 8 oclock A M and arrived at Ft Worth at 1.35 A M the next day, Schedule time

H. B. Kinney.

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Counter # 75701

Jany 21/80 The State again offered in evidence file Book A when upon Counsel for Defense Stated that every page that book was in evidence - and objected because the evidence was Cumulative, Objection sustained by the Court.

The State again offered in evidence Book L M 1 p 2 also offered page 3 same book - Also pages 19 to 43 inclusive also 132 to 224 inclusive - Also pages 127 to 130 inclusive - Also 427 to 436 inclusive Also 171 to 173 inclusive - also 131 to 135 inclusive, (offered for the perpose of showing that these records show re,)

Also pages 333 to 346 inclusive and 407 to 426 inclusive and 489 - State here offered the whole Book to show it is printed, and that the book has a number of blank ~~book~~ pages in the back part of it - all printed blanks with printed names as the portion filled

The State then again offered in evidence Book No 10 (Of the Jack Land District records) pages 386 to 434 inclusive - Also pages 171 to 173, also 89 to 94 inclusive - Also pages 315 to 350 inclusive (field notes not dated) Also p 461 to 564 inclus-

5-3

Counter # 75702

=ive [to show 65 sections on the same day) Also p 435, the last page in the Book (there are two pages numbered 435) Also p 391 to 426 (to show the dates have been changed) The whole Book to show it is printed, also with the names of the Dfts printed, also the Chain Carriers and also has two blanks printed pages in the back part of it.

The State here again offered in evidence Book M 9 (Jack records) from page 303 to 314 inclusive, (to show surveys in Castro Co have been obliterated) no date &c, Also pp 291 to 302 (to show surveys in Castro made Jany 31 1879 &c) Also pp 475 to 484 inclusive) to show Surveys in Hartley Jany 7th 1879 &c) The whole book to show the dates of Surveys are not consecutively entered — the whole Book printed with the names of Callaway & J Summerfield printed — as also the names of the Chain Carriers &c — The State again offered in evidence Book G & M 1 — Jack records — pages 1 to 52 inclusive (to show surveys surveys made in August also to show the field ~~the~~ notes are false and to show the ~~field notes~~ Counties) &c Also page 91 to 200 inclusive large number

Counter # 75703

made Oct 6, 79 in Moore & Potter Counties same day &c) Also pp 201 to 234 inclusive_ Surveys made Octm 28th 79. Also pp 235 to 256 inclusive_

Also pp 257_ 280 inclusive_ made Oct 29th Also pp 281 to 286 inclusive (altered dates)

The whole Book also to show one half blank pages with printed names_ &c and that whole Book is printed except the field notes & dates_

The State here again ~~introduced~~ introduced in evidence G & M No 2 of the Jack records_ Also pp 1_ to 76_

Also pp 77 to p 167 inclusive to show Surveys made on Oct 26/79 and generally to show alteration in dates of Surveys_

Also p 167 to 284_ large number of Surveys made Octr 27th 1879_ and alteration in dates

Also p 285 to 288 to show alterations in dates of surveys

Also p 289 to 328 inclusive_ to show Surveys made Octr 4 in Swisher_ By virtue of D & P R R Co_ Cert No 115_ issued Sept 16th 79.

Also p 329 to 395 to show surveys made Oct 30 79, and altered dates &c_

Counter # 75704

Also pp 396 to 459 inclusive to
show Surveys made Oct 31st 1879 and
altered dates
Also pp 460 & 461 inclusive shows two
Surveys made in Swisher County Oct
4th 1879 by virtue of Denison & Pa-
cific Cert No 153 dated Sept 16th
1879
Also pp 462 to 473 inclusive to show
Surveys made Oct 27th 79 and altered
dates &c
Also pp 474 to 525 inclusive show
Surveys made Oct 23/79 in Bris-
=Coe &c
Also pps 526 to 569 inclusive to
show Surveys made in Donley Arm-
=strong Co's on Oct 24th 79 and alter-
=ed dates
Also pps 570 & 571 inclusive to show
altered dates
Also pps 572 to 577 Surveys made
in Hutchinson Co Oct 16th 79.
Also pps 578 to 589 inclusive dated
Oct 4/79 in Hutchinson County
Also pps 590 to 604 inclusive shows
Surveys dated Oct 17th 79 in Moore
Co and altered dates
Also 605 to 640 inclusive Surveys
dated Oct 31/79 large number that
was made on that date, and date
altered,
56 The whole Book to show its

Counter # 75705

printed names PC_ as it appears

Counter # 75706

Dennis Corwin for the defence being sum deposes and says as follows:- I am now Sheriff of Travis County Texas - I am a Surveyor by profession & have followed it from 1856 to 1876 except during the late war - I have held the Office of District Surveyor of the Travis District from 1858 until 1862, and have been Dupty Surveyor of the Travis Dist & Travis County - Milam Land District - Young Land District - Bexar Land District and the Jack Land District and also the Neueces Land District during the time above mentioned - I have made I suppose ~~as many as~~ at least several thousand Surveys, I have located and surveyed both before & since the last war great many land scrips - Surveying is done all sorts of ways, by blocks, on the ground &c generally speaking the practice has been to survey in large blocks so far as I know it was the custom to run just such lines as the party for the owner of the Certificate wished - and in doing block work it was the custom to only run the exterior lines - I dont think I ever knew a R R Sur made since the war with more than simply the exterior or

58

counter # 75707

out side lines run - I know of a block of work of about 150 Surveys Block F Croton Creek when there was only one corner on the ground - W. A. Benson was the Surveyor the Jack Land District at that time, There was no law to require any thing more than the ; and when a Surveyor or locator took a certificate to locate he would do ~~so~~ the amount of work that he was paid to do, & nothing more.

As a locator if I had several hundred certificates to locate I should get a Surveyor as Cheaply as posible, and this would depend upon how much work I would hire to do, on the ground,

It would satisfy me to run around a block of work & make all the corners ~~and~~ only around the entire block In all the Land Districts of Texas that I have any knowledge of it is & has been the custom to locate Land certificates with as little work on the ground as posible, This kind of work has all ways been recognized and acted upon at the Genl Land Office of Texas, It has been a custom with me and with many other Surveyors of Texas to go out in the field Surveying & while there do a great deal more work than

59

Counter # 75708

we had Certificates to Cover and if no other person took the land before we got Certificates then we on obtaining Certificates would apply them to the land we had Surveyed and thus utilize our labor; but if any one placed a Certificate upon this land (even after we had Surveyed it) before we did, then our labor was lost,

This has been a common Cus=tom with Land locators and Sur=veyors in Texas - I hardly ever came back from the field without doing more work than I had Certif=icates to cover & sometimes would loose my labor by other parties apply=ing their Certificates on my work before I did. Surveys of the Character I have just spoken have been made through the office of the Jack Land District I have had great many contracts to Sur=vey lands for Texas Rail Roads, and great deal of my work in fact nearly all that I have done since the war was done by simply running the exterior lines - I know as a fact that lands sur=veyed in this manner have been pa=tented by the State of Texas,

Some Calafornians hired me to go out in the field and look for va=cant Lands to locate a Sheepranch

Counter #75709

upon_ I did So, and went out made
the Survey without a Certificate &
without having a deputation or
having with me a Dupuly Surveyor
We then returned, the parties pur-
chasing land certificates afterwards
which I applied to the Land,
I was appointed a Depidy Surveyor
after the work on the ground was done
and then having applied the Certif-
=icates, sent the field notes to the
General Land Office of Texas
upon which Mr Von Rosenberg
obtained Patents_ When I
would do work of this kind, that
is, block work I would date my
field notes the date of Applying
the Certificates_ I ~~would~~ always
dated my field notes when I
applied the Certificate_ For some
time my work on the ground would
be done before the Certificates were
issued, I think I Know Texas Land
Law and Land Law Customs among
Surveyors and Locators in Texas,
If I had made a block of work
thusly; n and I wanted to have
mark W [ ] E on it, I would not
rerun S either line of the block
but would ~~have~~ base the Subsequent work
on the block as correck unless I
to correck the Original mark,

61

Counties #75710

It never made any difference with me how many ~~Certificates~~ sets of field Notes I made out that one day I always dated them the same day and did not consider it made any difference, and this was the Custom with all Surveyors about whom I had any knowledge, The number of field Notes generally made out & Signed by me in one day depended upon how much Clerical work I could do & some times I must have a Clerk assisting me and then I should think that I could have made out & Signed the same day as many as twenty five or thirty sets of field notes or more, The Gen Land Office always recognized my work done in this way

When I was Deputy Surveyor of the Jack Land District I resided in the City of Austin, Austin never was in the Jack Land District — For instance while I was working for the H & T C R R Co as Deputy for Jack Land District We had books of blank field notes for record for the Surveyors Office, the names of the Surveyors in the printed record I

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Counter #75711

think were either printed or signed up by some one else_ I dont think I ever signed one myself_ I am of the opinion that the N & P & R Blanks had my names printed in them as Surveyor After I had done my work I never had any thing to do with the recording of them in the Surveyors Office of the District

If I had contract to locate lands for another party to do the field work_ and prepare the records for filing in the District Land Office_ then it would be my duty to see that the Records were properly made_ In such an instances if I should discover a discrepancy between the field notes & Record, I would change the Record it correspond with field notes If upon my return from the field, and after I had made my field notes and record I should discover that the field notes and record did not correspond with the field book, I would cancel the Record and make out a new set of field notes, so they would agree with the field ~~notes~~ Book.

Witness is here shown page 94 of F & M No 2 and asked whether he as a Surveyor would have changed the date of the of the record

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Counter # 75712

on said page to correspond with the date of the filed notes, To which he answers, If the date of the filed notes was correct I would have no conscientious scruples in Changing the Record so it would conform to the filed notes_ Witness looks at Page 435 Book M 10 and says the filed notes on said page are dated Nov 18th 1879 These are the Record of Corrected filed notes, and not the original filed notes_ Looking further in said Book, says that the original filed notes are recorded on 402 and are dated 31 March 1879,

Looks at pages 171 to 173 Book M 10 & says filed notes are Feby 11 1879, Looks on pages 89 to 94 inclusive and says Filed notes dated 28 Feby 1879,

Q Keeping in view the same facts under the custom of Surveyors, as you know it to exist, would it be legitimate to apply these dates to filed notes of block work you had done in the field the past summer

A If the work was actually done in the field and Certificates were after-
=wards applied to the work then the

64

Counter # 75713

proper date of the field notes would be the date of the application of the certificates

It was not the custom of Surveyors to make application when they had the certificates actually in hand at the time the Surveys were made

When I was Depty Surveyor of Jack Land District I wrote my field notes and made the Records in Austin Travis County Texas. The Records were actually made by the sight of the party ~~of~~ interested. The Field notes and Records were made outside of the District. After ~~it~~ this had been done, I moved carry the Books to the Office of Dist Surveyor and deliver them to him. I have been Duply Surveyor of as many as Four Land Districts at one and the same time. had a ; Commission When I was Depty as aforesaid I wrote up my field notes in Austin I have no recollection of any Question civil or Criminal ever having been raised about any work I had done because it was made at Austin in the manner first stated.

I was for some time District Surveyor of Travis Land district, When I was District Surveyor I recorded field notes

65

Counter #75714

Just as they came in into the Office - without reference to the date of the Surveys - for instance one Deputy would bring in a batch of field notes which I would record, and perhaps the next lot coming into the Office would be two weeks prior in date to those already recorded, Looking at Books L.A. 1 G & M No one and G & M No 2 Witness says that the only peculiarity I see about the blanks contained in the Books is that the names of the Chain Carriers are printed - If upon my return from the field after having made a great number of Surveys I had in my Office Blank Book similar to those above described - and did not have field notes enough to fill them all I would return the Books to the District Surveyors Office in that condition, that is to say with some of the pages remaining blank - Making the Record is the duty of the Office Deputy and not of the field Deputy If I had a great deal of work to do I would put several assistants at work in different Books or on different pages at the same time I know of No reason why this should not be done,

Cross Ex — I have not been

66

counter # 75715

engaged in Surveying since 1876 -
I have paid no attention to the
Custom of Surveyors since 1876
and do not Know what Customs
have been obtained since that time -
I am aware that there has been
a change in the law in regard to the
~~field notes~~ Certificate which a
Surveyor is required to attach
to his fieldnotes - In order to
run all the lines of a Section
of land a distance of four miles
would have to be run - & the work
is in Blocks in order to run the
lines & established each corner
a distance or an average of
two miles to the Section would have
to be run - Twelve miles a day
is an average days work of
Surveying - I have Surveyed as much
as 18 miles in a day - This would
be in an open Country

Re Ex I had Assistant Com-
=passman to work in the field with
me, and would adopt their work,
This was the Custom of Surveyors

Signed Dennis Cowan

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Counter # 75716

R M Jano for Defendant
I reside in Dallas Texas, I
was summoned as a witness for
the State in this cause_ I have
not been examined by the State
as a witness in this cause, After
I had been summoned the Atty
General Mr M Comick asked
me one question which I answered
Witness is here shown page 124
of File Book No 3 and asked whether
he made the application therein re-
=corded_ To which he answers_ I
made the application_ the Certif-
=icates therein described are dated
Oct 6th 1879 as I remember_ These
Certificates were filed by me in the Of-
=fice of Calaway Dist Surveyor of
Jack Land District in the Town
of Jacksboro on the afternoon
of Oct 7th 1879_ Applications re-
=corded on pages 122-123 & 124 in
same Book were also made at the
same time & place_ and by virtue
of Certificates issued as I remember
on Oct 6th 1879,

I have done some Surveying in
a private Capacity_ I have had
considerable Surveying done and it
has been my understanding that the
~~field notes were made out~~ Surveys
were dated at the time the field

68

County # 15717

notes were made out — and not at the date of the actual Surveyor the land this I have understood was frequently the case — I have known of some instances in which a number of sets of field notes have been signed and dated on the same day

Q Certain records of application appear on pages 123 & 124 File Book 3 made by Gano & ~~Bro~~ Sons by virtue of certain Certificates — Did you make those files in person? Did you have the Certificates in hands when the files were made?

pt-

A — I did make the files in person,

2 I had the Certificates in hand when the files were ~~fill~~ made —

Cross Examined by the State

My ~~exam~~ experience as to locating lands in Texas has been confined to the Jack Land District, We I mean our firm have hired lands located in other districts, but my personal experience is confined to the Jack District

69

Counter # 75718

I received the certificates issued to the Waxahachie Tap RR, of which I spoke in my direct examination, from one Dougherty in the City of Dallas on the evening of Oct 6th 1879

I started from Dallas for Jacksboro from Dallas on the train for Ft Worth about 11-30 P.M. arrived at Ft Worth a little after One oclock A.M. Oct 7th 1879. From there with a pair of horses and buggy, I took breakfast in Weatherford at eight oclock A.M. Oct 7th 1879 I changed my team at Weatherford and reached Jacksboro about four ½ oclock P.M. Oct 7th 1879

I found in the District Land Office at Jackboro the Surveyor Mr Callaway the Deputy Surveyor Mr. Parks My Son J F Gano Mr McGeehe who went with me went into the Office. I remained there until Oct 8th and returned to Dallas

I was in a hurry because I had sold some land in Ky and wanted to make my file ~~before~~ in lands in the reservation before the law went in to effect

The field notes for the Surveys made by virtue of the certificates have been made out

The field notes were brought down to my Office they got there about a

Counter # 75719

week after I got back from Jacksboro
This is my impression, but I did not examine
them — Motion to Strike to be considered
by the Court.

R. E.

I never had Mr Summerfield in my on our employ. He never did any work for me as land locator I think I was first introduced to Mr Summerfield yesterday on this morning Dont think I even saw him before. I could with one change of horses at Weatherford go from Ft Worth to Jackboro in Eleven hours — I think on the 5th to 7th of October 1879 there was quite a rush on the part of land men to Jacksboro to have their certificates placed in the Office of the Surveyor of the Jack Land District, a passenger leaving Austin at 8 or 9 am reaches Ft Worth 1 am next day

Signed R M Gano

Counter # 75720

File No. 27a

Old Miscellaneous ~~County~~

Report of Investigation

Filed Dec 20 19 84

GARRY MAURO, Com'r

By Lh

Counter # 75721