

Attorney General's Office
Austin Sept 10th 1880.

Wm W. C. Walsh
Commissioner G. L. O.,
Austin,

Sir -

I have the honor to acknowledge
the receipt of your communication
of date the 9th inst: enclosing
communication of Mess: Guiter
& Munson to you - requesting you
to patent surveys made by them
by virtue of certificates Nos 85 to 95
issued to the Union & Pacific
Rail Road Company,

It appears
from your letter that the surveys
in question are claimed to have
been made in Floyd County on
the 7th day of October 1879; that
the certificates were filed with the
Surveyor of the Jack Land District
on September 30th 1879, and recorded
by him on October 1st 1879. The
file being made in "File Book A"
of that Office and the field notes
recorded in Record Book G & M
No.

If I am not mistaken
it appeared from the evidence taken

on the examination of the charges made against the Surveyor of the Jack Lane District and his Deputy, heard before Justice Lee of this City, in December last, that file Book A of the records of the Jack Lane District, was not in said office, nor a record thereof, until long after the date which the reservation of public land for the payment of the public debt, was made. In other words that the file in question was actually not made until after the act reserving the public land in Floyd County from location took effect; that file Book A, was made in Sherman in Grayson County, as was records of field notes books G & M, and were deposited in the Jack Lane District Office long after the date of the law prohibiting surveys by virtue of certificates in the public debt reservation.

It also appeared that at the time the surveys in question were claimed to have been made, the certificates for the land were not on file in the Surveyors Office as required by the Statute -

I think an examination of the evidence above

referred to, a copy of which was furnished your office as is deposited therein, together with my letter to you of date the 13th of January last - will show that the surveys upon which patents are now asked are illegal and void and among other for the following reasons - to wit:

- 1 - An entry or application describing the claim to be surveyed and the land applied for was made in conformity to the Surveyor and filed in his office,
- 2 - The certificates by virtue of which the surveys are claimed to have been made, were not filed in the office of the Surveyor
- 3 - The surveyor who claims to have made the surveys was not authorized to do so, he having no copy of the entry or application in his hands at the time he alleges the survey was made, (R.S. Art-3896)
- 4 - It is not satisfactorily shown that the surveys were actually made in the field,
- 5 - It satisfactorily appears that the

right to the land in question
did not accrue until after
the act reserving the land
from location took effect,
See Gen Laws 1879. Special Session p 48.

I therefore have the honor to advise
that you refuse to patent the
sumps in question and
question, and all others
made in the reservations
under like circumstances.

Dawson Rest & Co

Geo. W. McCormick
Atty Genl

The communication of Mass Gt No
is herewith returned

File No. 27 b

Old Miscellaneous County
Attny. Genl. Opinion

Filed Sep 11 19880

By GARRY MAURO, Com'r
[Signature]

*Opinion of
Atty Genl
Sept 11/80*

Summerfield suit & c