

File with county boundaries
drawer under stair

SEE ITEM 5.1, SHELF 4, METAL BOOK SHELVES
FOR FIELD NOTES OF REMONUMENTATION OF
TEXAS' NW CORNER 10-20-1993 ch

J. H. CLARK'S REPORT OF 1861
BOUNDARY BETWEEN TEXAS AND
NEW MEXICO

Copy from university
of texas archives

RELATIVE TO THE 32° OF LATITUDE AND THE 103rd. MERIDIAN,
BETWEEN THE 32nd. AND 33rd. DEG. OF LATITUDE.
SEPT. 1861

7

SHELF 5

5076-2412
18-150-2

81681

J 610

Boundary

between

Texas and New Mexico.

Report of Commissioner
relative to the 32° of Latitude
and the 103^{rd} Meridian, between
the 32^{d} and 33^{d} degree of latitude.

Survey commenced September 1858

Report made Sept: 1861.

16

General Land Office
September 30th 1861

Sir:

In answer to your communication of the 19th Inst, I reply as follows:

1st In execution of my instructions to survey and mark the Boundary Line between the Territories of the United States and the State of Texas, I proceeded, September 1858 to San Antonio to confer with the Texas Commissioner.

It was there agreed between Mr Scurry, the Texas Commissioner and myself, to take the field as soon as the outfit could be made, & to begin the operations on the Rio Grande. My Assistants, with the necessary instruments, having joined me, & the outfit being completed, I left San Antonio the 12th of November, accompanied by the Texas Commissioner for the Initial Point, which was reached January 2^d 1859. The next day the work was commenced.

The performance of the astronomical work, upon which the Boundary line is based, I undertook exclusively - the Texas Commission taking part in the tracing & demarcation of the line by furnishing half of the surveying force. The plan of survey adopted was to determine the line in Latitude with a Zenith Telescope, as often as it might be necessary, to insure accuracy, and in Longitude by

22

triangulation and direct measurement from the Initial Point - the Longitude of this point being found by transfer from Frontera, a well established station of the Mexican Boundary Survey. From the meridian of each observatory a new tangent was turned and being traced both East and West, the surveyor's line was seldom more than 30 miles without a check.

A base line, on which the whole survey rests, was selected near the initial point. It was 4750 feet long & was carefully & repeatedly measured with standard rods taken out for the purpose. The preparation of the grounds for this base line, & its measurement employed the surveying party for ten days. The Surveying Party was then sent to Frontera to connect it with the point of beginning, which was in the mean time fixed as to Latitude by the astronomical party. To obtain this result, a triangulation of the whole surrounding country was necessary, because of the meridian of Frontera being crossed by the many broken spurs of the Franklin mountains.

This Initial Point being established and marked by a stone monument bearing the necessary inscriptions. I commenced January 26th the survey of the parallel or Boundary line proper. After prolonging the line for 27 miles and putting up in that distance

6 monuments had to suspend operations from the Rio Grande valley as a basis, it being too far to supply the parties with water.

A reconnaissance ~~showed~~ ^{showed?} that the next only available water, and that limited in supply, was to be had at the Hueco tanks. To this point, the surveying party, accompanied by an escort, detailed from Fort Bliss, moved on at once and took up the line. I remained near El Paso with the train till the 18th of February, waiting the arrival of the permanent escort.

When about leaving for the line, I was notified by Mr Scurry the Texas Com^r that he had resigned; and as the waiting for a successor would have been attended with indefinite delay, I went on & joined the surveying party at Alamo Springs. I intended to re-determine the parallel at this place; but finding it unsuited for such purpose, I made the 2^d astronomical station at Crow Spring. The prolongation of the tangent was discontinued at Alamo Springs & taken up from re-determination at Crow Springs was traced back & connected with the line as brought over from the Initial point. This part of the parallel was marked by the following monuments: One, on the Hueco mountains; - Two, near the first crossing of the overland mail

route; - Two between the first & second crossing; and Two at the second crossing of this route.

My observations at Crow Springs were completed by the 15th of March, when I left with the view of making my next station on the Pecos river; but in turning the Guadalupe mountains I found that they presented so rugged & so extensive a system of ranges, up to the middle of the mountain ranges. Leaving the party to take up the line anew, & after running it back to continue its prolongation Eastward, I moved from Independence Spring, March 26, for the Pecos, where I again re-determined the parallel. A number of moon culminations were taken in addition to the usual latitude observations. The monuments erected between Crow Spring and the Pecos, are: One at the west base of the Guadalupe mountains, One on the meridian of Independence Spring; Two near Delaware Creek; One on the road leading up the Pecos and on its west bank.

By the 15th of April the 32nd parallel was run & marked from the Rio Grande to the Pecos, & in 3 days thereafter a flag was set on the "Llano Estaco" in the further prolongation of the line. By establishing a depôt of water, it was continued out on the Plain for 35 miles & marked by 4 monuments, ⁵⁰

when it had again to be broken in consequence of the entire absence of water, & the presence of deep sand. The nearest water after leaving the Pecos was in the white sand hills, distant, in a direct line, 65 miles, & its discovery costs no little time, risk & exposure. By making a considerable detour to the South, however, I managed to get supplies to these sand hills where I had the gratification to be able to re-determine the parallel for the 5th & last time and the 22^d of May erected the monument marking its intersection with the 103^d Meridian.

Having completed the 32^d parallel I turned Northward on the 103^d Meridian using pack mules exclusively as heavy sand precluded the possibility of taking wagons along. The Meridian was traced up to the 33^d parallel although every drop of water used had to be transported from the white sand hills.

Finding no indications of water to the Northward & meeting with nothing but sand I was forced to suspend the operations of the survey in this direction & return to the main camp on the Pecos. This was reached 31st of May.

It is proper for me to state here that just before I left the Pecos for the white sand hills, the Texas Commission was withdrawn from the field by Mr Scurry, the Texas Commissioner.

6

The reasons which he assigned did not in my opinion justify an abandonment of the survey, and I therefore kept on with the work.

So much of the Boundary line was thus run and marked during a severe Winter over a country which, when not traversed by high & rugged mountains presented only extended waterless stretches of sandy desert. The observation were often made in a temperature from 20 to 35 degrees below the freezing point & the operations of the surveying party arrested by storm so violent as to turn over wagons, lift the instrument from the tripod, and fill the atmosphere with dust and gravel. To accomplish the survey of the 32^d parallel a distance of 211 miles the note books show that the party was compelled to travel 1248 miles. This will give an idea of how much labor is necessary to effect a result in a country like that in which the Texas Boundary Line falls.

After finding it impossible to trace the line further up through the Plain, I returned to the Pecos with the object of tracing a meridian near that river & of carrying out offsets from it to the 103^d meridian and thus mark the Boundary line. I was ready to proceed the first of June, but was detained

70

waiting for the escort till the 15th when I went on and reaching a point about midway between the 33rd & 34th parallels, fitted out a pack train and with it started for the 103rd Meridian. This examination showed that the river was much further from the 103rd Meridian than was anticipated & that the intervening country like the rest of the southern part of the Staked plain was formed almost entirely of sand and destitute of water. The plan of marking the 103rd Meridian by carrying out offsets had therefore to be abandoned as impracticable. I then marched as rapidly as the nature of the country, would permit for the North West corner of the Boundary continuing a survey of the river as it was erroneously placed on the maps.

The survey of the Pecos was made with sextant, compass & viameter, and connected with Capt Whipple's route along the Canadian. In addition to the results obtained from these instruments the bearings of all the prominent topographical points were taken with a large theodolite at each Sub-
itude station. Many of these points had already been fixed from the 32nd parallel & the bearings being read on them daily, the surveyor is enabled to lay down a map of the Pecos and our route accurately & in
8c

direct connection with the Boundary Line.

This route up the Pecos adds materially to the geographical knowledge of a region of country heretofore but little known, and demonstrates the practicability of a good wagon road where it had been reported impossible to take a wagon.

It could be advantageously adopted as a line of communication between the frontier posts & settlements of Texas & New Mexico, for it is not only shorter about 250 miles than that by way of El Paso, but affords more wood, water, & grass. Such is the character & number of streams & springs putting into the Pecos from the West, that marches up from Delaware could be so regulated as to enable the traveler to encamp every night near an abundance of wholesome water.

*

*

*

I append here a list of the monuments with brief description. They were not put up at regular intervals as will be seen by reference to the maps on which they are repre-⁹⁰

sented but on prominent points, roads, & where there was a possibility of the location of land or other questions of jurisdiction.

They were made of stone or earth & show the position in Latitude or Longitude by inscription as also the initial letters of the Territories separated thereby in most cases the dates too were added. These inscriptions were cut in on the stone or wood.

Monuments on 32nd parallel:

1st Initial Point. A pyramid of stone 8 feet high white washed with inscriptions on all the sides. It stands 600 feet from the bank of the river & between them lies the Road from El Paso to Fort Gillmore.

2. On the first ridge of sand, built of stone around a stick of timber.

3. On the first plateau, of a stick of timber - a cotton-wood tree barked.

4. On the first spur of the Franklin mountains cut by the line, is of stone and white-washed six feet high. All four of these monuments can be seen from the road along the Valley.

5. Directly East of the Franklin mountains and on the road leading from El Paso to the Salt Lakes. It is a large mound of earth capped with a slab of stone bearing the inscriptions.

6. On the open prairie extending from the

Franklin to Hueco Mountains. It is a mound of earth.

7. A mound of earth on the road leading from Huco tanks to the messilla valley.

8. Of earth on the ridge immediately North of the Huco tanks.

9. Is built of stone in a cañon of the Huco Mountains.

10. On the Easternmost hill of the Huco mountain system; of stone.

11. & 12. One on each side of the mail route; One of earth, the other made of stone.

13. Is on a ridge of the Cornudas mountains and of stone.

14. Also of stone on the table land lying East of the mountains.

15. This is on the same table land similar to the above.

16 & 17. These are near to & on each side of the mail route where the line crosses it the second time. They can be seen from Crow Springs; are pyramids of adobe built around stakes bearing the necessary inscriptions.

18. Is a swell of ground just at the base of the first ridge West of the Guadalupe mountain system. It is of stone whitened and is visible from the mail route or road about Crow Springs.

19. Is of stone on the top of Guadalupe Mts.

20. Is at the East base of the mountain and due North of Independence Spring. It is of Stone.

21. At Soda Creek where the parallel crosses it, and is of Stone.

22 + 23. Are mounds of earth; within seeing distance of each other on opposite sides of Delaware Creek. These monuments in pairs were put up with the object of showing the direction of the Boundary.

24. Of earth capped with a block of Stone having the inscriptions on the East side of the road leading up the Pecos.

25. On the bluffs near the West bank of the Pecos; made of Stone + gravel.

26. Is on the Llano Estacado near Pop's Well, of Stone with a large stick of timber in the center.

27. A mound of earth at supply camp on the Plain. Has a large stick of timber in the center.

28. Is of earth on the highest ridge of the Plain between supply camp and the white sand hills. The soil here is formed almost entirely of sand. A flag staff was left in this mound.

29. Is near some bluffs - in sandy soil; of Earth.

30. Near some natural mounds in a depression of the prairie, the soil of which this monument is made is rather firm.

31. Is on the trail of the Commission to the white sand hills where there is a depression

of firm ground surrounded on all sides by hills of sand; It is a mound of earth which is firm enough probably to resist the action of the wind.

32. At the intersection of the 32^d parallel & the 103^d Meridian. This is a mound of very sandy soil. It has a bottle buried in it which contains the Latitude & Longitude of the point, a list of the names of the members of the Commission & the date of its erection.

Monuments on 103^d Meridian.

1. This is a mound of tolerably firm soil, on the road leading to & from the water in the white sand hills. It is thrown up around a stick of timber on which is inscribed the marking necessary to indicate the line.

2. Is a mound of earth and near some slight bluffs.

3. This is similar to N^o. 2. except that a board instead of a stake contains the inscriptions.

4 is a mound just on the Northern edge of a great sand belt. It is built of firm soil around a flag staff.

5. As all the monuments on the Plain with a single exception N^o. 5. is also a mound of earth; It is on a slight roll or swell of the Plain and near a large rainwater pond.

* *
*
I am Sir, very Respectfully Yours
John H. Clarke
Com to Texas Body Survey.

To

Mr. S. M. Edmonds
Comt Land Office
Dept Interior.

RECEIVED

AUG 12 1954

REFERRED TO MAP

RESURVEY TEXAS AND NEW MEXICO BOUNDARY, 103rd MERIDIAN.

Chains.	310th Mile
	N. 0° 03' 46" W.
	On true line, Texas and New Mexico boundary, ascend gradually over gently rolling prairie land, sandy loam soil, no undergrowth, on east side of the boundary fence.
	An irregular road along the west side of the boundary fence.
17.05	Fall 01 lk. E. of mile corner No. 1 of the U.S. public land survey of the Texas and New Mexico boundary line, which is a sandstone 8x4x6 ins. above ground, firmly set marked T E X on E., N M 1 M on W., and 08 on S. face; witnessed by traces of pits E. and W. thereof.
20.00	Top of ascent, bears E. and W; thence over almost level land;
57.06	Fall 01 lk. W. of mile corner No. $\frac{1}{2}$ of the U.S. public land survey of the Texas and New Mexico boundary line, which is a sandstone 6x5x5 ins. above ground firmly set, marked T E X on E., N M $\frac{1}{2}$ M on W. and 08 on S. face; witnessed by traces of pits E. and W. thereof.
71.74	The location of Clark's monument No. 25, no evidences of his mound found.
75.70	Intersect the C.C. of secs. 12 and 13, T. 26 N. R. 36 E., 36 E., N.M. on the U.S public land survey of the Texas and New Mexico boundary line, which is a sandstone 8x4x6 ins. above ground, firmly set, marked C C on W. with 4 grooves on S., and 2 grooves on N. face; and witnessed by traces of pits N.S. and W. thereof.
	No difference between measurements of 80.00 chs. by two set of chainmen.
80.00	Set a hollow iron post 36 ins. long 3 ins. dia., filled with concrete, flanged at the bottom and surmounted with a brass cap, 24 ins. into the ground for the 310 mile corner. The top of the cap is divided by a north and south stamped line 1 inch in length, and marked "Texas" on the east, "New Mexico" on the west thereof, and also marked, "Clark Boundary 1859 Mile Corner No. 310 General Land Office Reestablish-

RESURVEY TEXAS AND NEW MEXICO BOUNDARY, 103rd MERIDIAN.

Chains. ment 1911 United States Boundary Commission." Digs pits 36x36x12 ins. E. and W. of post 5½ ft. dist; raise a mound of earth 6 ft. base, 2 ft. high S. of corner.

The boundary fence is 02 links west of the corner.

This corner is 78.7 links east of the position of the temporary corner on the random line.

Land, gently rolling prairie.

Soil, firm sandy loam 1st rate.

No undergrowth.

311th Mile

N. 0° 03' 46" W.

On true line, Texas and New Mexico boundary, over almost level prairie land, firm sandy loam soil, no undergrowth, along boundary fence. An irregular road along the west side of the boundary fence.

No difference between measurements of 17.04 chs. by two sets of chainmen.

17.04 To the NW. corner of Texas, the NW. corner of the boundary fence and X I T pasture, marked by a sandstone 10x12x20 ins. above ground marked

1859 on the S.,

N.M. on the W.,

N.W. COR TEXAS on the E.

1900 on the N. face.

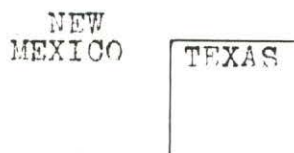
This stone was set by Levi S. Preston, U.S. Deputy Surveyor in 1900 and marks the location of Clark's mound marking the intersection of the one hundred and third meridian west from Greenwich with the ^{parallel} thirty six degrees, thirty minutes of north latitude, as reestablished by W.S. Mabry, Texas surveyor, during or prior to 1885.

The position of this corner with reference to the monument marking the south end of the Cimarron meridian and the Johnston and McComb monuments on the thirty seventh parallel, has been stated heretofore.

RESURVEY TEXAS AND NEW MEXICO BOUNDARY, 103rd MERIDIAN.

Chains.

To perpetuate the location of Clark's northwest corner of Texas, I construct at the point occupied by the above mentioned marked stone set by Preston, a concrete monument having a cubical base 30 ins. square, set 30 ins. into the ground and a superstructure in the form of a frustum of a cone, encased in galvanized iron, having a lower diameter of 24 ins. an upper diameter of 18 ins., and projecting 30 ins. above the ground; in the top of which there is embedded a circular brass plate, 6 ins. in diameter, marked in the center in accordance with the following diagram:



The brass plate is also marked "CLARK BOUNDARY 1859 N W COR TEXAS" in the north half" GENERAL LAND OFFICE REESTABLISHMENT 1911 UNITED STATES BOUNDARY COMMISSION" in the south half. Monument built June 12 1911.

According to the astronomical determinations by Arthur D. Kidder, Examiner of Surveys in 1903, heretofore mentioned, the latitude of the above corner is $36^{\circ} 29' 58''$ N., and the longitude $103^{\circ} 02' 13.8''$ west from Greenwich; or said corner is 2 miles and 5.57 chs., west of the true one hundred and third meridian, and 3.18 chs., south of the true parallel $36^{\circ} 30' 00''$ north latitude.

On June 12, on the random line, I determined the true meridian by observation of Polaris as follows, at the northwest corner of Texas:

RESURVEY TEXAS AND NEW MEXICO BOUNDARY, 103rd MERIDIAN.

Chains.

Sights marked 21.03 chs. north of station.

Latitude of station $36^{\circ} 29' 58''$ Declination of Polaris $88^{\circ} 49' 41.4''$ Longitude of station $103^{\circ} 02'$

Mean time, U.C. of Polaris, Greenwich 8h 08.5m a.m.

Correction for longitude -1.1m

Local mean time U.C. of Polaris 8h 07.4m

Watch times of observations.

	h	m	s
Telescope direct	7	00	43 p.m.
" reversed	7	01	51
" direct	7	03	20
" reversed	7	04	24

Mean watch time of observations 7 h 02 m 34.5s

Watch slow of L.M.T. 9 m 29.0s

Local mean time of observation 7 h 12 m 03.5 s

L.M.T. of obsn 7 h 12.1m p.m.

L.M.T. of U.C. 8 h 07.4m a.m.

Hour angle, W. 11 h 04.7m

The azimuth of Polaris corresponding to this hour angle is $0^{\circ} 19.9'$ west of the meridian.

The angle between the azimuth line and the true random N. $0^{\circ} 05' W.$ is therefore $14.9'$. The azimuth offset distance laid off to the east to determine the true random line is 9.1 links. At a point 21.03 chs. north of the point of observation the actual random line falls .22 ft. to the right of the true random N. $0^{\circ} 05' W.$, indicating an accumulated error of 33 seconds to the right, in 7 miles and 55.20 chs. The bearing of the random line at the point of observation therefore, is N. $0^{\circ} 04' 27'' W.$

True line completed to the N.W. corner of Texas,
June 13, 1911.

NO. 2939

PUBLIC LANDS - LANDS RECOVERED FROM NEW MEXICO
MINERAL RESERVATION IN SALES UNDER ACT OF 1933

1. Patents issued on lands recovered by Texas from New Mexico in the case of New Mexico v. Texas, and sold under Chapter 212, General Laws, Regular Session, 43rd Legislature, 1933, should contain a reservation of the minerals to the State.

2. The statutes governing sales of school land are statutes in pari materia, and should be construed together.

OFFICES OF THE ATTORNEY GENERAL

Austin, Texas
January 6, 1934

Hon. J. H. Walker
Commissioner of the General Land Office
Land Office Building
Austin, Texas

Dear Sir:

Your inquiry of October 18, 1933, addressed to the Hon. James V. Allred, Attorney General, has been received and referred to the writer for answer. Your inquiry reads as follows:

"In view of applications or claims of former owners in the strip of land recovered by Texas from the State of New Mexico by decree of the U. S. Supreme Court entered April 9, 1928, (276 U. S. 556) now pending in this office under Chapter 212, page 634

of General Laws, 43rd Legislature Regular Session approved June 6, 1933, I would thank you to advise this office as to your opinion on the mineral status of said recovered land.

"The Act of the 43rd Legislature, above referred to, is silent as to minerals and I am therefore asking for advice as to whether or not patents issued under said act should contain a reservation of minerals to the State."

Chapter 212, General Laws, Regular Session, 43rd Legislature, reads as follows:

"An Act providing for the issuance of patents under certain conditions to lands and accretions thereto, heretofore claimed by New Mexico to be in that State, but determined by the Supreme Court of the United States in its Decree of April 9, 1928, to be within the State of Texas, and prescribing the considerations and the conditions necessary for the issuance of such patents and the manner of such issuance and the provisions to be contained in such patents; defining the word 'person' as used herein, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. That the Commissioner of the General Land Office is authorized and requested to prepare and issue, and the Governor is authorized to execute and deliver, patents for the lands and accretions thereto, heretofore claimed by New Mexico to be in that State, but determined by the Supreme Court of the United States by Decree entered April 9, 1928 (New Mexico against Texas, 276 U. S. 556) to be in Texas, to the persons who, on April 9, 1928, were in actual bona fide possession of said lands and claiming title to such lands under patent from the United States.

"Sec. 2. In order to receive a patent under this Act, the person desiring such patent shall first make written application to the Commissioner of the General Land Office, describing the land for which a patent is sought and shall show in such application the facts necessary under this Act to entitle applicant to a patent hereunder, and the applicant shall verify the allegations in the application by any accompanying affidavit, stating that such allegations

are true to the best of the knowledge and belief of the applicant, and it shall be necessary that any such application be filed in the office of the Commissioner of the General Land Office within five (5) years from the date upon which this Act goes into effect, and the applicant shall, upon filing said application, deposit with the Commissioner of the General Land Office One Dollar (\$1.00) for each acre or fractional part of an acre in the land covered by the application, which shall constitute the purchase price for said land, and upon the delivery of any patent to any person under this Act, the purchase price shall be applied to the Public School Fund of the State of Texas.

"Sec. 3. It is further provided that any land acquired by patent issued under this Act shall be subject to the same liens other than liens for taxes and water and like quasi public charges that would have been against such land had it been in New Mexico.

"Sec. 4. It is provided that patents issued under this Act shall be merely quitclaims, and the title conveyed by such patents shall be subject to any prior conveyances by this State, and the patents shall so read.

"Sec. 5. As used in this Act, the term 'person' applies to and includes an individual, corporation, partnership, or association.

"Sec. 6. The fact that it is necessary to promptly perfect questionable titles which were affected by the decision of the Supreme Court in the case of New Mexico against Texas, referred to in this Act, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted. "

This Act was approved and became effective June 6, 1933.

The full history of the boundary controversy between Texas and New Mexico is stated in the decision of the United States Supreme Court in *New Mexico v. Texas*, 275 U. S. 279, 48 S. Ct. 126, 72 L. Ed. 280. That decision

binds the two States participating in that controversy and all persons claiming land under grants from either of said States. *Coffee v. Groover*, 123 U. S. 1, 31 L. Ed. 51; *Poole v. Lessee of Fleegeer*, 11 Pet. 185, 9 L. Ed. 680; *Crawford v. White*, 25 S. W. (2d) 629, writ of error refused 121 Tex. 639, writ of certiorari denied, 283 U. S. 823, 51 S. Ct. 346, 75 L. Ed. 1437. All grants of land made by the United States in that part of the formerly disputed territory which is now established to be a part of Texas are void. *Coffee v. Groover*, 123 U. S. 1, 31 L. Ed. 51.

According to the report of July 17, 1930, of the Hon. Samuel S. Gamett, Boundary Commissioner appointed by the Supreme Court to run the boundary line in the case of *State of New Mexico v. State of Texas*, Texas gained from New Mexico, as a result of this boundary controversy, 374 acres of land which had not been theretofore regarded as a part of Texas. Report, Boundary Commissioner, p. 8. What portion of this 374 acres, if any, is covered by Texas patents was not shown by the report of the Boundary Commissioner. When recovered, such portion of this 374 acres as is not covered by Texas patents becomes unpatented public domain of the State of Texas. *Coffee v. Groover*, 123 U. S. 1, 31 L. Ed. 51.

By the Act of February 23, 1900, settling the account between the State and the Permanent School Fund, any lands thereafter recovered by the State were set apart and granted to the Permanent School Fund. (Section One, Chapter XI, General Laws, First Called Session, 26th Legislature, 1900, p. 29, at page 31). This provision concern-

accepted
Oct. 15 1930

ing lands thereafter recovered was carried forward in various codifications of the statutes, Article 5416, R. C. S. 1925, reading as follows:

"All lands heretofore set apart under the constitution and laws of Texas, and all of the unappropriated public domain remaining in this State of whatever character, and wheresoever located, including any lands hereafter recovered by the State, except that included in lakes, bays and islands along the Gulf of Mexico within tide-water limits, is set apart and granted to the permanent school fund of the State. All such lands heretofore or hereafter recovered from railway companies, firms, persons, or other corporations by the State, by suit or otherwise, and constituting a part of said school fund as herein provided, shall be disposed of as other school lands, except as otherwise provided by law. In all cases where said land, or any portion thereof, has been surveyed into tracts of six hundred and forty acres, more or less, and field notes thereof returned to and filed in the Land Office, the same is hereby declared a sufficient designation of said land; and the Commissioner shall dispose of the same by the survey and block numbers contained in said field notes."

Such lands as have been recovered from the State of New Mexico, and which are not covered by Texas patents heretofore issued, have become the property of the Permanent School Fund of Texas by virtue of the aforementioned Acts. It will be noted that Article 5416, R. C. S. 1925, provides (as did the aforementioned Act of 1900, Section Three) that lands thereafter recovered by the State, "shall be disposed of as other school lands, except as otherwise provided by law."

When the lands mentioned in Chapter 212, General Laws, Regular Session, 43rd Legislature, were adjudicated to be in the State of Texas and not in the State of New Mexico, they became public free school fund lands and could have been sold under existing laws as other school lands are sold. However, the Legislature, in the exercise of a

wise discretion, and in order to save possessors of lands newly acquired by Texas from dispossession of that which they formerly thought to have been theirs, enacted the law of June 6, 1933, giving to those persons in actual bona fide possession of the newly acquired lands, and claiming title to such lands under patents from the United States, a preference right for a limited period of time to purchase said lands so possessed and claimed by them at a price of one dollar per acre.

The Act of June 6, 1933, provides for the manner of issuance and delivery of patents, the method of proof of a preference right to purchase, the price for which the land is to be sold, and certain other incidents of the sale, but makes no mention of the minerals.

It is a well settled rule of statutory construction that all consistent statutes relating to the same subject which can stand together, though enacted at different times, are treated prospectively and construed together as though they constituted one act, said statutes being called statutes in pari materia. Lewis' Sutherland Statutory Construction, Volume 2, Second Edition, page 844; *City of Dallas v. Wright*, 120 Tex. 190, 36 S. W. (2d) 973; *Love v. City of Dallas*, 120 Tex. 351, 40 S. W. (2d) 20. The public land laws of the United States, or of a state, are statutes in pari materia, though enacted at different times, and should be construed together. 21 R. C. L., page 1067; *Preston v. Browder*, 1 Wheat. 115, 4 L. Ed. 50; *Ryan v. Carter*, 93 U. S. 78, at 84; *Patterson v. Winn*,

11 Wheat. 380, 6 L. Ed. 500; Reynolds v. McArthur, 2 Pet. 417, at 430, 7 U. S. (L. Ed.) 470, (C. J. Marshall).

Both the Act of 1900 (Section 3, Chap. XI, Gen. Laws, First Called Session, 26th Legislature) and Article 5416, R. C. S. 1925, provide for the sale of lands acquired by the school fund, as a result of litigation, under the general school land sales acts, except as otherwise provided by law. While the Act of June 6, 1933, provides for sale of the lands covered thereby in a special manner, it contains no provision relating to minerals that may be found in the land, and no directions concerning their reservation or sale. Since the land dealt with is school land, we are required both by general rules of statutory construction, and by the terms of Art. 5416, R. C. S. 1925, to construe this law in connection with Article 5310, R. C. S. 1925, and Chapter 271, General Laws, Regular Session, 42nd Legislature, (1931), both of which statutes require a reservation of minerals in all sales of school lands.

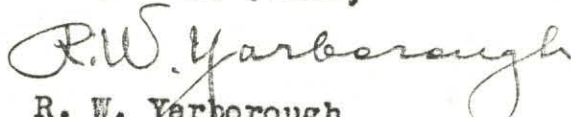
Construing the above quoted Act of June 6, 1933, in connection with the general laws regulating sales of school lands in Texas, we are of the opinion that patents issued under Chapter 212, General Laws, Regular Session, 43rd Legislature, 1933, should contain a reservation of minerals to the State.

Suggestion has been made that, under legislation recently enacted by the Congress of the United States for the relief of Texas patentees who find themselves on public domain of the United States in the State of New Mexico,

because of the decision in *New Mexico v. Texas*, and without patents from the United States, patents are being issued by the United States to such claimants without mineral reservation. We have examined the United States statutes and find no remedial legislation giving to Texans a preference right to buy the lands held in actual occupancy by them and now determined to be on the New Mexico side of the border, under the decision in *New Mexico v. Texas*. We are informed by attorneys for applicants for patents under Chapter 212, Acts 1933, that Congress has not yet passed an Act extending like relief to Texans. Since no Act has been passed by Congress, we do not have the benefit of any reciprocal legislation in construing the Act of June 6, 1933.

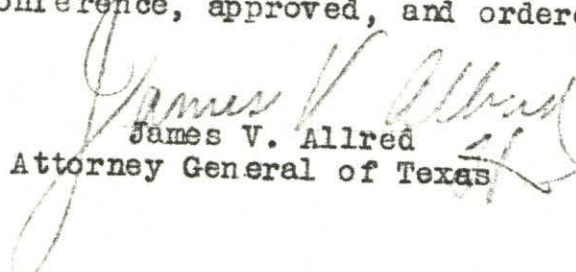
Those applicants for patents under the Act of June 6, 1933, with whom we have had correspondence have expressed a willingness to accept patents under this Act with a mineral reservation.

Very truly yours,



R. W. Yarborough
Assistant Attorney General

Considered in conference, approved, and ordered filed.



James V. Allred
Attorney General of Texas

Db10



CONTINENTAL OIL COMPANY

1710 Fair Building
Fort Worth, Texas
August 10, 1954

RECEIVED
AUG 12 1954
REFERRED TO MAP.

Mr. William Shirriffs
General Land Office
Austin, Texas

Dear Mr. Shirriffs:

Enclosed please find the photostatic copy of Clark's boundary report of 1861, of which we promised you a copy.

We obtained this report from the University of Texas archives.

Sincerely yours,

A handwritten signature in cursive script that reads "H. E. Rennels".

H. E. Rennels
Map Draftsman, Head
Southwestern Region

ENC
HER-MJH

August 16, 1954

Continental Oil Company
1710 Fair Building
Fort Worth, Texas

Attention: Mr. H. E. Rennels

Dear Sir:

I have just received the photostatic copy of Clark's boundary report of 1861 which you so kindly sent, and I want you to know we certainly appreciate your cooperation.

With kindest personal regards, I remain

Sincerely yours,

BASCOM GILES, COMMISSIONER
OF THE GENERAL LAND OFFICE

WS:dm

BOUNDARY LINE BETWEEN TEXAS AND NEW MEXICO.

JANUARY 11, 1911.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PARKER, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany S. J. Res. 124.]

The Committee on the Judiciary, to whom was referred Senate joint resolution 124, reaffirming the boundary line between Texas and the Territory of New Mexico, having considered the same, report the same favorably and recommend that it do pass without amendment.

This resolution recites the running, marking, establishing, and ratification of the lines between New Mexico and Texas, and enacts that no provision of the proposed constitution of New Mexico shall be construed to affect said boundaries known as the Clark lines; and, second, that the President of the United States in conjunction with the State of Texas may appoint commissioners to re-mark the lines as so determined and fixed; and, third, that the part marked by monuments shall remain the true line, and where no survey was actually made said boundary shall be marked by a straight line between the points so marked; and, fourth, that \$20,000 be appropriated.

On the admission of the State of Texas, on September 9, 1850 (9 Stat. L., p. 446), the west boundary extending north from latitude 32° was fixed at longitude 103° west of Greenwich, and a new Territory, known as New Mexico (sec. 2, p. 447), was created, bounding on the east on the same meridian.

By the act of June 5, 1858 (11 Stat. L., p. 310), the President was authorized to appoint a person or persons who, in conjunction with such person or persons as may be appointed by the State of Texas, "shall run and mark the boundary lines between the Territories of the United States and the State of Texas." The second section provides that such landmarks shall be established on said boundary at the beginning at Red River and at the other corners and on the

several lines of said boundary as may be agreed on by the President of the United States or those acting under his authority and the said State of Texas or those acting under its authority.

In 1859 and 1860 John H. Clark, the commissioner appointed by the United States, ran these lines, but did not complete this particular boundary line. The commissioner from Texas got into a quarrel with one of his subordinates and quit before the work was completed. Clark's full report was made in 1861 and was reprinted in 1882 in Senate Document No. 70 of the Forty-eighth Congress, first session.

On March 3, 1891, in the sundry civil appropriation bill (26 Stat. L., p. 971) it was provided that out of the appropriation the Commissioner of the General Land Office, with the approval of the Secretary of the Interior—

may assign a sum sufficient to complete the survey of the Public Land Strip—otherwise known as No Man's Land—and the boundary line between said Public Land Strip and Texas and between Texas and New Mexico, established under act of June 5, 1858, is hereby confirmed.

The message of the President of the United States, hereto annexed as an appendix, fully states the necessity not to disturb this line as so established.

It has been ratified both by the United States and by the State of Texas, as stated in the President's message. It has been the line up to which all patents and grants have been made.

A full report was made on this subject in the Fifty-ninth Congress by Mr. Birdsall, from this committee (H. Rept. No. 1186); and Senate Report No. 940 of the present Congress, which report is also annexed hereto as an appendix, fully states the facts.

It is argued that the act of 1891 simply established the one hundred and third meridian as the boundary and did not establish the monuments made by John H. Clark. A reference to the above acts proves the contrary. The one hundred and third meridian had been made the boundary in 1850. The act of 1858 provided for a survey and the establishment of landmarks to establish the position of the boundary. Clark's work was done under that act, and it is that survey to which the statute obviously refers, because it provides for a completion of the survey of the Cherokee Strip, otherwise known as No Man's Land—that is, of those boundaries that had not been theretofore surveyed—and confirms the boundary lines as established by the previous survey. Its reference is to surveys, and not to mere meridians.

Second. It is argued that the line as established is about 3 miles west of where it ought to be. This must be admitted. Mistakes are incident to all surveys of astronomical lines. This is shown in the instructions to Mr. Clark (S. Doc., p. 264) advising him to check his survey of longitude by connection with the Kansas boundary on the north and the town of Frontera on the south, because he would not have instruments to make the lunar observations. Stellar observations depend on chronometers, and four seconds error means over a mile. His instructions also recognized that he might not be able to go over all of the line because of its mountainous and arid character. His report (same document, pp. 296, 297, 299) shows that he did fix the longitude of the north and south starting points of his survey by measurement from the west boundary of Kansas and from the town of Frontera, as so instructed.

It seems just possible that the whole difficulty came from a comparison of Washington longitude—which determined the west boundary of Kansas—and Greenwich longitude. The Washington observatory was intended to be placed upon the seventy-seventh meridian, but this being too near the Baltimore & Ohio Railroad, it was put nearly 3 miles farther to the west. All the maps until 1860 show Washington longitude as reckoned from the seventy-seventh meridian exactly, and Clark probably supposed that such had been the reckoning, whereas the reckoning for marking 25 degrees west longitude from Washington, which was the west boundary of Kansas, appears to have been made from the Naval Observatory under an act of 1850 (R. S., sec. 435) as to astronomical work only, and which should not apply to land surveys. This is a matter of curiosity.

But mistakes of this sort can not affect a located line. There is many a State whose lines have been in doubt on questions of longitude or latitude. Maryland extends by its original charter to the fortieth degree of latitude, and the State of Pennsylvania was to extend south only to that degree. This would give the city of Philadelphia to Maryland. Like difficulties are found throughout the United States, but a boundary once confirmed by United States statute must stand. This boundary was so confirmed by the United States and Texas nearly 20 years ago. It has been surveyed and recognized for 50 years.

We append also copies of the material parts of the statutes.

[House of Representatives. Document No. 1076, Sixty-first Congress, third session.]

To the Senate and House of Representatives:

The constitutional convention recently held in the Territory of New Mexico has submitted for acceptance or rejection the draft of a constitution to be voted upon by the voters of the proposed new State, which contains a clause purporting to fix the boundary line between New Mexico and Texas which may reasonably be construed to be different from the boundary lines heretofore legally run, marked, established, and ratified by the United States and the State of Texas, and under which claims might be set up and litigation instigated of an unnecessary and improper character. A joint resolution has been introduced in the House of Representatives for the purpose of authorizing the President of the United States and the State of Texas to mark the boundary lines between the State of Texas and the Territory or proposed State of New Mexico, or to reestablish and re-mark the boundary line heretofore established and marked; and to enact that any provision of the proposed constitution of New Mexico that in any way tends to annul or change the boundary lines between Texas and New Mexico shall be of no force or effect. I recommend the adoption of such joint resolution.

The act of June 5, 1858 (vol. 11, U. S. Stats., 310) "authorizing the President of the United States in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas," under which a survey was made in 1859-60 by one John H. Clark, and in the act of Congress approved March 3, 1891 (vol. 26, U. S. Stats., 971) "the boundary line between said Public Land Strip and Texas, and between Texas and New Mexico, established under the act of June fifth, eighteen hundred and fifty-eight, is hereby confirmed," and a joint resolution was passed by the Legislature of Texas and became a law March 25, 1891 "confirming the location of the boundary line established by the United States commissioner between No Man's Land and Texas, and Texas and New Mexico, under the act of Congress of June fifth, eighteen hundred and fifty-eight." (Laws of Texas, 1891, p. 193, Resolutions.)

The Committee on Indian Affairs, in its report of May 2, 1910 (No. 1250, 61st Cong., 2d sess.), recommended a joint resolution in the fourth section of which appears the following:

"Provided, That the part of a line run and marked by monument along the thirty-second parallel of north latitude, and that part of the line run and marked along the

one hundred and third degree of longitude west of Greenwich, the same being the east and west and north and south lines between Texas and New Mexico, and run by authority of act of Congress approved June fifth, eighteen hundred and fifty-eight, and known as the Clark lines, and that part of the line along the parallel of thirty-six degrees and thirty minutes of north latitude, forming the north boundary line of the Panhandle of Texas, and which said parts of said lines have been confirmed by acts of Congress of March third, eighteen hundred and ninety-one, shall remain the true boundary lines of Texas and Oklahoma and the Territory of New Mexico: *Provided further*, That it shall be the duty of the commissioners appointed under this act to re-mark said old Clark monuments and lines where they can be found and identified."

The lines referred to in the paragraph above are the same as contained in the proposed joint resolution above referred to.

Under the act of Congress approved June 20, 1910, "An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union," etc. (vol. 36; U. S. Stats., 557), section 4 provides that when a constitution has been duly ratified by the people of New Mexico, a certified copy of the same shall be submitted to the President of the United States; and in section 5 it provides that after certain elections shall have been held and the result certified to the President of the United States, the President shall immediately issue his proclamation, upon which the proposed State of New Mexico shall be deemed admitted by Congress into the Union, by virtue of said act of June 20, 1910. The required acts have not taken place and therefore to all intents and purposes the proposed State of New Mexico is still a Territory and under the control of Congress.

As the boundary line between Texas and New Mexico is established under the act of June 5, 1858, and confirmed by Congress under the act of March 3, 1891, and ratified by the State of Texas March 25, 1891, and as the Territory of New Mexico has not up to the present time fulfilled all the requirements under the act of June 20, 1910, for admission to the Union, there is no reason why the joint resolution should not be adopted as above provided, and I recommend the adoption of such resolution for the purpose of conferring indisputable authority upon the President in conjunction with the State of Texas to reestablish and re-mark a boundary already established and confirmed by Congress and the State of Texas.

THE WHITE HOUSE, December 27, 1910.

WM. H. TAFT.

[Senate Report No. 940, Sixty-first Congress, third session.]

The Committee on the Judiciary, which has had under consideration Senate joint resolution 124 (61st Cong., 3d sess.), for reasons hereafter fully stated, report the same favorably and recommend its passage.

The contention of the constitutional convention of New Mexico, which is referred to in the joint resolution, seems to be that the boundary line of the Texas Panhandle on the west from latitude 36.30° north to latitude 32° north is located west of the true one hundred and third meridian of longitude west from Greenwich, and that a strip of territory between the true one hundred and third meridian and the line as now established and recognized by the United States and the State of Texas, about 310 miles in length, and varying in width from a little over to considerably less than 3 miles, of right belongs to New Mexico.

SUMMARY OF THE LEGISLATION ENACTED BY THE CONGRESS OF THE UNITED STATES AND THE LEGISLATURE OF THE STATE OF TEXAS WITH REFERENCE TO THIS BOUNDARY AND OFFICIAL ACTS OF THE EXECUTIVE DEPARTMENTS OF BOTH GOVERNMENTS WITH REGARD THERETO.

The United States, by an act of the Congress, approved September 9, 1850 (9 Stat. L., p. 446), proposed to the State of Texas that in consideration of the payment of \$10,000,000 to her the State would cede certain territory to the United States, and agree that her boundary on the north should commence at the intersection of the one hundredth meridian of longitude west from Greenwich and the parallel of 36.30° north latitude; run thence due west to the one hundred and third meridian of longitude west from Greenwich; thence due south along said meridian to the thirty-second degree of north latitude, etc.; the line from the intersection of the one hundred and third meridian and 36.30° north latitude south to 32° north latitude to constitute the boundary line between the Texas Panhandle and New Mexico.

By an act of her legislature, approved November 25, 1850 (Gammel's Laws of Texas, vol. 3, p. 833), this proposal was accepted by the State of Texas.

The Legislature of the State of Texas, by an act approved February 11, 1854 (Gammel's Laws of Texas, vol. 3, p. 1525), provided for the appointment of a commissioner by the governor to act in conjunction with a commissioner to be appointed by the United States in running and marking the line here under discussion between the State of Texas and the Territory of New Mexico, in accordance with the compact of 1850.

An act of the Congress approved June 5, 1858 (11 Stat. L., 319), provided for the appointment of a commissioner by the President of the United States to act in conjunction with the Texas commissioner in running and marking, among others, this line.

Pursuant to these acts by the legislatures of their respective governments, in 1858 John H. Clark was appointed commissioner on behalf of the United States, and William R. Scurry commissioner on behalf of the State of Texas. After some correspondence between the Secretary of the Interior and the governor of Texas it was decided to begin running and marking the line between Texas and New Mexico at the Rio Grande; thence eastward along the thirty-second parallel to the one hundred and third meridian; and thence north along that meridian as far as practicable. (Ex. Doc. No. 70, 47th Cong., 1st sess., pp. 206, 207.)

✓ The survey was begun on the ground by the joint commissioners January 3, 1859, and the intersection of the Rio Grande and the thirty-second parallel having been determined, the line was run eastward and marked along that parallel to the one hundred and third meridian, or what was determined to be the one hundred and third meridian, by transfer from Frontera, Mexico, in accordance with instructions to Commissioner Clark by the Secretary of the Interior. (Ex. Doc. 70, p. 264.) On the 23d of May, 1859, the running and marking of the one hundred and third meridian north was begun and continued by John H. Clark alone, the Texas commissioner having abandoned the work. Clark ran and marked the line north 70 miles, or a little beyond the thirty-third degree of latitude (ib., p. 298). Finding it impracticable, because of scarcity of water, to proceed further, he then returned west to the Pecos River, and proceeded up that river and across to the intersection of the one hundred and third meridian and 36.30° north latitude. He located that intersection, which constituted the northwest corner of Texas, by observations to obtain the latitude, and by taking up the one hundred and third meridian, as then established at the Kansas boundary, and transferring it to latitude 36.30°, in accordance with his instructions from the Secretary of the Interior (ib., p. 265). Having been joined at this intersection by another Texas commission, the prolongation of the one hundred and third meridian south was begun on August 23, 1859 (ib., p. 299), and continued to a point south of the thirty-fourth degree of north latitude (ib., p. 278), where, because of the lateness of the season and the occurrence of a succession of sand hills, the work was halted late in October, and never resumed along this meridian by him or any other commissioner representing the United States.

Commissioner Clark, in his report of October 27, 1859, to the Secretary of the Interior, states that he ran the line on the one hundred and third meridian north (from its intersection with the thirty-second parallel) 70 miles (ib., p. 279); and that he ran and marked the line on the one hundred and third meridian south from its intersection with latitude 36.30°, 184 miles (ib., p. 280), erecting altogether on both lines 26 monuments, chiefly of earth and stone (ib., pp. 302, 303).

The Commissioner of the General Land Office of the United States in a letter to the Secretary of the Interior, of date January 11, 1882, states that the office work connected with his surveys was never completed by Commissioner Clark, but that all of the field work was executed, except a part of the west boundary which was not run, viz, from 33 north latitude to 33.45 north latitude (ib., p. 1), which substantially agrees with Clark's report of October 24, 1859, that—

"After the establishment and marking of the corner the one hundred and third meridian was taken up and surveyed across the Canadian and to a point on the Llano Estacado south of the thirty-fourth parallel, a distance, with the survey from the Kansas boundary, of about 240 miles." (Ib., p. 278.)

And his letter of July 16, 1860, that he purposes "running out and marking the arc that remains (about 50') of this meridian on my return," referring of course to the hiatus between the thirty-third and thirty-fourth parallels which had not been actually run on the ground. (Ib., p. 280.)

This left a hiatus of about 56 miles between the termini of Clark's north and south lines along the one hundred and third meridian, covering the greater portion of the western boundaries of the present counties of Yoakum and Cochran, in the State of Texas, and a portion of the eastern boundary of the county of Chaves, in New Mexico.

By the act of March 3, 1891, the Congress of the United States confirmed and adopted the lines run and marked by Commissioner Clark in the following language:

"That the boundary line between said public-land strip and Texas and between Texas and New Mexico established under the act of June 5, 1853, is hereby confirmed." (26 Stat. L., p. 71.)

This act of the Congress was in terms accepted by a joint resolution of the Legislature of the State of Texas passed on March 25, 1891, duly establishing and accepting the lines laid down by Clark as the true boundary line between Texas and New Mexico. (Gammel's Laws of Texas, vol. 10, p. 196.)

CONNECTION OF THE TERMINI OF CLARK'S LINES.

In 1892 W. D. Twitchell, a special deputy surveyor of the Howard land district in the State of Texas, and Mark Howell, county surveyor of Chaves County, N. Mex., as disclosed by a report bearing date August 24, 1892, which is printed in full in House Report No. 1788 (59th Cong., 1st sess., pp. 9-13), retraced Clark's line from the southeast corner of New Mexico to its termination, 70 miles north, which they determined to be latitude 33° 58', and thence ran and marked a line connecting that point with the termination of Clark's 184-mile line down the one hundred and third meridian from the northwest corner of Texas, the hiatus or gap thus connected by Twitchell and Howell being 56 miles 296 varas long. Twitchell was an official surveyor, acting under due appointment and direction of the commissioner of the general land office of the State of Texas, and Howell was the county surveyor of Chaves County, N. Mex., in the absence of other information acting presumably under that section of the laws of the Territorial Assembly of New Mexico of 1891 (chap. 33, Laws 1891), providing:

"Where a boundary line between two counties is to be established, the county surveyors or their deputies of the two counties affected by such boundaries shall together make the survey and establish the line and erect monuments, etc."

In a letter dated November 30, 1910, the acting commissioner of the general land office of the State of Texas, among other things, says, in regard to this Twitchell-Howell line connecting the termini of Clark's lines:

"The report and the plat filed by Mr. Twitchell was approved by Land Commissioner W. L. McGaughey, and the line surveyed by him platted upon the maps of Cochran and Yoakum Counties, and it has uniformly been shown by those maps since the report was filed. * * * All sections or surveys of land except three touching the line (the Twitchell-Howell line) which connects the termini of Clark's lines belong to the permanent free-school fund and have been sold. * * * The State, acting through its general land office, has proceeded to treat the line run by Mr. Twitchell as the correct boundary. * * * There are 47 sections or surveys of school land and 3 sections of private land whose western lines coincide with that portion of the State boundary run by Mr. Twitchell."

The report by Twitchell and Howell of their survey indicates that in connecting the termini of Clark's lines they followed the correct surveyor's rule and the rule of law, and the rule confirmed and adopted by the Supreme Court of the United States in *Land Company v. Saunders* (103 U. S., 323): That where two points of a survey can be definitely located and the ensuing call for direction from either will not connect them the proper method is to connect them by the line of shortest distance between them.

IDENTIFICATION AND RETRACEMENT OF CLARK'S LINES.

Commissioner Clark erected 26 monuments, chiefly of earth and stone, upon the lines he ran along the one hundred and third meridian (Ex. Doc. 70 ante, pp. 302, 303).

Bulletin No. 194, series F, Geological Survey (U. S.), gives the following information in regard to the retracing of Clark's line running southerly from the northwest corner of Texas and the identification of his monuments:

In 1882-1885 W. S. Mabry, district surveyor of Dallam, Hartley, and Oldham Counties, located certainly the northwest corner of Texas, as fixed by Clark in 1859, the same constituting the northwest corner of the X I T pasture fence. Mabry ran the western boundary line of Texas thence southward along Clark's old line (p. 29), identifying Clark's monuments 15, 16, 17, and 20 (pp. 39, 40).

Clark's monuments 15 and 16 on his old line, as identified by Mabry, were also identified by United States Surveyors Taylor and Fuss on March 5 and 6, 1883 (pp. 29, 30).

In 1900 Levi S. Preston, a United States deputy surveyor, entered into a contract with the General Land Office of the United States to redetermine and retrace Clark's line along the northern part of the one hundred and third meridian, and connect his surveys in New Mexico therewith. In the report of his survey Preston states that he

spared neither time nor expense in seeking to properly relocate this line, riding more than 200 miles on horseback to interview old-timers who has assisted in building the X I T pasture fence, which coincided with Clark's line as retraced by Mabry; and that he also had a conference with Mabry, and received from the latter a copy of his retracement made in 1882-1885 of Clark's line. Thereafter, on July 11, 1900, Preston positively identified Clark's monuments 15 and 17, which Mabry had previously identified and used in his retracement of the line (p. 39). Preston also found Clark's monument 16, and satisfied himself that the stone placed by Mabry on the State line was in the position of Clark's old monument 20 (p. 40). Preston further states that he excavated around the northwest corner of the X I T fence, which Mabry found marked with a large mound of earth and a cedar post suitably inscribed, and accordingly adopted as the northwest corner of Texas as located by Clark. Preston also was satisfied from his investigations that this corner was the true northwest corner of Texas as located by Clark, saying:

"This point being almost in true alignment with the old Clark monuments found 37 miles and 75 miles south, agreeing very closely with Mr. Mabry's tie of 1882, and within 150 links of the proper position east of the Johnson monument, as determined in 1858 and 1859, therefore I set a sandstone 60 by 12 by 10 inches, 36 inches in the ground for the northwest corner of the State of Texas, marked 'N. W. cor. Texas' on east, 'N. M.' on west, '1859' on south, and '1900' on north faces (p. 41)."

Preston's retracement of Clark's line extended from the Canadian River to the northwest corner, a distance of 76 miles (p. 37).

The monument erected by Clark at the southeast corner of New Mexico, the beginning of his projection of the one hundred and third meridian northward, in 1859, has been positively identified, both as to that monument itself, and also by bearings obtained from his last or thirty-first monument on the thirty-second parallel. (H. Rept. 1788, 59th Cong., 1st sess.) This corner monument was adopted as the starting point of their survey northward along the old Clark line by Twitchell and Howell in 1892. From this starting point they retraced Clark's line 70 miles north, identifying several of his monuments, and thereafter connected the northern end of his 70-mile line with the southern terminus of his 184-mile line, as heretofore described. (See report, ante.)

EXERCISE OF SOVEREIGNTY BY THE STATE OF TEXAS OVER THE TERRITORY EAST OF THE LINES, AND ACQUIESCENCE BY THE UNITED STATES THERETO.

Surveyors of the State of Texas have run and marked this western boundary along various portions of Clark's lines.

By an act of the legislature of the State, approved February 20, 1879, all the vacant and unappropriated public domain, among others, in the counties of Dallam, Hartley, Oldham, Deaf Smith, Parmer, Bailey, and Cochran, the western boundaries of which, in their order as named, extend for 210 miles from the northwest corner of the State south along its western boundary, was appropriated and set apart for the purpose of erecting a new State capitol. Under this act patents were issued by the State to all of the land running from the northwest corner of Texas for 150 miles down this western boundary line—the Clark line—which had unquestionably been run and marked upon the ground in 1859 for that distance. Fences were erected along this 150-mile strip, and more than two-thirds of the land adjacent thereto has been sold by the syndicate first acquiring it, and it is now owned by many diverse owners.

As said by the land commissioner of the State of Texas in a letter to the governor of the State on December 17, 1902:

"A great number of titles have been patented to people along said lines, who in many instances have erected valuable and permanent improvements thereon."

The town of Farwell, the county seat of Parmer County, Tex., a place of several hundred inhabitants, with numerous valuable buildings and other improvements, is located wholly upon the territory which the constitutional convention of New Mexico claims.

Necessarily, the State of Texas has assessed and collected taxes upon all of the lands it has sold and all that privately owned along these lines. The citizens resident along it have exercised the right of suffrage in Texas. Their children have been included in the school census of the State and the funds of the State appropriated and paid out for their education. In short, the State has exercised complete political and police jurisdiction over them and over their property for a series of years.

Nor have any of these acts been in anywise controverted or questioned by any department of the United States. On the other hand, as disclosed by a letter from the Commissioner of the General Land Office of the United States under date of January

31, 1906 (House report, ante, p. 5), that office, properly regardful of the rights of the State of Texas, after stating that certain surveys of public land recently made in New Mexico had been terminated at points "indisputably west of the so-called syndicate fence, which, it has been determined, is approximately in the location of the Clark line," states that it "has so framed instructions as to avoid any steps being taken which would tend toward encouraging encroachment by public-land claimants upon lands east of the syndicate fence." This syndicate fence was built upon Mabry's retracement in 1882-1885 of Clark's line of 1859, and Mabry's retracement was verified, for 76 miles at least, by United States Surveyor Preston in 1900.

Henry Gannett, the geographer of the United States Geological Survey, in a bulletin published by the Department of the Interior in 1904, treats this boundary as settled, saying at page 113:

"The boundary lines between Texas and New Mexico were run and marked in 1859-60 under the Department of the Interior."

While no right has ever existed in the Territorial government of New Mexico to authoritatively raise any contention whatever in regard to this boundary, it may be noted that an examination of the acts of the Territorial Assembly from 1897 to 1909, inclusive, fails to disclose the passage or adoption of any statute, resolution, or memorial in any way questioning the boundary, or seeking to set up any adverse claim to the ownership exercised by the State of Texas.

It is reasonably clear that Clark did not establish the true astronomical one hundred and third meridian, yet it is no longer an open question that ancient errors in the running and marking of a boundary line, which have been accepted and acted upon and acquiesced in by both parties, can not be corrected.

The Supreme Court of the United States in *Virginia v. Tennessee* (148 U. S., 525) settled that question when it said:

"Nor is it any objection that there may have been errors in the demarcation of the line which the States themselves by their compact sanctioned. After such compacts have been adhered to for years, neither party can be absolved from them upon showing errors, mistakes, or misapprehension of their terms, or in the line established, and this is a complete and perfect answer to the complainant's position in this case."

In the more recent case of *Louisiana v. Mississippi* (202 U. S.) the Supreme Court says, at page 54:

"Moreover, it appears from the record that the various departments of the United States Government have recognized Louisiana's ownership of the disputed area, that Louisiana has always asserted it, and that Mississippi has repeatedly recognized it, and not until recently has disputed it.

"The question is one of boundary, and this court has many times held that, as between the States of the Union, long acquiescence in the assertion of a particular boundary and the exercise of dominion and sovereignty over the territory within it should be accepted as conclusive," citing *Virginia v. Tennessee*, supra, and other authorities.

It should be noted that the court in this last case cites the bulletin of the Geological Survey compiled by Henry Gannett in 1904, heretofore quoted from in this report.

In the very recent case of *Maryland v. West Virginia* (217 U. S., 1), decided February 21, 1910, the Supreme Court of the United States specifically held that even if a meridian boundary line is not astronomically correct it should not be overthrown after it has been recognized for many years and become the basis for public and private rights of property (p. 44).

When it is recalled that the northwest corner of Texas, as located by Clark in 1859, has been definitely identified by both United States and Texas surveyors; that three of the monuments erected by Clark upon the line he ran and marked from that corner south have likewise been identified by surveyors of both Governments and the position of a fourth definitely determined; that the monument erected by him at the other end of the line fixing the southeast corner of New Mexico was still upon the ground in 1892, is now definitely marked and was used as a starting point in 1892 by Surveyor Twitchell, acting officially for the State of Texas, and Surveyor Howell, the county surveyor of Chaves County, N. Mex., and that they identified several of Clark's monuments along the line he ran thence northward; the following language of the Supreme Court in the case last cited seems peculiarly pertinent:

"It may be true that an attempt to relocate the Deakins line will show that it is somewhat irregular and not a uniform astronomical north and south line, but both surveyors appointed by the States represented in this controversy were able to locate a number of points along the line, and the north limit thereof is fixed by a mound, and was located by the commissioners who fixed the boundary between West Virginia and Pennsylvania by a monument which was erected at that point; and we think, from the evidence in this record, that it can be located, with little difficulty by competent commissioners."

It is unnecessary to discuss the proposition that the enabling act to admit New Mexico into the Union as a State in nowise changes the present status of this boundary line, nor would its actual admission as a State. Directly in point, however, are these excerpts from the opinion of the Supreme Court in the case of *Missouri v. Iowa* (7 How., 667):

"The present controversy originated in 1837 between the United States and the State of Missouri, and was carried on for ten years before Iowa was admitted as a State. Previous to the controversy, and after Missouri came into the Union in 1821, many acts had been done by both parties most materially affecting the controversy, and tending to compromise the claims now set up, the one side as well as the other. The new State of Iowa came into the Union December 27, 1847, and up to this date she was bound by the acts of her predecessor, the United States, forasmuch as the latter might have directly conceded to Missouri a new boundary on the north as was done on the west; and so, likewise, Iowa is bound by the acts and admissions of the United States tending indirectly to confirm and establish a particular line as the northern boundary of Missouri."

And at page 674:

"From these facts it is too manifest for argument to make it more so, that the United States were committed to this line when Iowa came into the Union; and, as already stated, Iowa must abide by the condition of her predecessor and can not now be heard to disavow the old Indian line as her true southern boundary."

Summarizing them, the facts appear to be:

(1) That the one hundred and third meridian from latitude 36.30 north, south to latitude 32 north, was adopted as the western boundary line of the Texas Panhandle by compact between the Governments of the United States and the State of Texas in 1850.

(2) That 70 miles were run and marked northward along the one hundred and third meridian from the southeast corner of New Mexico, and 184 miles were run and marked southward along said meridian from the northwest corner of Texas by John H. Clark, commissioner for the United States in the year 1859.

(3) That a portion of Clark's old line south from the northwest corner of Texas along the one hundred and third meridian was retraced by W. S. Mabry, an official surveyor of the State of Texas, in the years 1882-1885, and four of Clark's monuments, including the one marking the northwest corner, identified certainly, and the position of one other (No. 20) accurately. That Clark's monuments 15 and 16 so identified by Mabry were likewise identified by United States Surveyors Taylor and Fuss in 1883.

(4) That the Congress of the United States and the Legislature of the State of Texas by appropriate legislative enactments in 1891 adopted Clark's lines, as run and marked on the ground as the true boundary.

(5) That the Clark line for the 70 miles north from the southeast corner of New Mexico has been retraced and his monuments identified in a joint survey by surveyors of Texas and New Mexico, who also ran and marked a line connecting the termini of Clark's north and south lines in 1892, and that this latter line bridging the gap has been officially recognized and acted upon by the State of Texas and acquiesced in by the United States.

(6) That State Surveyor Mabry's line from the northwest corner south for 76 miles was retraced by United States Surveyor Preston, and the Clark monuments identified by Mabry likewise identified by Preston, and the northwest corner fixed by Mabry found to be correct by Preston, and adopted and properly marked by the latter in 1900.

(7) That the State of Texas has sold nearly all of the land whose western boundaries coincide with Clark's lines; and also all of the land except three sections privately owned, whose western boundary coincides with the line run by Twitchell and Howell in 1892 connecting the termini of Clark's lines.

(8) That the State has for many years exercised complete political and police jurisdiction over the territory east of the Clark lines and the Twitchell-Howell line.

(9) That the United States have acquiesced in such acts of ownership and jurisdiction by the State, and officially recognized the Clark line when called into question by attempted locators on land alleged to be in New Mexico.

From which it seems clear—

(1) That irrespective of the correct astronomical location of the one hundred and third meridian between latitude 36.30 and latitude 32, the Clark lines, as run and marked on the ground, both by formal legislative adoption in 1891 by both governments and by long exercise of sovereignty by the State and acquiescence by the United States, constitute the true boundary and can not be changed.

(2) That the Twitchell-Howell line, run and marked on the ground in 1892, connecting the termini of the Clark lines, follows the rule of law applicable to such cases, and its adoption by the State of Texas and the acquiescence therein by the United

States, and the intervening of numerous private property rights with reference thereto, constitutes it the true boundary.

(3) That the enabling act to admit New Mexico into the Union as a State in nowise changes the status of this boundary, and as the United States have formally adopted and confirmed 254 miles of it and are estopped by long acquiescence from setting up any adverse claim as to the other 56 miles run and marked in 1892, New Mexico, as a State, will be concluded by the acts of her predecessor in sovereignty.

[Act of Sept. 9, 1850; U. S. Stat. L., vol. 9, pp. 446-447.]

AN ACT Proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a Territorial government for New Mexico.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by said State in an act passed by the general assembly, shall be binding and obligatory upon the United States, and upon the said State of Texas: *Provided,* The said agreement by the said general assembly shall be given on or before the first day of December, eighteen hundred and fifty.

First. The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of one hundred degrees west from Greenwich is intersected by the parallel of thirty-six degrees thirty minutes north latitude, and shall run from said point due west to the meridian of one hundred and three degrees west from Greenwich; thence her boundary shall run due south to the thirty-second degree of north latitude; thence on the said parallel of thirty-two degrees of north latitude to the Rio Bravo del Norte, and thence with the channel of said river to the Gulf of Mexico.

Second. The State of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement.

Third. * * *
Fourth. * * *
Fifth. * * *

SEC. 2. *And be it further enacted,* That all that portion of the territory of the United States bounded as follows: Beginning at a point in the Colorado River where the boundary line with the Republic of Mexico crosses the same; thence eastwardly with the said boundary line to the Rio Grande; thence following the main channel of said river to the parallel of the thirty-second degree of north latitude; thence east with said degree to its intersection with the one hundred and third degree of longitude west of Greenwich; thence north with said degree of longitude to the parallel of thirty-eighth degree of north latitude; thence west with said parallel to the summit of the Sierra Madre; thence south with the crest of said mountains to the thirty-seventh parallel of north latitude; thence west with said parallel to its intersection with the boundary line of the State of California; thence with said boundary line to the place of beginning—be, and the same is hereby, erected into a temporary government, by the name of the Territory of New Mexico: * * *

[Act of June 5, 1858; U. S. Stat. L. vol. 11, p. 310.]

AN ACT To authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized and empowered to appoint a suitable person or persons, who, in conjunction with such person or persons as may be appointed by and on behalf of the State of Texas for the same purpose, shall run and mark the boundary lines between the Territories of the United States and the State of Texas: Beginning at the point where the one hundredth degree of longitude west from Greenwich crosses Red River; and running thence north to the point where said one hundredth degree of longitude intersects the parallel of thirty-six degrees thirty minutes north latitude; and thence west with the said parallel of thirty-six degrees and thirty minutes north latitude to the point where it intersects the one hundred and third degree of longitude west from Greenwich; and thence south with the one hundred and third degree of longitude to the thirty-second parallel of north latitude; and thence west with the same thirty-second degree of north latitude to the Rio Grande.

SEC. 2. *And be it further enacted,* That such landmarks shall be established at the said point of beginning on Red River, and at the other corners, and on the said several lines of said boundary, as may be agreed on by the President of the United States, or those acting under his authority, and the said State of Texas, or those acting under its authority.

SEC. 2. *Be it further enacted,* That the sum of eighty thousand dollars, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act: *Provided,* That the person or persons appointed and employed on the part and behalf of Texas are to be paid by the said State: *Provided further,* That no persons, except a superintendent or commissioner, shall be appointed or employed in this service by the United States but such as are required to make the necessary observations and surveys to ascertain such line and erect suitable monuments thereon and make return of the same.

Approved, June 5 1853.

[Act of March 3, 1851; U. S. Stat. L., vol. 26, p. 971.]

* * * And out of the sum herein appropriated for surveying the public lands the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, may assign a sum sufficient to complete the survey of the Public Land Strip—otherwise known as No Man's Land—and the boundary line between said Public Land Strip and Texas, and between Texas and New Mexico, established under act of June fifth, eighteen hundred and fifty-eight, is hereby confirmed.

the bonds of the State of Texas, of the denomination of one thousand dollars each, to the amount of two hundred and eighty-eight thousand dollars (\$288,000). Said bonds shall be designated "the State of Texas Refunding Bonds, Issue of 1904." They shall be numbered from one to two hundred and eighty-eight, inclusive, shall be dated January 1, 1904, and shall become due and payable forty years from their date, but the State shall reserve an option of redeeming them at any time after five years from their date. They shall bear interest at the rate of three per cent. per annum, payable semi-annually on the first day of January and of July of each year, evidenced by coupons attached, and the facsimile signature of the Governor and Treasurer may be lithographed on the coupons. The bonds shall be signed by the Governor and Treasurer of the State of Texas and countersigned and registered by the Comptroller, and shall have the seal of the State of Texas affixed thereto. The principal and interest of said bonds shall be payable upon the presentation of bonds or proper coupons, in lawful money of the United States, at the office of the Treasurer of the State of Texas, at Austin, Texas.

The bonds herein provided for are authorized for the purpose of redeeming, cancelling, and in lieu of State bonds outstanding to the amount of two hundred and eighty-eight thousand dollars, which bonds mature January 1, 1904, and were issued under an Act passed by the fourteenth Legislature entitled "An Act to provide money to pay the floating indebtedness of the State," approved March 4, 1874.

SEC. 2. The Governor and State Treasurer shall exchange the new bonds for a like portion of the old bonds held by special State funds, and the balance of said new bonds shall be sold to the special State funds; provided, that twelve thousand dollars (\$12,000) thereof shall be sold to the permanent University fund.

SEC. 3. The sum of five hundred dollars (\$500.00) or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to pay the expenses of lithographing the bonds provided for in this Act, and any other expense necessary in carrying out the provisions hereof.

Approved April 30, 1903.

Takes effect 90 days after adjournment.

STATE BOUNDARY LINE—PROVIDING FOR SURVEY OF.

S. B. No. 4.]

CHAPTER VII.

An Act to authorize the Governor of the State of Texas, in conjunction with the President of the United States, to run and mark the boundary lines between the Territories of Oklahoma and New Mexico and the State of Texas, and to make an appropriation therefor, and declare an emergency.

Whereas, The west boundary of the Panhandle of Texas and the east boundary line of New Mexico is fixed by law on the one hundred and third meridian and said line is three hundred and ten miles long; and

Whereas, Only seventy miles at the south end and one hundred and eighty-four miles at the north end of said line was surveyed and marked with monuments (in the year eighteen hundred and fifty-nine, by John H. Clark, the commissioner on the part of the United States); and

Whereas, The remainder of said line, fifty-six miles in length, has never been run or marked on the ground; and

Whereas, It is necessary that said lines be re-marked on the ground, and the fifty-six miles not marked be established; and

Whereas, Said Clark survey was made under a joint commission by the United States and the State of Texas, authorized by Act of Congress, approved June fifth, eighteen hundred and fifty-eight, and said survey has been approved by the United States and the Legislature of the State of Texas, and conformed to by the surveyors of the State of Texas; and

Whereas, A part of the south and east lines of New Mexico bordering on Texas, and all of that part of the boundary line of the Texas Panhandle now bordering on Oklahoma, as run by said Clark, can not now be found and identified; and

Whereas, Congress by Act approved January fifteenth, nineteen hundred and one, provided for fixing monument on Red River at the intersection of the true one hundredth meridian with said river; and

Whereas, Said monument has been duly fixed under said law by Arthur D. Kidder, United States examiner of surveys, and a report thereon made, in House Document numbered Thirty-three, Fifty-seventh Congress, second session, and in Bulletin numbered One Hundred and Ninety-four, Series F, of the Geological Survey, by Marcus Baker, on the northwest boundary of Texas; and

Whereas, The fixing of the said Kidder monument on the one hundredth meridian properly marks that boundary, the same having been fixed under said Act of January fifteenth, nineteen hundred and one, and the fixing of said monument and meridian requires the resurvey of said lines between Texas and Oklahoma; and

Whereas, That part of said Clark line not now known and established should be fixed on the ground by monuments erected along said line, and resurveyed, established and marked; therefore,

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That the Governor of the State of Texas be and he is hereby authorized and empowered to appoint a commissioner, who, in conjunction with such commissioner as may be appointed by and on behalf of the United States for the same purpose shall run and mark the boundary between New Mexico and Texas, as determined by John H. Clark, the commissioner on the part of the United States in the year eighteen hundred and fifty-nine, and the northern boundary of Texas lying between the one hundredth and the one hundred and third meridian of longitude west of Greenwich. Beginning at the intersection of the thirty-second parallel of north latitude with the Rio Grande River, as determined by said Clark in 1859; thence east along said parallel as determined by him to its intersection with the one hundred and third meridian of longitude west of Greenwich; thence north along said meridian of longitude as determined by said Clark to its intersection with parallel 36-30 north latitude as determined by said Clark; thence east along the parallel of latitude 36-30 to its intersection with the one hundredth meridian of longitude west of Greenwich.

SEC. 2. That the monument established (under authority of the Act of Congress approved January fifteenth, nineteen hundred and one) by Arthur D. Kidder, United States examiner of surveys, as the point of intersection of the true one hundredth meridian with Red River shall be accepted as correct. The said commissioners shall run and mark said boundary lines and erect such monuments as may be agreed on by the United States commissioner acting under his authority; and the commissioner of Texas acting under his authority; provided, that the part of the line run and marked by monuments along the thirty-second parallel of north latitude and that part of the line marked by monuments along the one hundred and third degree of longitude west of Greenwich, the same being the east-and-west and north-and-south lines between Texas and New Mexico, and run by authority of Act of Congress approved June fifth, eighteen hundred and fifty-eight, and known as the Clark lines and that part of the line along the parallel of thirty-six degrees and thirty minutes of north latitude, forming the north boundary line of the Panhandle of Texas, and which said parts of said lines have been confirmed by an Act of Congress approved March 3rd, 1891, shall remain the true boundary lines of Texas and said Territories of Oklahoma and New Mexico; provided further, that it shall be the duty of the commissioners appointed under this Act to re-mark said old lines where they can be found and identified by monuments, and where monuments are now missing, the monuments found shall determine the position and course of the boundary lines as marked by said Clark to the full extent of the survey made by him; and where no survey was originally made on said lines, it shall be the duty of the said commissioners to run a straight line between the nearest points determined by the Clark survey; and when said straight lines have been so run, marked and agreed upon by the commissioners, they shall thereafter form the true boundary lines.

SEC. 3. That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to carry out the provisions of this Act; provided, that the person or persons appointed and employed on the part and behalf of the United States are to be paid by the United States; provided further, that no persons except a superintendent or commissioner shall be appointed or employed in this service by the State of Texas, but such as are required to make the necessary observations and surveys to ascertain such line and erect suitable monuments thereon and make return of the same.

SEC. 4. The fact that there is no law whereby Texas can be represented in connection with the National Government in surveying the boundary lines referred to and the necessity existing as to said lines, creates an emergency and imperative public necessity that the Constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is so enacted.

[NOTE.—The enrolled bill shows that the foregoing act passed the Senate by a two-thirds vote, yeas 23, nays 0; and passed the House of Representatives by vote, yeas 66, nays 35.]

[NOTE.—The foregoing Act was presented to the Governor of Texas for his approval, on the 30th day of April, A. D. 1903, but was not

signed by him nor returned to the house in which it originated, with his objections thereto, within the time prescribed by the Constitution, and thereupon became a law without his signature.—J. R. CURL, Secretary of State.]

Takes effect 90 days after adjournment.

CONFEDERATE HOME—APPROPRIATION FOR THE SUPPORT AND MAINTENANCE OF.

S. B. No. 12.]

CHAPTER VIII.

An Act making an appropriation for the sum of sixteen thousand two hundred and twenty-eight dollars and sixty cents (\$16,228.60), or so much thereof as may be necessary for the support and maintenance of the Confederate Home at Austin, Texas, from May 1st, 1903, to September 1st, 1903, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That the sum of sixteen thousand two hundred and twenty-eight dollars and sixty cents, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the support and maintenance of the Confederate Home at Austin, Texas, from May 1st, 1903, to September 1st, 1903.

SEC. 2. Whereas, there is no appropriation which may become available after May 1st, 1903, for the support and maintenance of the Confederate Home, creates an emergency and an imperative public necessity which justifies the suspension of the constitutional rule requiring bills to be read on three several days in each house, and that this act shall take effect from and after its passage, and it is so enacted.

[NOTE.—The enrolled bill shows that the foregoing act passed the Senate by a two-thirds vote, yeas 25, nays 0; and passed the House of Representatives by a two-thirds vote, yeas 94, nays 0.]

Approved May 1, 1903.

Became a law May 1, 1903.

JURORS—AMENDMENT RELATING TO QUALIFICATION OF.

H. B. No. 19.]

CHAPTER IX.

An Act to amend Article 3139 of the Revised Civil Statutes of the State of Texas and Articles 378, 393, 394, 668 and 673 of the Code of Criminal Procedure of the State of Texas, relating to the qualification of jurors.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That Article 3139 of the Revised Civil Statutes of the State of Texas, and Articles 378, 393, 394, 668 and 673 of the Code of Criminal Procedure of the State of Texas, be so amended as to hereafter read as follows:

New Mexico v. Texas, 276 U.S. 556 (April 9, 1928).
Supreme Court appointed a commission to survey line
between N.M. & Texas. Commission: Samuel S. Hannett.
Survey was accepted by Sup. Ct. at the October
term, 1930.

Q: Can we find a copy of Hannett's survey, specifically
we need his field notes.

(Maybe if we Shepardize 276 U.S. 556, we can get
a reference to acceptance)