

# Chapter News

Volume 4, Issue 2

July 1, 1999

**Famous Quotations:**

- **Frank Lloyd Wright:**  
"An expert is a man who has stopped thinking - he knows!"
- **H.L. Mencken:**  
"For every human problem, there is a neat, simple solution; and it is always wrong"
- **Thomas Jefferson:**  
"Follow truth as the only safe guide, and... eschew error, which bewilders us in one false consequence after another."
- **Mark Twain:**  
"Few things are harder to put up with than a good example."
- **Doug Gywn:**  
"Truth is not determined by majority vote."
- **Jan L.A. van de Snep-scheut:**  
"In theory, there is no difference between theory and practice. But, in practice, there is."

**Inside this issue:**

Minutes of Meeting	2
New Certification Program Announced	2
Surveying Mexican Texas	3
From the Ancient Ar-	7
Legislative News	7
Calendar of Events	8

## 1999 Gradient Boundary Seminar

Chapter 6 had a great time in hosting the Second Annual Gradient Boundary Seminar, "In the Heart of the Big Thicket," by Darrell Shine, R.P.L.S., L.S.L.S. with valuable assistance from Nedra Foster, S. I. The classroom lecture began at 1:00 PM on June 11th at the Hilton Hotel in Beaumont.

Forty one attendees were kept in the dark for the first hour of the seminar as electricity failed due to severe thunderstorms in the area. Since most of us are accustomed to being kept in the dark, it didn't slow things down much. Darrell and Nedra just talked a little faster once the lights came on - Darrell had to leave out a few jokes (which could have been a blessing!)

Over sixty people were treated to yet more of Nature's wrath in Village Creek State Park as the Friday night fish fry was held in spite of lightning popping and a plumb ole frog stranglin' rain. The rains did prevent attendees from taking part in the tree identification event, but they made up for it by eating four pounds of fish apiece. Some folks paid for this overeating the next day on the creek - they sank like rocks.

Saturday was the hands on learning experience in performing a gradient boundary survey. Once paired with canoe buddies, the students were off like a herd of turtles with only mild chaos erupting - almost made it around the first bend before a canoe turned over. Everyone was treated to beautiful scenery around every bend of the creek.

Periodically, the students stopped for laboratory learning on qualified banks or to stake out the boundary on sand bars. The creek was very cooperative in flowing almost perfectly on the established gradient boundary level. Everyone came away from the weekend with something - hopefully some learned, definitely good eating, and a few war stories to share around the office.



Students learning in the field.

## President's Column

By Lequin Hildebrand (email: lequin.hilderbrand@lpcorp.com)

As we approach the summer months, we will find ourselves busier than normal with the benefit of daylight savings time, the commencement of sporting and recreational events such as Little League Baseball, and year-end school events. Further, as TSPS Chapter members, we find ourselves even the more busier with the upcoming Chapter meeting, the June Heart of the Big Thicket seminar and the June

Board Meeting.

How do we manage to accomplish all that is before us and do so with an ever-increasing level of success? How do we perform in quantity without sacrificing quality? The answer is simply found in the greatest resource we have people. As professionals, we have col-

(Continued on page 2)

## President's Column

*(Continued from page 1)*

leagues that we can urge to participate in the promotion of our profession. As employers, we have employees that we can encourage to become a part our society and the work it does. As employees, we have fellow employees that we can open the invitation to.

There is a lot to be said of new and fresh faces. With those new and fresh faces come new and fresh ideas;

perhaps new and fresh operating suggestions; new and fresh visions. One of the upcoming State TSPS projects involves a small panel of TSPS personnel, be it an officer, the executive director or others, who will visit the Beaumont area to solicit opinions of our peers.

However, these opinions are asked of those men and women who do not attend a State meeting or a Quarterly Chapter meeting or who do not

take an active role in our society. The sole purpose is learn why and what will it take .

Having said all of the above, find a new face and invite them to become a part of the team. After all, they may very well be the one with the greatest vision.

As a closing note, in work and in play, summer months are the most injury filled so exercise caution in all that you

## Minutes of Meeting

The Chapter held the first quarterly meeting January 21, 1999 at the Tuffy's Restaurant in Mauriceville. Business meeting started at 6:30 PM.

- Meeting called to order and opening remarks by President Lequin Hildebrand.
- Minutes of Meeting of last quarter accepted.
- Financial report given by Secretary Treasurer Joe Breaux.
- Reports of special committees

and projects given.

Guest speaker was Galen Greaser, head of the Spanish Archives in the Texas General Land Office presented a history of Texas.

Meeting adjourned at 9:00 PM

The Chapter held the second quarterly meeting May 13, 1999 at the Red Onion Restaurant in Lumberton.

- Meeting called to order and opening remarks by President

Lequin Hildebrand.

- Minutes of Meeting of last quarter accepted.
- Financial report given by Secretary Treasurer Joe Breaux.
- Reports of special committees and projects given.

Guest speaker was Justice Earl Smokey Stover of the Ninth Court of Appeals.

Meeting adjourned at 9:00 PM.

## New Certification Program for Registered Surveyors Being Considered by TSPS

A new certification program for the Registered Professional Land Surveyor member of the TSPS is being considered by the TSPS Board of Directors in Austin. The purpose of the certification is to recognize the expertise and experience of those registered surveyors who have proven that they are specifically qualified in certain fields of land surveying.

Applicants will need to meet certain minimum experience and continuing educational requirements to be awarded the certification by TSPS. Categories being considered are:

1. Land Boundary
2. Residential Lot Surveying
3. Commercial Urban Surveying
4. Oil and Gas Lease Surveying
5. Water Boundaries
6. Construction Surveying
7. Control Surveying
8. GIS/LIS
9. Licensed State Land Surveying

For any specific category, a minimum 40 hours of CEU's must be accumulated along with a minimum of 10 years experience is anticipated.

This program will probably see numerous revisions before it will be considered for adoption by TSPS. It is imperative that local chapter members voice their concerns or suggestions. This topic will be discussed at the next quarterly chapter meeting.

Please contact Chapter Representative Richard Worthey for comments or further information at (409) 866-9769; or email at [rworthey@wortech.com](mailto:rworthey@wortech.com).

# Surveying in Mexican Texas, 1821-1836

*Presented by Galen Greaser of the Spanish Archives of the Texas General Land Office to TSPS Chapter 6 on January 21, 1999.*

BEING the only speaker on the program has one big advantage...nobody's going to steal your talk. Several years ago I was asked to speak about the records of the General Land Office at a surveyors training seminar in Waco. Dr. Robert Turpin preceded me on the program, and I soon realized, to my dismay, that we had both been assigned the same subject and that he was covering everything that I had prepared for my talk. When my turn finally came, the moderator informed the audience that I was going to talk about problems associated with translating Spanish land grants, which may have been news to them but was definitely news to me. Fortunately, Dr. Turpin's remarks had extended way beyond his allotted time and when my turn came it was close to lunch time. I got up, told a bad joke, and then suggested that we all adjourn for lunch. It was the shortest and one of the best-received talks I have ever given.

In my job I work with records. More specifically, I work with the records of the Spanish and Mexican land grants in Texas. If they are properly interrogated, these records sometimes yield surprising answers. The most requested General Land Office record by far in the last 30 years is the William or Pelham Humphries Mexican land title, which covers one league of land in what became the Spindletop Oil Field in nearby Jefferson County. The interest in this document is related, of course, to the widely held belief among the Humphries heirs that they are in line to receive billions of dollars in escrowed money from the oil and gas produced from this field.

The Pelham Humphries heirs have been so persistent in their efforts that they had been in court seven times before their last attempt in 1989 before Judge Cobb of the U.S. District Court in Beaumont. The dispute revolves around the identity of the original grantee.

Was the original grantee William Humphries or was it Pelham Humphries, and was Pelham cheated out of his rightful title? The General Land Office records include three documents related to this title:

1. Character certificate dated Sept. 27, 1834, at San Augustine, to William Humphries showing that he had a family of two persons;

2. Title dated Feb. 14, 1835 in which the name Pelham Humphries appears throughout the document with the exception of the petition, where the name William has been written over the name Pelham;

3. An affidavit dated Oct. 6, 1835, in which William Humphries swears that the name Pelham was mistakenly inserted in place of William in the order of survey from Commissioner George Nixon and authorizing William English to take the title out of the commissioner's office and alter the name from Pelham to William.

But is the affidavit true, or was it simply an attempt by William Humphries and William English to deprive Pelham Humphries and his heirs of their title? We have evidence that there was a William Humphries, but was there also, in fact, a Pelham Humphries in Texas who could have received a Mexican land grant? Thousands of Pelham Humphries heirs, joined together in the Humphries Heirs Association, claim that he was defrauded. In my years at the Land Office I've heard many versions about this mystery man. Some believe he was born in South Carolina; others claim he was from Tennessee. Some accounts claim that he was shot and killed by William English in Nacogdoches. Others claim that he died in a shoot-out in California while others contend that he died of old age in Oregon. I've even heard the version that he went to Mexico and then returned to Texas and changed his name to Squire Humphries. There has been a lot of hype about the Humphries claim. The director of Burke's Peerage was quoted as saying about the Humphries sage that "it is a tale of money, murder and passion, which makes Dallas and Dynasty, combined look like that simple tale of country folk, the Archers." But Judge Cobb of the U.S. District Court wasn't buying the hype, and in 1990 he issued a summary judgment against the Humphries heirs that for all practical purposes threw them out on their ear. "This court," he said, "desperately desires that the ghost of Pelham Humphries will no longer haunt the halls of the United States court system. The Pelham Humphries litigation is over... rest in peace." Before Judge Cobb's ruling effectively put this matter to rest, millions of dollars had been spent pursuing this litigation. In a book called Spindletop, the authors wrote: "no one is able to estimate how much money has been spent on fees, court costs and incidentals over the years. It might have amounted to as much as the

profits on all of the oil produced from the survey."

Because of all the inquiries over the years about the Humphries title, I decided to make a careful examination of the Humphries documents in the Land Office, and I believe I discovered a simple, but plausible explanation that accounts for the confusion. If the Pelham Humphries heirs had simply paid closer attention to the records and understood their historical context, they might have saved millions of dollars and many thousands of hours of wasted research and speculation. The clue is in the title, when the name was changed from Pelham to William.

Documents were handwritten by a scrivener during those times. Many documents were written in Spanish and later translated to English. The title, written in 1835, shows the first name Pelham over written later with the name William as the affidavit of October 1835 attest. However, compare that with the character certificate of 1834, where the name William Humphries appears. It is clear to the examiner how easily the original name of William could be mistaken for Pelham because of the style of the cursive script writing. In addition, the applicant made his mark for his signature on the 1835 title, making it is apparent that William Humphries could not read nor write and therefore would not be able to catch the scrivener's mistake until later. In other words, the person writing the title mistook the first name of William to read Pelham and the mistake was not caught for almost eight months!

The point is that a close examination of the records can sometimes save you time and money. Let me talk now about land distribution and surveying in Mexican Texas, 1821-1836. Over the 50 year history of the Texas Surveyors Short Course program, at least a dozen papers have dealt with aspects of surveying in Spanish and Mexican Texas ranging from boundary law and the retracing of original lines to odd field notes and early surveyors. One of the "Short Course" presenters labeled the period between 1821-1836 as "the dark period of Mexican control," but land distribution policies and surveying practices after the independence of Texas were actually a continuation of the policies and practices developed in Mexican Texas. Mexico obtained its independence from Spain in 1821 and the first point to be made is that from the start the Mexican government intended to keep a close rein on colonization and on the distribution of its vacant land, just like Spain had done. The legislation, orders, and instructions regulating land distribu-

tion and use during Spanish rule in Mexico fill a thick volume.

Almost everyone is familiar with the famous call "north three cigarettes on the buck of a burro," indicative perhaps of the lax surveying practices that sometimes existed in the remote province of Texas. Surveys were infrequent and few people had a formal education of any kind, but this should not be taken as representative of surveying in colonial Mexico generally. An established surveying tradition existed in Mexico. Professional surveyors were educated at the School of Mines in Mexico City, they received diplomas as surveyors, surveying manuals and treatises that were published and disseminated, and the profession of surveying was recognized as an important element of the government's efforts to regulate the distribution of its vacant lands. Included in the provisions governing land distribution were periodic instructions regulating the method and practice of surveying. In 1798, for example, Juan Bautista Blanes, a professor of mathematics at the University of Mexico and at the School of Mines, issued a set of regulations for surveyors. The instructions ordered that in any survey:

- a. The adjoining landowners be summoned;
- b. The lines be actually run through all sorts of terrain, unless physically impossible in which case the area could be calculated geometrically;
- c. That the surveyors use an accurate cord and a surveyor's compass;
- d. That the lines be run to the points indicated by that instrument;
- e. That the magnetic courses be corrected to astronomical courses;
- f. That the comers be properly monumented;
- g. And that a plat be prepared noting the courses and distances, the quality of the land, and other noteworthy topographical features with the corresponding explanations.

To get a truer picture of what surveying was like in Mexico during the Spanish period, we should look to the surveys that were made in what is today south Texas, which was then part of the province of Nuevo Santander, rather than at what was done in the remote, neglected, and sparsely populated province of Texas.

If you ever get a chance to examine a Spanish land grant from the area of South

Texas, you will get a sense of the formalities and procedures that attended the surveying of these lands. When you hear someone talk about the "dark period" of Spanish or Mexican rule, just remember that for years the Spanish had been the world's foremost navigators and charters of the oceans. There was a scientific tradition. They knew how to use navigational instruments, how to calculate and apply mathematical principles and this knowledge was applied also in surveying the King's domain. But the King's domain in the New World extended all the way from Florida and California to Tierra del Fuego and knowledge and know-how did not always reach the outposts of this vast domain, such as Texas.

Mexican independence in 1821 gave impetus and organization to a policy that had been instituted very late by the Spanish authorities, namely, the encouragement of foreign immigration to large unpopulated areas, such as Texas, by the offer of vacant lands at bargain prices. Continuing the Spanish tradition, recruiting and organizing the settlers was entrusted to private individuals known as *empresarios* who contracted with the government for this purpose. The purchase of the Louisiana Territory by the United States in 1803 and the rapid westward migratory movement of American pioneers meant that by the 1820s a mobile, pioneering group of potential Texas immigrants was poised on the Texas borders. This number was increased by an economic crisis in 1819 that left many in debt and ready to improve their fortunes in a new country.

Moses Austin initiated the legal and more orderly occupation of Texas by the Anglo-Americans in 1820, while Texas was still a Spanish province, and was continued after his death by his very talented son, Stephen F. Austin, after Mexico had won its independence. The Austins had lived in Missouri, in the area known as Upper Louisiana, when it was Spanish territory, so they had some knowledge and experience of the Spanish and French land distribution procedures and laws in effect in the province of Louisiana. Much of the uniqueness of Texas history derives from its geographical position and the fact that it became the meeting ground for two competing cultures that had adapted mid developed in very different geographical conditions. Many of the Anglo-Americans moving into Texas were woodsmen and hunters, people who had lived in well-watered, forested areas and who were used to clearing timber and cane from relatively small plots of fertile, alluvial land on which they could raise subsistence crops to maintain their families. Central and northern Mexico, on the other hand, is semi-arid, plateau land with few rivers and streams and is generally more suitable for grazing stock. It is not surprising that in these two distinct areas we would find land distribution systems

adapted to take into account these differences in geography and climate.

People living in the Louisiana Territory in 1820, when Texas was about to be opened for settlement, would have been familiar with three survey systems: the arpent or long lot system introduced by the French, the metes and bounds system, and the rectangular survey system adopted by the United States government. The arpent system or long lot system describes a system of land distribution in which individual lots are considerably longer than they are wide and usually front on navigable streams. In theory these strips were to be surveyed perpendicular to streams and were intended to form a continuous settlement of adjoining farms. The government felt that this conglomeration of settlers had advantages when it came to defending against Indian attacks and governing the new communities.

Many North American settlers, on the other hand, favored the metes and bounds survey system, because it allowed them to lay out boundaries, which gave them the best available farmland or a combination of the three elements, that every settler desired: timber, water, and fertile land. This system permitted a settler to take his land prior to survey. The procedure was simple. Each settler selected his homestead in a preferred location far enough away from his nearest neighbor to avoid encroaching on his claim. In the absence of a granting authority, the settler would lay claim to the land by virtue of his occupation and the improvements that he had made. Once his right was established the land would be surveyed. If a granting authority was present, the settler would obtain a survey certificate authorizing him to select a specified amount of land in any part of the domain that was available for settlement and had not been surveyed by someone else. The biggest disadvantage of this system was that claims frequently overlapped and disputes arose in virtually every area in which this type of survey was used. Faulty surveying was often responsible for these disputes and conflicts. Another disadvantage of this system was that the poorer lands were left unoccupied and unused.

The third survey system found in the Louisiana Territory was the rectangular survey system oriented with the cardinal directions and instituted by the U.S. government. The big advantage, of this system was that of common boundaries, with no gaps of land left between surveys, and the near certainty of boundary locations. In this system the land was surveyed before it was occupied. The actual survey of the land was performed, for the most part, by contract surveyors, and many of the American surveyors who surveyed in Mexican Texas had surveyed for the U.S. government and were acquainted with the detailed surveying instructions and procedures set down

by the Surveyor General's office. These, then, were the prevailing survey systems in the western United States and the ones with which someone like Austin, interested in land matters, would have been familiar.

The land distribution system envisioned by the various Mexican colonization laws, on the other hand, contained features that probably surprised him. The standard allocation of land to a head of household under these laws was the sitio or league, a large tract of land considered adequate for those whose primary occupation was stock raising in areas of low precipitation. The unit of land measure was the vara, rather than the arpent or English yard. The encounter of the Anglo-American and Hispanic American cultures in Texas eventually resulted in conflicts that were resolved by armed confrontation. But in some areas it is interesting to follow the efforts of adaptation and accommodation that were made and succeeded. Surveying is one of these areas and the key figure in this adjustment of the land distribution policies and practices to the Texas reality was Stephen F. Austin. As the first

empresario to receive the government's approval and the first who actively organized the location of American settlers in Texas, it fell to him to devise a system of land distribution that met the requirements of the law, limited potential difficulties among settlers, and met their expectations. In the absence of specific instructions from the government, it fell to him to define the surveying standards for his colony and to resolve the practical problems of surveying in an area of Texas that because of its numerous rivers and streams more closely resembled the Missouri he had left than the semi-arid plateaus of central and northern Mexico that the Mexican colonization laws envisioned.

Stephen F. Austin made his first visit to Texas in 1821, at which time he discussed with Governor Martinez his plans for land distribution to the new settlers. At this time Austin and the governor probably had in mind the traditional colonization model. A colonizer who recruited settlers, brought them with him, and located them in close proximity to each other. Austin's original proposal to the governor was for a compact settlement, centered around a town, that would be easier to defend against the Indians, and with land distributed to the settlers based on the number of individuals in the family. The governor gave tacit approval for this plan and Austin left to recruit settlers with the intention of returning to Texas in December of 1821 to get his colony underway. But when he returned, Austin discovered that the situation had changed. The higher official in Mexico made it very clear that Austin had no authority to distribute land without their approval and that it would be a very good idea for him to travel to Mexico City

to have his grant confirmed by the new Mexican government and to receive instructions on the distribution of land. We need not recount the story of Austin's trip to Mexico City, other than to say that after one year his grant was confirmed, being the only one that was approved under the Imperial Colonization Law of 1823. That law provided for a commissioner appointed by the governor with authority to distribute land and issue titles to the settlers in the name of the government.

In the company of the Baron de Bastrop, who had been appointed commissioner for the colony, Austin returned to the Colorado River in August, 1823. One of his immediate concerns was to obtain land titles for his settlers, which required a survey of the land. The first surveyor hired was Seth Ingram, and one of the first surveying tasks was to lay out the town of San Felipe de Austin on the Brazos River. The description of this survey mentions the first surveying standards adopted in Austin's Colony. "The town was surveyed with the compass adjusted to the true north, the variation of the needle was ten degrees 37 minutes east. The measurements were adjusted to the Mexican vara calculated at 8% less than the English yard, so that the vara used in this survey was 2 and 6 tenths English inches less than the English yard." I've always had trouble reconciling how 8% less than 36 inches is equal to 2.6 inches. 8% of 36 is 2.88 inches, making the vara 33.12 inches. If instead of saying the vara is 8% less than the English yard we reword the phrase to read the English yard is 8% more than the vara, and we assume the vara to be 33-1/3 inches, we come very close to 36 inches. According to Francis Johnson, one of the later Austin Colony surveyors, sometime around 1830 the colony surveyors agreed to make their ten vara chains 27 feet 9-1/3 inches long, which meant the vara was 33-1/3 inches.

Austin's absence from his colony for a year meant that when he returned from Mexico he found that the few settlers that remained had scattered from the lower Brazos to the upper Brazos and all the way over to the Colorado. The idea of a compact settlement was not possible with the American woodsmen, who got nervous if a neighbor moved within five miles of them. So at a very early stage Austin made another important decision. He decided that he would employ the metes and bounds system of survey to survey lands for the colonists that had already made improvements, but that he would employ a system of survey before settlement for all subsequent settlers. He concluded that rather than running off each tract as a settler selected it, the best plan was to systematically survey the preferred lands on both sides and between the Colorado and Brazos rivers. He indicated that he was aware of the difficulties that existed in Kentucky and Tennessee and other states that em-

ployed the metes and bounds system and allowed locations to be made without actual surveys. When the tracts were eventually surveyed, they often interfered with each other and led to ruinous lawsuits.

It is clear that early on Austin had made several other decisions concerning surveys in his colony. He had decided that surveyors would be compensated at a rate of \$5.00 per mile, that surveys would not cross rivers or leading creeks, he had given instructions on the manner of establishing corners and marking the lines, and he had determined that rectangular, rather than square surveys were to be laid out on the rivers and leading creeks.

Austin was a man of broad knowledge, and this extended to surveying. He was a systematic and organized person, and he applied his talent for organization to the land distribution operations in his colony. The first step in the systematic survey of the land was to meander the rivers and principal creeks and to determine the distance between two proximate streams. Base lines were established in the areas where the tracts were to be laid off in a regular manner. With this information Austin could prepare a general plat of the area showing the best way to lay out the surveys. After determining how the leagues and quarter-leagues were to be laid out, Austin instructed the surveyor to actually survey the land. The surveyors returned the field notes to the land office in San Felipe, where they were examined and translated into Spanish for inclusion in the titles at the appropriate time. When a settler decided where he wanted to locate, he could visit Austin's office and see on a map which leagues had been selected and which remained vacant. He could then enter his own selection, with Austin's approval, and proceed to make his improvement on the land. As we might expect, disputes over land selections were inevitable and provoked dissension. Some of the later arrivals considered that the best land had been taken and that they were left with second-rate land. Some, like Bartlett Sims, himself a surveyor, were adamant about their selections. Sims asked Austin to recommend him to a good post oak from which to hang himself if the selections he requested couldn't be assigned to him.

In the early days of Austin's first colony, surveying represented an important economic activity. It provided a source of remunerated employment and gave rise to a form of currency known as "land office money" that helped mitigate the scarcity of regular forms of currency. Austin paid the surveyors \$5.00 per mile and the surveyors, in turn, paid their hands at the rate of \$1.00 per day. As the surveyors built up credit with Austin for surveying done at his request, they often paid their crew off for supplies by issuing orders of payment that were to be satisfied by Austin. These notes circulated among the colonists and eventually made their way back to Austin, who usually applied them to the amount the settler owed on his land.

Austin and Commissioner Bastrop issued 267 titles in 1824, but completion of Austin's first contract for 300 families was delayed almost four years. Gaspar Flores was appointed in 1827 to replace Bastrop as commissioner. By this time the responsibility for colonization and distribution of land had been transferred from the national government to the state government. The law required the government to appoint commissioners for land distribution and the commissioners, in turn, were to appoint the surveyors and supervise the surveying. The instructions to the commissioners contained the requirement that no vacant land be left between surveys and that permanent landmarks be placed at the corners. No tract was to include both sides of a river or principal creek containing permanent water, and it was the surveyors' responsibility to guard against exceeding the amounts called for in the orders of survey.

In 1828, the government decided to create the office of commissioner general with authority to issue titles throughout the state. Juan Antonio Padilla was appointed to this position, and Thomas Jefferson Chambers was designated surveyor general for Texas to serve with Padilla. The commissioner and surveyor general arrived in Austin's colony in December, 1829, and while they were there they issued printed surveying instructions in English and in Spanish under the title "Provisional Regulations for the Surveying of Vacant Lands... A.D. 1829. These instructions, the most specific given to that point, were probably written by Chambers. The instructions called for the Castilian vara to be the unit of measurement, regulated at 8% less than the English yard, just as in Austin's colony. The chain was to be an iron or brass chain 10 varas long. Courses were to be determined using the Rittenhouse compass, regulated every six months to the true north by the nonius according to the standard compass kept by the surveyor general. Natural boundaries were to be measured with the greatest possible exactness and calculated by latitude and departure. The instructions also required that lines through timber be marked by cuts in the trees and those crossing prairies be established by mounds of earth at least one vara high and placed every 500 varas. Corners were to be established by stake and at least two bearing objects. Surveys could not cross rivers, principal creeks or lakes, and there were provisions for determining how much frontage could be given on water-courses. The surveyor was required to keep complete field notes and to classify the land and a closing error greater than 50 varas was not allowed.

These instructions, along with the positions of commissioner general and surveyor general soon fell victim, however, to Padilla's inclination to live up the exploits of his

namesake, Don Juan, the great lover. Padilla was accused of dallying with a married woman and, worse still, of complicity in her husband's murder. The authorities ordered Padilla arrested in April 1830 and revoked his commission. Later that month the state legislature resolved that Padilla's surveying regulations were of no effect and ordered that he be reprimanded for overstepping his authority. Although they were not approved, these surveying regulations are symptomatic of a situation that was becoming increasingly apparent in Texas.

The large influx of Americans was overwhelming any hopes that the Mexican authorities had of assimilating the new settlers and transforming them into loyal Mexican citizens. The regulations were printed both in English and in Spanish, a recognition of the fact that most of the surveyors were Americans and probably felt little need to learn Spanish. Although it incorporated the vara as the unit of measurement, the model of surveying practice reflected in these instructions is clearly that set out in the instructions to government surveyors in the United States rather than any set of standards found in Mexico at this time.

By 1830, the Americanization of Texas had alarmed many Mexican authorities and a halt to further immigration from the United States was ordered, but by then it was too late to reverse course and this policy was eventually abandoned. Although they were not officially approved, Padilla's regulations are important because they incorporated the surveying practices already instituted in Austin's Colony and were the basis for the instructions provided by other commissioners and principal surveyors at later dates during the Mexican period. Many of these same regulations were carried over in the surveying instructions issued by John P. Borden as the first commissioner of the General Land Office of the Republic of Texas. As Borden had been a surveyor in Austin's Colony, we should not be surprised that he perpetuated the practices he had learned there.

The remoteness of Texas from the center of government at Coahuila left the government little choice but to decentralize the implementation of its colonization laws by placing the burden of supervising the process on the land commissioners and local officials. In the absence of clear instructions from the government to its commissioners concerning the actual practice of surveying, the first commissioners, Bastrop, Flores, and Arciniega were content to rely entirely on the surveying knowledge and experience of Austin and his surveyors. This meant, in effect, that surveying as practiced in the United States was adopted by default in Texas.

The surveying equipment and practices,

the methods of calculating surveys, and even the surveyors, with few exceptions, came from the United States, the principal modification required being the adjustment of the various surveying chains to the Mexican vara. The authorities apparently never considered the need to provide a standard vara for regulating these chains and no objections are recorded to the 33.4 or 33-1/3 inch vara adopted *de facto* in Texas, although this slightly exceeded the length generally accepted in Mexico. This suggests that despite the governments' general regulations relative to surveying, the practical aspects were left to the surveyors. As the first and most successful empresario, Austin and his colony set the standard for the others. The evidence suggests that the commissioners and principal surveyors of other colonies adopted the surveying practices of Austin's colony. At a later date, a good number of the surveyors of Mexican Texas became county surveyors under the Republic of Texas, and the surveying regulations issued to them by John P. Borden were essentially unchanged from those they had observed before.

In more recent times surveyors have encountered many problems in retracing these original Mexican surveys. The loss of monuments, mistakes as to length of lines and quantities of areas, confusion as to the units of measure and conflicting surveys, incompetence in some of the surveyors and lack of standard and accurate equipment have posed problems. But under the prevailing circumstances it could have been much worse, and we could have been left a legacy of surveying similar to what we find in the area of Power and Hewetson's colony, in which overlapping surveys, incomplete field notes, inadequate records and overall confusion prevail. Instead, the consensus appears to be that the pioneer surveyors of Mexican Texas did a reasonable job under difficult and dangerous circumstances. In general they left a legacy of courage, hard work and competence that future surveyors could be proud of. Some were opportunists and speculators, and others were incompetent, but in the main they seem to have subscribed to the sentiments expressed by Jesse Evans, who in writing to Austin stated as follows: "Any other job of surveying that you may think proper to entrust me will be thankfully received, punctually attended (to), moderately charged for, and I trust accurately done." (GLO, F/N Book 2, p. 11) As long as surveyors abide by these principals, surveying in Texas will continue to build on the positive legacy left by the surveyors of Mexican Texas.

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## From the Ancient Archives

Ambrose Bierce (1842-1914),  
*The Devil's Dictionary*, 1911:

**GUNPOWDER**, n. An agency employed by civilized nations for the settlement of disputes which might become troublesome if left unadjusted. By most writers the invention of gunpowder is ascribed to the Chinese, but not upon very convincing evidence. Milton says it was invented by the devil to dispel angels with, and this opinion seems to derive some support from the scarcity of angels. Moreover, it has the hearty concurrence of the Hon. James Wilson, Secretary of Agriculture. Secretary Wilson became interested in gunpowder through an event that occurred on the Government experimental farm in the District of Columbia. One day, several years ago, a rogue imperfectly reverent of the Secretary's profound attainments and personal character presented him with a sack of gunpowder, representing it as the seed of the *Flashawful flabbergastor*, a Patagonian cereal of great commercial value, admirably adapted to this climate. The good Secretary was instructed to spill it along in a furrow and afterward inhume it with soil. This he at once proceeded to do, and had made a continuous line of it all the way across a ten-acre field, when he was made to look backward by a shout from the generous donor, who at once dropped a lighted match into the furrow at the starting-point. Contact with the earth had somewhat dampened the powder, but the startled functionary saw himself pursued by a tall moving pillar of fire and smoke and fierce evolution. He stood for a moment paralyzed and speechless, then he recollected an engagement and, dropping all, absented himself thence with such surprising celerity that to the eyes of spectators along the route selected he appeared like a long, dim streak prolonging itself with inconceivable rapidity through seven villages, and audibly refusing to be comforted. Great Scott! what is that? cried a surveyor's chainman, shading his eyes and gazing at the fading line of agriculturist which bisected his visible horizon. That, said the surveyor, carelessly glancing at the phenomenon and again centering his attention upon his instrument, is the Meridian of Washington.

## 76th Legislative Session Report

The 76<sup>th</sup> Regular Session of the Texas Legislature ended on May 31, 1999. Of the 5,908 bills filed, 1,638 (28%) were passed by both Houses. The Governor has until June 20<sup>th</sup> to either sign these bills into law, veto them, or let them become law without his signature. It is anticipated that the great majority of them will receive his approval.\* The Session was a success for TSPS. Our amendments to the Professional Land Surveying Practices Act and the proposed revisions to the sales tax, although revised substantially during the legislative process, were ultimately approved by both the House and the Senate and are pending signature by the Governor. And even more importantly, no bills were passed that would have a negative impact on the profession. Some of the bills of significance to the surveying profession are as follows:

### Texas Professional Land Surveying Practices Act

- **H.B. 1328** amends the definition of professional surveying and authorizes the Board of Professional Land Surveyors to prescribe standards for compliance with the Texas Professional Services Procurement Act. The revisions to the definition are as follows:

(1) Professional surveying means the practice of land, boundary, or property surveying or other similar professional practices. The term includes any service or work the adequate performance of which involves the application of special knowledge of the principles of geodesy, mathematics, related applied and physical sciences, and relevant laws to the measurement or [and] location of sites, points, lines, angles, elevations, natural features, and existing man-made works in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes for:

- (A) the location of real property boundaries
- (B) the platting and layout of lands and subdivisions of lands; or (and)
- (C) the preparation and perpetuation of maps, record plats, field note records, easements, and real property descriptions that represent those surveys. To the extent these services or types of creative work meet this definition, the term includes consultation, investigation, evaluation, analysis, planning, providing an expert surveying

### opinion or testimony, and mapping.

- **H.B. 1521** increases the maximum administrative/civil penalty for a violation of the Texas Professional Land Surveying Practices Act from \$1,000 for each violation to \$1,500 for each violation.

### Sales Tax on Surveying Services

- **H.B. 3623** expands the current sales tax exemption for surveying services purchased by a contractor as part of the improvement of residential real property with a new structure to include the purchase of such services by the owner of the property. The fiscal impact to the state for the 2000-2001 Biennium is a loss of approximately \$500,000. It is our intention to add more exemptions in future sessions, with total repeal of the sales tax on surveying services as our ultimate goal.

### Subdivisions and Platting

- **H.B. 1563** relating to prohibiting the recording of a plat or replat of a subdivision of real property if ad valorem taxes are delinquent.
- **H.B. 3746** relating to the replatting of a part of a subdivision without vacating the preceding plat.
- **S.B. 710** relating to the subdivision of land outside a municipality.
- **S.B. 712** relating to requiring manufactured home rental communities to comply with county infrastructure regulations, including surveying requirements.
- **S.B. 1323** relating to requiring certain plats for the subdivision of land to include proof of groundwater supply.
- **S.B. 1421** relating to the regulation of the subdivision or development of land in certain economically distressed areas, including colonias.

### Other

**S.B. 178** relating to the continuation of programs intended to maximize the use of historically underutilized businesses (HUBs).  
**H.B. 817** relating to filing notice of a previously unknown or abandoned cemetery with the county clerk.

A complete listing of all the bills that become law after the June 20<sup>th</sup> deadline and that may be of interest to the TSPS membership will be published in the next issue of the Texas Surveyor. In the meantime, if you have any questions or would like to receive copies of any of these bills, please contact TSPS Legal Counsel Mark J. Hanna, 900 Congress Avenue, Suite 250, Austin, Texas 78701; telephone (512) 477-6200; facsimile (512) 477-1188.

**TEXAS SOCIETY OF PROFESSIONAL SURVEYORS DEEP  
EAST TEXAS CHAPTER NO. 6**

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*Sighting on 2000*



## Calendar of Events

### July 22; Chapter Quarterly Meeting

To be held at the Schooner Restaurant on Hwy. 69 in Nederland. Meeting begins at 6:00 PM. Speaker and topic to be announced.

### July 25-30; SURVEYING II

Advanced Short Course to be held at Texas A&M Corpus Christi.

### August 6-8; TSPS Board Meeting

Omni Southpark - Austin, Texas

### August 19; Chapter Board of Directors Meeting

To be held at J&J Steakhouse in Beaumont. Lunch meeting begins at 11:30 AM.

### September 1; Election of Chapter Officers

Election of officers for 1999. Ballots mailed out to members August 10th. Must be received by September 1st. New officers to be announced in September newsletter.

### September 11; Joint Chapter Activity

Chapters 6 & 8 (Lufkin). Details to be Announced.

### September 20; Chapter Annual Meeting

To be held at the Don's Seafood & Steakhouse Restaurant on IH-10 in Beaumont. Meeting begins at 6:00 PM. Speaker and topic to be announced.

### October 23; Annual Chapter Sporting Clays Shooting Event

To be held at the 100-in-1 Gun Club on Hwy. 421 in Lumberton. Details to be Announced.

### October 26-31; TSPS Annual Convention

El Paso, Texas

**December; TSPS Sponsored Seminar**  
Beaumont Hilton. Exact date, time, and topic to be announced.

### December 16; Chapter Christmas Banquet

Details to be Announced.

## Legislative Report

*(Continued from page 7)*

Thanks to all of you who responded to the Legislative Alert notice and called or faxed the members of the legislature asking them to vote in favor of repealing the sales tax on surveying services. Although the complete repeal was not enacted, we made significant strides and set the tone for the next legislative session. We will be back again!

*(\*Governor Bush signed all of the above referenced bills on June 20, 1999)*

