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Message from the President of the United States, transmitting communication of the Secretary of the Interior relating to the boundary line between the United States and the State of Texas

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Communication of the Secretary of the Interior relating to the boundary line between the United States and the State of Texas.

FEBRUARY 13, 1884.—Read and referred to the Committee on the Judiciary and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication of the 8th ultimo, from the Secretary of the Interior, and the accompanying papers, relating to the establishment of the boundary line between the United States and the State of Texas.

The matter is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
February 13, 1884.

DEPARTMENT OF THE INTERIOR,
Washington, January 8, 1884.

SIR: I have considered the communication of August 24th last, addressed to you by Hon. John Ireland, governor of Texas, and referred by you to me, relating to the boundary line between the United States and Texas.

Said communication states that the governor of Texas is authorized to form a Joint Commission with the United States to run and define said boundary line; and a printed copy of an act of the legislature of said State to that effect, approved May 2, 1882, is inclosed with the communication. The act provides that the line shall be run as follows, viz:

Beginning at a point where a line drawn north from the intersection of the thirty-second degree of north latitude with the western bank of the Sabine River crosses the Red River, and thence following the course of said river westwardly to the degree of longitude one hundred west from London and twenty-three degrees west from Washington, as said line was laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818, and designated in the treaty between the United States and Spain made February 22, A. D. 1819.

The object of the act is recited therein to be that "the question may be definitely settled as to the true location of the one hundredth degree of longitude west from London, and whether the North Fork of Red

River or the Prairie Dog Fork of said river is the true Red River designated in the treaty" aforesaid.

The act further provides that—

In locating said line said Commissioners shall be guided by actual surveys and measurements, together with such well-established marks, natural and artificial, as may be found, and such well-authenticated maps as may throw light upon the subject.

The act also provides that the "Commission or Commissioners on the part of Texas shall attempt to have said survey" made—

Between the first day of July and the first day of October of the year in which said survey is made, when the ordinary stage of water in each fork of said Red River may be observed; and when the main or principal Red River is ascertained as agreed upon in said treaty of 1819, and the point is fully designated where the one hundredth degree of longitude west from London and the twenty-third degree of longitude west from Washington crosses said Red River, the same shall be plainly marked and defined as a corner in said boundary.

The communication from the governor states that—

In view of the fact that the United States is setting up some sort of claim to this territory, known as Grier County, in this State, and inasmuch as this State feels that she has a perfect title to the territory, I respectfully and earnestly urge such steps on the part of the United States as will enable the Joint Commission to be raised. There are now a large number of people settled in the territory, and if the respective claims of Texas and the United States were settled the country would rapidly fill up.

On the 6th day of January, 1882, the Secretary of the Interior was instructed, by Senate resolution of that date, to furnish the Senate with the report, if any, of the survey of the United States and Texas Boundary Commission, made under the provisions of the act of Congress approved June 5, 1858; and, if no final report of said Commission was made, to report that fact, together with the maps, surveys, and report of work, so far as it was prosecuted.

My predecessor accordingly, on the 19th of the same month, made such report, and transmitted therewith, as a part thereof, the report of the Commissioner of the General Land Office, of January 11, together with maps and papers. (Senate Ex. Doc. No. 70, Forty-seventh Congress, first session.)

From such report it appears that in the year 1859—

The Joint Commission on the part of the United States and the State of Texas commenced work together on the Rio Grande, but the Texas Commissioner did not remain long in the field, on account of personal differences between himself and the United States Commissioner. A new Texas Commissioner came and assisted in the survey of a part of the west boundary or 103d meridian west longitude.

The next year the United States Commissioner surveyed the north and east boundaries, but it does not appear that the Texas Commissioner took any part in the work.

On the 16th day of January, 1862, the Secretary of the Interior directed that the work of the Texas Boundary Commission be terminated, and during that month the work was terminated accordingly. The office work was never completed. The field work seems to have been executed, except a part of the west boundary, which was not run from 33° north latitude to 33° 45' north latitude.

No part of said boundary survey has ever been officially agreed upon or accepted by the two Governments as contemplated in the act of Congress authorizing the survey.

It is true, as stated in the said letter addressed to you by the governor of Texas, "that the Secretary of the Interior holds that the territory belongs to the United States." Such claim is set forth in a letter

addressed to my predecessor, Secretary Schurz, May 10, 1877, by the Commissioner of the General Land Office, substantially as follows, viz:

Article 3 of the treaty of February 22, 1819, between Spain and the United States (8 Stat., 254), describes the line, so far as it relates to the territory in question, as beginning—

On the Gulf of Mexico, at the mouth of the river Sabine, in the Sea, continuing north, along the western bank of that river to the thirty-second degree of latitude, where it strikes the Rio Roxo of Nachitoches or Red River; then following the course of the Rio Roxo westward to the degree of longitude 100° west from London and 23° from Washington; then crossing the said Red River and running thence by a line due north to the river Arkansas. * * * The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818.

After the acquisition of independence by Mexico, the treaty between that country and the United States of January 12, 1828, recited and confirmed the boundary as above quoted from the treaty between the United States and Spain (8 Stat., 372, Article 1).

By the joint resolutions of March 1 (5 Stat., 797) and of December 29, 1845 (9 Stat., 108), Texas was admitted into the Union with "the territory properly included within and rightfully belonging to the republic of Texas."

In the month of April, 1859, under a contract between Jones and Brown and the Commissioner of Indian Affairs, an astronomical survey was made of the 100th meridian west from Greenwich, being the boundary line between the Choctaw and Chickasaw country and Texas. The initial point of the boundary was determined to be at the intersection of said meridian with what is designated upon the maps of the General Land Office as Red River, and a monument was established thirty chains due north from the north bank of said river.

The following extract is taken from the field notes of such survey:

The river due south from monument is 76 chains and 85 links wide from high-water mark to high-water mark, while the North Fork of Red River is 23 chains wide. It will be sufficient to say to those interested that there can be no doubt as to the fact of its being the main branch of Red River, as was doubted by some persons with whom we had conversed relative to the matter before seeing it, for the reason the channel is larger than all the rest of its tributaries combined, besides affording its equal share of water, though like the other branches in many places the water is swallowed up by its broad and extensive sand-beds; but water can, at any season of the year, be obtained from one to three feet from the surface in the main bed of the stream. Captain Marcy, in his report and map, also specifies it as the *Beche-ah-quehono*, or main Red River.

The report of the Commissioner of the General Land Office of May 10, 1877, aforesaid, states that—

The Joint Commissioners on the part of the United States and the State of Texas proceeded to the field, in May and June, 1850, and commenced work from the point where the 100th meridian crossed the Canadian River. They retraced the meridian line established by Messrs. Brown and Jones in 1859, as aforesaid, and prolonged it further north to the intersection of the 36° 30' of north latitude, or the northeast corner of the State of Texas, thereby determining the jurisdiction over said territory west of the North Fork of Red River to be within the United States.

I think, however, that this statement is erroneous, and that said Commissioners did not join in such survey; but that each Commissioner determined separately such line or parts thereof—the Commissioner on behalf the United States in 1859, and on the part of Texas in 1860.

The Melish map, so generally referred to, and now on file in the State Department, shows but one of the said forks of the Red River, and the one shown is delineated upon that map as lying to the south of the South Fork, as marked upon modern maps—a fact not perhaps surprising, considering the somewhat imperfect knowledge that then existed

as to the precise location of rivers and other natural objects upon the face of that portion of country.

At a very early period officers were sent out by the French Government to explore Red River, but their examinations appear to have extended no further than the country occupied by the Natchitoches and Caddoes, in the vicinity of the present town of Natchitoches, La. Subsequent examinations had extended our acquaintance with its upper tributaries, but we were still utterly in the dark in regard to the true geographical position of its sources. (Marcy's Exploration of the Sources of the Red River, 1852, p. 2.)

It would seem, however, that the fork or river delineated upon the Melish map must be identical with the South Fork or main Red River, as shown upon the maps of the General Land Office. Although the knowledge of the country was imperfect, it is probable that the existence of the North Fork was known, and that the South Fork was marked upon the Melish map as the river, while the North Fork, being regarded as a tributary, was omitted.

It further appears that the map of "Mexico, by Disturnell, published in Spanish in 1848, compiled from the best authorities, * * * and which was used by the Mexican Boundary Commission in surveying the boundary between the United States and the Republic of Mexico," does not show the North Fork of Red River, but indicates the river as laid down on the Melish map.

In the exploration made in 1852, by Captain Marcy, assisted by Captain McClellan, they traced the north branch of said Red River to its source, and thence taking a southerly direction, reaching the south branch, and in June and July made an exploration of that branch from its source. This seems to have been the first authentic exploration of such branches. The report speaks of the south branch very generally as "the principal or main branch of the Red River" (pp. 49, 55, 83); and I think the physical features of that branch, as given in the report, prove that it is the main branch or principal river.

I have thus recited some of the prominent facts relating to said boundary line and the action heretofore taken in reference thereto, as they are disclosed by the records of this Department.

It will be seen from the foregoing that the question of the disputed boundary has never been determined between the United States and the State of Texas. The latter State desires a speedy adjustment of the question; and in view of the settlement of the territory in controversy and of claims made to the tracts of land lying therein, and in view of the civil jurisdiction which prevails or ought to prevail therein, it is important that such boundary line should be finally fixed and determined.

I am of the opinion that the 100th meridian of west longitude has been correctly surveyed, marked, and established, and that a resurvey of that meridian will be unnecessary.

The question to be determined is, which fork of said Red River was intended, under the treaties and joint resolutions before recited, to mark and designate the boundary line between Texas and the United States. I submit that this does not necessarily depend upon the relative size or formation of the forks.

I am of the opinion that it is necessary that a Joint Commission on the part of the United States and Texas, should be formed to determine definitely such boundary line, and recommend that the proper steps be taken for that purpose. I suggest, however, whether sufficient data of an authentic character do not already exist to enable a commission to determine the question without further surveys in the field.

Very respectfully,

THE PRESIDENT.

H. M. TELLER,
Secretary.

EXECUTIVE OFFICE, STATE OF TEXAS,
Austin, August 24, 1883.

SIR: By reference to the act of the legislature of the State of Texas (called session, acts 1882, page 5) it will be seen that the governor of this State is authorized to form a joint commission with the United States to run and define the boundary line between the Indian Territory and Texas. I cannot find in this office any evidence that my predecessor had any correspondence on the subject of this law.

In view of the fact that the United States is setting up some sort of claim to this territory, known as Greer County, in this State, and inasmuch as this State feels that she has a perfect title to the territory, I respectfully and earnestly urge such steps on the part of the United States as will enable the Joint Commission to be raised. There are now a large number of people settled in the territory, and if the respective claims of Texas and the United States were settled the country would rapidly fill up.

In making this request, I have to say that I am aware that the Secretary of the Interior holds that the territory belongs to the United States. We are no less confident that the territory belongs to Texas. The land certificates issued to the Texas veterans, men who won Texan independence, are located in that territory, and I am sure it is to the interest of both parties to have the lines run.

I inclose a copy of the law, and have to request your personal and early attention to the matter.

I am, sir, very respectfully, your obedient servant,

JNO. IRELAND
Governor of Texas.

His Excellency CHESTER A. ARTHUR,
President of the United States, Washington. D. C.

CHAPTER XI.—ACTS OF 1882, LEGISLATURE OF TEXAS.

AN ACT to provide for running and marking the boundary line between the State of Texas and the territory of the United States, from the northeast corner of said State to the degree of longitude one hundred west from London and twenty-three degrees west from Washington, as said line is described in the treaty between the United States and Spain, of February 22, 1819, and for the payment of the expenses of such survey.

SECTION 1. *Be it enacted by the legislature of the State of Texas,* That the governor of this State be, and he is hereby, authorized and empowered to appoint a suitable person or persons who, in conjunction with such person or persons as may be appointed by, or on behalf of, the United States for the same purpose, shall run and mark the boundary lines between the territories of the United States and the State of Texas, as follows: Beginning at a point where a line drawn north from the intersection of the thirty-second degree of north latitude with the western bank of the Sabine River crosses Red River, and thence following the course of said river westwardly to the degree of longitude one hundred west from London and twenty-three degrees west from Washington, as said line was laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818, and designated in the treatment between the United States and Spain, made February 22, A. D. 1819.

Sec. 2. Said joint commission will report their survey, made in accordance with the foregoing section of this act, together with all necessary notes, maps, and other papers, in order that in fixing that part of the boundary between the territories of the United States and the State of Texas the question may be definitely settled as to the true location of the one-hundredth degree of longitude west from London, and whether the North Fork of Red River, or the Prairie Dog fork of said river, is the true Red River designated in the treaty between the United States and Spain, made February 22, 1819; and in locating said line said commissioners shall be guided by actual surveys and measurements, together with such well-established marks, natural and artificial, as may be found, and such well-authenticated maps as may throw light upon the subject.

6 BOUNDARY LINE BETWEEN UNITED STATES AND TEXAS.

SEC. 3. Such commissioner or commissioners, on the part of Texas, shall attempt to have said survey, herein provided for by the joint commission, made and performed between the first day of July and the first day of October of the year in which said survey is made, when the ordinary stage of water in each fork of said Red Rives may be observed; and when the main or principal Red River is ascertained as agreed upon in said treaty of 1819, and the point is fully designated where the one-hundredth degree of longitude west from London and twenty-third degree of longitude west from Washington crosses said Red River, the same shall be plainly marked and defined as a corner in said boundary, and said commissioner shall establish such other permanent monuments as may be necessary to mark their work.

SEC. 4. 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 commissioner or commissioners, on the part of Texas, shall act, in making such survey, under instructions from the governor of the State, and shall receive for their services such sum or sums of money as the governor may offer to pay, not to exceed the sum of three thousand dollars each: *And provided further*, That the person or persons to be appointed and employed by the United States are not to be paid by the State of Texas.

SEC. 5. The facts that the settlement of the boundary of that portion of the State of Texas embracing Greer County will involve important public as well private interests, which should be immediately settled, and, as the present session is confined to thirty days, creates an imperative public necessity that the constitutional rule requiring that the bills shall be read on three several days suspended, and an emergency that this act take effect and be in force from and after its passage, and it is so enacted.

Approved May 2, A. D. 1882.
Takes effect from passage.