

# **The Early History of Montgomery, Texas**

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**Published on the 175<sup>th</sup> Anniversary of the Founding of Montgomery, Texas**

**1837-2012**

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**Artistic Rendering of How the Store of W. W. Shepperd on Lake Creek May Have Appeared**

**Written by Kameron K. Searle, J.D.**

**Based on Previously Unexplored Primary Source Documents**

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**Printed by**

**The City of Montgomery, Texas; Fernland Historical Park  
& Law Office of Kameron Searle**

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**Montgomery, Texas Founders Day**

**July 7, 2012**

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**2012 Edition**

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**MONTGOMERY.**

**S**ITUATED in the county of Washington, sixty miles northwest of the city of Houston, thirty five miles east of the town of Washington, and six miles west of the San Jacinto River, in the centre of a high, beautiful and undulating district of country, distinguished for health, good water, and soil.

It is expected that a new county will be organized, at the next session of congress, embracing this section of country, in which event, the town of Montgomery from its central position, must be selected as the seat of justice.

The San Jacinto affords an excellent keel boat navigation to this point. The most direct route from the city of Houston to Robertson's colony and Red River settlements, and from Bevils settlement to Washington, pass through this town. The great extent of good land lying contiguous, and its increasing and enterprising agricultural population, cannot fail of making this one of the most flourishing inland towns in this republic.

Sales of lots at auction will take place in the town of Montgomery, on the first Monday in September ensuing, and continue for three days.

Terms of sale, six, and twelve months credit. Notes with approved security will be required. Good titles will be made upon the payment of the first notes.

W. W. SHEPPERD, }  
J. W. MOODY, } *for company.*

Texas 4th July, 1837.

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Montgomery, Texas Founders Day

July 7, 2012

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Stephen F. Austin's Second Colony**

On May 20, 1825, Stephen F. Austin obtained from the government of the Mexican State of Coahuila and Texas a contract for the introduction of five hundred families. Austin signed this Empresario contract with the State of Coahuila and Texas on June 4, 1825.<sup>1</sup> This contract was to be completed within six years.

Order No. 24, dated March 7, 1827 defined the boundaries of Austin's Second Colony for the purposes of this contract as follows:

Beginning on the west bank of the river San Jacinto, at the ten border leagues of the coast of the Gulf of Mexico; thence following its course with the right bank of said river to its source; thence on a straight line north to the road leading from Bexar to Nacogdoches; thence with the said road westward to a point due north from the headwaters of Labaca creek; thence on a line due south towards the sources of the aforesaid creek; thence down said creek, on the eastern bank of the same, to the boundary line of the ten littoral leagues of the Gulf of Mexico; thence eastward, leaving clear the ten littoral leagues, parallel with the coast, to the place of beginning.<sup>2</sup>

The West Fork of the San Jacinto River formed part of the eastern boundary of Austin's Second Colony. On November 13, 1830, Miguel Arciniega was appointed commissioner for this colony.<sup>3</sup>

### **1831 – The Colonists and Settlers**

Under the 1825 contract, Empresario Stephen F. Austin granted land on behalf of the Mexican government to a number of colonists in 1831. Some of these settlers in Austin's Second Colony received leagues of land in what is today western Montgomery County. A league of land contained 4,428.4 acres. The early settlers who qualified and received a league of land included the following individuals:

Mary Corner - April 7, 1831	William M. Rankin – April 10, 1831
James Pevehouse – April 7, 1831	Noah Griffith – April 11, 1831
Archibald Hodge – April 8, 1831	Benjamin Rigby – April 14, 1831
James Hodge – April 8, 1831	William Atkins – April 18, 1831
Owen Shannon – April 8, 1831	Jacob Shannon – April 30, 1831
William C. Clark – April 10, 1831	Raleigh Rogers – May 6, 1831
William Landrum – April 10, 1831	John Corner – May 10, 1831
Zachariah Landrum – April 10, 1831	Anne White – May 12, 1831 <sup>4</sup>

Elias R. Wightman surveyed all of these leagues.<sup>5</sup> The chain carriers assisting Wightman in surveying these leagues included, at various times, William Rankin, Mathew Hubert, John Corner, William Atkins and James Rankin.<sup>6</sup> John Corner received his league of land on May 10, 1831.<sup>7</sup> The John Corner League is very important to this

history because the town of Montgomery will be founded on the John Corner League six years later.

Mexican land grants were not actually free. There were a number of costs and fees associated with “clearing land” out of Stephen F. Austin’s land office in the town of San Felipe de Austin. Using Owen Shannon’s League as an example, the costs and fees of obtaining a league of land in Austin’s Second Colony in 1831 were detailed by Galen Greaser, Translator with the Spanish Collection in the Archives and Records Division of the Texas General Land Office:

In 1829, preparatory to the arrival of Commissioner General Juan Antonio Padilla in the colony, Austin put out a "Notice" advising settlers of the process for obtaining a land grant. The first step was to obtain a certificate of admission showing that the settler had Austin's consent to locate in the colony. The cost of the certificate was two dollars (pesos and dollars were on a par at this time). As the Empresario, Austin also collected a fee of \$50.00 for his services, \$10 upon receipt of the title and the balance due one year later. The secretary (Samuel M. Williams) was due \$10.00, \$5.00 on presenting the petition to the commissioner and \$5.00 one year later. The title was written on stamped or revenue paper of the third stamp, for which the interested party paid two reales (two bits). Two pages were generally required, making the total for paper 50 cents. These are what we might label “office fees.” They totaled \$62.50.

The settler also had to pay a surveyor for surveying his land. Decree No. 128 of the Congress of Coahuila y Texas, dated April 1, 1830, set the fee at \$8.00 for surveying a league of land. You can find this decree in Gammel's, *The Laws of Texas*, Vol. 1. Previously, on May 15, 1828, the same Congress passed a decree, No. 62, setting the commissioner's fee at \$15.00 for a league of grazing land and \$2.00 for each labor of temporal land. Finally, Article 22 of the 1825 Colonization Law fixed the government dues required from each settler. The land was classified when it was surveyed. The two main classifications were grazing or pastureland and arable or temporal land. Each league of land contains 25 labors.

As an example, in Owen Shannon's title, 20 labors were classified as grazing land and 5 labors were deemed to be arable. The fee for grazing land was \$1.20 per labor, making \$24.00, and arable land brought \$2.50 per labor, or \$12.50 in this case. The total government dues were, thus, \$36.50. Settlers were given six years in which to pay the government, the first payment being due in the fourth year. If the commissioner charged \$15 and the surveyor collected \$8.00, added to the \$36.50, the total would be \$59.50 for this part, which added to the "office fees" make a total of \$122.00. There may have been a few other incidentals, such as the cost of preparing the certified copy of the title that was given to the grantee, but I would be comfortable with stating that the cost of obtaining a title for one league of land in Austin's Colony in 1831 was in the neighborhood of \$125 dollars.<sup>8</sup>

\$125 was a lot of money in 1831. Often, early settlers did not have enough money to pay these costs and fees to clear their land out of Stephen F. Austin's office at San Felipe.

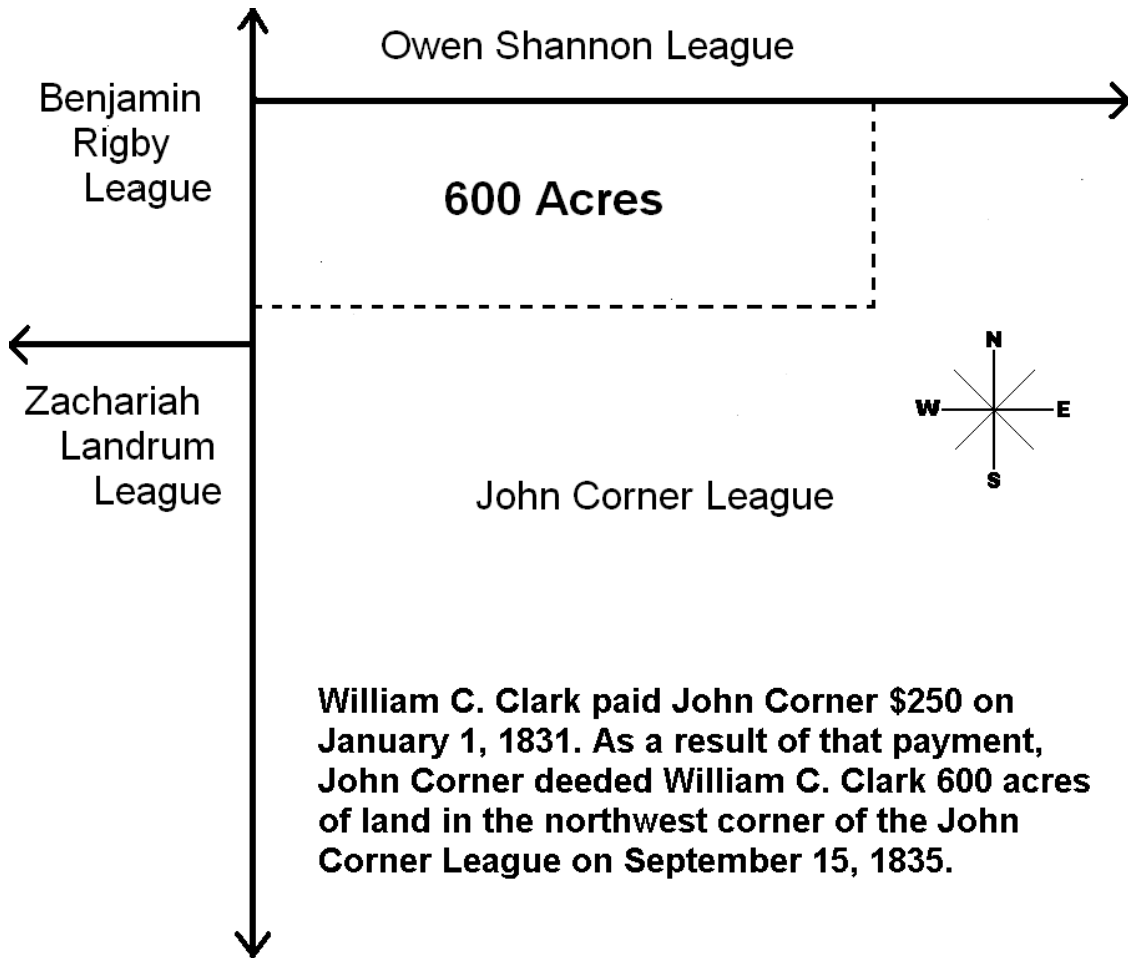
### **Clearing Land on the Halves**

In researching the history of Montgomery, Texas, the author discovered a forgotten real estate practice that was common in colonial Texas known as "clearing on the halves" or "clearing land." It had nothing whatsoever to do with clearing trees and brush from land, as the name would suggest. Many settlers that came to Texas had waited for years to get their land grants in Austin's Colony. By the time the Empresario had the deed papers ready, the settlers were often out of money when it came time to pay the costs and fees described in the previous section. Enterprising businessmen with ready cash would offer to pay these closing costs on behalf of the settlers in return for a portion of the league of land the settler was to receive. Typically the person "clearing land on the halves" got, as the name suggests, half of the settler's league of land.

The practice was a win-win-win situation. The Empresario and the Mexican government won because they got all of their costs and fees paid. The settler won because he received clear title to his league of land without paying any money out of his own pocket. And the businessman "clearing on the halves" immediately got half of the league the settler received (about 2,214 acres) for investment of about \$125.00 (or just over 5 ½ cents per acre).

For instance, in the example in the section above, Thomas Taylor paid Owen Shannon's costs and fees on his behalf. In return for paying these expenses on behalf of Owen Shannon, Owen Shannon deeded half of his league to Thomas Taylor.<sup>9</sup> This practice was known as "clearing on the halves."

**William C. Clark Purchased 600 Acres from John Corner**



On January 1, 1831, William C. Clark paid John Corner \$250. On September 15, 1835, John Corner executed a deed in which he transferred the ownership of 600 acres of land in the northwest corner of the John Corner League to William C. Clark. According to the deed, the consideration for this land transfer was the \$250 Corner had received from Clark back in 1831. William W. Shepperd and C. B. Stewart witnessed this deed. Below is the land description from the deed from John Corner to William C. Clark executed on September 15, 1835:

John Corner  
to  
William C. Clark

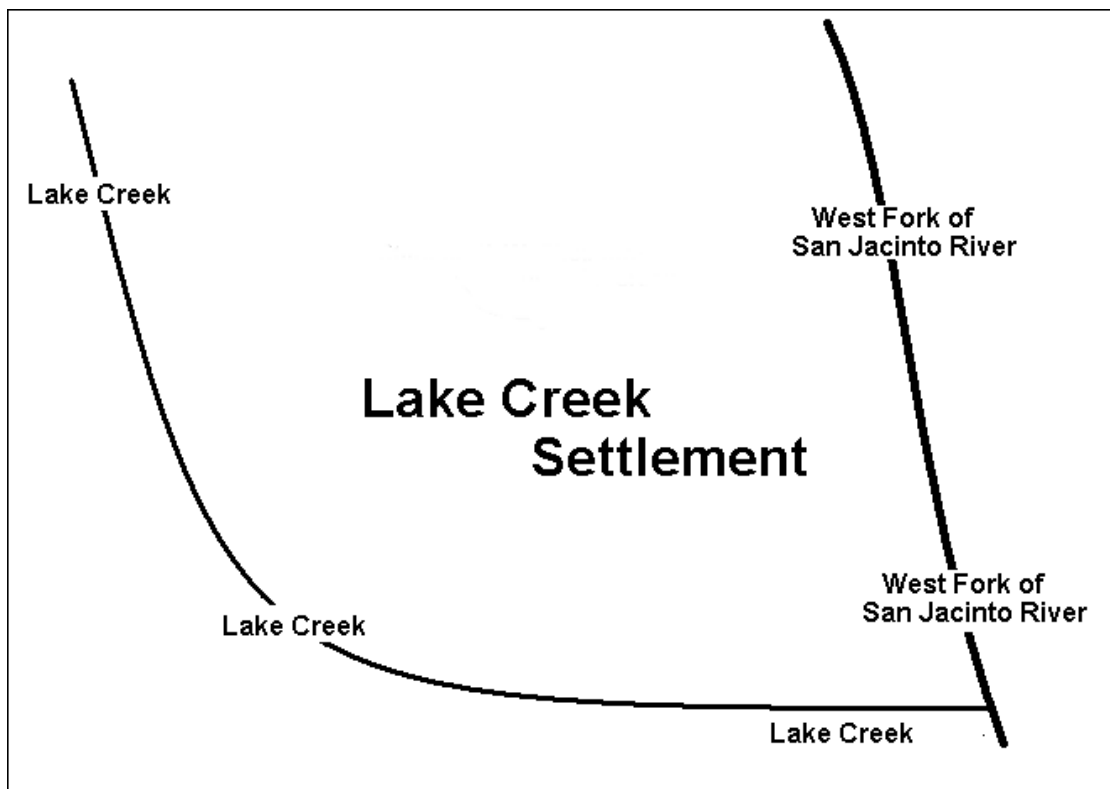
John Corner...sells...unto the citizen, William C. Clark, six hundred acres of land out of the League of land granted to him by the State of Coahuila and Texas through Empresario E Stephen F. Austin and commissioner Miguel

Arciniega...and which Six hundred acres of land are contained within the following lines and boundaries to wit, commencing at the North West corner of the aforesaid [John Corner] League and running thence South half mile English measure. Thence due East a line parallel with the East and west line of the same League such a distance as will make Six hundred acres or will enclose that amount of land and the upper line of the Tract to commence at the North west corner of the League and run East the distance requisite...<sup>10</sup>

Later in 1837, the original Town of Montgomery will be founded on 200 acres within this 600 acre tract.

### **The Lake Creek Settlement**

Within two years of the arrival of the colonists in 1831, the settlement located in Austin's Second Colony between the West Fork of the San Jacinto River and the stream called Lake Creek had already become known as the "Lake Creek Settlement." This area was also referred to as the "neighborhood of Lake Creek," the "District of Lake Creek," the "Precinct of Lake Creek," or simply as "Lake Creek."<sup>11</sup>



The Lake Creek Settlement was mentioned in numerous early documents including deeds and other land records, newspapers, business records, marriage records, government records, court records, election returns, etc. As early as August 8, 1833,



Jacob Shannon executed a legal document called “Articles of Agreement” in behalf of his widowed sister, Rutha Miller, in the Lake Creek Settlement in Austin’s Colony.

Jacob Shannon-To-Rutha Miller  
Texas Austins Colony  
Lake Creek Settlement  
August 8<sup>th</sup> 1833

Articles of agreement made and entered into between Jacob Shannon of the one part and Rutha Miller of the other part both of the Colony and Settlement aforesaid, Showeth that the said Jacob for and in consideration of an agreement entered into heretofore the said Jacob is to let the said Rutha have the one half of his League of land lying in said neighborhood, the said Rutha having paid the one half of the expense, said League which League being known by the name Beadye on which the parties now settled so as to be divided as to the equal to both of the parties in soyal, water and timber, all of which League is held by the said Jacob by grant from the Government...

Jacob Shannon<sup>12</sup>

Another early reference to the Lake Creek Settlement is found in *Stephen F. Austin’s Register of Families*, in which Thomas Chatham was recorded receiving land in the Lake Creek Settlement on January 13, 1834.

Jan 13. Thomas Chatham from the State of Alabama. 33 years old. Ditha his wife 23 years old. 1 Male child 3 female do. Occupation farming. Applies for 4 quarters of league in Lake creek settlement, marked J.M. Springer who relinquishes in favor of Chatham.<sup>13</sup>

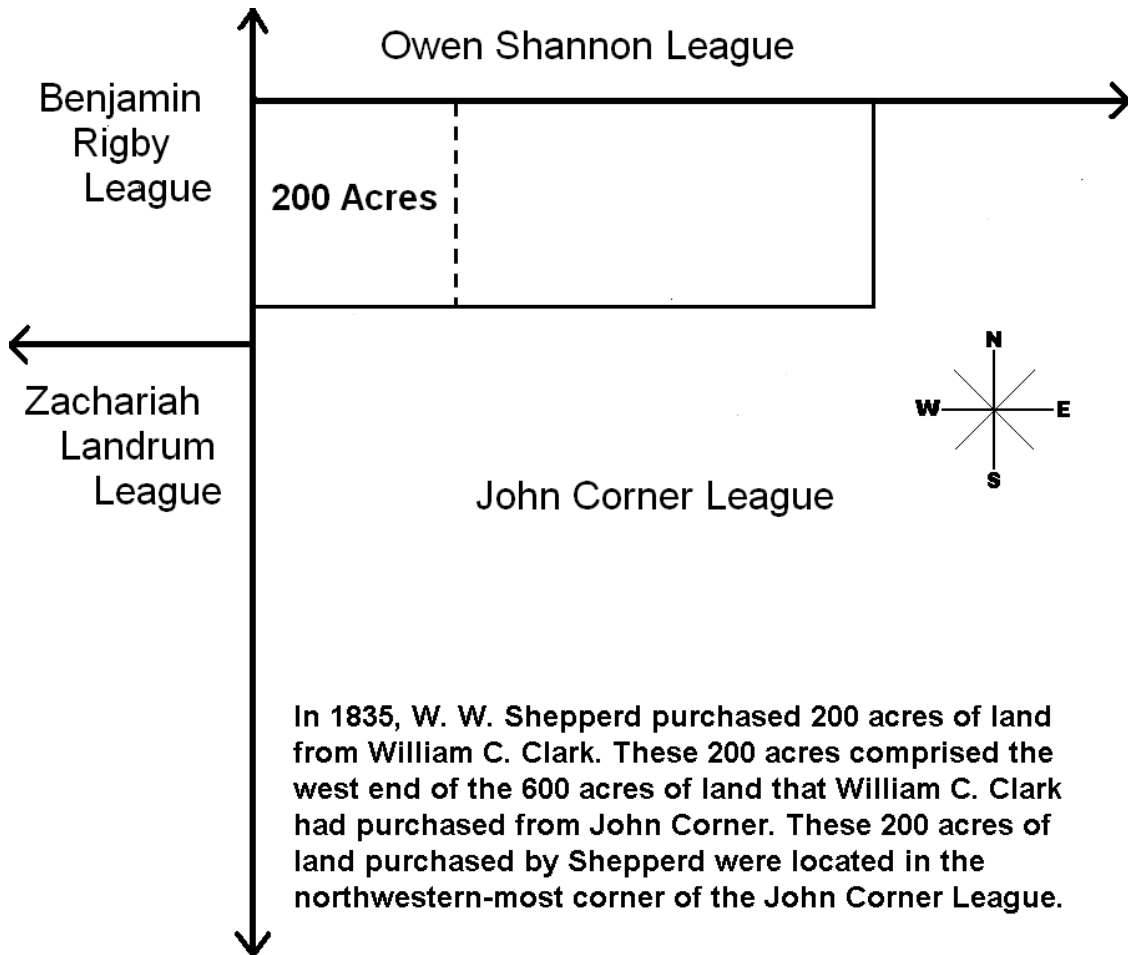
Originally, the Lake Creek Settlement was bounded by the West Fork of the San Jacinto River on its east side and by the stream called Lake Creek on its south and west sides. [Approximately 15 miles x 15 miles or about 225 square miles] Later, the terms Lake Creek Settlement and Precinct of Lake Creek would be used to describe a much larger area of land that would include much of the territory of present day Montgomery, County. [More than 1,000 square miles]

### **William Watters Shepperd**

William Watters Shepperd (hereinafter W. W. Shepperd) moved to Austin’s Second Colony from Surry County, North Carolina.<sup>14</sup> Shepperd received a Mexican land grant from Stephen F. Austin for a league of land in 1831.<sup>15</sup> The Shepperd League straddles the boundary between present day Fayette and Austin counties. Shepperd sold this league of land to his cousin, Leonard Groce, in 1834. It is important to note that W. W. Shepperd’s surname is often misspelled Shepherd, Sheppard, Shepard, etc. However, he always signed his name “SHEPPERD.”

### W. W. Shepperd Purchased 200 Acres from William C. Clark

On September 15, 1835, seventeen days before the Battle of Gonzales (October 2, 1835), William W. Shepperd purchased 200 acres of land from William C. Clark. These 200 acres were the 200 westernmost acres of the 600 acres of land William C. Clark had purchased from the John Corner.



Shepperd purchased these 200 acres for \$100. Below is the land description from the deed from William C. Clark to William W. Shepperd which was recorded in 1838:

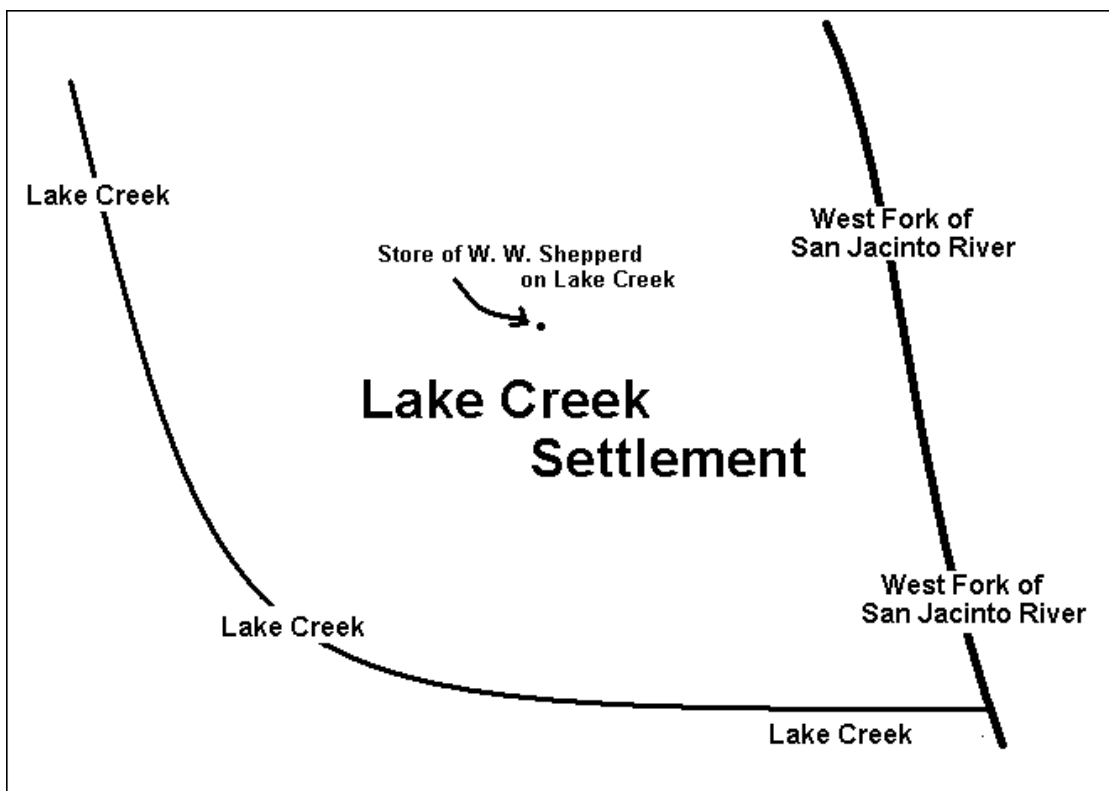
William C. Clark  
to  
Wm. W. Shepperd

Republic of Texas  
Montgomery County

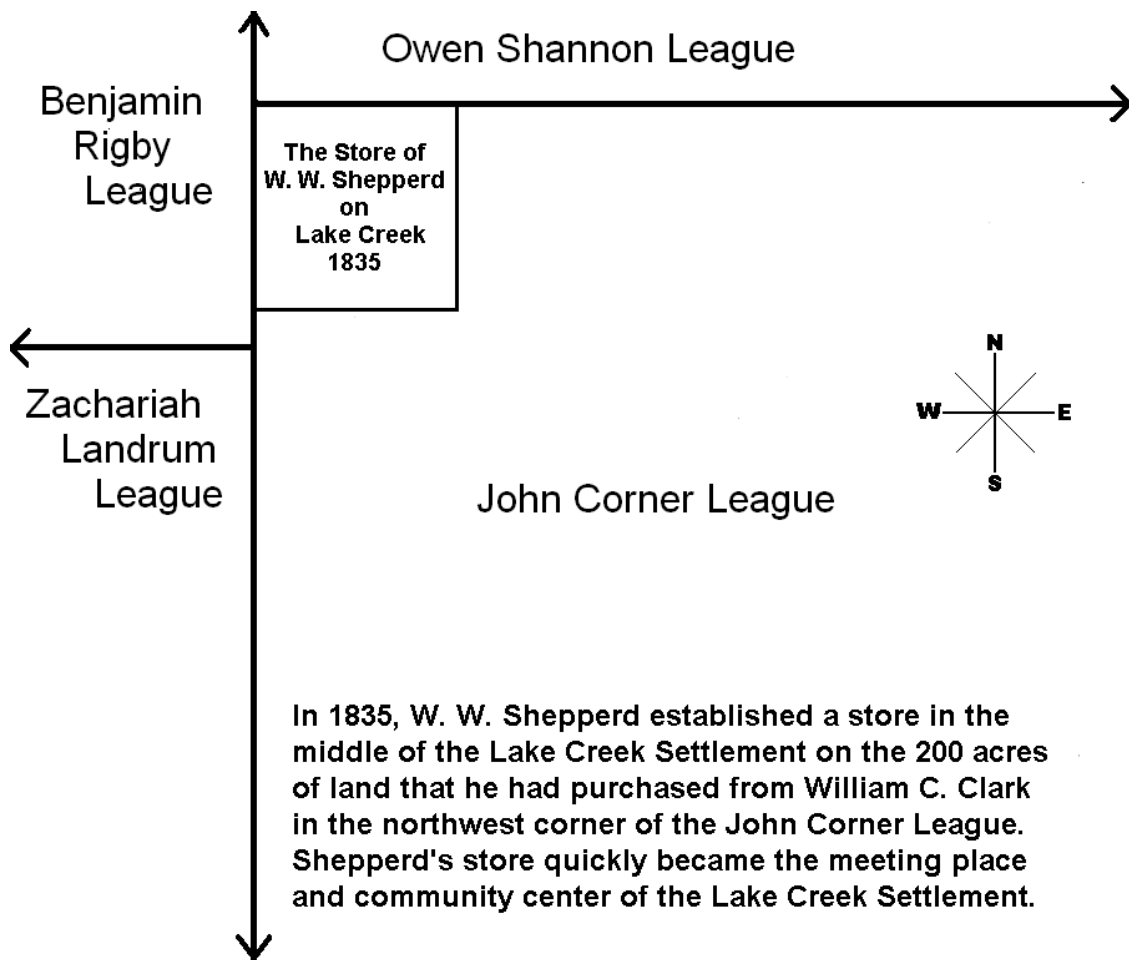
Before me Jessie Grimes, Chief Justice of the County aforesaid, in open court on the Twenty Seventh day of February [1838], came William C. Clark, who

declares that on the 15<sup>th</sup> day of September, 1835, he made and executed in favor of William W. Shepperd, a Title for Two hundred acres of Land, the same upon which Shepperd now lives...within the following bounds, to wit Beginning at the North west corner of the League of land granted to John Corner running south along the western boundary of said League one half mile English measure ...Thence East fifty chains English measure being two hundred poles ...Thence North to the East and West line to the place of beginning including two hundred acres of land more or less...<sup>16</sup>

### 1835 – The Store of W. W. Shepperd on Lake Creek



In 1835, William W. Shepperd, built a store on the 200 acres of land he had purchased from William C. Clark. This was the first trading post or store in the Lake Creek Settlement. His store was known as “the store of W. W. Shepperd on Lake Creek.”<sup>17</sup> Prior to the establishment of Shepperd’s store, settlers had had to travel as far as Washington [Washington-on-the-Brazos] or San Felipe de Austin to purchase goods. Shepperd’s store quickly became the meeting place and community center of the Lake Creek Settlement.



W. W. Shepperd built houses and lived on these 200 acres with his wife, Mary Steptoe Shepperd, and his children: William W. Shepperd, Jr., Jacob H. Shepperd, Julia Shepperd, Augustine C. Shepperd, Sidney Shepperd, Wesley A. Shepperd, and Parmelia Shepperd.<sup>18</sup> Also on these two hundred acres, Shepperd operated a gin and a stockyard.<sup>19</sup> There were also slaves and slave quarters there. The Shepperds owned slaves. At that time, W. W. Shepperd's wife, Mary Steptoe Shepperd, owned at least eight slaves of her own that she had inherited from her father.<sup>20</sup>

Later, in July of 1837, the town of Montgomery, Texas will be founded at the site of W. W. Shepperd's house and store. The creek running through Shepperd's 200 acres will become known as Town Creek shortly after the founding of the town.

### 1835-1836 The Lake Creek Settlement in the Texas Revolution

Before the Texas Revolution, the Lake Creek Settlement was located in the political subdivision known as the Municipality of Washington. In the fall of 1835, a Consultation was held in the town of San Felipe de Austin. At the Consultation of 1835, several delegates represented the Municipality of Washington: Philip Coe, Elijah Collard,

Jesse Grimes, Asa Mitchell and Asa Hoxey.<sup>21</sup> At various times, each of these men served as the representative of the Municipality of Washington on the General Council of the Provisional Government of Texas.

At the Convention of 1836 at Washington, Texas (Washington-on-the-Brazos), the delegates in attendance unanimously declared Texas' independence from Mexico on March 2, 1836. The Convention began on March 1, 1836 and continued through March 17, 1836. During those 17 days, the delegates also framed a Constitution for the Republic of Texas and established an ad interim government. Delegates, Benjamin Briggs Goodrich, G. W. Barnett, James G. Swisher, and Jesse Grimes, represented the Municipality of Washington at the Convention.<sup>22</sup> All four of these gentlemen signed the Texas Declaration of Independence from Mexico.<sup>23</sup>

A number of men from the Lake Creek Settlement fought in the Texas Revolution in 1835 and 1836. These Texas Revolutionary soldiers included but are not limited to: Thomas Chatham, John Marshall Wade, Matthew Cartwright, Jacob Shannon, Jacob H. Shepperd, James J. Foster, Raleigh Rogers, A. U. Springer and Evin Corner.<sup>24</sup> These men fought in many of the battles of the Texas Revolution including the Powder House Fight, the Battle of Concepcion, the Grass Fight, the Siege of Bexar, and the Battle of San Jacinto.

On December 10, 1835, the General Council of the Provisional Government of Texas appointed a number of men to assist Col. James Fannin to "collect reinforcements" for "aiding in the reduction of Bejar." The man initially appointed to gather reinforcements in the Lake Creek Settlement was James J. Foster.<sup>25</sup> Foster resigned shortly after his appointment and most of the militia volunteering from the Lake Creek Settlement either joined Captain William Ware's company or Captain Joseph L. Bennett's company.

On October 8, 1870, Jacob Shannon swore out an affidavit in support of Mathew Cartwright's Pension Application for Cartwright's military service during the Texas Revolution. Jacob Shannon swore as follows:

And Jacob Shannon says that he is a resident of Montgomery County...that he knew the said Mathew Cartwright now present before him, in the year 1835 at and in the Lake Creek Settlement now said county of Montgomery that he also knew him in the Army of Texas in the Campaign at San Antonio de Bexar in the year 1835 that he went from said Settlement in company with himself as members of Capt Fosters company under Capt Jos L Bennett (Foster having resigned) that he saw said Mathew Cartwright at the Siege of Bexar for and during six weeks...<sup>26</sup>

Lake Creek Settlement resident, John Marshall Wade, fought in the Battle of San Jacinto and manned one of the famous "Twin Sisters" cannons during this battle in which Texas won her independence from Mexico. On October 4, 1870, Thomas Chatham swore out an affidavit in support of John Marshall Wade's Pension Application for

Wade's military service during the Texas Revolution. Thomas Chatham swore as follows:

And Thomas Chatham says on his oath that he personally knew the said John M Wade now here present before him in the year 1835 in the month of October at the place then called Lake Creek Settlement now the town of Montgomery...that the said Wade and himself joined Capt W Wares Company and under his command joined the army of the Republic of Texas under the command of Genl Sam Houston on the Colorado River ...said Wade and himself came with said Army to Groce's Plantation on the Brazos River and that said Wade was detailed to serve with the Artillery on the 16<sup>th</sup> or 17<sup>th</sup> of April 1836...That the said John M. Wade participated in the Battle of San Jacinto, to the best of his belief and knowledge on the 21st day of April 1836, that he returned from said Battle to the Lake Creek Settlement now the county and town of Montgomery where he resided for many years in fact up to the present date save about 6 years that he resided in Walker County, that he now resides in and has charge of the office of county surveyor of said County...<sup>27</sup>

### 1836 - Marriage of Charles B. Stewart

Prior to the Convention at Washington (Washington-on-the-Brazos) in 1836, Dr. Charles Bellinger Stewart had already served in the Provisional Government of Texas under Governor Henry Smith as the first Secretary of State of Texas.<sup>28</sup> Stewart had already devised the first seal of Texas while serving as Secretary to Governor Smith. Stewart possessed a button with a star engraved upon it. Stewart would press the button into hot wax to make the impression of a lone star on official government documents under seal.

Charles B. Stewart, a businessman, land speculator, and doctor residing in San Felipe de Austin, was elected as a delegate to the Convention at Washington representing the Municipality of Austin. Because Stewart was later photographed when he was an older man, people often assume that that is how he looked at the time of the Convention. However, Stewart had just turned 30 the month before the Convention began.

Charles B. Stewart's Signature on the Texas Declaration of Independence

On March 1, 1836, the Convention began at Washington (Washington-on-the-Brazos). There, Stewart voted for the Texas Declaration of Independence from Mexico on March 2, 1836 and was the first delegate after Convention President Richard Ellis to sign the Texas Declaration of Independence.<sup>30</sup> Stewart also became a member of the committee that drafted the Constitution of the Republic of Texas.<sup>31</sup>

The Alamo fell on March 6, 1836. On March 8, 1836, Charles B. Stewart did something extremely unusual. The Convention would last for nine more days, but Stewart decided to leave the Convention and get married. He went to see Judge James Hall. Judge Hall authorized W. W. Shepperd of Lake Creek to celebrate a contract of marriage between Charles B. Stewart and W. W. Shepperd's daughter, Julia Shepperd.

To W. W. Shepperd Esqr.

Sir- You are hereby authorised to celebrate a contract of marriage between Chas B. Stewart and Julia Shepperd and give to it the said contract the necessary formality before assisting witnesses

Washington March 8, 1836

James Hall  
Primary Judge<sup>32</sup>

Stewart left the Convention at Washington on March 8, 1835 and traveled to the Lake Creek Settlement.<sup>33</sup> On March 11, 1836, C. B. Stewart and Julia Shepperd were married at the house of W. W. Shepperd on Lake Creek.<sup>34</sup> John Marshall Wade, William C. Clark and Charles Garrett witnessed the marriage.<sup>35</sup>

By virtue of the foregoing authority to me directed I William W Shepperd on Lake Creek on the 11<sup>th</sup> day of March 1836 caused the contract of Marriage between the parties referred to be executed before me...<sup>36</sup>

Following a short honeymoon and with the Mexican army searching for the government of Texas in order to eradicate it, C. B. Stewart returned to the Convention at Washington on March 16, 1836.<sup>37</sup> The Convention ended on March 17, 1836. Following the burning of San Felipe and the Texas Revolution, C. B. Stewart moved to the Lake Creek Settlement.

### **Santa Anna Saved by Lake Creek Settlement Soldier**

The Texas army won independence with their remarkable victory at the Battle of San Jacinto on April 21, 1836. The next day Mexican President Antonio Lopez de Santa Anna was captured and held prisoner by the Texans. Many in the Texas army wanted to execute Santa Anna. Jacob Shepperd, a son of W. W. Shepperd, may have changed the course of history of both Texas and Mexico with his timely delivery of a dispatch from

Sam Houston. Jacob Shepperd, a member of the Texas army from the Lake Creek Settlement, personally delivered the dispatch that saved the life of Santa Anna in 1836 at a critical moment following Texas independence.

Henderson Yoakum on pages 194-196 of volume 2 of his *History of Texas from Its First Settlement in 1685 to Its Annexation to the United States in 1846* relates the following:

It is proper to state here a movement in the army, consequent upon the attempt by Pages to rescue Santa Anna. It was the wish of many, and was generally reported, that by a vote of that body, it was resolved to conduct the captive to headquarters, and place him before a court-martial. General Houston, then at Aies Bayou, being informed of these alleged proceedings, dispatched his protest against them. He [Houston] protested against it, because of all the advantages accruing to Texas by his [Santa Anna's] capture would thus be destroyed. The protest reaching the army, was sent to Columbia. A captain with his command had, just before its arrival, gone, as was said, after the prisoner, to bring him to the army; and the protest only reached Captain Patton, who had the captive in charge, in time to prevent his removal. Captain J. H. Sheppard, the bearer of the document, says the pleasant change of affairs filled Santa Anna with joy, and he [Santa Anna] embraced him [Shepperd] as one who had saved his life.<sup>38</sup>

In a letter written to Jesse Grimes on July 1, 1856, Jacob H. Shepperd wrote the following:

I bore the express from General Houston countermanding the taking of San. Anna to the army to be tried for the slaughter of Fannin's men which latter service saved Texas from the accusations that would have been heaped on her for his death.<sup>39</sup>

### **1836 Washington County National Election Returns**

Following the Texas Revolution, the Municipality of Washington became Washington County. A national election was held on the first Monday in September of 1836.<sup>40</sup> The Washington County national election returns are dated September 12, 1836. In the race for President, Sam Houston received 457 votes, Stephen F. Austin received 23 votes, and Henry Smith received 11 votes. In the race for Vice President, Mirabeau B. Lamar received 370 votes and Thomas J. Rusk received 78 votes. In the Congressional races, Jesse Grimes was elected Senator and William W. Hill and William W. Gant were elected Representatives.<sup>41</sup>



One of the most surprising returns was with regard to annexation. Just after the Texas Revolution, 458 voted for “Annexation to the United States of America.” Only 23 voted for a “Separate Republic.”<sup>42</sup> For a number of reasons, the United States did not want to annex Texas as a state in 1836. So, Texas was an independent country for almost ten years.

### **1836 Petition Proposing the Creation of Travis County**

Jesse Grimes, the Republic of Texas Senator from Washington County, wasted no time in trying to establish a new county from the eastern portion of Washington County. On October 26, 1836, just six months after the Battle of San Jacinto, at the first session of the first Congress of the Republic of Texas, Jesse Grimes moved in the Senate for the appointment of a committee on county boundaries. The motion was adopted and Jesse Grimes was appointed one of the members of the committee.<sup>43</sup>

The next day on October 27, 1836, Senator Jesse Grimes presented a petition of citizens of Washington County praying for the establishment of a new county from the territory of Washington County east of the Brazos River to be known as “Travis County.”<sup>44</sup> This petition was signed before Washington County was even organized politically.<sup>45</sup> The 1836 petition for the creation of Travis County reads as follows:

To the Honorable the Senate and House of Representatives of the Congress of the Republic of Texas-

The undersigned citizens, residing in that section of country lying between the Brazos River and Trinity, and below the San Antonio road, who will be subjected to great inconveniences in crossing of the Brazos River to attend courts, and for other county purposes, (so soon as the county shall be organized) pray, that your Honorable body will, during the present session of Congress lay off a County with the following boundaries, viz:-beginning at the San Antonio crossing of the Brazos and running with the San Antonio road to the said crossing on the Trinity – thence down the Trinity River to opposite the Coletto (Indian) village on the Trinity, thence on a straight line to Fish Pond Creek so as to include Donohos, thence down said creek to the mouth, thence up said River Brazos to the beginning; - Your petitioners would also, here observe that they have thus petitioned for a larger scope of country than is necessary to form a county; for the reason, that the population is not sufficient to form more than one county at this time.-

And your petitioners will as in duty-bound, ever pray etc. etc.

And your petitioners also, desire that the said county may be called “Travis” for reasons that your Honl. body will readily anticipate.

[Signatures]

[Reverse]: Petition for a New County

[Later Note]: Referred to the Committee on County boundaries

[In pencil] No date<sup>46</sup>

This petition requested the creation of a new county between the “Brazos River and the Trinity below the San Antonio road.” The petition is undated but logic dictates that it was prepared before its presentation in the Senate on October 27, 1836.<sup>47</sup> On Monday, November 14, 1836, the Senate of the Republic of Texas meeting at Columbia, Texas took the following action, “An act to form a new county to be called “*Travis*” was taken up and ordered to be engrossed for a third reading.<sup>48</sup> The act forming the new county to be called Travis passed in the Senate on November 15, 1836 and went to the House where it was read the first time on November 17, 1836.<sup>49</sup> The Travis County bill appeared to be headed for quick passage, but as will be seen shortly, an impediment would be thrown in its path.

### **1837 – Boundaries of Washington County**

In a joint resolution passed by the Congress of the Republic of Texas and signed into law by President Sam Houston on December 17, 1836, the Chief Justice of each county in the Republic of Texas was required to provide a description of his county’s boundaries to the Secretary of State by the first day of May 1837.<sup>50</sup> Chief Justice John P. Coles provided the following description of the boundaries of Washington County.

Washington. - Beginning at the mouth of Caney creek on the west bank of the Brazos river; thence following said creek to its source; thence west on the dividing ridge between the waters of New Year's creek and the principal or western fork of Mill creek until it strikes the eastern line of the county of Mina; and thence north on said eastern line of the county of Mina to the San Antonio road; from thence following said road eastward crossing the Brazos river to the west bank of Trinity river; thence following down said west bank to the county of Liberty (which is undefined); from thence following said line of Liberty to the northeast corner of the county of Harrisburg; from thence following the north line of the county of Harrisburg to the northeast corner of the county of Austin, so as to include Lake Creek settlement; from said northeast corner of the county of Austin, following the north line of Austin, to the mouth of Ponn [Pond] creek on the east bank of the Brazos river; and thence up said east bank to the point opposite the mouth of Caney creek, and thence across the Brazos river to the place of beginning.

(Furnished by Jno. P. Coles, chief justice. No date given.)<sup>51</sup>

Judge Coles made it a point to describe the southern boundary of Washington County “so as to include Lake Creek settlement” as part of Washington County.

## **The Lake Creek Precinct**

Following the Texas Revolution, the Lake Creek Settlement found itself located in Washington County. Washington County was divided politically into six very large political precincts. One of the precincts took its name from the Lake Creek Settlement. The six large precincts located in Washington County were the Hazard Precinct, the Hidalgo Precinct, the Washington Precinct, the Viesca Precinct, the San Jacinto Precinct, and the Lake Creek Precinct.<sup>52</sup>

## **1837 Washington County Local Election Returns**

On February 13, 1837, John P. Coles, Chief Justice of Washington County, certified the election returns of Washington County to the Secretary of State of the Republic of Texas, R. A. Irion. In this certification of the Washington County election returns, the voters in the Lake Creek Precinct elected two Justices of the Peace: George Galbraith and Jeremiah Washam [Worsham].<sup>53</sup> During the early Republic of Texas, Justices of the Peace also served as Commissioners on the County Commissioners' Court.

## **March 9, 1837 Petition Opposing the Creation of Travis County**

On March 9, 1837, a number of citizens of Washington County on the west side of the Brazos River signed a petition in opposition to the creation of the new county of Travis.

Republic of Texas  
County of Washington

To the honorable Congress of the Republic of Texas, aware that a petition was presented to the last session of congress praying for a division of the county aforesaid, the inhabitants of said county respectfully represent that the line of division as proposed, did not, nor does not meet the approbation of a large majority of the population of said county, and we your petitioners esteem it as a matter of right, and of justice, that said division should only be made with the approbation of a majority of the citizens of the county - the county forms a community, which was organized for the convenience of all concerned, by consent, and this community cannot nor should be dissolved without, the consent, of a majority of all the citizens, forming such community - your petitioners oppose the plan of division that was proposed because it is unequal & unjust, to make the River the line of division. that portion of the country west of the Brasos, would be about 50 miles long and its average width would perhaps not exceed 15

miles while that portion of the East of the Brasos would form a square of about 70 miles.-

If a division of the said county should be deemed necessary, by congress, your petitioners respectfully represent, the following, as the most equitable & just, that is to say, being on the Eastern boundary line of said county, east of the Brasos River, distant 15 miles from the mouth of Pond-creek on said line, and thence north to the San Antonio Road at 15 miles East of the Brazos River Your petitioners represent that they are aware that the constitution provides for the establishment of new counties, upon the petition of one hundred Inhabitants, praying for a new county, provided the county so petitioned for, contains a superficies of nine hundred square miles- but we do not consider that that article of the constitution has any bearing upon communities, or counties of prior existence; and division of such communities or counties, should not be arbitrary, nor made without the consent of a majority of the members of such communities

Washington 9th March 1837

[Signatures]<sup>54</sup>

The petitioners opposed the creation of the new county for a couple of reasons. First, they contended “that said division should only be made with the approbation of a majority of the citizens of the county...and this community cannot nor should be dissolved without, the consent, of a majority of all the citizens, forming such community.” Second, “your petitioners oppose the plan of division that was proposed because it is unequal & unjust, to make the [Brazos] River the line of division.” If created, the new county of Travis would be much larger in size than what would remain of Washington County. If the Congress did divide the county, the petitioners suggested an alternate division line 15 miles east of the Brazos River.

This petition was presented in the second session of the first Congress of the Republic of Texas. On June 2, 1837, in the House of Representatives, “Mr. Gant presented a petition from the citizens of Washington County, which was referred to the committee on boundaries.”<sup>55</sup> The second session of the first Congress came to an end on June 13, 1837 with no further action on the Travis County bill.<sup>56</sup> The Travis County bill had died.

However, the idea for the creation of a new county from the eastern portion of Washington County would be resurrected in the Lake Creek Settlement just a few days later in July of 1837.

### **Roads in the Lake Creek Settlement**

As mentioned earlier, the territory that later became Montgomery County was originally part of Washington, County. The first Washington County Commissioners' Court meeting was held on April 3, 1837 and the two Justices of the Peace from the Lake Creek Precinct, George Galbraith and Jeremiah Worsham, were present.<sup>57</sup> Some of the earliest activities of the Washington County Commissioners Court concerned the creation of roads in Washington County. Some of these roads were to be established in the Lake Creek Settlement.

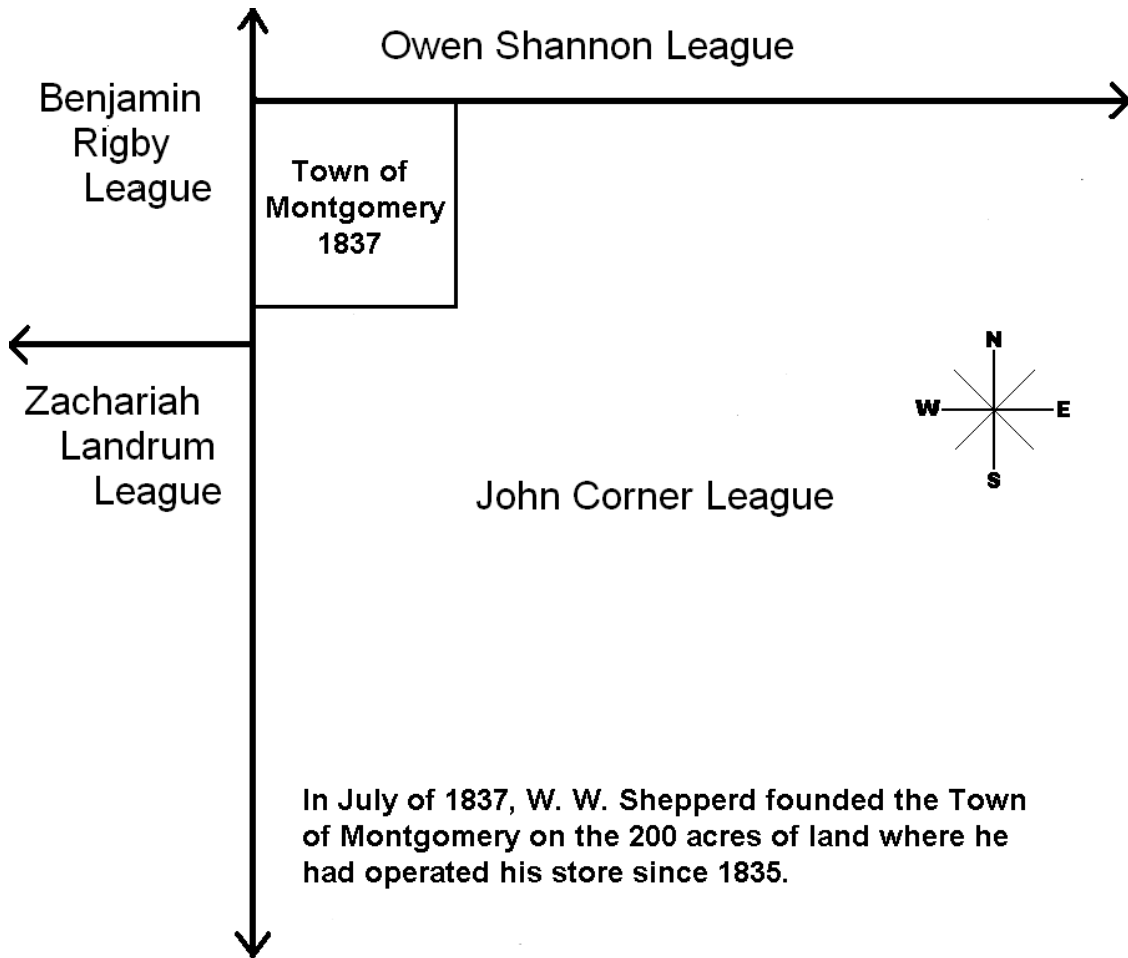
At the April 3, 1837 Washington County Commissioners' Court meeting, George Galbraith from the Precinct of Lake Creek moved for the creation of a road from the Lake Creek Settlement towards Houston:

On motion of George Galbraith. Resolved that a road be ordered to be laid from Lake Creek Settlement to the county line in the most direct and practicable rout to the City of Houston and Benjamin [Benjamin] Rigby, Raleigh Rodgers, Hiram Rosin, Charles Garrett and William Rankin be appointed to survey said rout and report to this Court at the next term thereof.<sup>58</sup>

The next day on April 4, 1837, William Robert from the Precinct of San Jacinto moved for the creation of a road from the Lake Creek Settlement to New Cincinnati.

On motion of William Robert. Resolved that a road from the City of Houston to Lake Creek Settlement be continued to run North from Lake Creek Settlement in the most direct and practicable rout to New Cincinnati on the Trinity and that William Clark Job Collard H M Crabb John Caruthers and Ranson Alfin be appointed to survey said rout and report to this Court at the next regular term thereof.<sup>59</sup>

**Montgomery, Texas Founded July 1837  
The Town Under the Hill**



Less than a month after the Travis County bill died in June of 1837, the town of Montgomery was founded in July of 1837. The town of Montgomery was founded on the 200 acres of land that W. W. Shepperd had purchased from William C. Clark in the Lake Creek Settlement in 1835. The town was founded at the site of Shepperd's houses and store. W. W. Shepperd, his wife, his children and their slaves were the first residents of the town of Montgomery.

W. W. Shepperd founded the town of Montgomery in association with Major John Wyatt Moody, the First Auditor of the Republic of Texas. On July 8, 1837, the *Telegraph and Texas Register* newspaper in Houston, Texas published an advertisement submitted by W.W. Shepperd and J. W. Moody.<sup>60</sup> At that time, the City of Houston was the capital of the Republic of Texas and the *Telegraph and Texas Register* was being published there weekly. Shepperd and Moody had placed the advertisement with the *Telegraph and Texas Register* on July 4, 1837, 4 days before the advertisement's first publication.<sup>61</sup>

## MONTGOMERY.

**S**ITUATED in the county of Washington, sixty miles northwest of the city of Houston, thirty five miles east of the town of Washington, and six miles west of the San Jacinto River, in the centre of a high, beautiful and undulating district of country, distinguished for health, good water, and soil.

It is expected that a new county will be organized, at the next session of congress, embracing this section of country, in which event, the town of Montgomery from its central position, must be selected as the seat of justice.

The San Jacinto affords an excellent keel boat navigation to this point. The most direct route from the city of Houston to Robertson's colony and Red River settlements, and from Bevils settlement to Washington, pass through this town. The great extent of good land lying contiguous, and its increasing and enterprising agricultural population, cannot fail of making this one of the most flourishing inland towns in this republic.

Sales of lots at auction will take place in the town of Montgomery, on the first Monday in September ensuing, and continue for three days.

Terms of sale, six, and twelve months credit. Notes with approved security will be required. Good titles will be made upon the payment of the first notes.

W. W. SHEPPERD, }  
J. W. MOODY, } *for company.*

Texas 4th July, 1837.

“Situating in the county of Washington, sixty miles northwest of the city of Houston, thirty five miles east of the town of Washington, and six miles west of the San Jacinto River, in the centre of a high, beautiful and undulating district of country, distinguished for health, good water, and soil.

It is expected that a new county will be organized, at the next session of congress, embracing this section of country, in which event, the town of Montgomery from its central position, must be selected as the seat of justice.

The San Jacinto affords an excellent keel boat navigation to this point. The most direct route from the city of Houston to Robertson's colony and Red River settlements, and from Bevils settlement to Washington, pass through this town. The great extent of good lands lying contiguous, and its increasing and enterprising agricultural population, cannot fail of making this one of the most flourishing inland towns in this republic.

Sales of lots at auction will take place in the town of Montgomery, on the first Monday in September ensuing, and continue for three days.

Terms of sale, six, and twelve months credit. Notes with approved security will be required. Good titles will be made upon the payment of first notes.

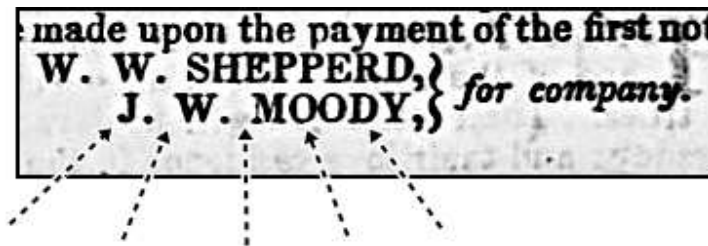
W. W. SHEPPERD, }  
J. W. MOODY, } *for company*

Texas 4<sup>th</sup> July, 1837.”<sup>62</sup>

In the advertisement, Shepperd and Moody announced the sale of lots in the town of Montgomery. They also made a couple of bold predictions in the advertisement. First they predicted that a new county would be created in the next session of Congress; and second, they predicted that the new town of Montgomery must be selected as the county seat of the new county.<sup>63</sup> This advertisement was first published on July 8, 1837. This same advertisement was published continuously in each edition of the *Telegraph and Texas Register* from July 8, 1837 through November 4, 1837.

### The Naming of the Town of Montgomery

The two major discoveries regarding the history of the town of Montgomery that have been made in recent years are: (1) the rediscovery and historical exploration of the Lake Creek Settlement using previously ignored primary source documents, and (2) the discovery of John Wyatt Moody and the impact his activities had on the early history of the town and the county.



For more than one hundred years, people had searched for the source of the name of the town and the county. As J. W. Moody never lived in the Lake Creek Settlement or the town of Montgomery, local historians had ignored his name on the “Montgomery” advertisements in the *Telegraph and Texas Register*. Most local historians had taken some notice of W. W. Shepperd, but no historian had ever even mentioned J. W. Moody.

In the end, Moody was the solution to a question more than a century old. What was the source of the name of the town and the county? The simple answer to that question is that W.W. Shepperd and J. W. Moody named the town “Montgomery.” The more difficult question to answer was “Why did they name the town Montgomery?”

Based on the newly discovered Lake Creek Settlement documents, it became apparent that the name “Montgomery” was not taken from any local source. It is extremely important to note that prior to the founding of the town, the place where the town was founded had been known as the store of W. W. Shepperd on Lake Creek. The area surrounding Shepperd’s store had been known as Lake Creek Settlement, the neighborhood of Lake Creek, the District of Lake Creek, the Precinct of Lake Creek, or simply as Lake Creek. Since 1835, W. W. Shepperd had owned the land and operated his store at the location that became the town of Montgomery in 1837.



As Shepperd owned all the land, the store and all the other improvements in the new town of Montgomery, J. W. Moody's role, in the founding of the town and more importantly in the creation of the new county, was one of political influence. Major John Wyatt Moody was the First Auditor of the Republic of Texas. As such, Moody was a very powerful man. As Auditor of the Republic of Texas, Moody held the purse strings of the Republic. He decided who did and did not get paid by the cash poor Republic of Texas. In addition to his position as Auditor of the Republic of Texas, Moody had many friends in the highest levels of the government. For instance, President Sam Houston counted J. W. Moody as one of his friends.<sup>64</sup>

Private

City of Houston  
20 June 1837

To J. W. Moody Esq.  
Auditor  
Sir

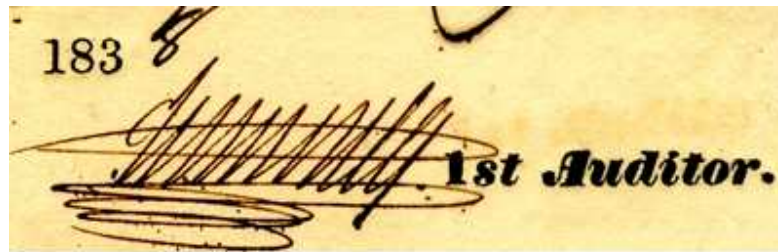
The accounts of Gen<sup>l</sup>. Chambers this day ordered to be audited, are to be considered entirely with reference to the amounts disbursed and responsibility assumed by that gentleman.

The question of his rank as an officer is not to be affected or decided upon by the preceding.

Your friend  
Sam Houston

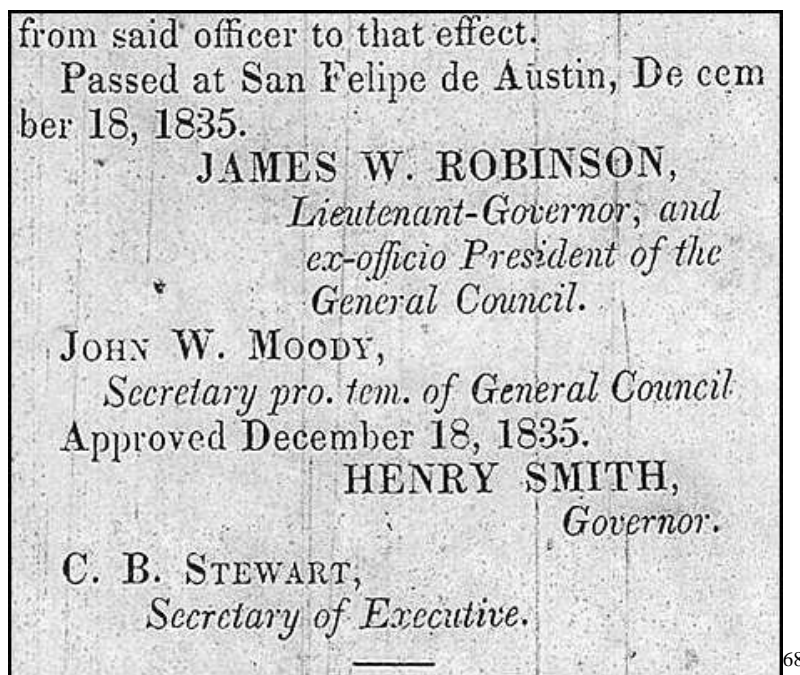
June 20, 1837 Letter from Sam Houston to J. W. Moody - Houston Signs "Your friend Sam Houston"  
(This letter was written less than three weeks before Shepperd and Moody placed the advertisements for the town of Montgomery)

President Houston had also nominated John Wyatt Moody for Auditor of the Republic of Texas in a letter to the Senate of the Republic of Texas on December 20, 1836.<sup>65</sup>

A handwritten signature in dark ink on aged paper. The signature is highly stylized and scribbled. To the right of the signature, the text "1st Auditor." is printed in a bold, serif font. In the upper left corner, the year "1838" is handwritten.

Signature of J. W. Moody as 1<sup>st</sup> Auditor of the Republic of Texas in 1838

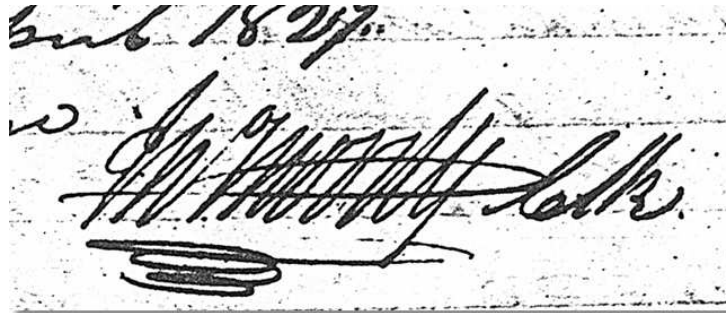
Charles B. Stewart probably introduced Moody to his father-in-law, W. W. Shepperd. During the Texas Revolution, both Moody and Stewart had served in the Provisional Government of Texas together. Stewart served as the first Secretary of State at the same time that Moody was the clerk of several committees of the General Council including the Committee on Affairs of State, Judiciary and Finance.<sup>66</sup> Shortly thereafter, the General Council elected Moody the Auditor of the Provisional Government of Texas.<sup>67</sup>

A rectangular block of text, likely a scan of a document. The text is arranged in several lines. The first line reads "from said officer to that effect." The second line reads "Passed at San Felipe de Austin, December 18, 1835." The third line reads "JAMES W. ROBINSON," followed by "Lieutenant-Governor, and ex-officio President of the General Council." The fourth line reads "JOHN W. MOODY," followed by "Secretary pro. tem. of General Council". The fifth line reads "Approved December 18, 1835." The sixth line reads "HENRY SMITH," followed by "Governor." The seventh line reads "C. B. STEWART," followed by "Secretary of Executive." A small number "68" is visible in the bottom right corner of the block.

Ordinance and Decree Signed by John W. Moody and C. B. Stewart

Both Moody and Stewart were at the Convention of 1836 at Washington-on-the-Brazos. Charles B. Stewart was a delegate to the Convention and Moody was at the Convention in his role as Auditor of the Provisional Government of Texas.<sup>69</sup>

Before coming to Texas, J. W. Moody had lived in Montgomery, Alabama for many years where he had been the County Clerk of Montgomery County, Alabama.<sup>70</sup>

A black and white photograph of a handwritten signature on a document. The signature is written in cursive and appears to read "J. W. Moody". Above the signature, the date "Feb 18 27" is written. The signature is written over a horizontal line. There is a small number "71" in the bottom right corner of the image.

Signature of J. W. Moody as County Clerk of Montgomery County, Alabama in 1827

Given the fact that Shepperd and Moody named the town, it was originally speculated by Kameron Searle that the town was named after the city of Montgomery, Alabama. The city of Montgomery, Alabama was named after General Richard Montgomery, a hero of the American Revolution. However, Montgomery County, Alabama was named after Lemuel P. Montgomery, a hero of the Battle of Horseshoe Bend.

After studying the new data gathered by Searle, Carrol D. Cagle, M.D. suggested a far more likely explanation for the source of the name of the town in a letter to the editor published in the *Montgomery County News* newspaper. He suggested that the source of the name of the town of Montgomery, Texas was Montgomery County, Alabama and not the city of Montgomery, Alabama.

Letter to the Editor -  
Lemuel Montgomery Namesake of  
Montgomery County, Texas

It appears to me that most of the counties in Texas are named after important national heroes (Washington), state heroes (Travis), battles (San Jacinto), Spanish settlements (Bexar), or early settlers of note (Grimes).

William Montgomery, Andrew Montgomery, and Margaret Montgomery Shannon, early Montgomery County settlers some claim to be the founders of the county, in my opinion do not fit the settlers-of-note mold. Others claim that Richard Montgomery of Revolutionary War fame, for whom the city of Montgomery, AL [Alabama] was named, was the namesake of Montgomery County, but he has no connections with Texas.

This leaves the most likely candidate for father of Montgomery County to be one whom I have not heard named in all this debate. Major Lemuel Montgomery was Sam Houston's commanding officer in the Battle of Horseshoe Bend and died in Sam Houston's arms during the charge against the Creek Indian barricade. Montgomery County, AL was named after Lemuel Montgomery.

The founders of the town of Montgomery, TX were W. W. Shepperd and J. W. Moody. Moody was a former County Clerk of Montgomery Co., AL before he came to Texas and served as the Auditor of the Republic of Texas. It seems logical that Moody would name the town and be able to persuade Sam Houston, President of the Republic of Texas, to name the new county after Sam's mentor, Lemuel Montgomery.

Carrol D. Cagle<sup>72</sup>

Cagle makes a very sound argument by pointing out that Shepperd and Moody would want to take advantage of every single angle available to them in reaching the goals they stated at the time the new town was founded: (1) the creation of a new county and (2) for the new town to be the county seat of that new county. If the town became the county seat of the new county, then real estate values would increase dramatically. So, they named the town after Montgomery County, Alabama which was named after Lemuel P. Montgomery.

There were several important connections between Sam Houston and Lemuel P. Montgomery. Lemuel P. Montgomery had been Sam Houston's commanding officer in the Battle of Horseshoe Bend on March 27, 1814. Lemuel P. Montgomery was one of the first soldiers to be killed in the Battle of Horseshoe Bend and he was killed right in front of Sam Houston as the battle began.<sup>73</sup> Sam Houston went on to distinguish himself in the Battle of Horseshoe Bend. Houston would later use his distinguished military service in the battle as a springboard for his political career in Tennessee.

After the war, Sam Houston studied law sitting in Lemuel P. Montgomery's chair in James Trimble's law office in Nashville, Tennessee. In the biography of Sam Houston, *The Raven*, Marquis James wrote the following:

"In Nashville, he [Sam Houston] began to read law in the office of James Trimble. Judge Trimble had known Sam's people in Virginia. He outlined an eighteen-month course of reading. Sam sat down in the chair that Lemuel Montgomery had occupied, and opened the same books that that eager young man had put down in 1812 to go to war."<sup>74</sup>

In the *Telegraph and Texas Register* advertisement quoted above, W. W. Shepperd and J. W. Moody accurately predicted the organization of a new county "embracing this section of country" at the next session of the Congress of the Republic of Texas. Sam Houston was President of the Republic of Texas when the town of Montgomery was founded in July of 1837, and as we will see shortly, Houston was still President when he signed the act creating Montgomery County into law a few months later.

The location where the town was founded had never been known as “Montgomery” prior to Shepperd and Moody’s July 8, 1837 advertisement in the *Telegraph and Texas Register*. Prior to the founding of the town, the settlement was known as the Lake Creek Settlement, and the specific location where the town was founded was known as “the store of W. W. Shepperd on Lake Creek.”

It was a common practice to name towns in the early Republic of Texas for well-known places back in the United States. Just within the original bounds of Montgomery County, there were towns named Montgomery, Huntsville, New Cincinnati, and Carolina.

Exactly how Shepperd compensated Moody for his influence with regard to the creation of the county or the location of the county seat in the town of Montgomery is unknown. Moody’s name appears in none of the deeds dealing with Shepperd’s sale of land in the town of Montgomery.

#### **October 13, 1837 Petition Proposing the Creation of a County with “No Name”**

In October of 1837, a new petition was circulated by citizens of Washington County on the east side of the Brazos River for the creation of a new county. This petition circulated as three duplicate originals. One of these three “duplicate originals” petitions bears the date October 13, 1837. This three-part petition requested that the Brazos River be the dividing line between the counties of Washington and the new county. Unlike the earlier “Travis County” petition, this new petition did not suggest a name for the new county. The three “duplicate originals” of the petition that were circulated read as follows:

To the Hon.<sup>bl</sup> Senate & House of Representatives of the Republic of Texas in congress assembled We your petitioners Citizens of Washington County East of the Brazos River being desirous for a division of Said County do hereby petition your Honourable Boddy - to Make the Brazos River the dividing line between Said New county so as to throw our New County Seat out in the high healthy Prarys as for the arrangements of the New County after that is done we are willing to abide the justice of Congress or the Honesty of our own Citizens in affixing the other lines October 13, 1837

[Signatures]<sup>75</sup>

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We your petitioners, Citizens of Washington County East of the Brazos river being desirous for a division of the County of Washington, do hereby petition your honourable body to make the Brazos river the dividing line between said contemplated counties so as to throw our county seat in the high healthy Prairies.

As for the arrangements of the new county seats after that is done, we are willing to abide the justice of Congress or the honesty of our own citizens in fixing the other lines and locating the seat of Justice.

To the Honl. Speaker of the  
House of Representatives in  
Congress assembled,

[Signatures]<sup>76</sup>

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Now your petitioners Citizens of Washington County East of the Brazos river being desirous for a division of said County do hereby petition your honourable body - to make the Brazos river the dividing line between said new Counties so as to throw our new County seats in the high healthy Prairies as for arrangements of the Counties after that is done we are willing to abide the justice of Congress or the honesty of our own Citizens in affixing the other lines

To the Honorable Speaker of  
The House of Representatives in  
Congress Assembled

[Signatures]

[Reverse]: Petition from the Citizens of Washington praying for a New County.

[Later Note]: 21<sup>st</sup> Nov refd to com on C. B.<sup>77</sup>

Many of the early settlers and residents of the Lake Creek Settlement signed the petition for the creation of the new county in October of 1837. These signatures included: Joseph L. Bennett, Charles Garrett, J. Worsham, Wiley B. D. Smith, W.M. Rankin, William Landrum, Thomas Corner, Peter Cartwright, J. H. Shepperd, Jacob Shannon, John Corner, William S. Taylor, Thomas Rankin, Robert Hall, William Patterson, Wm. C. Clark, Richard Williams, U. A. Springer, Archibald McGee, John Pyle, Martin P. Clark, Israel Worsham, Wm. B. Pillow and John M. Springer.<sup>78</sup>

On November 21, 1837, this new petition for the creation of a new county was referred to the Committee on County Boundaries in the House of Representatives. At that time, the county had no name. By November 23, 1837, the proposed county had a name, "Montgomery."

"Mr. Baker, chairman of the committee on county boundaries, reported a bill, accompanied by the petition of sundry citizens of Washington county, for the creation of a new county to be called Montgomery County. Read a first time."<sup>79</sup>

### **November 30, 1837 Petition Opposing the Creation of the New County**

Shortly after the bill for the creation of a new county to be called Montgomery County was reported, a petition opposing the creation of the new county was presented to Congress.

To the hon<sup>ble</sup>, the congress of the Republic of Texas

Your petitioners, citizens of the citizens of the County of Washington, in the Republic aforesaid, would represent: That they are informed that a petition is now before Congress praying for a dissolution of the County of Washington. The object of your petitioners is to move against the plan of division, or any division of said County, unless upon the following plan: Towit, beginning on the East bank of the Brazos River, at the mouth of Pond Creek on the county line of Austin, and with said county line of Austin, East to a point on said line 15 miles East from the said Brazos River to the San Antonio Road fifteen miles East from the Brazos River. This is a line of division which your petitioners humbly represent as the most equitable and just, and as best calculated to suit either portion of the county generally, and further pray that if a division of the county is to be made, let the line of division run as set forth by your petitioners and we your petitioners are in duty bound and will ever pray &c

Washington 30th November 1837

[Signatures]

[Reverse endorsement]:      The Petition of a Portion of the Inhabitants of  
Washington Cty praying for a Division of the  
County.  
read first time  
5<sup>th</sup> December 1837

[Later note]:                      dead<sup>80</sup>

This petition bearing the date November 30, 1837 had many signatures inscribed upon it and many of these were very heavy hitters. Signers of this petition included Washington County Chief Justice John P. Coles, Republic of Texas Congressman W. W. Gant, and Washington, Texas town founders, Asa Hoxey and John W. Hall. The signers of the petition opposed the creation of the new county or in the alternative wanted the division line moved 15 miles east of the Brazos River. Neither of which happened. J. W. Moody's influence down in the capital was just too strong. The petition was read for the first time on December 5, 1837. Shortly thereafter, it was "dead."

Those with business interests tied to the town of Washington had fought hard against the creation of the new county. The town of Washington was the county seat of Washington County. Before the creation of the new county, the town of Washington had been centrally located inside Washington County. With the creation of the new county, the town of Washington found itself located on the extreme eastern boundary of Washington County. Those with business interests in the town of Washington knew that the people of Washington County would not tolerate the county seat being on the extreme eastern boundary of the county and would push for a more central location. This is what in fact happened. The creation of the new county of Montgomery would be the death knell for the town of Washington as the county seat of Washington County.

Moody and Shepperd could tell the world in July of 1837 that they expected to see a new county created in the next session of Congress and that they wanted the town of Montgomery to be the new county's seat of justice. The political might of Washington County west of the Brazos was brought to bear in opposition to creation of the new county, but it all still happened just the way Moody and Shepperd had predicted. In fact it was even more impressive as the new county also bore the name of their town.

### **Montgomery County Created December 14, 1837**

Five months after the town of Montgomery was founded, Montgomery County was created when Republic of Texas President Sam Houston signed the act creating Montgomery County into law on December 14, 1837.

#### **An Act Creating the County of Montgomery**

Sec. 1. Be it enacted, by the senate and house of representatives of the republic of Texas, in congress assembled, that all that part of the County of Washington, lying east of the Brazos and south east Navasota rivers, shall constitute and form a new County to be known and designated by the name of Montgomery county.



Sec. 3. Be it further enacted, That James Mitchell, Pleasant Gray, William Robinson, Elijah Collard, Charles Garrett, Joseph L. Bennett, B. B. Goodrich, D. D. Dunham [D. T. Dunham], and Henry Fanthorpe [Fanthorp], be and they are hereby appointed commissioners, with the power and authority (any five of them concurring) to select a proper place for the seat of justice for said county, and to obtain by purchase upon the faith and credit of the county, or receive by donation such quantity of land as will be sufficient for the erection of public buildings, and for defraying such other necessary expenses of said county as said commissioners may deem expedient and that the land so purchased or donated shall be under the superintendence and control of the commissioners of said county.

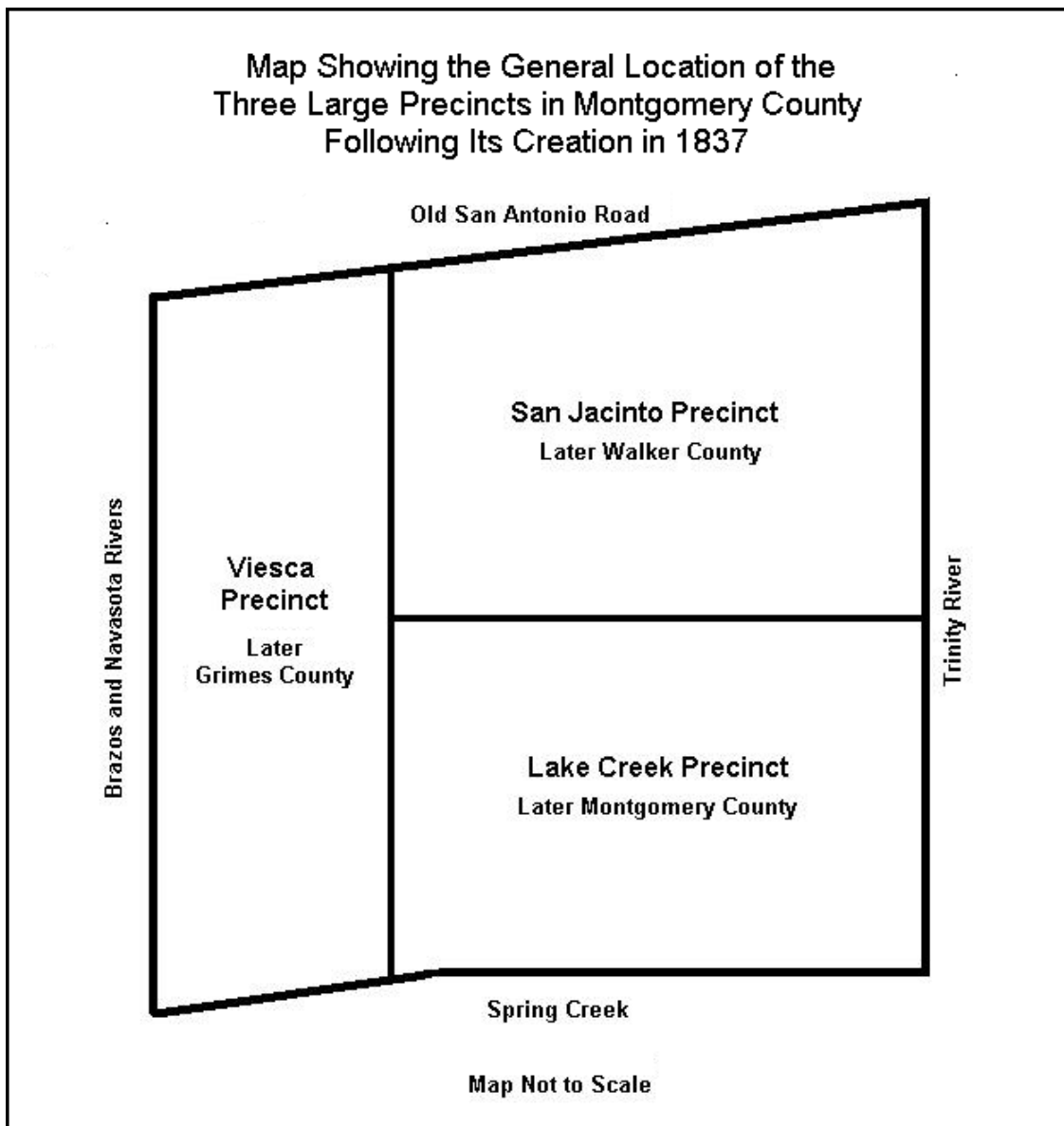
James Rowe  
Speaker of the house of Representatives  
Mirabeau B. Lamar  
President of the Senate

Approved  
Sam Houston

14<sup>th</sup> Dec 37<sup>81</sup>

## Montgomery County Precincts

Montgomery County was composed of the three large political precincts that had previously formed eastern Washington County: the Viesca Precinct, the Lake Creek Precinct and the San Jacinto Precinct. The Lake Creek Precinct was very large. The large Lake Creek Precinct included most of the territory of present day Montgomery County. The San Jacinto Precinct included most of the territory of present day Walker County and the Viesca Precinct included most of the territory of present day Grimes County.



The new county of Montgomery was huge. In her book *Texas in 1850* on page 141, Melinda Rankin described the new county as follows:

Montgomery was at that time the local seat of government of a territory larger than the State of Delaware, extending from the San Antonio road (the old “king’s pass” of the anti-Texan era) on the north, to Spring Creek on the south, and from the Brasos on the west, to the Trinity river on the east, some seventy miles on either course – and now containing the counties of Grimes, Walker and Montgomery.<sup>82</sup>

### **The Town of Montgomery “under the hill” First County Seat of Montgomery County**

The act creating Montgomery County appointed nine commissioners to select the seat of justice (county seat) for Montgomery County. These nine commissioners were James Mitchell, Pleasant Gray, William Robinson, Elijah Collard, Charles Garrett, Joseph L. Bennett, B. B. Goodrich, D. T. Dunham and Henry Fanthorp.<sup>83</sup>

The first county seat of Montgomery County was the town of Montgomery. The original site of the town was located on the 200 acres where W. W. Shepperd had operated his store since 1835. Most of these 200 acres were located in a low-lying area along the creek (Town Creek). A number of historians have referred to the original town site as the “old town” of Montgomery or the town of Montgomery “under the hill.” The Chief Justice of Montgomery County, Jesse Grimes, was holding court and filing documents in the “old town” town of Montgomery “under the hill” as early as February of 1838. Below is an example of a legal document filed there on February 26, 1838.

Republic of Texas  
County of Montgomery

Before me Jesse Grimes Chief Justice of the County aforesaid on the 26<sup>th</sup> day of February 1838, personally appeared Martin P. Clark and Gwyn Morrison witnesses to the within Title from Mary Corner to Julia T. Stewart who each and Severally Swear that they Saw Mary Corner and Julia T. Stewart and Charles B. Stewart Sign and Seal the within Title as aforesaid, on the date therein mentioned and enumerated, and that they thereunto set their names as witnesses. Given under my hand in the Town of Montgomery on the above date,

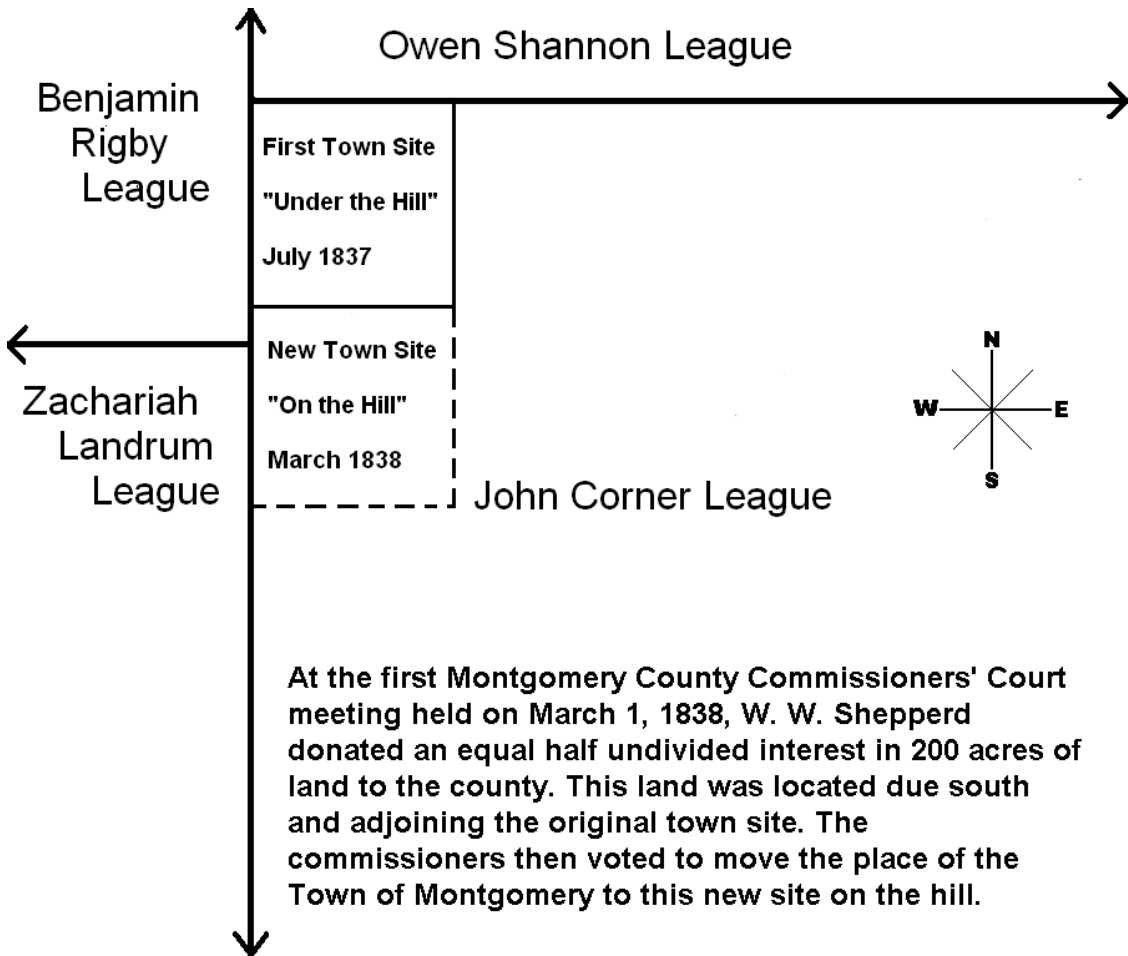
Jesse Grimes Chief Justice  
County Court  
Montgomery County

Filed of Record 26<sup>th</sup> Feby 1838  
Recorded 28<sup>th</sup> Feby 1838

Gwyn Morrison Clerk and Recorder<sup>84</sup>

**1838 Montgomery, Texas  
The Town "on the hill"**

At this point, it is very important to remember that W. W. Shepperd developed the town of Montgomery in two phases. The first phase was what has been referred to as the "old town" of Montgomery "under the hill" and the second phase was the new town of Montgomery "on the hill."



On February 26, 1838, W. W. Shepperd purchased 2,426 acres of land in the John Corner League from John Corner for \$1,412. B. B. Goodrich and Gwynn Morrison witnessed this deed. Part of the 2,426 acres of land was a tract referred to as Tract #4 which contained 212 acres. Shepperd paid about \$123 for the 212 acres in Tract #4. Later Tract #4 would become known as the "town tract" or the "Montgomery town tract."

"Tract No. Four commences upon the divisional line between this [John Corner] league and the league granted to Benjamin Rigby at a stake in the Prairie which is also the South west corner of the two hundred acre tract sold by William C. Clark out of his 600 acre tract herein mentioned to William W. Shepperd from which

Stake a post oak 20 in diam marked C. G. and above and below a notch bears S. 38 West 3 chains and 2 links distant Eng measure, this Stake is 950 varas from the N. W. corner of this league,

Thence South upon the west boundary line of this League and divisional line between it and league of Rigby and Landrum Eleven hundred fifty varas to the North west corner of tract No. 2 to the South west corner of the aforesaid Geline tract which is a Stake from which --- Thence North Eleven hundred and fifty varas to South boundary line of the before mentioned 200 acre tract sold by Clark to Shepperd to a Stake from which ---

Thence West along said South boundary line Ten hundred and fifty six varas to the place of beginning containing two hundred and twelve acres, more or less...”<sup>85</sup>

The county had been conducting business at the original site of the town of Montgomery under the hill before the first Montgomery County Commissioners’ Court meeting was held on March 1, 1838.

Curiously, the names of most of the commissioners attending the first Montgomery County Commissioners’ Court meeting were different from those named in the act creating Montgomery County. Those in attendance for the first Montgomery County Commissioners’ Court meeting held on March 1, 1838 and March 2, 1838 were Chief Justice Jesse Grimes (who was the President of the Board of Commissioners), County Clerk Gwyn Morrison, Deputy Clerk B. B. Goodrich, Commissioner Martin P. Clark, Commissioner George Galbraith, Commissioner William Robert, Commissioner William Robinson, Commissioner H. M. Crabb, and Commissioner Zoraster Robinson.<sup>86</sup> Only two of the commissioners named in the act creating Montgomery County were present: William Robinson and B. B. Goodrich. How most of the commissioners were changed between December 14, 1837 (act creating the county) and March 1, 1838 (first Commissioners’ Court meeting) is still unknown.

At the first Montgomery County Commissioners’ Court meeting on March 1, 1838, W. W. Shepperd through his agent, C. B. Stewart donated an equal half undivided interest in 200 of the 212 acres in Tract #4 to Montgomery County. The county commissioners accepted the land donation and moved “the place” of the town of Montgomery from the original town site on the 200 acres of land “under the hill” to the new town site on the 200 acres of land in Tract #4 “on the hill.”

“The president placed before the board the written act of donation of W. W. Shepperd to the County of Montgomery of an equal half undivided interest in the Town of Montgomery and Sixty acres of pine land adjoining – donated for County purposes and it being put to question whether said donation should be accepted it was unanimously received – and the question being also whether the place of the Town presented by C. B. Stewart as agent for W. W. Shepperd should be received the same was also unanimously received and adopted”<sup>87</sup>

These 200 acres upon which the new site of the town of Montgomery was located were on the hill due south of and adjoining the 200 acres upon which the site of the town of Montgomery had been founded in July 1837.<sup>88</sup> See diagram on page 35.

In Section 3 of the act creating Montgomery County, it is apparent that a donation of land to the new county was anticipated as early as the drafting of the Congressional act to create Montgomery County.

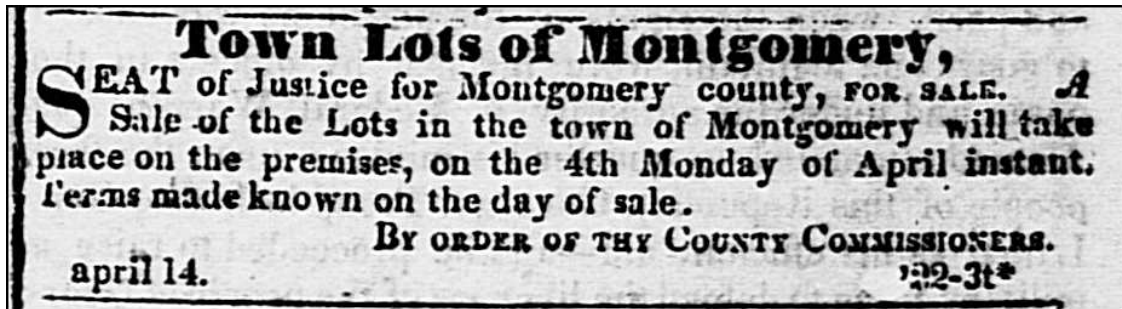
An Act  
Creating the County of Montgomery

Sec. 3. Be it further enacted, That James Mitchell, Pleasant Gray, William Robinson, Elijah Collard, Charles Garrett, Joseph L. Bennett, B. B. Goodrich, D. D. Dunham [D. T. Dunham], and Henry Fanthorpe [Fanthorp], be and they are hereby appointed commissioners, with the power and authority (any five of them concurring) to select a proper place for the seat of justice for said county, and to obtain by purchase upon the faith and credit of the county, or receive by donation such quantity of land as will be sufficient for the erection of public buildings, and for defraying such other necessary expenses of said county as said commissioners may deem expedient and that the land so purchased or donated shall be under the superintendence and control of the commissioners of said county.<sup>89</sup> [Underline added for emphasis]

Shepperd was clever. By donating the county an equal half undivided interest in 200 acres of Tract #4, both Shepperd and the county would profit from each land sale in the town. Every time a lot was sold in the town of Montgomery, the county got half of the money and Shepperd got the other half.

The town of Montgomery was the county seat and W. W. Shepperd owned a half interest in all the land in the town site on the hill and much of the land surrounding it. People wishing to buy real estate in or around the county seat of Montgomery County had almost no choice but to put money in Shepperd's pocket.

The Republic of Texas provided no money to get the new county of Montgomery started or to build county buildings such as a courthouse. The sale of the land donated to the county by Shepperd was to serve this function. The Montgomery County Commissioners' Court wasted no time in trying to sell town lots.



April 14, 1838 Edition of the *Telegraph and Texas Register* (Houston, Texas)<sup>90</sup>

### 1838 Montgomery County Election Returns

On May 30, 1838, Jesse Grimes the Chief Justice of Montgomery County provided the election returns for Montgomery County to the Secretary of State of the Republic of Texas, R. A. Irion.

Montgomery County, May the 30<sup>th</sup> 1838  
Hon. R. A. Irion

Dear Sir

Your communication of the 5<sup>th</sup> from some cause did not reach me until yesterday.

The County of Montgomery was organized as early as practicable after receiving the proclamation of the President on that subject. One of the Justices elect having been a while absent from the County the returns of his qualifications was not received until the April term of the Probate Court, when I immediately made return of all the County Officers, with the exception of Constables to the Department of State which I hope you have received but for fear it has not reached you I have sent you another which I have to do from memory being at home sixteen miles from the County Clerks office.

Abram Zuber Clerk of the district Court; Joshua Robbins Sheriff Daniel Quimby Coroner. For the precinct of Viesca D T Dunham and Zoraster Robinson Justices of the peace and Peter Tumbleston Constable. Precinct of Lake Creek Martin P Clark and George Galbraith and William S. Taylor Constable. Precinct of San Jacinto Hillory M. Crabb and Luther Plummer Justices of the Peace and [blank] Constable.<sup>91</sup>

In 1838, Martin P. Clark and George Galbraith were elected Justices of the Peace for the Precinct of Lake Creek and William S. Taylor was elected Constable of the Precinct of Lake Creek.

## Charles B. Stewart and the Lone Star Flag of Texas

On January 25, 1839, President Mirabeau B. Lamar signed into law an act establishing a new national flag of the Republic of Texas.

Sec. 3. *Be it further enacted*, That from and after the passage of this act, the national flag of Texas shall consist of a blue perpendicular stripe of the width of one third of the whole length of the flag, with a white star of five points in the center thereof, and two horizontal stripes of equal breadth, the upper stripe white, the lower red, of the length of two thirds of the whole length of the flag.

John M. Hansford,  
Speaker of the House of Representative.  
David G. Burnet,  
President of the Senate.

Approved January 25, 1839.

Mirabeau B. Lamar<sup>92</sup>

This flag flew over the Republic of Texas until statehood and has flown over the State of Texas ever since. The Lone Star Flag of Texas is recognized worldwide for its beauty, its simplicity and for what it represents: TEXAS!

In 1922, Edmund B. Stewart, a son of Charles Bellinger Stewart, wrote the following letter to Mrs. J. W. Brosig of Navasota, Texas. This letter provides some remarkable information about Charles B. Stewart and the original draft of the Lone Star Flag of Texas.

Mrs. J. W. Brosig  
Navasota, Texas

Montgomery, Texas, July 7, 1922

Dear Mrs. Brosig:

In reply to yours of recent date,...

There were at that time a few of the descendants of the original settlers of this county who came with their parents to this section as colonists, but were altogether ignorant of the organization of the old 'principality' of Montgomery. My father came to Texas in 1829 and joined Austin's colony at San Felipe. He came to Montgomery County and settled near the town [Montgomery] in 1837. W. W. Shepperd was the first to have a store at the old town of Montgomery under the hill. It [the town] was later moved to its present situation...



I am enclosing to you for your inspection the original draft of the flag of the Republic of Texas. The work was without question the work of my father. This old flag I am trusting to your care in order that other of your acquaintances who are interested in early Texas times may see... You can return the flag to me at your convenience, believing it will be in reliable hands...

Very Respectfully

E. B. Stewart<sup>93</sup>

Edmund B. Stewart made two very important assertions in the letter upon which historians have relied.<sup>94</sup>

- I am enclosing to you for your inspection the original draft of the flag of the Republic of Texas.
- The work was without question the work of my father.

The “original draft of the flag of the Republic of Texas” referred to in E. B. Stewart’s letter is still in existence. Realizing its importance to the history of Texas, the descendants of Charles B. Stewart took very good care of it. Charles B. Stewart’s draft of the flag was donated to the Texas State Library and Archives by Charles B. Stewart’s granddaughter, Mrs. Howard W. Fling in 1966.<sup>95</sup>

### **1839 - Sale of the Town of Montgomery Montgomery, Texas Sold for Slaves**

In October of 1839, W. W. Shepperd entered into an agreement to sell the town of Montgomery, Texas to James McCown. The sale included the land that Shepperd owned at the original site of the town of Montgomery “under the hill” [town site developed in 1837] and Shepperd’s remaining interest in the land that composed the site of the town of Montgomery “on the hill” [town site developed in 1838]. In addition to the land, W. W. Shepperd also sold James McCown the house being used as the Montgomery County courthouse.<sup>96</sup>

The economy of the Republic of Texas struggled throughout its almost ten years of existence. James P. Bevill wrote about the economy of the young Republic of Texas in his book *The Paper Republic - The Struggle for Money, Credit and Independence in the Republic of Texas*. He wrote, “The economy of the Republic was run on a barter system and financed by the issuance of paper. This paper had no backing other than the faith and credit of the Republic itself. Texas citizens witnessed how the freely printed money under [President] Lamar’s administration depreciated so steeply that even government officials could scarcely live on their salaries. Land prices fell, real estate became un-saleable due to a lack of hard money, and bartering was once again the order of the day.”<sup>97</sup> Bevill makes it clear that with little real money in circulation, commerce slowed and bartering became the basis for many transactions.

Due to the devaluation of Republic of Texas currency, the sale of the town of Montgomery was concluded in 1840 by barter. James McCown paid the balance due of \$4,000 by transferring the ownership of seven of his slaves to W. W. Shepperd. We know the names of six of the seven slaves whose transfer of ownership purchased the town of Montgomery. Three of the slaves were men: Carter, Syphax, and Abner. Two of the slaves were women: Caroline and Betsy. The last two slaves were the children of Caroline and Betsy. We only know the name of one of the children: Bill. The other child's name was not provided in the record.<sup>98</sup>

In a deed of sale from James McCown to Wm. W. Shepperd, more information about these seven slaves was provided.

Seven certain negro slaves to wit – one negro man named Carter, a black, aged thirty or thereabouts, one other negro man named Syphax, aged twenty one or two, and one other young negro man named Abner, aged eighteen or nineteen, one negro woman named Caroline (the wife of the said negro Carter) and her child Bill a boy about one year old, and one other negro woman named Betsy, and her child about one year old a girl named [blank] and which said seven several negroes slaves above described and enumerated are my bonafide property and as such free from all mortgages or incumbrance whatsoever as slaves for life and each and every one of them, free from any constitutional disease and sound in body and mind.<sup>99</sup>

### **Republic of Texas Mail Routes Through Montgomery**

In addition to being the first store in the Lake Creek Settlement, W. W. Shepperd's store was also the first post office in the Lake Creek Settlement. When the town of Montgomery was founded, Shepperd's store was the first post office in the town. W. W. Shepperd was also the first postmaster. He became the first postmaster on May 17, 1837 about two months before the town of Montgomery was founded.<sup>100</sup>

The advertisement below appeared in the December 30, 1837 edition of the *Telegraph and Texas Register*, soliciting bids for carrying the mail in the Republic of Texas along certain routes for the following year of 1838. Republic of Texas mail route No. 1 and route No. 14 both went through W. W. Shepperd's store. Route No. 1 ran from Houston to New Cincinnati via Shepperd's store.

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## GENERAL POST OFFICE HOUSTON.

**S**EAL**E**D proposals will be received at Houston until the 20th of December next, for carrying the mails from the 1st January, to the 31st December, 1838; on the following routes, viz:

**No. 1. From Houston to New Cincinnati, via Shepherd's store, 100 miles; weekly. Leave Houston on Monday 8 A M, and arrive at New Cincinnati on Wednesday at 8 P M. Leave New Cincinnati on Thursday 8 A M, and arrive at Houston on Saturday at 8 P M.**

No. 1. From Houston to New Cincinnati, via Shepherd's store, 100 miles, weekly. Leave Houston on Monday 8 A M, and arrive at New Cincinnati on Wednesday at 8 P M. Leave New Cincinnati on Thursday at 8 A M, and arrive at Houston on Saturday at 8 P M.<sup>101</sup>

Route No. 14 started at Shepherd's store and ran to the La Bahia Crossing on the Colorado River via McGuffin's, Fanthorp's, Washington, Independence and Mitchell's.

**No. 14. From Shepherds to La Bahia Crossing on the Colorado, via McGuffin's, Fanthorp's, Washington, Independence, Mitchell's, 110 miles; weekly. Leave Shepherds on Wednesday 12 A M, and arrive at La Bahia Crossing on Saturday 8 P M. Leave La Bahia Crossing on Sunday 8 A M, and arrive at Shepherds on Tuesday 8 P M.**

No. 14. From Shepherds to La Bahia Crossing on the Colorado, via McGuffin's, Fantharp's, Washington, Independence, Mitchell's, 110 miles; weekly. Leave Shepherds on Wednesday 12 A M. and arrive at La Bahia Crossing on Saturday 8 P M. Leave La Bahia Crossing on Sunday 8 A M, and arrive at Shepherds on Tuesday 8 P M.<sup>102</sup>

W. W. Shepperd resigned his position as postmaster of Montgomery, Texas in 1840. His son-in-law, Charles B. Stewart, succeeded him as postmaster of the town of Montgomery on April 5, 1840.<sup>103</sup>

## 1845 Lake Creek Settlement

The area around the town of Montgomery was still called the Lake Creek Settlement for several years following the founding of the Town of Montgomery and creation of Montgomery County. In the July 2, 1845 edition of the *Montgomery Patriot* newspaper, James McCown's brother, Alexander McCown, placed an advertisement for the sale of lots in the town of Montgomery in which he mentioned the Lake Creek Settlement.

### SALE OF LOTS IN THE TOWN OF MONTGOMERY

The undersigned respectfully informs the Public that he has had the town of Montgomery re-surveyed, and is now ready to make sale of Lots to those wishing to purchase.

The lands surrounding Montgomery, known as the Lake Creek Settlement, being of such a rich and fertile character, and having a rich and industrious population, it is destined to be, in a short time, a town of considerable importance,

Montgomery is the county site of the most flourishing, populous and intelligent county in the Republic. It is situated on an elevated ridge, which divides the waters of the San Jacinto River and Lake creek. - In point of health, Montgomery is not inferior to any place in the world, lying in the same latitude.

A plan of the town can be seen at the Clerk's Office, in the town of Montgomery.

For terms and further particulars, apply to the undersigned.

3tf  
A, M'COWN,  
Proprietor.<sup>104</sup>

Alexander McCown acted as the agent and attorney in fact of his brother, James McCown, the proprietor of the town of Montgomery.<sup>105</sup> The *Montgomery Patriot* newspaper was published in Montgomery, Texas by John Marshall Wade.

### Early History of the First Montgomery Courthouse

Initially, the Montgomery County Commissioners had considered building a courthouse at the first Commissioners' Court meeting on March 1, 1838.

Resolved by Martin P. Clark proposing that the Committee be appointed to contract for and to superintend the erection of the necessary public buildings – provided the Court house shall not cost exceeding one Thousand Dollars and Jail

one thousand Dollars – when B. B. Goodrich, William Rankin and William C. Clark were appointed said Committee – proposed that Lemuel Smith Draughtman and Mechanic be requested to draft a plan for courthouse and public buildings.<sup>106</sup>

On the fourth Wednesday in April of 1838, we find the following action by the Commissioners' Court regarding the purchase of a courthouse.

B. B. Goodrich for himself and Wm. M. Rankin and W. C. Clark, made a report in relation to the purchase of a Court House for said County which was ordered to be filed in the Clks Office.

Later in that same meeting, we find this action.

On motion, Resolved that the Committee – heretofore appointed for that purpose be and they are hereby authorized to contract for building a Jail provided the amount shall not exceed the proceeds of the Sale of Public Lots in the Town of Montgomery, after deducting the amount appropriated for building the Court House, and further provided that the expense of building the Jail shall not exceed the sum of Two thousand five hundred dollars which was adopted.<sup>107</sup>

In the end, cash poor Montgomery County built no courthouse for several years. The first courthouse in Montgomery County was a house owned by W.W. Shepperd. Initially, the county intended to purchase the house that was being used as the courthouse for \$800, but if the county did not purchase the house, the commissioners agreed to pay Shepperd reasonable rent. The minutes of the Commissioners' Court meeting held on the second Monday in October of 1838 provide the following.

Ordered that in the event the House purchased by the Commissioners on the part of the County for a Court House in the Town of Montgomery for the sum of Eight hundred dollars shall not be paid for as per contract within one year from the date hereof, then and in that case the house shall revert to W. W. Shepperd and that he shall be entitled to reasonable rent for the same for the time it shall have been occupied as a Court House.<sup>108</sup>

When W. W. Shepperd sold the town of Montgomery to James McCown in 1839, the courthouse was part of the bargain. The minutes of the April 7, 1840 meeting provide the following.

Wm. W. Shepperd the original proprietor of the Town of Montgomery who donated a portion of said town to the County of Montgomery under contract made and entered into between the said Wm. W. Shepperd and the Board of said County Commissioners bearing date the [1<sup>st</sup>] day of [March] 1838 made shewing that he had sold and conveyed to James McCown his portion of said Town tract together with the house occupied as a Court House - whereupon it is ordered that the said James McCown be recognized by this Court as the owner and proprietor and possessed of all the right and privileges in and to the said Town of

Montgomery and the Court house which the said Wm. W. Shepperd was entitled to previous to the aforesaid sale and conveyance to the said James McCown.<sup>109</sup>

Even though the March 1, 1838 Commissioners' Court voted to move the site of the town to the new location on the hill, the courthouse did not make the move to the hill until after the January 5, 1841 Commissioners' Court meeting. This was more than three years after the county was created.

Ordered by the Court that the proposals and contract of...Alexander McCown...agent for the proprietors of the town of Montgomery to move the Court house to the hill and to erect offices for County purposes be accepted and satisfied and that the same be signed by the Committee appointed to contract with said McCown and also signed by the said Alexander McCown as agent of said proprietors of said the town of Montgomery and that the said Contract when so signed and satisfied be entered of record on file in the Archives of this Court.<sup>110</sup>

The courthouse was moved to the site where the Montgomery Community Center is located today. At this point, Montgomery County still did not own its own courthouse. James McCown did. Eventually the county traded its one half undivided interest in the remaining lots in the Town Tract to James McCown in exchange for the courthouse and 3 ½ acres of land. Montgomery County did not own its own courthouse until April 3, 1843.

I James McCown...in consideration of a donation made by the Court of County Commissioners of the County aforesaid to one hundred acres of land being the same which William W. Shepperd of the County aforesaid donated as a site for the county seat of said County of Montgomery, do hereby relinquish all my right, title, claim and interest in and to the following described tracts of land (viz) one tract of three English acres for a public square...together with the Court house and two offices – one for the County Clerk, the other for the district Clerk situated thereon, with all furniture and appurtenances there unto belonging – also one half acre of land...<sup>111</sup>

### **1848 Town of Montgomery Incorporated**

On February 26, 1848, the Town of Montgomery was incorporated by an Act enacted by the Second Legislature of the State of Texas.

#### Chapter 191.

#### An Act to Incorporate the Town of Montgomery

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Montgomery, in Montgomery county, be, and they are hereby, declared a body politic and corporate, under the name and style of the

Corporation of the Town of Montgomery, who shall have the power of suing and being sued, pleading, within the limits of said corporation, and at their pleasure to dispose of the same.

Section 2. Be it further enacted, That the corporate limits of said town shall extend one half mile in every direction from the centre of the public square.<sup>112</sup>

### **The Rediscovery of the Lake Creek Settlement What Once Was Lost, Now Is Found**

The two major discoveries regarding the history of the town of Montgomery that have been made in recent years are: (1) the discovery of John Wyatt Moody and the impact his activities had on the early history of the town and the county, and (2) the rediscovery and historical exploration of the Lake Creek Settlement using previously ignored primary source documents.

The rediscovery of the Lake Creek Settlement and the people who lived there provides a solid foundation upon which to build a much more accurate history of the town and the county. By the 1920's, the Lake Creek Settlement had been completely forgotten. Before ending this history, I would like to recognize the pioneers of Lake Creek Settlement research whose work encouraged me to dig much deeper into the history of the town of Montgomery.

While doing genealogical research, Harry Grady Daves, Jr. (September 17, 1923 – July 28, 2008) located a couple of early primary documents that mentioned the Lake Creek Settlement. In a 1992 article in *Stirpes*, the quarterly journal of the Texas State Genealogical Society, Daves made mention of the Lake Creek Settlement for the first time.<sup>113</sup> In 2001, in an article in *The Herald*, the journal of the Montgomery County Genealogical and Historical Society, Daves mentioned the Lake Creek Settlement once again. Daves was emphatic that the settlement where Owen and Margaret Shannon lived was known as the Lake Creek Settlement.

For some reason our Shannon and Montgomery family have tried to contend that the home site of Owen and Margaret Shannon was located within the settlement called Montgomery, which is also false. The settlement was known as the Lake Creek Settlement...<sup>114</sup>

Dave's conclusions regarding the Lake Creek Settlement conflicted with the commonly held views of the history of the community prior to the founding of the town of Montgomery and went almost completely unnoticed.

However, in 1991, former schoolteacher and local historian, Bessie Price Owen (September 27, 1913 – August 19, 2009) applied with the Texas Historical Commission for a Texas State Historical marker.<sup>115</sup> It is clear from the narrative histories supplied to

the THC in 1992 and 1993 that Mrs. Owen had become aware of Daves' findings regarding the Lake Creek Settlement.<sup>116</sup> Mrs. Owen was almost 80 years old when she learned of the Lake Creek Settlement and does not appear to have had the chance to share the information with too many people prior to her death.

One person Bessie Price Owen shared the information with was rancher and local historian, Narcissa Martin Boulware (May 14, 1917- November 28, 2010). Mrs. Boulware mentioned the Lake Creek Settlement to her readers in a number of newspaper articles written for the *Montgomery County News*. In an April 21, 2004 article, Boulware wrote,

Records show that the Rogers, Gay and Landrum families were living in the "Lake Creek Settlement."<sup>117</sup>

In the April 28, 2004 edition of the *Montgomery County News*, Mrs. Boulware wrote,

While searching the records of the Texas State Archives from 1836-1884 and the County Clerk's Office in Conroe, I found that Peter Cartwright was Justice of the Peace in the Lake Creek settlement during 1836 to 1839...The Montgomery County Historical records list Peter Cartwright, Lake Creek, JP...Martin P. Clark, JP, Lake Creek Precinct, 1836 and George Galbrarh [Galbraith]...Lake Creek Pct., 1836-1839. Thus, Galbrarh [Galbraith] was JP in 1836 during the year that Texas was declared a Republic and through 1837 when Montgomery was declared a County...Remember that all this was taking place before our first families had an address or location called Montgomery.<sup>118</sup>

In the June 9, 2004 edition of the *Montgomery County News*, Boulware wrote about the Lake Creek Settlement again,

The large tract of land owned by W. B. Wood, Sr. located in the Lake Creek Settlement by which Montgomery was first identified is now owned by W. B. Wood, Jr.<sup>119</sup>

However, few if any of her readers took any notice of the Lake Creek Settlement or grasped the importance of the Lake Creek Settlement to the early history of the town or the county.

More than a decade ago, I began conducting some genealogical research in the Montgomery County courthouse. There, I ran across a deed that mentioned a place called "Lake Creek Settlement." Not knowing what or where the Lake Creek Settlement was, I consulted various published histories of the town of Montgomery and Montgomery County. None of the histories made any mention of the Lake Creek Settlement at all. Since the histories made no mention of the Lake Creek Settlement, I ignored the place referenced in the document I had found and went on about my genealogical research.



That is until I found another court document that mentioned the mysterious Lake Creek Settlement.

After locating several more of these “Lake Creek Settlement” documents, I was convinced that the Lake Creek Settlement had existed and that it had been close to the site where the town of Montgomery was founded in 1837. So, I went back to the history books. I assumed that I had just missed it the first time. But, they were still a dead end. There was no Lake Creek Settlement to be found in any of them.

Eventually, I did a computer search and found the articles written by Harry G. Daves, Jr. and Narcissa Martin Boulware. These two writers convinced me that I was not mistaken about the existence of a place known as the Lake Creek Settlement. Encouraged by the work of Daves and Boulware, I set out to find as many primary source documents that mentioned the Lake Creek Settlement as I could. It became my hobby for several years. My search took me to the Montgomery County, Washington County and Austin County courthouses, the Texas State Library and Archives, the Texas General Land Office and numerous other archives and depositories around the State of Texas.

Harry G. Daves, Jr. had drawn his conclusions about the Lake Creek Settlement from only two or three documents. In conducting my research, I have located more than 70 primary source documents that conclusively proved the existence and location of the Lake Creek Settlement. In addition, these documents tell us where the Lake Creek Settlement fits into the timeline of Montgomery County history and who many of the people who lived there were. The discovery of the Lake Creek Settlement has changed the way in which the early history of the town and the county will be studied and understood forever.

A few years ago, I introduced my research to various genealogical and historical organizations around Montgomery, County. At first there was a great deal of resistance, but later as people began to focus on the information contained in the primary source documents dating from the time of the events themselves, they became convinced that my assertions about the Lake Creek Settlement were correct. Historians are now in agreement with regard to the existence and location of the Lake Creek Settlement during the Mexican and Republic of Texas eras and the settlement’s importance to the early history of Montgomery, Texas and Montgomery County, Texas. What once was lost, now is found. The Lake Creek Settlement is here to stay.

Kameron K. Searle

For more information about the early history of the town of Montgomery, Texas and Montgomery County, Texas, see:

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<sup>1</sup> John Sayles and Henry Sayles (comp.), *A Treatise on the Laws of Texas Relating to Real Estate and Actions to Try Title and for Possession of Lands and Tenements*, (2 vols.; St. Louis: The Gilbert Book Company, 1890), Vol. 1, p. 101-102.

<sup>2</sup> *Ibid.* For another translation of Order No. 24, also see H.P.N. Gammel (comp.), *The Laws of Texas, 1822-1897*, (10-vols.; Austin: Gammel Book Co., 1898), Vol. 1, p. 50. This order was signed by Arispe as Governor of the State of Coahuila and Texas.

<sup>3</sup> John Sayles and Henry Sayles (comp.), *A Treatise on the Laws of Texas Relating to Real Estate and Actions to Try Title and for Possession of Lands and Tenements*, (2 vols.; St. Louis: The Gilbert Book Company, 1890), Vol. 1, p.102.

<sup>4</sup> File Numbers SC 000008:52, SC 000008:53, SC 000008:55, SC 000008:54, SC 000008:57, SC 000009:18, SC 000009:21, SC 000009:19, SC 000009:20, SC 000009:42, SC 000009:49, SC 000009:50, SC 000011:11, SC 000011:20, SC 000011:1, and SC 000011:26, Archives and Records Program, Texas General Land Office, Austin.

<sup>5</sup> English Field Notes Numbers: 6-390, 6-392, 6-396, 6-393, 6-423, 6-429, 6-408, 6-410, 6-414, 6-438, 6-406, 6-411, 6-407, 6-420 and 6-430, Archives and Records Program, Texas General Land Office, Austin.

<sup>6</sup> *Ibid.*

<sup>7</sup> File Number SC 000011:1 and English Field Notes Number 6-420, Archives and Records Program, Texas General Land Office, Austin. Also see deed from Government to John Corner, Montgomery County, Texas, Deed Book A, pp.32-35, County Clerk's Office, Conroe, Texas.

<sup>8</sup> Email from Galen Greaser to Kameron Searle, February 12, 2008. Until recently, Galen D. Greaser was the Translator of the Spanish Collection, Archives and Records Program, Texas General Land Office, Austin.

<sup>9</sup> Deed from Owen Shannon to Thomas Taylor, June 3, 1831, Montgomery County, Texas, Deed Book B, pp. 282-284, County Clerk's Office, Conroe, Texas.

<sup>10</sup> Deed from John Corner to William C. Clark, January 1, 1831, Montgomery County, Texas, Deed Book B, pp. 317-320, County Clerk's Office, Conroe, Texas.

<sup>11</sup> Examples: **"Lake Creek Settlement"** – See Articles of Agreement from Jacob Shannon to Ruth Miller, August 8, 1833, Montgomery County, Texas, Deed Vol. N, p. 254, County Clerk's Office, Conroe, Texas. **"Neighborhood of Lake Creek"** – See the Will of Owen Shannon, April 12, 1835, "Old Probate Records," Austin County, Texas, County Clerk's Office, Bellville, Texas. **"Precinct of Lake Creek"** – See the Deed from Margaret Shannon to Charles Garrett, September 17, 1835, Montgomery County, Texas, Deed Book F, pp. 65-66, County Clerk's Office, Conroe, Texas. **"Lake Creek District"** – See the Affidavit of Raleigh Rogers, April 21, 1837, Republic Claims, Name: Rogers, Raleigh, Claim #: 954, Type: AU, Reel #: 89, Frame: 544, Archives and Information Division, Texas State Library and Archives Commission. **"Lake Creek"** – See the Letter for R. R. Royall to Genl. S. F. Austin, Genl. Saml Houston and Volunteers, October 31, 1835, John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 2, p. 279-281.

<sup>12</sup> Articles of Agreement from Jacob Shannon to Ruth Miller, August 8, 1833, Montgomery County, Texas, Deed Vol. N, p. 254, County Clerk's Office, Conroe, Texas.

<sup>13</sup> *Stephen F. Austin's Register of Families*, Book 2, p. 7, Archives and Records Program, Texas General Land Office, Austin.

<sup>14</sup> Will of Jacob Shepperd, (November 3, 1807), *Surry County, North Carolina Wills 1771-1827*, Jo White Linn (comp.), (Baltimore: Genealogical Publishing Co., Inc., 1992), p. 125 and 174.

<sup>15</sup> File Number SC 000009:38 and English Field Notes Number: 8-137, Archives and Records Program, Texas General Land Office, Austin.

<sup>16</sup> Deed from William C. Clark to Wm. W. Shepperd, September 15, 1835, Montgomery County, Texas, Deed Book A, pp. 29-32, County Clerk's Office, Conroe, Texas. This deed was not recorded until February 27, 1838.

<sup>17</sup> "The store of W. W. Shepperd on Lake Creek" is mentioned in several different primary sources including the following six documents filed in the Montgomery County and Washington County, Texas courthouses. Deed from Charles B. Stewart to Benjamine Rigby, June 24, 1836, Montgomery County, Texas, Deed Book B, pp. 268-270, County Clerk's Office, Conroe, Texas. Deed from William Busby to

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W. W. Shepperd, January 14, 1837, Montgomery County, Texas, Deed Book A, pp. 50-53, County Clerk's Office, Conroe, Texas. Bond from Samuel McCombs to W. W. Shepperd, January 17, 1837, Washington County, Texas, Deed Book A-1, pp. 36 and 37, County Clerk's Office, Brenham, Texas. Deed from William M. Rankin, Sr. to Daniel L. Richardson, June, 1837, Montgomery County, Texas, Deed Book F, pp. 12-14, County Clerk's Office, Conroe, Texas. Deed from William Busby to William F. Bowen, June 13, 1837, Washington County, Texas, Deed Book A, pp. 175-177, County Clerk's Office, Brenham, Texas. Deed from William Buchannon to C. B. Stewart, August 2, 1837, Washington County, Texas, Deed Book A, pp. 241-243, County Clerk's Office, Brenham, Texas.

<sup>18</sup> Some of these names can be found in primary sources with alternate spellings. Augustine C. Shepperd's first name is found spelled Augustin. Sidney Shepperd's first name is found spelled Sydney. Wesley A. Shepperd's name is found spelled Westley and Westly. Parmelia Shepperd's first name is found spelled Pamelia and Pamela. Some genealogical sources mention another child of W. W. Shepperd and Mary Steptoe Shepperd by the name of Henry Shepperd. However, I have not been able to locate a primary source document for this alleged child.

<sup>19</sup> W. W. Shepperd's Plat of the Town of Montgomery, January 1, 1838, Hart Addison Collection, Conroe, Texas. Copies of this map or plat can be seen in the Nat Hart Davis Museum and the Ferland Historical Park Museum in Montgomery, Texas.

<sup>20</sup> Deed from W. W. Shepperd to Mary Steptoe Shepperd, May 14, 1839, Montgomery County, Texas, Deed Book E, pp.64-67, County Clerk's Office, Conroe, Texas. The eight slaves Mary Steptoe Shepperd inherited from her father are specifically referred to in this deed.

<sup>21</sup> John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 9, p. 282.

<sup>22</sup> *Ibid.*, p. 290.

<sup>23</sup> Texas Declaration of Independence, Archives and Information Division, Texas State Library and Archives, Austin, Texas.

<sup>24</sup> Raleigh Rogers, Republic Claims, Claim #954, Type AU, Reel # 89, Frames 544-547, Archives and Information Division, Texas State Library and Archives Commission. A.U. Springer, Republic Claims, Claim #953, Type AU, Reel #99, Frames 579-583, Archives and Information Division, Texas State Library and Archives Commission. Affidavit of Evin [Evan]Corner, Pension Claim Application File of Evan Corner, Republic Claims, Type PE, Reel #210, Frame 265, Archives and Information Division, Texas State Library and Archives Commission. See also endnotes 25, 26, 27, 37, and 38.

<sup>25</sup> *Telegraph and Texas Register*, (San Felipe de Austin, Texas), Saturday, December 12, 1835, Vol. 1, No. 9, p. 2.

<sup>26</sup> Affidavit of Jacob Shannon, Pension Claim Application File of Mathew W. Cartwright, Republic Claims, Type PE, Reel #207, Frames 594-599, Archives and Information Division, Texas State Library and Archives Commission.

<sup>27</sup> Affidavit of Thomas Chatham, Pension Claim Application File of John M. Wade, Republic Claims, Type PE, Reel #243, Frames 522-526, Archives and Information Division, Texas State Library and Archives Commission.

<sup>28</sup> H.P.N. Gammel (comp.), *The Laws of Texas, 1822-1897*, (10-vols.; Austin: Gammel Book Co., 1898), Vol. 1, p. 779-780, (Proceedings of the General Council, pp. 231-232).

<sup>29</sup> Texas Declaration of Independence, Archives and Information Division, Texas State Library and Archives, Austin, Texas.

<sup>30</sup> *Ibid.*

<sup>31</sup> John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 9, p. 300.

<sup>32</sup> Marriage Record of Charles B. Stewart and Julia Shepperd, Washington County, Texas, Deed Book A-1, p. 240, County Clerk's Office, Brenham, Texas.

<sup>33</sup> John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 9, pp. 319-366. Charles B. Stewart's name is not mentioned in the "Journals of the Convention of 1836" from March 8 until March 16, 1836.

<sup>34</sup> Marriage Record of Charles B. Stewart and Julia Shepperd, Washington County, Texas, Deed Book A-1, p. 240-244, County Clerk's Office, Brenham, Texas.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

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<sup>37</sup> John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 9, p. 366. Charles B. Stewart's name reappears in the "Journals of the Convention of 1836" on March 16, 1836.

<sup>38</sup> Henderson Yoakum, *History of Texas from Its First Settlement in 1685 to Its Annexation to the United States in 1846*, (2 volumes, New York, Redfield, 1855), Vol. 2, pp. 194-196.

<sup>39</sup> Petition of Jacob H. Shepperd: Letter from Jacob H. Shepperd to Jesse Grimes, (July 1, 1856), Memorials and Petitions, Texas Legislature. Archives and Information Division, Texas State Library and Archives Commission.

<sup>40</sup> *Telegraph and Texas Register*, (Columbia, Texas), August 9, 1836, Vol. 1, No. 24, p. 3.

<sup>41</sup> Washington County, 1836: President, Vice President, Senator, Representative, Constitution, Annexation, Elections Division, Texas Department of State, Republic of Texas election returns, 1835-1845, Box 2-9/43, Archives and Information Services Division, Texas State Library and Archives Commission.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Telegraph and Texas Register*, (Columbia, Texas), November 2, 1836, Vol. 1, No. 36, p. 4.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Washington County Texas Court of Commissioners of Roads & Revenue 1836-1846*, (Fort Worth, Texas: GTT Books, 2001), originally transcribed by the WPA, Indexed by Pat Gordon 2002, p. 1. The first Washington County Commissioners' Court meeting would not be held until April 3, 1837.

<sup>46</sup> Petition for a New County [Travis County], (No Date), Memorials and Petitions, Texas Congress. Archives and Information Division, Texas State Library and Archives Commission. As this petition bears no date, this document is hard to cite. Though the petition is undated, it must date to a period shortly before Jesse Grimes presented it to Congress on October 27, 1836.

<sup>47</sup> *Telegraph and Texas Register*, (Columbia, Texas), November 2, 1836, Vol. 1, No. 36, p. 4.

<sup>48</sup> *Telegraph and Texas Register*, (Columbia, Texas), November 23, 1836, Vol. 1, No. 41, p. 4.

<sup>49</sup> *Ibid.*, page 3. The *Telegraph and Texas Register* reported, "An act establishing a new county to be called Travis, that passed the senate the 15<sup>th</sup> of October, was read a first time." The month is a typo on the part of the *Telegraph*. All other records make it clear that the act to establish the new county of Travis passed the senate on November 15, 1836. Jesse Grimes did not even present the petition for the establishment of the new county until October 27, 1836.

<sup>50</sup> *Telegraph and Texas Register*, (Columbia, Texas), December 27, 1836, Vol. 1, No. 49, p. 2.

<sup>51</sup> John Sayles, *Annotated Civil Statutes of the State of Texas*, (St. Louis Missouri: The Gilbert Book Company, 1894), pp. 930-931.

<sup>52</sup> Washington County, 1837: Sheriff, District Clerk, County Clerk, Coroner, Justice of the Peace, February 13, 1837, Texas Department of State, Republic of Texas election returns, 1835-1845, Box 2-9/44. Archives and Information Services Division, Texas State Library and Archives Commission.

<sup>53</sup> *Ibid.*

<sup>54</sup> Washington County legal documents, [1837], Star of the Republic Museum, Washington, Texas. There are two different sets of petitions in this folder labeled "Washington County legal documents,[1837]." The first document is the petition in opposition to the creation of the new county to be called Travis County dated March 9, 1837 and presented during the second session of the first Congress. The remaining documents are three duplicate originals of the petition for the creation of a new county with "no name" which were presented to the first session of the second Congress. One of these three duplicates is dated October 13, 1837.

<sup>55</sup> *Telegraph and Texas Register*, (Houston, Texas), June 13, 1837, Vol. 2, No. 22, p. 1.

<sup>56</sup> It is interesting to note that only one "new" county, Houston County, was created during the First Congress of the Republic of Texas. Named for General Sam Houston, Houston County was created on June 12, 1837.

<sup>57</sup> *Washington County Texas Court of Commissioners of Roads & Revenue 1836-1846*, (Fort Worth, Texas: GTT Books, 2001), originally transcribed by the WPA, Indexed by Pat Gordon 2002, pp. 1-3.

<sup>58</sup> *Ibid.*, p. 2.

<sup>59</sup> *Ibid.*, p. 3.

<sup>60</sup> *Telegraph and Texas Register*, (Houston, Texas), July 8, 1837, Vol. 2, No. 25, p. 3.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.* This advertisement was first published on July 8, 1837. This same advertisement was published continuously in each edition of the *Telegraph and Texas Register* from July 8, 1837 through November 4,

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1837. The *Telegraph and Texas Register* was published in Houston, Texas at this time and Houston, Texas was the capital of the Republic. J. W. Moody's "expectations" for the creation of a new county with the town of Montgomery as the county seat was there for the President and every member of Congress to read in each edition of the *Telegraph and Texas Register* for almost four months.

<sup>63</sup> Ibid.

<sup>64</sup> June 20, 1837 letter, Sam Houston to Moody, INV 11130, Archives and Information Division, Texas State Library and Archives Commission. Houston signed this private letter "Your friend, Sam Houston" in the valediction.

<sup>65</sup> December 20, 1836 Letter, Sam Houston to The Senate, INV 13734, Old File [0596], Archives and Information Division, Texas State Library and Archives Commission. This letter can also be seen reproduced on page 23 of the book *The Texas Senate, Volume 1, Republic to Civil War, 1836-1861*, Patsy McDonald Spaw, editor, (College Station: Texas A& M University Press, 1990).

<sup>66</sup> *Journal of the Proceedings of the General Council of the Republic of Texas: held at San Felipe de Austin, November 14th, 1835 [-March 11th, 1836]* (Houston, 1839), p. 35, (583).

<sup>67</sup> Ibid., p. 169, (717).

<sup>68</sup> "An Ordinance and Decree Augmenting the Regular Army, by creating a Legion of Cavalry," *Telegraph and Texas Register*, (San Felipe de Austin, Texas), January 9, 1836, Vol. 1, No. 12, page 3.

<sup>69</sup> John H. Jenkins, ed., *The Papers of the Texas Revolution, 1835-1836*, (10 vols., Austin: Presidial Press, 1973), Vol. 9, pp 358-359 and p. 367.

<sup>70</sup> Minutes – County Court 1818 (*Original Minutes Montgomery County Court, Alabama Territory – 1818*), Montgomery County, Alabama. Record of Estates, No.1, Montgomery County, Alabama. Record of Conveyance, Vol. A C D, Montgomery County, Alabama. These records show that J. W. Moody was Clerk of the County Court of Montgomery County, Alabama from 1826-1830.

<sup>71</sup> Record of Estates, No. 2, Montgomery County, Alabama, p. 67.

<sup>72</sup> *Montgomery County News*, (Montgomery, Texas), June 3, 2009.

<sup>73</sup> James L. Haley, *Sam Houston*, (Norman: University of Oklahoma Press, 2002), pp. 14-15.

<sup>74</sup> Marquis James, *The Raven: A Biography of Sam Houston*, (New York: Bobbs-Merrill, 1929), page 33.

<sup>75</sup> Ibid.

<sup>76</sup> Washington County legal documents, [1837], Star of the Republic Museum, Washington, Texas. There are two different sets of petitions in this folder labeled "Washington County legal documents, [1837]." The first document is the petition in opposition to the creation of the new county to be called Travis County dated March 9, 1837 and presented during the second session of the first Congress. The remaining documents are three duplicate originals of the petition for the creation of a new county with "no name" which were presented to the first session of the second Congress. One of these three duplicates is dated October 13, 1837..

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> *Telegraph and Texas Register*, (Houston, Texas), June 23, 1838, Vol. 3, No. 43, page 6.

<sup>80</sup> The Petition of a Portion of the Inhabitants of Washington Cty praying for a Division of that County, (November 30, 1837), Memorials and Petitions, Texas Congress, Archives and Information Division, Texas State Library and Archives Commission. Also see *The First Settlers of Washington County, Texas*, Gifford White, editor, (Nacogdoches: Ericson Books, 1986), p. 4-6.

<sup>81</sup> An Act Creating the County of Montgomery, 2<sup>nd</sup> Congress, Regular Session (1837), Texas Secretary of State. Archives and Information Division, Texas State Library and Archives Commission.

<sup>82</sup> Melinda Rankin, *Texas in 1850*, (Boston: Damrell & Moore, 1850), page 145.

<sup>83</sup> Some of these names were misspelled in the act creating Montgomery County or in later transcriptions of the act. For instance Henry Fanthorpe should be Henry Fanthorp and Charles Garnett should be Charles Garrett. It would appear that the act provided for three commissioners from each of the three precincts. James Mitchell, Pleasant Gray and William Robinson probably represented the San Jacinto Precinct. Elijah Collard, Charles Garrett, and Joseph L. Bennett probably represented the Lake Creek Precinct. B. B. Goodrich, D. T. Dunham and Henry Fanthorp probably represented the Viesca Precinct. Many of these commissioners will be replaced between the passage of the act creating Montgomery County and the first Montgomery County Commissioners' Court meeting on March 1, 1838. How they were replaced is as yet unknown.

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<sup>84</sup> Deed from Mary Corner to Julia T. Stewart, February 26, 1838, Montgomery County, Texas, Deed Book A, p. 15, County Clerk's Office, Conroe, Texas.

<sup>85</sup> Deed from John Corner to Wm. W. Shepperd, February 26, 1838, Montgomery County, Texas, Deed Book A, pp. 21-28, County Clerk's Office, Conroe, Texas.

<sup>86</sup> Transcribed Minutes of Commissioners Court from March 1, 1838 to July 7, 1845, (Montgomery County, Texas), Montgomery County Clerk's Office, Conroe, Texas, pp. 1-10.

<sup>87</sup> *Ibid.*, p. 1. Also see Accepted Donation Montgomery from W. W. Shepperd, March 1, 1838, Montgomery County, Texas, Deed Book E, p. 285, County Clerk's Office, Conroe, Texas.

<sup>88</sup> It is the author's belief that W. W. Shepperd intended to donate land to the county at the original town site under the hill. Perhaps, this low-lying location did not meet with the approval of some of the commissioners. Perhaps the land along the creek had a problem with flooding. Whatever the reason, Shepperd bought the land on the hill just days before the first Commissioners' Court meeting. Shepperd then donated land at this new location on the hill to the county and the commissioners adopted this new location as the site of the county seat.

<sup>89</sup> An Act Creating the County of Montgomery, 2<sup>nd</sup> Congress, Regular Session (1837), Texas Secretary of State. Archives and Information Division, Texas State Library and Archives Commission.

<sup>90</sup> *Telegraph and Texas Register*, (Houston, Texas), April 14, 1837, Vol. 3, No. 18, page 3.

<sup>91</sup> Montgomery County, 1838: District Clerk, County Clerk, Sheriff, Coroner, Justice of the Peace, Constable, May 30, 1838, Texas Department of State, Republic of Texas election returns, 1835-1845, Box 2-9/44. Archives and Information Services Division, Texas State Library and Archives Commission.

<sup>92</sup> Texas (Republic). Third Congress. *Laws of the Republic of Texas, Passed the First Session of Third Congress, 1839*, (Houston, Texas: Intelligencer Office, 1839), pp. 87-88.

<sup>93</sup> Letter from Edmund B. Stewart to Mrs. J. W. Brosig, Dr. Charles Bellinger Stewart Family Papers, MSS 150, Box 1, Folder 2, Texas Room, Houston Metropolitan Research Center, Houston Public Library, Houston, Texas. This letter appeared in an article "Original Flag of Texas Shown Here Tomorrow," published in the *Daily Examiner* newspaper, Navasota, Texas, August 11, 1922.

<sup>94</sup> Mamie Wynne Cox, *The Romantic Flags of Texas*, (Dallas: Banks, Upshaw and Company, 1936). Also see House Resolution No. 1123, State of Texas House of Representatives, May 30, 1997, 75<sup>th</sup> Texas Legislature.

<sup>95</sup> First Flag of Republic of Texas, box 2-23/860, Charles Bellinger Stewart Papers. Archives and Information Services Division, Texas State Library and Archives Commission. The provenance of the original Lone Star Flag drawing is Charles B. Stewart to his son, Edmund B. Stewart; Edmund B. Stewart to his daughter, Elizabeth Stewart (Mrs. Howard W. Fling); Mrs. Howard W. Fling (granddaughter of Charles B. Stewart) to the Archives and Information Services Division of the Texas State Library and Archives Commission on September 2, 1966.

<sup>96</sup> Release of Mortgage from William W. Shepperd to James McCown, November 20, 1840, Montgomery County, Texas, Deed Book F, pp. 1-3, County Clerk's Office, Conroe, Texas.

<sup>97</sup> James P. Bevill, *The Paper Republic-The Struggle for Money, Credit and Independence in the Republic of Texas*, (Houston: Bright Sky Press, 2009), pp. 195 and 250.

<sup>98</sup> Release of Mortgage from William W. Shepperd to James McCown, November 20, 1840, Montgomery County, Texas, Deed Book F, pp. 1-3, County Clerk's Office, Conroe, Texas.

<sup>99</sup> Bill of Sale from James McCown to Wm. W. Shepperd, November 20, 1840, Montgomery County, Texas, Deed Book F, pp. 73-74, County Clerk's Office, Conroe, Texas.

<sup>100</sup> James M. Day (comp.), *Post Office Papers of the Republic of Texas, 1836-1839*, (2 vols., Austin: Texas State Library, 1966), Vol. 1, p. 60, pp. 70-71, pp. 168-169, p. 217.

<sup>101</sup> *Telegraph and Texas Register*, (Houston, Texas), November 18, 1837, Vol. 2, No. 48, page 4.

<sup>102</sup> *Ibid.*

<sup>103</sup> James M. Day (comp.), *Post Office Papers of the Republic of Texas, 1836-1839*, (2 vols., Austin, Texas State Library, 1966), Vol. 1, p. 71.

<sup>104</sup> *Montgomery Patriot*, (Montgomery, Texas), July 2, 1845, Vol. 1, No. 10, p. 4. There is one known copy of this newspaper in the collections of the Sam Houston Memorial Museum in Huntsville, Texas.

<sup>105</sup> Deed James McCown to M. E. Church [Methodist Episcopal Church South], August 11, 1851, Montgomery County, Texas, Deed Book O, pp. 383-386, County Clerk's Office, Conroe, Texas. Also see

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Transcribed Minutes of Commissioners Court from March 1, 1838 to July 7, 1845, (Montgomery County, Texas), Montgomery County Clerk's Office, Conroe, Texas, p. 76-77.

<sup>106</sup> Transcribed Minutes of Commissioners Court from March 1, 1838 to July 7, 1845, (Montgomery County, Texas), Montgomery County Clerk's Office, Conroe, Texas, p. 3

<sup>107</sup> Ibid., pp. 14 and 15.

<sup>108</sup> Ibid., p.19.

<sup>109</sup> Ibid., p. 58-59.

<sup>110</sup> Ibid., p. 76-77.

<sup>111</sup> Deed James McCown to County of Montgomery, April 3, 1843, Montgomery County, Texas, Deed Book F, p. 602, County Clerk's Office, Conroe, Texas. Also see Transcribed Minutes of Commissioners Court from March 1, 1838 to July 7, 1845, (Montgomery County, Texas), Montgomery County Clerk's Office, Conroe, Texas, pp. 131 and 140.

<sup>112</sup> H.P.N. Gammel (comp.), *The Laws of Texas, 1822-1897*, (10-vols.; Austin: Gammel Book Co., 1898), Vol. 3, pp. 355-356 (361 and 362).

<sup>113</sup> "Margaret Montgomery Shannon," Texas State Genealogical Society, *Stirpes*, Volume 32, Number 4, December 1992, pp. 220-222, Frances R. Condra, editor.

<sup>114</sup> "Owen Shannon's Grave," Montgomery County Genealogical & Historical Society, Inc., *The Herald*, Volume 24, Issue Number 4, Winter 2001, pp.161-169.

<sup>115</sup> Montgomery Trading Post, Montgomery County, Job #26491, Texas Historical Commission. Note: This marker application was rejected.

<sup>116</sup> Ibid.

<sup>117</sup> I've Been Thinking, Historical Account of the Montgomery Area, "Historic Lands Called Places." Narcissa Martin Boulware, *Montgomery County News*, (Montgomery, Texas), April 21, 2004.

<sup>118</sup> I've Been Thinking, Historical Account of the Montgomery Area, "Historic Lands Called Places." Narcissa Martin Boulware, *Montgomery County News*, (Montgomery, Texas), April 28, 2004.

<sup>119</sup> I've Been Thinking, Historical Account of the Montgomery Area, "Historic Lands of Montgomery." Narcissa Martin Boulware, *Montgomery County News*, (Montgomery, Texas), June 9, 2004.

M. O. DIMON,  
No. 3, M'Cown-st.

**SALE OF LOTS**  
IN THE  
**TOWN OF MONTGOMERY**

**T**HE undersigned respectfully informs the Public that he has had the town of Montgomery re-surveyed, and is now ready to make sale of Lots to those wishing to purchase.

The lands surrounding Montgomery, known as the Lake Creek Settlement, being of such a rich and fertile character, and having a rich and industrious population, it is destined to be, in a short time, a town of considerable importance,

Montgomery is the county site of the most flourishing, populous and intelligent county in the Republic. It is situated on an elevated ridge, which divides the waters of the San Jacinto river and Lake creek.— In point of health, Montgomery is not inferior to any place in the world, lying in the same latitude.

A plan of the town can be seen at the Clerk's Office, in the town of Montgomery.

For terms and further particulars, apply to the undersigned.

A. M'COWN,  
Proprietor.

3tf

**Drs. Arnold & Tucker**



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# NOTES



Fernland Historical Park  
Montgomery, Texas  
[www.fernland.org](http://www.fernland.org)