

Moses L. Choate and His Influence in the Formation of Polk County, Texas

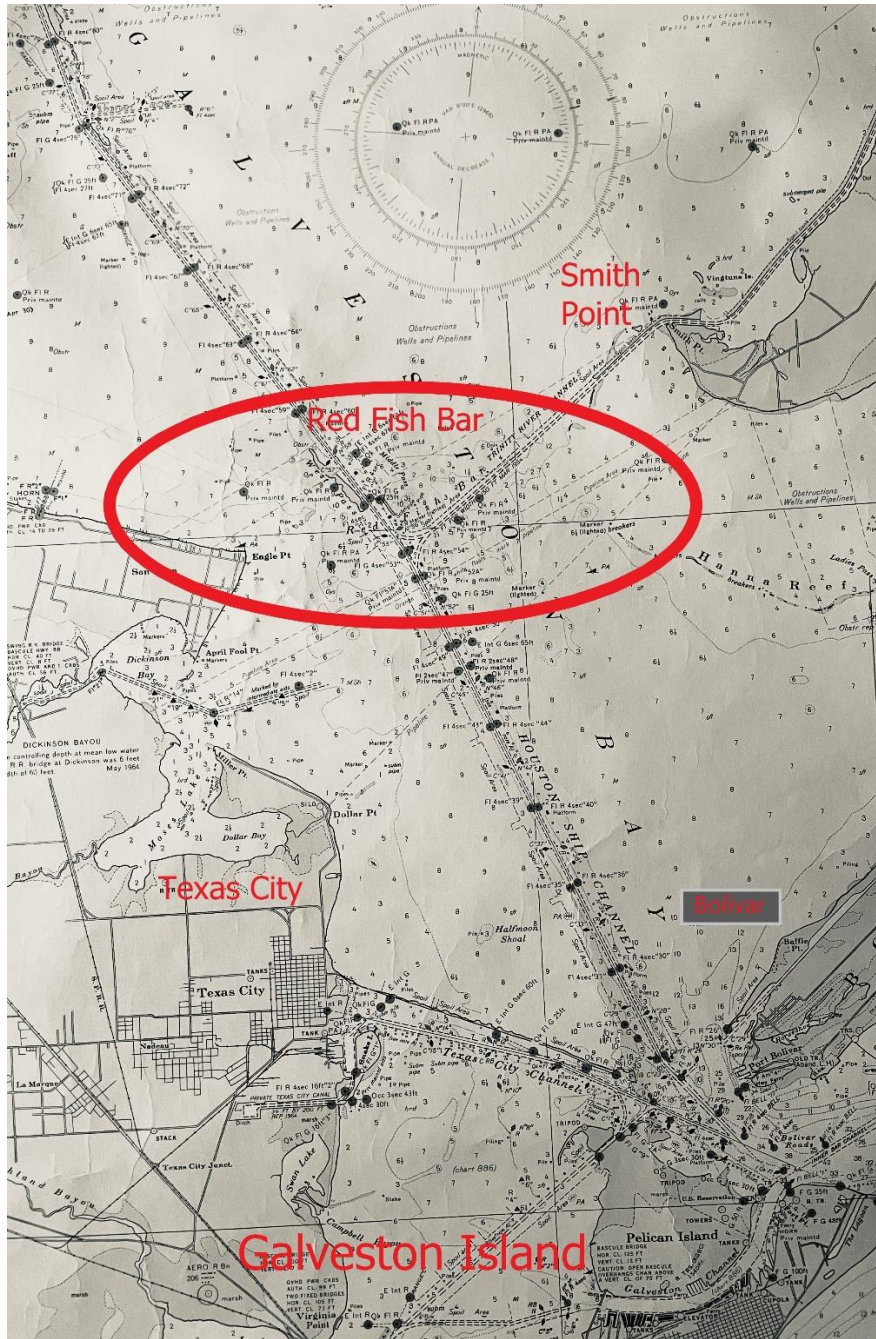
Gary B. Davis 4-21-2024

William Moses Livingston Choate was born in Livingston, Tennessee in 1794. He was laid to rest in 1867 in the Old City Cemetery, on the land that he received from the Mexican government in Nacogdoches in 1835. On this land, Choate buried his four-year-old son Josephus who died on August 11, 1840. Choate later, in 1846, buried a 13-year-old son, Rodolphus, there. The family lived in a cabin on land just to the east of the cemetery in the first house ever built in Livingston. From there he could see his children's graves.

The earliest account of a Moses L. Choate is found in the 1855 *History of Texas from its Annexation to the United States in 1846*.¹ The report reads "In 1822, the schooner *Revenge*, Captain Shires, brought upward of eighty Stephen F. Austin colonists from New Orleans. They landed at Bolivar Point, and they then proceeded up Trinity Bay and ran aground on Red Fish Bar. The passengers left the vessel and went ashore on the west side of the bay. From this point they proceeded in search of homes. Two

¹H. Yoakum, *History of Texas from its First Settlement in 1865 to Its Annexation to the United States in 1846*, Vol. 1, Pg. 227

of them, Moses L. Choate and Colonel Pettis, went up the San Jacinto River some ten miles above its mouth, where they made, perhaps, the first improvement ever effected on that stream."



Map of Trinity Bay showing Red Fish Bar

An Early Settler of Texas by W.B. Dewees, compiled by Cara Cardelle in 1852, mentions Choate on page 18. Also, *Indian Wars and Pioneers of Texas* by John Henry Brown has the same verbiage, also on page 18, as follows:

“According to the notes of Mrs. Briscoe, the first actual settlers arrived in April 1822, of whom Moses L. Choate and William Pettus were the first settlers on the San Jacinto, and a surveyor named Ryder, unmarried, settled on Morgan’s Point, on the bay.”

Yet another account of Moses L. Choate being wrecked on Red Fish Bar came from the October 1, 1906, issue of *The Home and State newspaper*. This account, written by esteemed Texas historian, James T. Deshields, told of the shipwreck at Bolivar but then elaborated that Choate had later moved to Nacogdoches and then in 1837 to Livingston.

We have no proof that this is “our” Moses L. Choate. We certainly would like to embrace these accounts. Enterprise staff writer Don Hendrix, one of the best Polk County historians, spent much time studying Choate history and found yet another account of the shipwreck story in *Harris County, 1822-1845*.²

“The year 1822 seems to have been the earliest period claimed for any settlements (in Harris County), and

²Adele B. Looscan, *History of Harris County, 1822-1845*, p. 2

it is more probable that the rumor of Austin's colonization scheme caused them to be made. A few settlers may have come overland from Louisiana, but those of whom record is here made, arrived on shipboard, and were in some instances tossed ashore when their frail boats were wrecked by storms on the reefs and bars of the bay. Numbered among these were Moses L. Choate and Colonel Pettus, on board the Revenge, which was wrecked on Red Fish Bar in April 1822. Their schooner, commanded by Captain Shires, ran aground, and the passengers left the vessel and went up the San Jacinto River where they made homes, probably the first settlement on this river, or in Harris County."

Mr. Hendrix embraced the Choate shipwreck story and included it in a front-page narrative to commemorate Polk County's 140th anniversary.³ The following month, in his Trinity Valley Trivia column he admitted his assumption.⁴ Hendrix did a tremendous amount of research on Choate and his documentation of him and our counties history is immeasurable. Thanks to Don Hendrix (1936-1995).

The Livingston County, Kentucky marriage records indicate that Moses married Maria Ursula Cook May 29, 1826, in Salem, Kentucky. It is this date that makes the above account of the Trinity Bay shipwreck so questionable. But it is entirely possible that Choate

³Don Hendrix, Polk County Enterprise, March 30, 1986, p. 1A

⁴Don Hendrix, Trinity Valley Trivia, April 27, 1986, p. 7A

traveled back to Kentucky to marry Ursula; men have done some amazing things in the interest of love. The 1830, Salem, Livingston County, Kentucky Census has Moses L. Choate entered with a wife and two female children. This casts even more doubt on the theory.

We may never know the true story, but it has been interesting to examine the possibilities. Regardless of whether this was "our" Moses, his life story continues with his residence in the Mexican garrison of Nacogdoches beginning in the early 1830s.

At this time Texas was divided into eighteen municipalities or colonies, and present-day Polk County was in Empresario (agent) Joseph Vehlein's Colony. In exchange for land grants for himself, the Empresarios responsibility was to select the colonists, allocate the lands and oversee the enforcement of Mexican laws. Being of the Catholic faith was a requirement to live in Mexico and one could not receive a land grant unless they made this profession.

Vehlein's Colony extended from the San Jacinto River to the Sabine River and from the coast to the San Antonio-Nacogdoches Road. Stephen F. Austin's Colony lay to the west, David G. Burnet's Colony was situated to the north and the Lorenzo de Zavalla Colony was located to the east of the Vehlein Colony.

Mexican General Mier y Terán, after a tour from Anahuac to Nacogdoches in 1827 reported that too many United States citizens were soon to take over the land from Mexico. Terán's report led to the Law of April 6, 1830, which attempted to restrict Anglo immigration, but encouraged Mexicans and certain Europeans. This law also forbade bringing slaves into Texas.

In 1831 Fort Terán was established on the Neches River to help minimize illegal immigration. The garrison was built on the old primary route from Anahuac to Nacogdoches. Also, the Alabama, the Coushatta and the Long King Traces converged to use a natural river crossing in the Kisatchie Wold, a rock escarpment that runs parallel to the coast from the Mississippi River to Rio Grande River. This allowed for a rocky crossing instead of mud and had been used forever by the native people.⁵

This law did little to stop the influx of United States citizens and due to the negotiations of Stephen F. Austin, Mexico relaxed their position somewhat. It was during this time that Moses Choate landed in Nacogdoches where much of his time was spent waiting for the slow-moving Mexican government to respond to this petition for a land grant. Sam Houston, who arrived in Nacogdoches in February 1833, practiced law there with P.A. Sublett and was also working to get his many land grants issued.

⁵Howard N. Martin, <https://www.tshaonline.org/handbook/entries/fort-teran>

There is little doubt that he and Choate were acquaintances.

Between the years 1830 and 1835, Mexico issued 101 Title Grants in present day Polk County, most of them by George Antonio Nixon.⁶ Nixon, in 1834, was appointed commissioner for the Galveston Bay and Texas Land Company, a New York company founded in 1830 for the purpose of colonizing the grants of Vehlein, Burnet and de Zavala.

Choate's petition to the Free State of Coahuila and Texas, dated October 9, 1834, states "I, Moses L. Choate, native of the U.S. of the North, with due respect, appear before you and say: That, attracted by the generous provisions of the Colonization Laws of this State, I have come with my family, which consists of my wife and three children, to settle in it if you should see fit in view of the attached certificate to admit me as a colonist, granting me a league (4428.4 acres) of land in the vacant tracts of the said enterprise. Therefore, I ask that you may be pleased to confer the favor I request, for which I shall live eternally grateful."

As a part of the application process, one had to have a Certificate of Character provided by a local authority. Nacogdoches Alderman Luis Procera, on October 9, 1834, stated "Moses L. Choate was a resident of this town, a

⁶ <https://www.tshaonline.org/handbook/entries/nixon-george-antonio>

man of very good morality, habits and is industrious, a follower of the constitution and laws of the country (Mexico) and of the Christian (Catholic) religion and married through our holy Mother Church in this same town". Moses had passed all tests to become a new landowner in the Republic of Mexico.

Choate's tract was surveyed by S.C. Hiroms, perhaps the first Anglo Polk County citizen, on December 12, 1834. His survey began with the call: "on the road leading from the Long King Village on the Trinity to Nacogdoches" with another call being a different road, "the road from Long King's Village to the Alabama Village." This reference was to the Fenced-In Village in northwestern Tyler County.

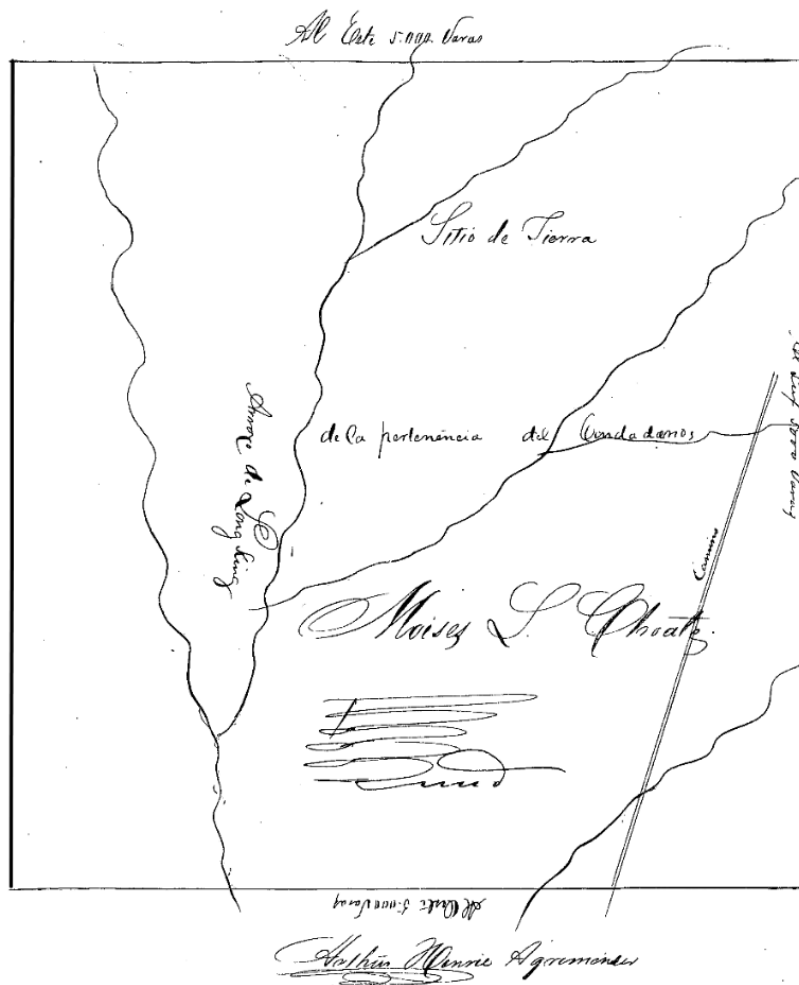
Each of the four corners were marked, as required, by forming a mound around a post. Of course, witness trees, considered permanent objects, were also referenced in the survey.

Choate's land grant, a Title Grant, was issued by George Nixon on February 7, 1835. Arthur Henrie, the Surveyor General for the Burnet colony, signed off on the survey and described the land as "situated on a creek called Long King and on the road leading from the town of Long King to Nacogdoches".⁷ The land was classified by Henrie as being four labors (177.1 acres each) of arable

⁷Virginia H. Taylor Houston, *Surveying in Texas*, Southwestern Historical Quarterly, Volume 65, July 1961, Pg. 213

land (suitable for growing crops) and twenty-one labors of pastureland.

It could not be determined what price Choate paid for his land, but the price was based on the above classifications. (Stephen F. Austin charged 12.5 cents per acre for land in his colony.) Choate was required, within one year, to settle on and cultivate it and construct masonry landmarks at each corner.



Plat of the Choate league as transcribed in the Polk County Deed Records

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BELLO TERCERO

DOS REALES



PARA EL BIENIO DE
1834

1834. Y 1835.

Peticion N. 38.

Don Comisionado Especial de la Empresa del Cuadrado.
Don Velasco.

Moises L. Choate, natural de los E. Unidos, con el debido respeto ante V. me presento y digo que debido por las generosas disposiciones de las leyes de colonizacion de este Estado, he venido con mi familia que consta de mi esposa y tres hijos a radicarme en el. Si V. tuviere a bien en vista de la adjunta declaracion, admitirme en clase de colono, concediendome un sitio de tierra, en los valles de la referida empresa.

Tanto: Suplico a V. se sirva otorgarme la gracia que suplico, a cuyo favor vivam. et amam. agrediam. Nacogdoches, y octubre 9 de 1834.

Moises L. Choate

Provido. Pase el interesado con la certificacion que acompaña, al Sr. Comisionado a que corresponde, para que informe sobre la solicitud que antecede. Nacogdoches, y octubre 10 de 1834.

Informe. Sr. Comisionado. Don Juan N. de...
Certifico que el interesado es uno de los colonos que he introducido en cumplimiento de la contrata que tengo celebrada con el Supremo Gobierno del Estado, en fecha de 21 de Diciembre de 1826. Lo tanto. Se agrediam. et amam. et vivam. como

February 7, 1835, original Choate grant stored with the Texas General Land Office (p. 1)

The above document was transcribed into the Polk County Clerk's Office on December 30, 1852, and recorded in Volume C, Pages 332-338. The original was written in Spanish, and it is interesting to note that it was transcribed in Spanish. A special thanks needs to be given to the Texas General Land Office for translating the original document into English.

According to the April 30, 1835, Nacogdoches census, Choate was still living there with Ursula and three children, Maria Clara, a daughter aged seven, Lara James, a son aged four and Adolphus, a son aged two. His occupation was listed as a carpenter and three boarders, young single men, lived in his household and were also carpenters.

Choate soon afterwards moved to present day Livingston where he built a log cabin near the creek that bears his name. His son, Lara James, died at an early age, perhaps before he settled here.

Arthur P. Garner, a contemporary of Choate, also received a land grant from the Mexican government, his on February 2, 1835. From his land on the west side of the Trinity, he began to operate a ferry that crossed over to property that was granted to William Pace on January 26, 1835.

It was at this place, Garner's Ferry, that the great Coushatta Indian Chief Colita (Kalita) announced to those

fleeing the advancing Mexican army in “The Runaway Scrape” that the Mexican army had been defeated by General Sam Houston and the Texian forces at San Jacinto on April 21, 1836. The weary colonists had been on the run for over a month since the slaughter of the Texan forces at the Alamo on March 6th. The ferry that Garner operated on the Trinity was on the main route to the Big Thicket and the one hundred miles of trackless jungle to the Sabine River and the United States where there would be refuge from the advancing murderous foe.

There is a fantastic article from Livingston’s *East Texas Pinery* (fortunately re-published in the *Galveston Daily News* of April 19, 1892) about The Runaway Scrape in Polk County. Written by John W. Stevens, the son of San Jacinto pioneer Miles G. Stevens, who as a young boy was at Garner Ferry and witnessed the following: Colita, the Coushatta Indian Chief, had seen Houston’s forces defeat Santa Anna. He then rode seventy-five miles, stopping at Coushatta villages along the river for fresh mounts, and arrived to tell the masses of weary folks fleeing from danger that they could return home. Colita told of the grand victory, the complete rout and slaughter of the Mexican army. “Old men wept, youths and children cried for joy, women shouted from campfire to campfire, Hallelujah! Glory to God! God Bless Sam Houston! God Bless Colita!!”

Colita then solidified his place as a hero of the Anglo settlers when it was found that a woman with nine children had left one behind, asleep in a wagon, on the opposite bank. Colita braved the rain swollen river on horseback and brought the child safely across and placed it in her mother's arms.⁸

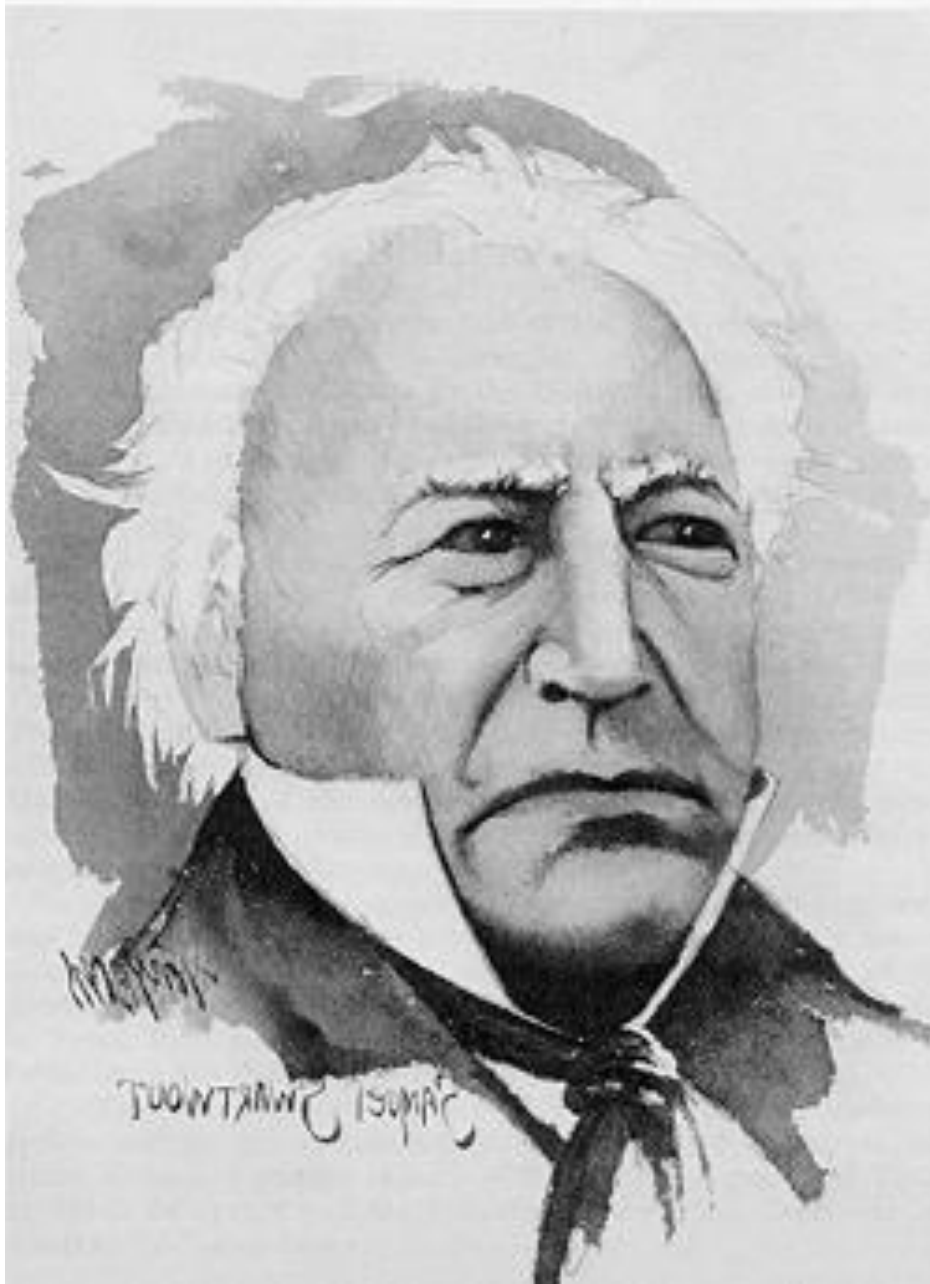
Colita and his people had remained neutral in the Texas Revolution and made sure that the fleeing white family's properties were kept safe. They returned to find that their properties and stock were all intact. This is quite contrary to what happened to the hapless victims out west towards San Antonio where most all homes were either ransacked or destroyed and some entire towns were deliberately burned to keep them out of the hands of the advancing Mexican army.

Colita died on July 7, 1852, at the advanced age of 120 and has a community named for him in western Polk County. A headstone to commemorate his life is located at Moss Hill on Hwy 146 in Liberty County.

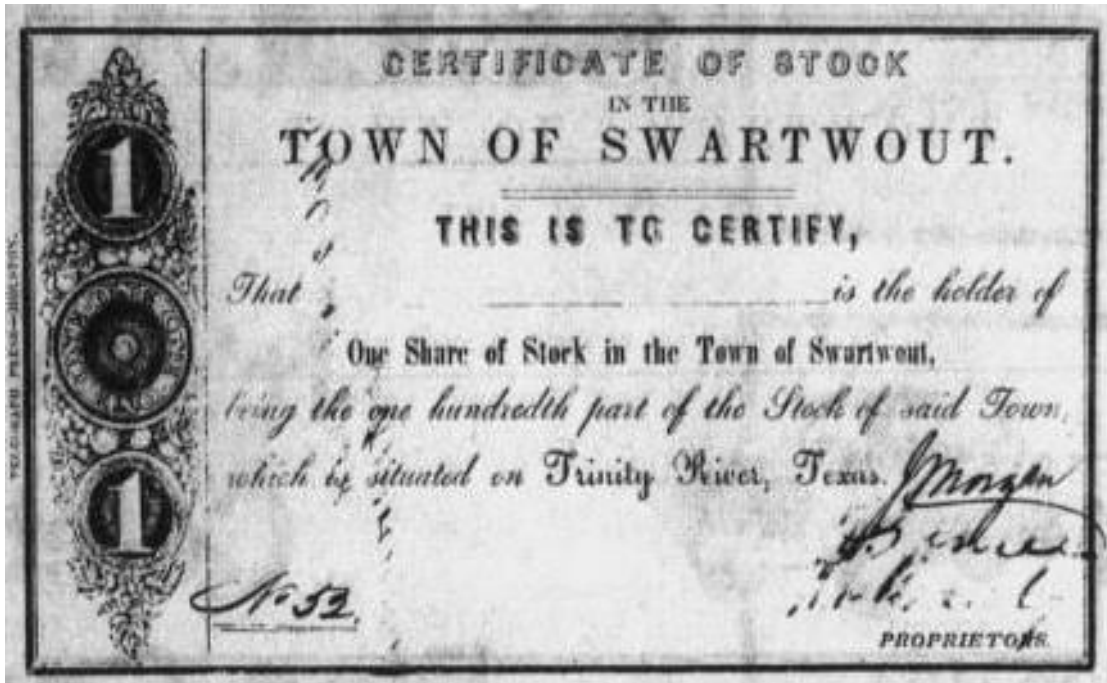
At Garner's Ferry the upstart development of Swartwout was formed on November 1, 1838, by a partnership between Thomas Bradley, James Morgan Arthur Garner. They named the town for financier Samuel

⁸Howard N. Martin, *Myths and Folktales of the Alabama-Coushatta Indians*, page 81, also Miriam Partlow, *Liberty, Liberty County and the Atascosito District*, p. 107

Swartwout (1783-1856), the Port Collector of New York City who was a land speculator and investor in the little Texas upstart. He was later found guilty of embezzling over one million dollars from New York and fled to Europe to escape prosecution. He never stepped foot into Texas.



Samuel Swartwout, absconder in chief



Swartwout stock certificate, one hundred were issued

Each of the three men gave fifty acres to the partnership. Garner purchased land on the east side of the river from William Pace for his share of the partnership (he owned the west side). The town was surveyed and laid out into 86 blocks, most of which had eight lots. Lot 1, block 21 and lot 1, block 24 were set aside for churches and lot 5 in block 23 was set apart for an academy. Blocks 18 and 59 were set aside for public squares, where a courthouse or park could be built. It is purported that Sam Houston was a shareholder.⁹ This was the first subdivision in Polk County.

⁹Texas and Gulf Historical and Biographical Record, Volume 23, Number 1, November 1987, Pg. 20

Swartwout was a busy riverport town and untold tons of cotton, corn, honey and hides were sent to the port of Galveston from this point. While there were many other riverport towns on the Trinity, I.T. Patrick's and Monroe Drew's Landings being significant, none were of the size and importance of Swartwout. (The riverboat industry will be covered in another narrative.)

According to the following 1838 advertisement, found in numerous issues of the *Galveston Daily News*, "the town was situated 100 miles above Galveston at a spot known as Garner's Ferry and this ferry is passable, at all times, when other ferries overflow and are impassable, or require a ferriage of miles through the bottoms. The town fronts six hundred yards on the river and is complete with a hotel, a church, a seminary for children and a house of entertainment."

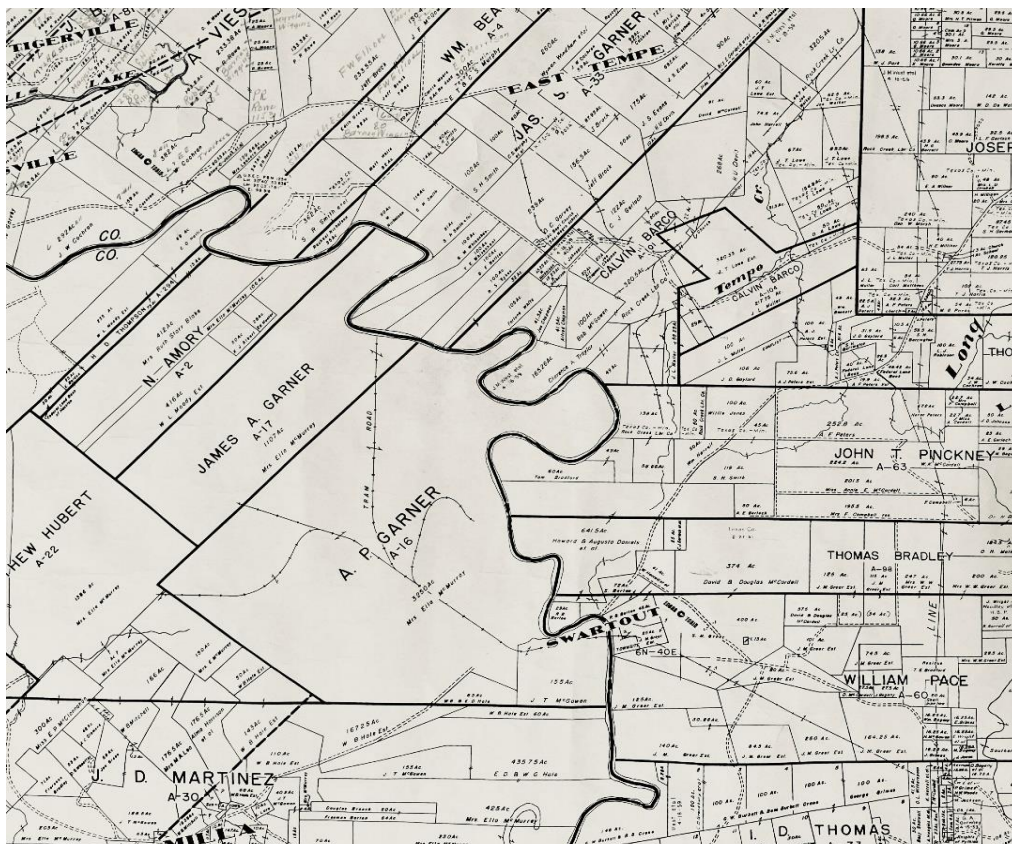
"There is fine river navigation for steamboats from the bay to far above Swartwout; the steamboat Branch T. Archer, Captain Ross, having ascended a considerable distance above that, last summer."

"It is located on the nearest and most direct route from Nacogdoches and San Augustine to Houston, being about eighty miles distant from Nacogdoches and Houston, and near the Long King's Village."

From Swartwout, the road led westward through Cold Spring to Houston and Montgomery, then the site of the

Montgomery County courthouse as well as Huntsville, the site of the Walker County Courthouse after 1847.¹⁰ It is interesting to note that the Texas prison system was established there in 1848.

At this time, Swartwout was the largest community in the Liberty Division with a population of fifty inhabitants and was an important stop on the rural mail route from Houston to Jasper, which had a population of 150. The post office in Swartwout was established on May 22, 1846, with Whitehead Van Dam as the Postmaster.



1930 Tobin land map of Swartwout

¹⁰Officially changed to one word, Coldspring in 1894
<https://www.tshaonline.org/handbook/entries/coldspring-tx>

TOWN OF SWARTWOUT—This town is located in the county of Liberty, on the Trinity river, one hundred miles above Galveston Bay, by the road, and two hundred by water; sixty miles by land, and one hundred and twenty by water, above the town of Liberty. It is pleasantly situated on the east bank of the river; that part which fronts the river, measuring sixty feet above the level of the water, and back from the river one hundred and twenty feet. It is at that spot known as 'G. Truvers ferry,' and fronts six hundred yards on the river.

The ferry at this place is passable, at all times, when other ferries overflow and are impassable, or require a ferriage of miles through the bottoms.

Swartwout is situated in as fine a region of country as can be found in Texas—high and healthy—finely timbered—interspersed occasionally with prairies—and numerous mill seats. Families who have resided in the vicinity of the town, have testified the health of the place. Several springs or veins of excellent water issue from the bank of the river, above high-water mark, immediately in front of the town. In fact a more prominent situation for a town, in point of general convenience, health, &c., could not have been found from the mouth of the Trinity to its source.

There is fine river navigation for steam-boats from the Bay to far above Swartwout; the steam-boat 'Branch T. Archer,' captain Ross, having ascended a considerable distance above that, last summer.

A hotel and several dwelling are now being built in the town, and several other buildings are to be completed by the 1st of January; among which is a place of public worship, a seminary for children, (of which there is a number in the immediate vicinity of the town,) has been opened and an academy will be built during the next year, in which there will be both male and female teachers employed. A more respectable or moral community cannot be found than that around Swartwout. There are professing christians of different denominations in its immediate neighborhood. There is a house of entertainment now at Swartwout, and others in the neighborhood.

It is the nearest and most direct route from Nacogdoches and San Augustine, to Houston, being about eighty miles distant from Nacogdoches and Houston, and near the 'Long King's' village.

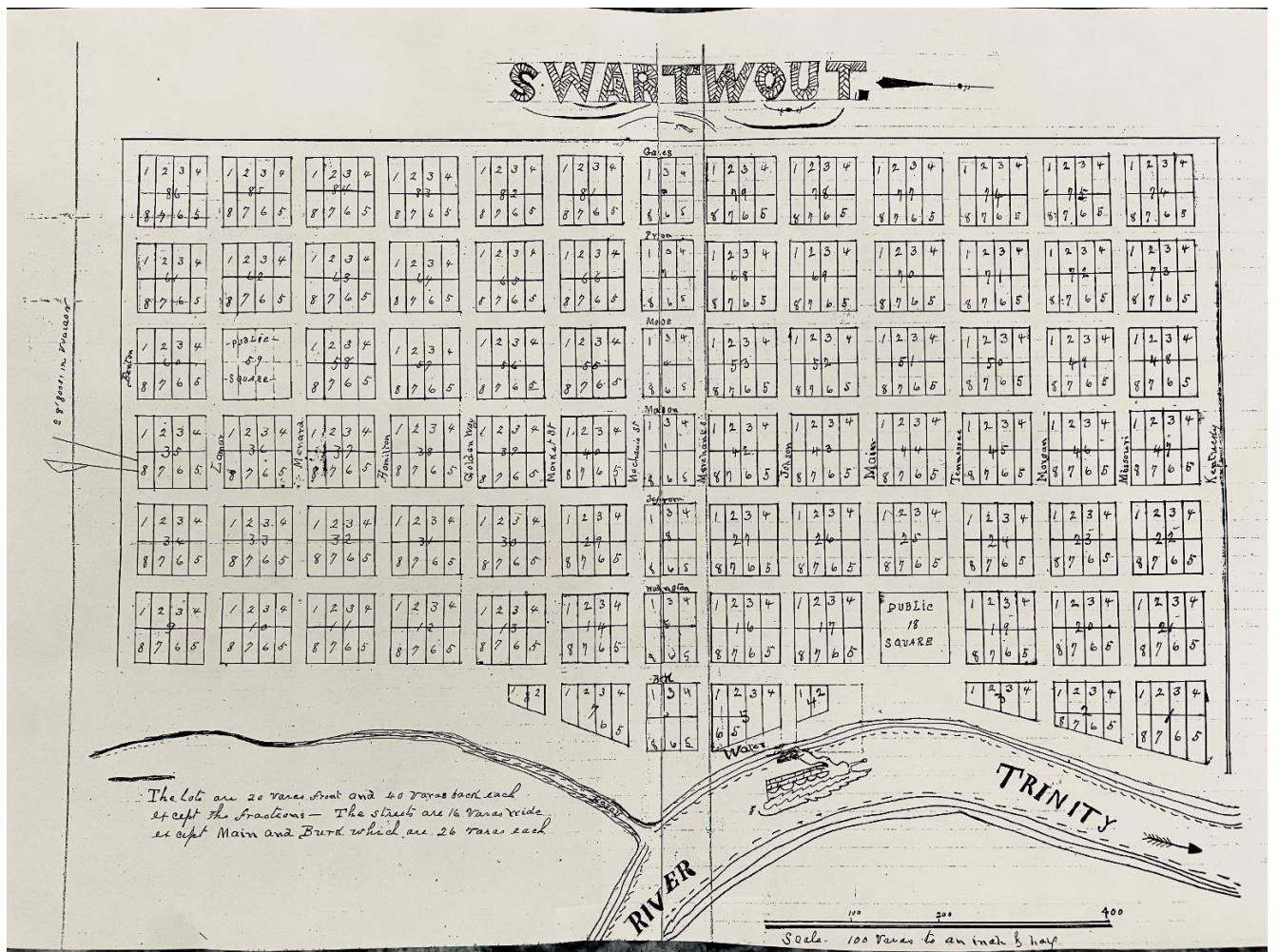
Shares or lots in said town may be had on accommodating terms by applying to

		A. GARNER,	} <i>Proprietors.</i>
		T. BRADLEY,	
nov 17	2m	J. MORGAN.	

A. Garner and Thos Bradley may be found at Swartwout—J. Morgan at New Washinton.

ISAAC REED is my lawful agent and attorney in my absence

Nov. 17, 1838, ad for Swartwout lots for sale



Plat of Swartwout, the first subdivision Polk County

After Swartwout's fraudulent activities had been made public, the *Houston Morning Star* of January 20, 1840, suggested "We advise the inhabitants of the town bearing the name Swartwout to petition congress at the very earliest opportunity for an alternation-take any name but that."

Moses Choate was a founding member of the Masonic Trinity Lodge #14 which was organized in 1840 in Swartwout.¹¹ James J. Hill was the Worshipful Master of the new lodge and Moses L. Choate and Arthur P. Garner both joined, as all new candidates do, as "Entered Apprentice." The men built a two-story structure for their meeting hall. The Lodge meetings were held on the second floor and the school children were educated on the first floor, a common practice of Masons of the day.

In 1846 the lodge building was moved to Livingston, onto the northwest corner of the City Cemetery lot, at a cost of \$500. Once again, the lower floor of this building was used for school purposes. Choate was still a member in 1857 and was listed as a "Steward" of the organization at that time.

On several instances, Choate was employed as an agent to locate properties, have surveys made and obtain title for parties that had claims but apparently not the skill set that it took to make the acquisition. He would do this in exchange for a portion of the property. By 1840 Choate's land holdings totaled 6,642 acres according to the Liberty County tax records.

Choate was appointed Justice of Peace of Precinct 4 of the Liberty Division on February 4, 1839. On January 31, 1840, Choate, along with B.M. Spinks and A.L.

¹¹Olan Cain, Polk County Enterprise, November 12, 2000, p. 1A

Winfree, were appointed to serve as Liberty County Commissioners.¹² At this time Mirabeau B. Lamar was the President of the Republic of Texas, David G. Burnet, President of the Senate and Vice President David S. Kaufman was Speaker of the House of Representatives.

Then, only a few days later, on February 5, 1840, the Northern Division of Liberty County was created by an Act of the Texas Congress. On this date, James Garner, Moses L. Choate, J.D. Burke, Frederick Rankin and A.S. Ainsworth were appointed as Commissioners.¹³ Swartwout was the Site of Justice (courthouse) for the Division.

This Act, signed by Lamar, Burnet and Kaufman, authorized the Commissioners to select, by an election, the site for a Justice of the Peace and to "obtain, upon the faith and credit of said of said district, or receiving by donation at the point so selected by the people, such a quantity of land as will be sufficient for the erection of public buildings. The land so purchased, or donated, shall be under the control of the Commissioners."

Choate's four-year-old son Josephus died on Aug. 11, 1840, and he chose the hill to the west of his home to bury the child. This was the origination of the Old City Cemetery. Choate later buried his thirteen-year-old son, Rodolphus, there in 1846.

¹²Texas Sentinel, February 5, 1840

¹³H.P.N. Gammel, The Laws of Texas 1822-1897, p. 205-206

The Houston Morning Star of October 7, 1841, and *The Telegraph & Texas Register* of October 13, 1841, both published a letter that was written at Swartwout on October 5, 1841, by a person with the initials T.H.J. The letter reported on the newly formed Northern Division of Liberty County.¹⁴

The correspondence gave a description of the boundaries of the new Division and went into the merits of the lands within. "This Division, for the richness of its soil, fine timber and navigation, in the opinion of those who have impartially examined the country from the Sabine River to the Colorado, is superior to any other portion of the same extent.

"When this Division was created by Congress, there were not more than one hundred voters residing within its vicinity; there are at this time more than double that number. Prior to that time this section of the country was but little known to emigrants, and that portion of our citizens who immigrated since the Declaration of Independence; there being no road to guide the traveler, and but few huts to shelter him from the storm or inclemency of the night, the consequence was, that few persons left the main road trading through San Augustine

¹⁴Telegraph & Texas Register Founded by Gail Borden on October 10, 1835, who also surveyed the city of Houston and was the inventor of condensed milk.

and Nacogdoches, until after they had reached the Brazos, in search of the place intended for their future homes.

“Since the organization of this Division, the County Court ordered a survey of a road leading from the town of Swartwout in an easterly direction, of the distance of thirty miles, to the County line, at Clements, to intersect at the point with the San Augustine and Jasper roads, and appointed our worthy and enterprising fellow citizen, Moses L. Choate, Esq., overseer, who by his indefatigable exertions has succeeded in opening a road thirty feet in width from Swartwout to the County line, and caused mile posts to be placed at the end of every mile through its whole route.

“The banks of the river at the ferries were graded as the law required, and a good and substantial ferryboat, fifty-five feet in length was provided for the safe crossing of all persons, horses, cattle, waggons [sic], etc. Swartwout, the seat of Justice, is situated at or near the centre of the Division on the east bank of the Trinity River. It contains a population of about one hundred souls, three stores, two taverns, one tailor’s shop, a boot and shoemaker’s shop, and a cotton gin, many improvements have been made and are now making by the enterprising citizens throughout the Division, and I have no doubt, but

that it will in a few years rank with any county in the Republic, in point of wealth and population.”¹⁵

This road led first to his home in what was then called Springfield. He certainly used it to deliver and pick up goods from the river boats at Garner’s Ferry, the most reliable source at the time. The Clements reference is the property of Emanuel Clements, Sr., located just west of the town of Chester, on the county line, where the Long King Trace crosses the northern county line.

Clements received a labor of land that was surveyed on May 29, 1841, by his brother-in-law, Claiborne Holshousen. Holshousen, an early settler of Polk County, was a Liberty District surveyor and served as Polk County Judge from 1848 to 1850. He was the father of Joseph Holshousen, who built, in 1904, his law office that is now occupied by this writer.

Another tidbit of history concerning Emanuel Clements is that he was married to Martha Hardin. Her brother, Reverend James Gipson “Gip” Hardin was the father of famed outlaw John Wesley Hardin. Emanuel and Martha’s son, Emanuel “Mannen” Clements, a first cousin to Hardin, was also a notorious gunslinger of the Old West.

District Court records reveal that Choate operated Garner’s Ferry at Swartwout for several years. In July 1847

¹⁵ *The Telegraph & Texas Register*, October 13, 1841

Choate filed suit against Elizabeth Garner, as Administrator of the James A. Garner estate, for \$163.02 in payment for operating the ferry from October 2, 1844, to August 14, 1846. During this time, he took a team of oxen with cargo to Houston for Garner for the charge of \$16. He sued for damages totaling \$179.02 and was awarded \$82.62 and one-half cents.¹⁶ He entered into another lawsuit that same year against William M. Maxey over ferriage charges and sought damages of \$17.99.¹⁷



Photo of ferry boat from Liberty County, the Garner Ferry would have been comparable. It remained in operation from the mid-1830s until the 1930s. Photo credit to Liberty, Liberty County and Atascosita, Miram Partlow

¹⁶Polk County District Clerk Records, case #77

¹⁷Polk County District Clerk Records, case #57

Texas was annexed into the United States on December 29, 1845. Polk County was formed by the Texas Legislature on March 30, 1846, as one of the first twenty-three counties and named for President James K. Polk. San Jacinto County was created on August 13, 1870, from the part of Polk County that lay west of the Trinity River.

An election was held in Swartwout on June 14, 1846, to determine if the site of the county seat should be moved. Johnson's Bluff (Cape Royale area), Swartwout and Springfield were the candidates.

To no one's surprise, Springfield was the winner. Choate had offered to donate one hundred acres for the seat of justice and this, plus the fact that it was centrally located, made it the overwhelming choice. It is widely accepted that Choate's offer came with the condition that the town be named Livingston.

It is unclear as to why Choate wanted to change the name from Springfield to Livingston. Some say that his middle name was Livingston. Others say that it was to honor his hometown of Livingston, Tennessee. The 1850 and 1860 census records reflect that he was indeed from Tennessee.

Judge J.C. Feagin, when interviewed by the *Houston Post* on September 22, 1922, reported that Livingston was named for Chancellor Robert Livingston, who administered the Oath of Office to George Washington.

Judge J.E. Hill, Jr., in a *Houston Chronicle* interview dated July 6, 1949, stated that the town was named for the African explorer, Dr. David Livingston [sic]. "There was no particular reason for calling the town Livingston unless M.L. Choate just admired the explorer."

And Polk County historian, Emma Haynes, stated in her very comprehensive *History of Polk County* that Choate was from Livingston, Alabama.¹⁸

Another possible theory is that he was married to Ursula in Livingston County, Kentucky. Regardless of how it got its name, Springfield came to be known as Livingston.

The first ever county court meeting in the newly formed Polk County was held on September 7, 1846, with G.L. Martin presiding as Chief Justice.¹⁹ As there was not a quorum, the Court adjourned until the following day. The Commissioners listed in the Court Records are James W. Abby, D.G. Green, James Winn and John F. Carr.

The indenture from Moses Choate and Ursula to donate the one hundred acres was dated August 8, 1846.²⁰ The instrument was witnessed by John English,

¹⁸Emma Haynes, *The History of Polk County*, p. 20

¹⁹Polk County Commissioners Court records, Sam Houston Regional Library, Liberty, Texas, p. 1

²⁰Polk County Deed Records, Vol. A, Pg. 14

Choate's brother-in-law and James Andress. The commissioners listed in the document were James W. Abbey, Arthur P. Garner, B.P. Hardin, A.S. Ainsworth, Frederick H. Rankin and John J. Stubblefield. These commissioners had been appointed by an Act of the Legislature of the State of Texas to find a location for the Seat of Justice for Polk County. It is interesting to note that the commissioners differ from those in the first meeting. Apparently, once Livingston was selected as the Seat of Justice, these commissioners had completed their assignment, and a new court was either elected or appointed.

The following month, on October 13, 1846, the Polk County Commissioners Court ordered that a road be reviewed (old term used for plotting the path of a road) from Livingston, on the nearest and best route to Smithfield and from thence to the southern county line in a direction to the Liberty Courthouse. This road intersected with the old Liberty-Nacogdoches Road at Smithfield. The men that were selected to review the road were Moses L. Choate, T.S. McAda (1845 Liberty County Surveyor), S.C. Hiroms, T.V. Williams and Samuel Rowe.²¹

The town of Grand Cane was situated along the Liberty-Nacogdoches Road and was the brief home of Sam Houston and his young bride, Margaret Lea Houston in the

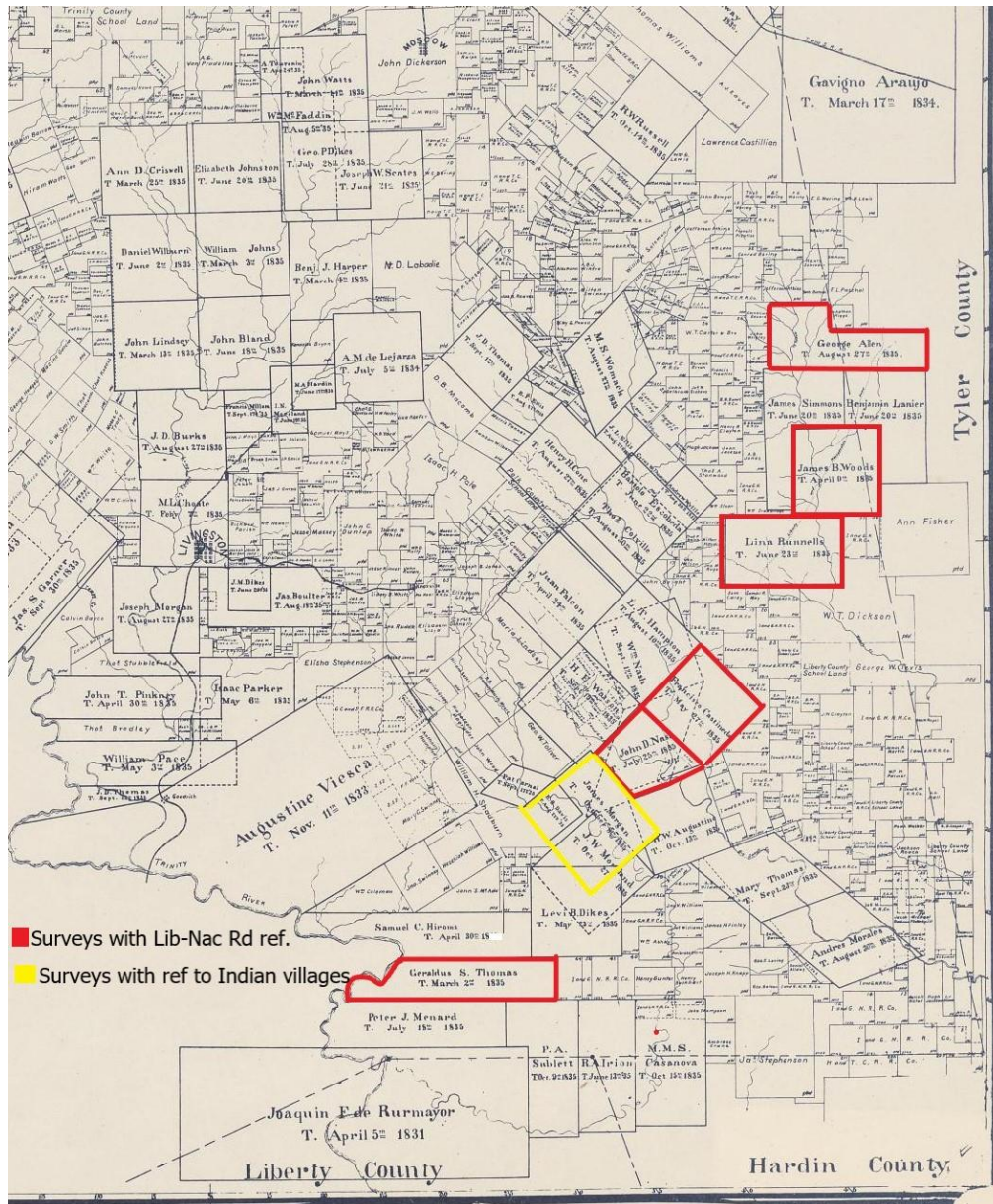
²¹ Polk County Court Records #6, October term 1846, found in the Sam Houston Regional Library

early 1840s. Margaret's family had a sugar plantation and Sam practiced law in Liberty. His time along the Trinity River was but a brief sojourn, but Margaret was rooted there. The Concord Baptist Church, established on May 24, 1845, exists to this day on the route.²² Margaret Lea Houston was one of the founders and Sam attended with her occasionally. Sam Houston happened to own four leagues, 17,713 acres, at Grand Cane, the entire Manuel de los Santos Coy Survey that he and P.A. Sublett helped to obtain for Santos Coy while in Nacogdoches in 1833.²³ Grand Cane was situated just to the north of the survey.

The Liberty-Nacogdoches Road was well travelled by the Spanish as early as the late 1700s. This route began at the mouth of the Trinity River at Anahuac and went up the east ridge of the Trinity River, to present day Polk County at Smithfield and thence easterly to the east side of the current Indian village. Then it went northward up Woods Creek to the historic Alabama villages of Cane Island and the Fenced-In Village in northwest Tyler County. It crossed the Neches River at Fort Terán and then through Angelina County to Nacogdoches.

²²The Texas and Gulf Historical and Biographical Record, Volume 23, Number 1, November 1987, p. 29

²³Liberty County Deed Records, Vol. F, Pg. 202



Each of these original 1830s surveys referenced either the Liberty to Nacogdoches Road (red) or the road between the Coushatta Village on the Trinity to the Fenced-In Village on the Neches (yellow)

The fort was occupied through 1835 and remained an important river crossing for nearly one hundred years afterward. Samuel T. Belt operated a ferry and a store at

this location until the first bridge crossed the Neches in 1917.

An account of early Polk County was written by Judge J.M. Crosson and printed in *The Galveston Daily News* of July 25, 1886. Crosson was the Polk County Judge from 1858-1862 when Polk County seceded from the Union by a vote of 604 to 23. He served as a Cavalry Major during the Civil War. After the war he returned to Polk County in 1866 and was elected District Attorney. He was forced to resign by the Union occupancy due to his allegiance to the Confederacy.²⁴

In the article, he reminisced about the settlers along the Liberty to Nacogdoches Trace, in the days when Texas was a part of the Republic of Mexico. He refers to General Terán, who not only established the fort on the Neches, but also a trading post at Anahuac, at the head of the road, and another along the route at Woods Spring (near the Sam Houston Regional Library). Crosson tells of a Catholic Priest, "on his errand of mercy and love," that died along the route in 1834 near Woods Creek.²⁵ "The old pioneer, Moses L. Choate, who then lived in Nacogdoches, was surveying his league upon which he died, was sent for, made his coffin, and assisted in the priest's burial".

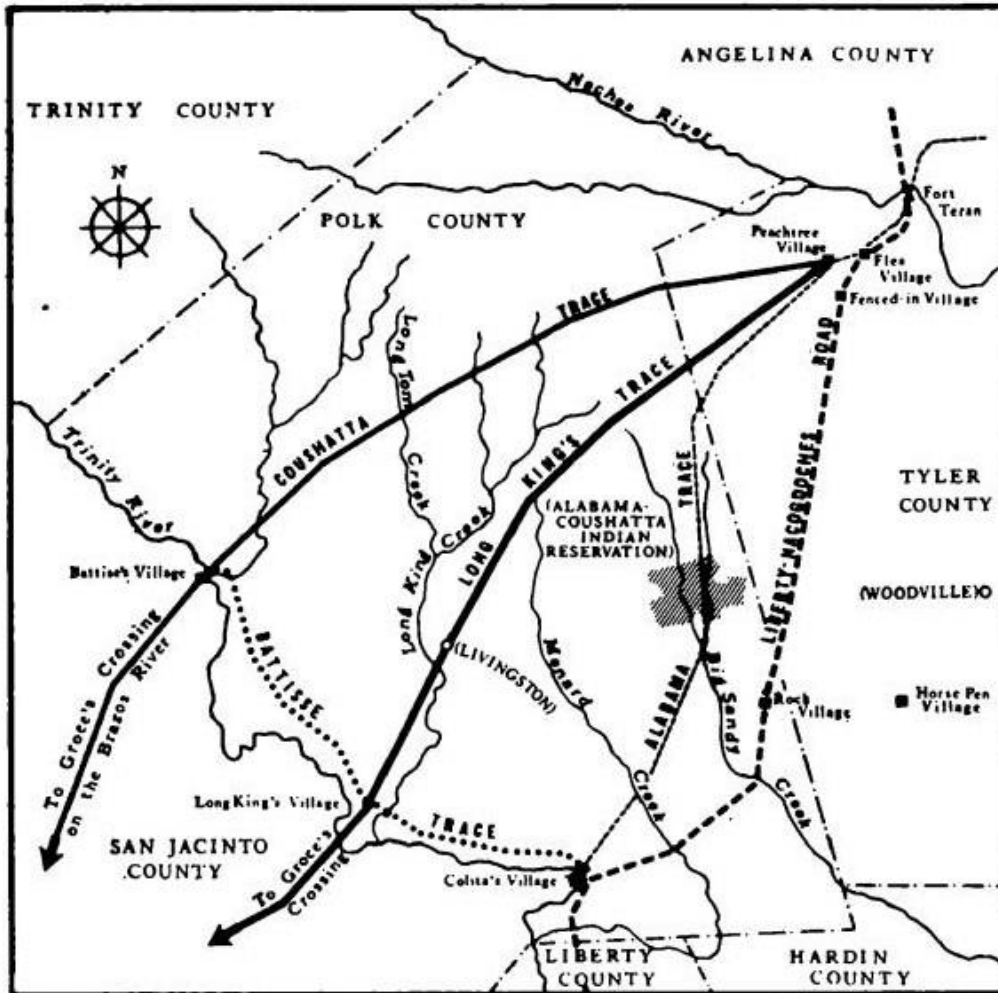
²⁴Historic Polk County book for Ike Turner monument unveiling p. 28

²²General Land Office records, the 1835 field notes of the James B. Woods Survey, A-82, called for the Liberty to Nacogdoches Road in its description.

Crosson then reported: "the road ran to the large and beautiful spring at Menard's Chapel, where Odom settled, and later Captain Samuel Rowe lived. Rowe is the patriarch of all Rowes of Polk County and was the Indian agent for Sam Houston. Thence the trace ran to Smithfield (now Ace) to the place of John F. Carr who was a builder of riverboats and supplied the Confederacy during the war. Menard's sawmill, owned by cousins Peter J. and M.B. Menard, was further down the road on the creek that bears their name". Much lumber was shipped from this mill to Galveston, the city that they founded.

"The road thence crossed over Menard's Creek and passed by the homestead of Aaron Cherry, who settled his place in 1827 (Daniel Ranch, Romayor), thence to Isaiah Fields and on to Wood's Spring and then to Anahuac at the mouth of the Trinity. Crosson allowed that "in those days there were no roads and transportation was by pack mule".²⁶ These old traces were originally created by the travel of the native people and were not much more than footpaths.

²⁶ *The Galveston Daily News*, July 25, 1886



Indian Trace map by Howard N. Martin (1917-1995)

Credit needs to be given to Livingston native Howard N. Martin for the work that he did in the 1960s to locate the Indian trails. In 1976, the Polk County Bicentennial Committee, chaired by Nelson Freeman, endeavored to place roadside markers about the County to indicate their locations. Sadly, nearly 50 years later, many of the signs have been damaged or have disappeared. Thankfully, there is currently a movement to reestablish them.



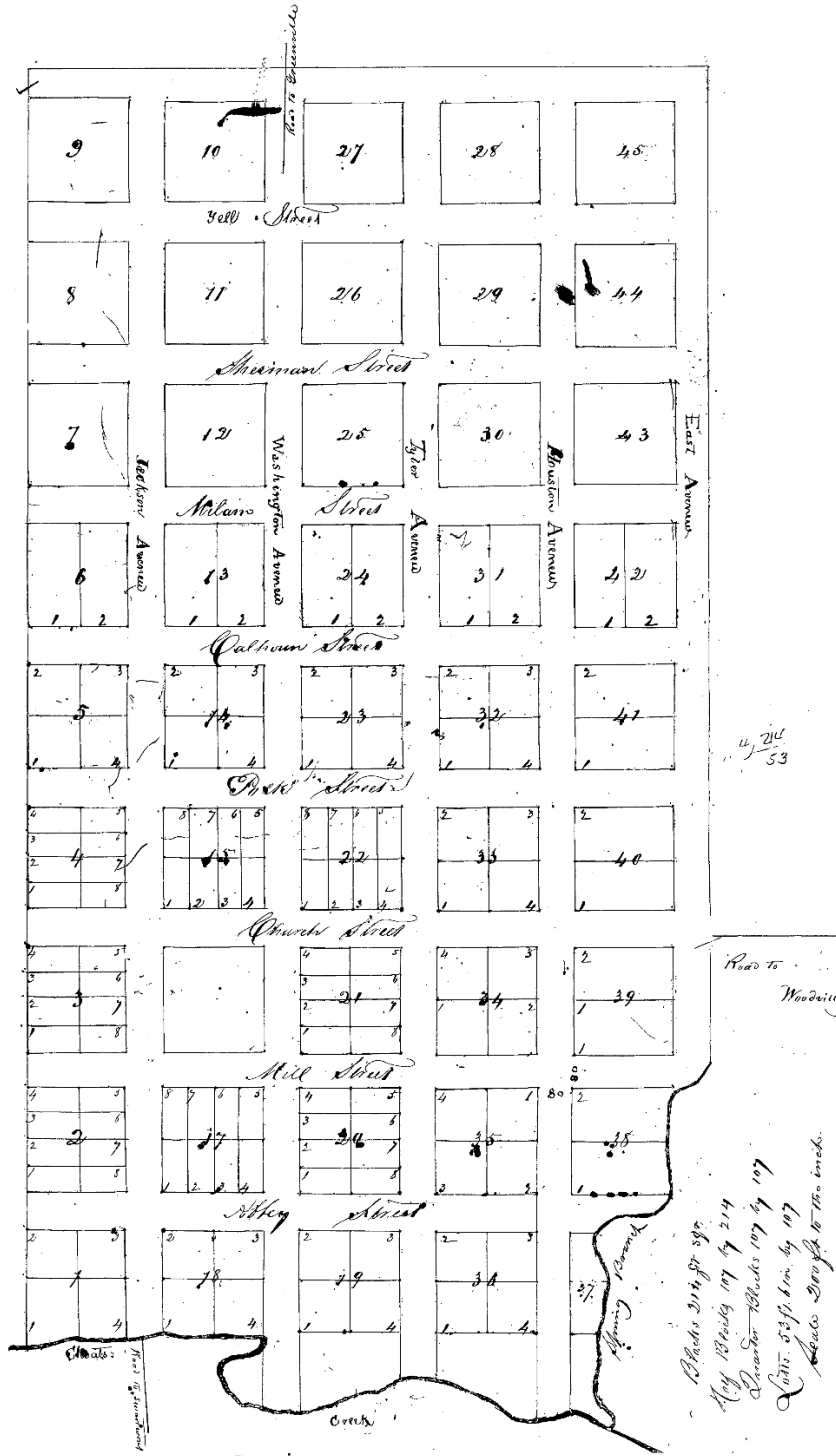
1837 Stephen F. Austin map prepared by Henry Tanner shows the route of the Liberty-Nacogdoches Road

Each of these roads was an important mail route during the days of stagecoach mail delivery before the advent of the steam engine. E.M.B. Sawyer, of Livingston, operated a line of four-horse stagecoaches beginning in the 1850s and Liberty, Smithfield and Livingston were on his route.

It is important to note the significant role that Moses L. Choate had in the development of these roads. It is no coincidence that Livingston lies at their center. Choate most certainly enjoyed his trade route to the river port town of Swartwout where he could take a wagon team and deliver and pick up goods and supplies.

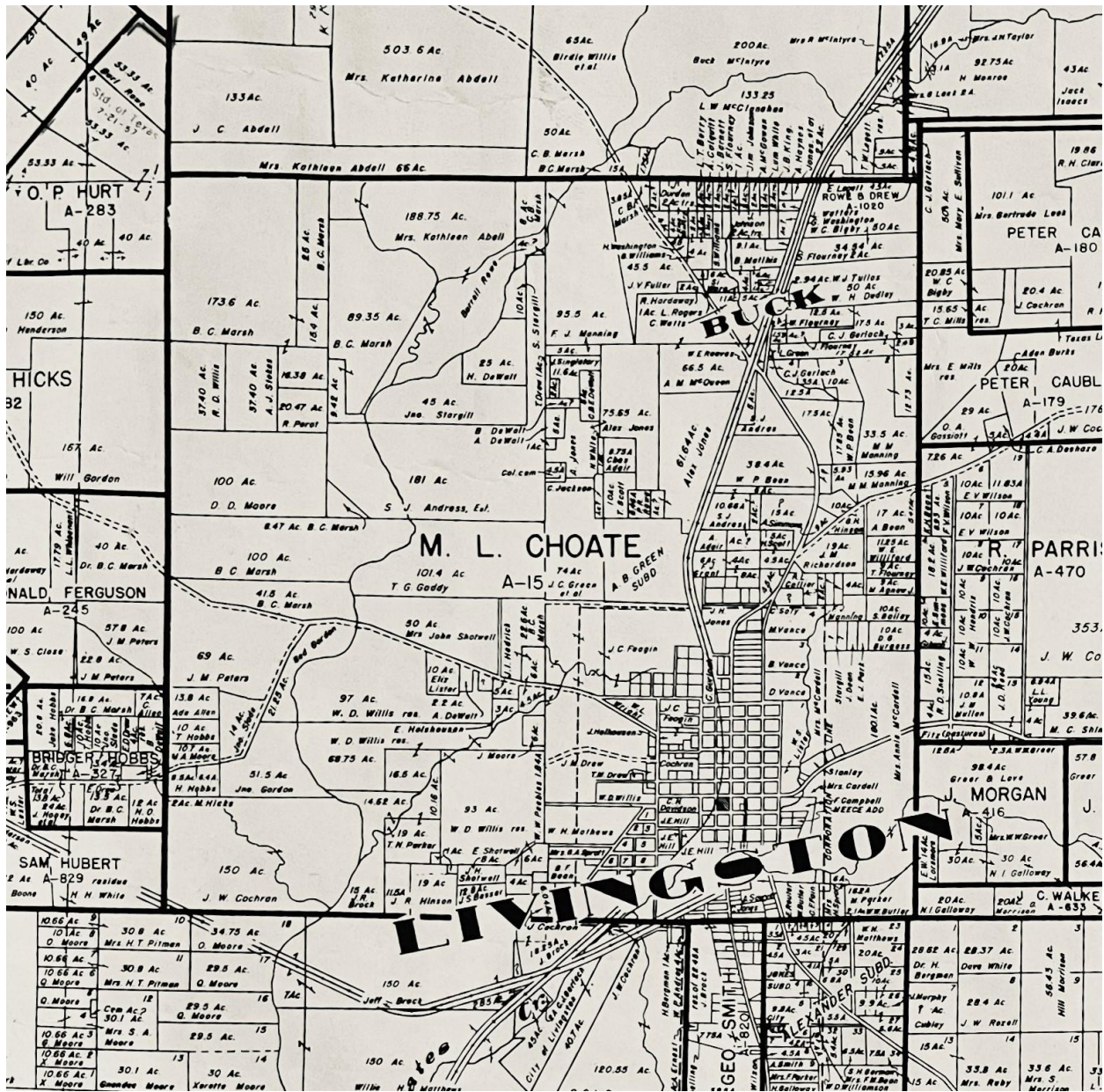
Choate made the donation of one hundred acres, James Andress surveyed the townsite. The plat was filed for record in the County Clerk's office.²⁷ Each street was named at this time and to this day every street but Yell still goes by the same name. Yell was renamed Feagin Street in honor of Judge J.C. Feagin, whose home was on the street, sometime after the 1920s.

²⁷Polk County Deed Records Vol. B, Pg. 215



Livingston
 This map was filed in the office of the Surveyor General of Texas on the 21st day of May A.D. 1849
 Geo. J. Kates Surveyor General

1846 plat of the town of Livingston, Texas



M.L. Choate, Abstract 15, Tobin plat from 1930

There was a sawmill in Livingston as early as 1844. Thomas McDonald made two notes to Choate on June 29, 1844, each for the delivery of 25,000 feet of good, marketable, sawed lumber to be delivered on Choate's Creek.²⁸ When he failed to deliver, in June 1846, Choate filed a lawsuit filed against him seeking one thousand dollars in damages. No outcome was determined.

Being a cabinet maker, Choate had the expertise to also build coffins. In a lawsuit filed in December 1846 against Clisby Riggs Jones as Administrator for the Estate of Joseph Morgan, who died in 1845 or 1846, Choate sought fifty-five dollars for the building of a coffin for the deceased party. Morgan owned a league that connected on the south and a labor of land that connected on the east side of Choate's league.²⁹

On February 25, 1847, the county appointed John English, M.L. Choate, W.L. Dillon, J.R. Jones and M.T. Nettles as trustees to erect buildings for public schools and divine services. The property that was set aside was block 40, the spot of ground that was also the Choate family cemetery and site of the Masonic Lodge.³⁰

The first Post Office was established in Livingston on May 19, 1847. The first Postmaster, John Davis, served

²⁸Polk County District Clerk records, case #8

²⁹Polk County District Clerk records, case #108

³⁰Polk County Deed Records, Vol. A, Pg. 57

only one month. Moses Choate was named the second Postmaster on June 14, 1847. From the District Clerk records of 1852, the post office was in the store belonging to Isaac M. Williams and the rent was five dollars per month.³¹ The lots owned by Williams at this time were 2 and 7 in block 17, these being due south of the courthouse and extending from Mill to Abbey Streets. This store was on the same block as the Andress Inn that was located next door on lots 5 and 6.

Choate served until June 21, 1853, when D.D. Moore became the Postmaster. It should be noted that also established on May 19, 1847, was the post office at Green's, later to become Moscow in 1853.

Choate was a stock raiser, as were most people of these days. The Brand Records of Polk County reveal that Moses, Ursula and each of their children had recorded cattle brands.

Choate, in 1848, was elected to a two-year term as a Polk County Commissioner. He served with Judge Claiborne Holshousen and D.G. Green, James Winn and R.N. Hibbits as commissioners.

During his two-year term he was very active and as per the County Court records of April 10, 1848, he was appointed to review yet another road, this one from Livingston to the town of Woodville. The road was

³¹Polk County District Clerk Records, case #257

described as "leading to Woodville so as to pass through Church Street and thence by M.L. Choate and bearing the general course of North, 70 East from the Public Square."

In the August 1848 term, the County Commissioners met to let the bids for the "building of a farmhouse, the dimensions of 16 x 19 foot and 9 feet tall, with four windows and two doors, to be placed on the public square" for a courthouse. Choate was appointed to build two desks for the safe keeping of the county records. At this time, he was also placed on a committee to search for a place to build a jail. Choate was paid \$4.50 at this meeting.

During the November 1848 term, Choate was granted title to lots 1 through 4 in block 5, lot 3 in block 17, lot 2 in block 18, lots 1 and 8 in block 22, lot 4 in block 33 and lots 2 through 7 in block 37. At this session the Trinity Lodge was granted lot 4 in block 17 which they later sold in 1852. Choate, also during this term, presented his bond with security for the building of the jail.

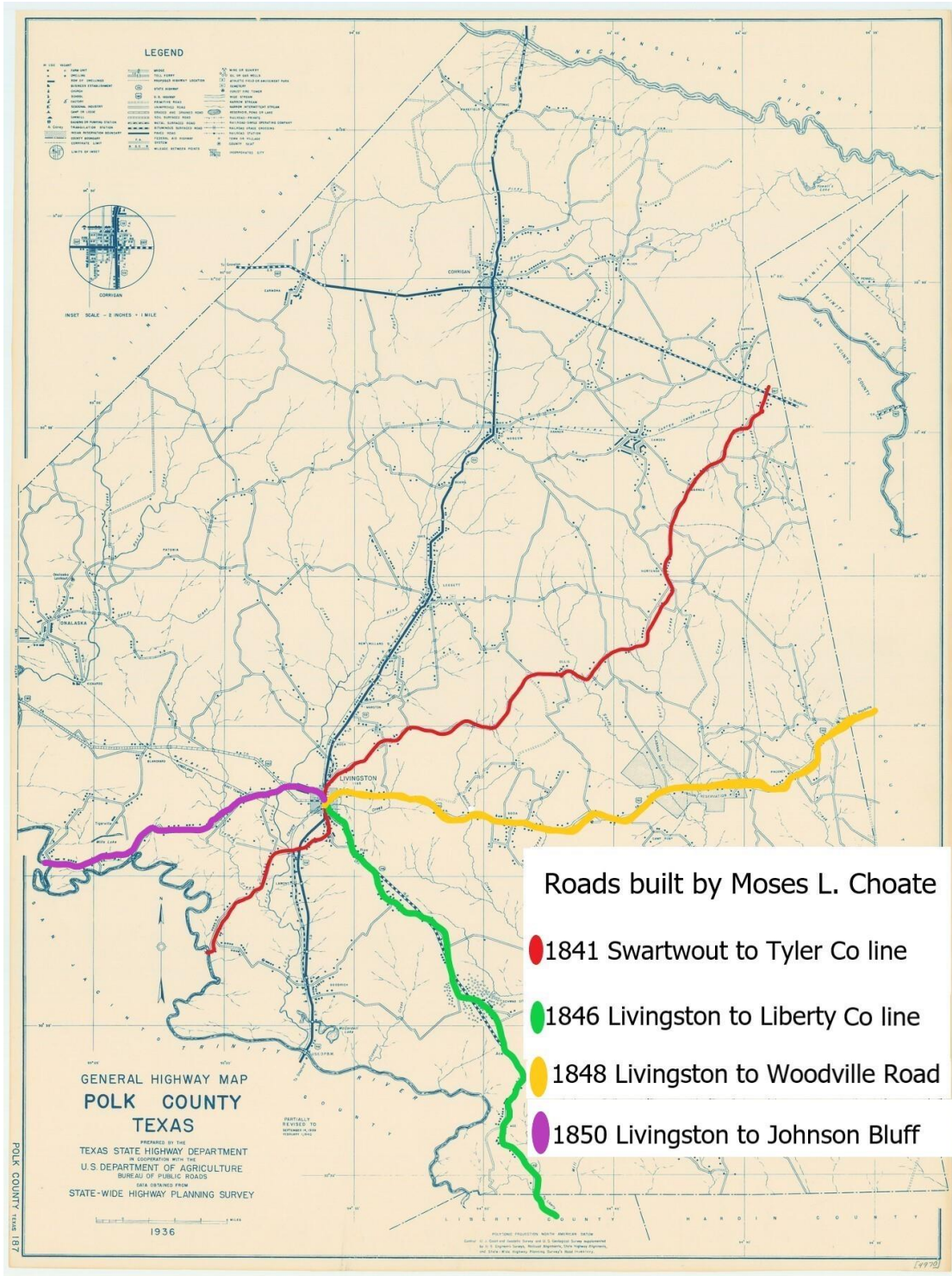
In the February 1849 term, Choate was appointed as Agent for the Court to dispose of the lots in the town of Livingston that remained unsold, for no less than Five dollars per lot. Also, he was appointed to prosecute anyone for illegally cutting timber from such lots.

Choate, in the May 1849 term, forfeited his bond for the building of the jail and he was released from this duty. There was no reason noted in the records.

The June 1850 minutes reflect that the court met at the courthouse, possibly the first meeting held in the new building. Choate was issued a draft for three dollars for the use of a desk.

In the November 1850 term, Choate was appointed once again to review another road. This one led westerly to the riverport town of Johnson Bluff which lay on the west side of the Trinity River.

Choate ran again for the commissioner position in 1852 but was soundly defeated against a field of eight candidates.



Approximate locations of the roads that were built by Moses L. Choate

The first U.S. census was taken in 1850. Choate, age 56, from Tennessee, was listed as William M Shoat [sic], a farmer, and his wife, Ursula, from Kentucky, age 45. The children are Sandra (possibly Clarinda), born in Kentucky, aged 20, Elizabeth, aged 13, Zerilda, aged 10, Rufus, aged 8 and Louisa, aged 18, each born in Texas. At this time, he had assets of \$9,488, making him one of the wealthiest men in the county.

Clarinda married James N. Oliphant on July 5, 1851, and the couple lived on property next to Choate that they received from him. Oliphant became a business partner with his father-in-law and served as a Justice of Peace. Clarinda died in 1860 and James died in 1866.

Choate served as a Notary Public as evidenced by a deed dated August 4, 1852. This instrument, from the Trinity Lodge #14, conveyed lot 4, block 17 to James Andress and Choate notarized the signatures of J.H. McCardell, Worshipful Master and John P. Kale, Senior Warden. This lot was located south of the Andress hotel.

The Texas Ranger, a newspaper published in Washington, Texas, reported on June 9, 1853, that M.L. Choate, along with Claiborne Holshousen and others, were appointed as Polk County delegates to the Democratic State Convention to be held on June 15 in "Washington on the Brazos".

John O. Shelby, a doctor by profession, entered into an agreement on July 11, 1853, with Choate and his son-in-law, James N. Oliphant to deliver to Choate's Mill, a Page Circular Saw, via the nearest navigable point on the Trinity River to the town of Livingston to be delivered by January 1, 1854.³² ³³ Choate and Oliphant agreed to bear the expense of the saw and its delivery and Shelby agreed to furnish hands to keep up the repairs and to make good the dam of said mill. Shelby was to become a one-third owner of the mill in exchange for \$2,000 as consideration in the indenture.

Before the end of the year, on November 17, 1853, Choate & Company, now including Moses Choate, John O. Shelby and James N. Oliphant, contracted with Jack W. Cook, to the "best of his art and skill", to repair Choate's Mill. Cook, for the sum of \$600, outlined the statement of work as such: put in the principle propelling wheel, flywheel, pitman, fender posts, saw sash, ragwheel, carriage head blocks, tail blocks, gates and gate stands, feed works and everything belonging to said mill and to put the mill into perfect running order.

Cook agreed to furnish one pair of spiral vent reaction water wheels, two gudgeons, one counterbalance flywheel, one set of well-furnished sash rods, one set of cast ragwheel ratchets, one set of sash rods, one set of

³²George Page, inventor, patented 1841

³³Polk County Deed Records, Vol. DE, Pg. 450

cast ragwheel ratchets, one set of carriage segments, one pinion and gudgeon, one wrought iron gate rowler and one wrought wrist.³⁴ Choate & Co. was to provide timber, lumber and one wrought iron and Oliphant was to provided his labor free of charge.³⁵

There arose a difficulty between these parties and in the District Clerk records are found lawsuits #364 in which J.O. Shelby filed a suit against Choate and #397 in which Choate filed countersuit against Shelby. Apparently, the circular saw was not delivered. The outcomes of these suits are unknown.

The actual location of the 1858 Choate's Mill (it is possible that he had multiple mills along the creek) is revealed in the field notes of a deed dated September 13, 1858 in which Choate sold, by order of the Sheriff, one half interest in one acre and the mill to J.R. Hamilton to settle a debt owed to Nathaniel Bailey.³⁶

This mill site was on the east side of town, on the east line of the Choate survey where Choate's Creek crosses the line. This correlates with the account of Emma Haynes that the mill was located where Cubley Branch enters the creek.³⁷ (R.H. Cubley was County Clerk from

³⁴<https://www.ledyardsawmill.org/sash-sawmills/sash-sawmill-glossary>
for definitions

³⁵Polk County Deed Records, Vol. DB, Pg. 116

³⁶Polk County Deed Records, Vol. G, Pg. 347

³⁷Emma Haynes, The History of Pok County, p. 96

1861-1868 and resided on the Woodville Road just east of the Choate survey where the branch crossed his property).³⁸ According to Emma Haynes, a mill was being built in 1858 at the mouth of Cubbley [sic] Creek but work was halted after a beam fell and killed Harvey Foster Haynes on March 17, 1858. He was buried in the Old City Cemetery.

The Andress Inn, established in approximately 1847 by James Andress, was the first hotel in Livingston. Local lore has it that Sam Houston was a frequent visitor and once led a cotillion there. In an effort to verify this, the entire ledger from 1851 to 1857 was examined and unfortunately, 'ol Sam does not appear. But the ledger, or daybook, of James Andress provides a glimpse at what merchandise the early citizens of Livingston purchased as well as a record of the many travelers that lodged there.

The inn was much more than just a hotel as it served the town's social center, complete with a restaurant and tavern where practically each day men purchased "strings of billiards" at the rate of ten cents per "string". Sometimes the ledger refers to a "string of pool" in the next line. It is assumed that a string is one game. Bottles of whisky were twenty-five cents; drinks were five cents and cigars [sic] were two cents. Peach and cherry brandy was available as well. Lodging and victuals were a dollar. The livery stable boarded horses for fifty cents. The Inn

³⁸Polk County Deed Records, Vol. K, Pg. 298

also contained a mercantile, a post office and served as Andress' Justice of the Peace office.

The ledger reveals that Choate, beginning in January 1855, began to trade there regularly. It is curious that he does not appear prior to this date, perhaps because he had the post office next door inside the Isaac Williams store.

Choate purchased many bottles of whisky, brandy and once a bottle of claret wine at the Andress Inn, as well as many plugs of tobacco. Other items he bought included twenty pounds of salt, surely for curing meat, rope, coffee, a can of oysters, Irish potatoes and bacon. Also, stockings and shoes, ribbon, thread, bed ticking, nails, a coat and a hat.

The ledger also revealed that the mail riders lodged there regularly. Early on, this was one man riding horseback, but an entry in July 1857 includes stabling the horses for mail contractor E.M.B. Sawyer's four-horse stagecoach line which delivered mail throughout Texas in those days.

In a deed dated October 27, 1859, Moses L. Choate, Demetrius Willis and D.D. Moore, Trustees appointed by the County Court, donated a lot to the Methodist Episcopal

Church, South.³⁹ The Church Trustees were E.D. Martin, J.A. Bright, J.F. Eckford, Blackwell Dunnam, W.B. Hardin, Alexander Johnson and J.M. Larkin. The lot of ground was in the southeast portion of Block 40 and was 107 feet by 65 feet in size. Within the deed was a promise by the Methodists to erect an edifice for the purpose of religious worship, which they did. This building, called "Everybody's Church," was shared by all denominations for the next 25 years.

The 1860 census lists the Choate children as Betty, age 20; Zerilda, age 18; Rufus R., age 16; and Mary, age 1 living in his household. Moses was listed as a cabinet maker and Rufus was a carpenter's apprentice. Moses declared an annual salary of \$500 while young Rufus declared \$400.

Moses Choate, at age 65, mustered into the Confederate Army in November 1860 as a private in the Moscow Guards Cavalry Company, Texas State Troops. He was one of 64 volunteers who agreed to meet not less than six or more than seven times a year unless called out on special duty.⁴⁰

Rufus Randolph Choate served as a private in Hood's Texas Brigade. Unfortunately, Rufus was killed in action in

³⁹Polk County Deed Records, Vol. H, Pg. 562

⁴⁰Moses Choate muster card

Chattanooga, Tennessee on September 20, 1863, in the battle of Chickamauga. He was 21 years old. He is buried in the Confederate Cemetery in Marietta, Georgia and is memorialized with a cenotaph in the Old City Cemetery.⁴¹

The life of Moses L. Choate is a study of the formation of not only the City of Livingston and the County of Polk but involves the early days of the Republic of Texas and the beginnings of the State of Texas as well. He cannot be given enough credit for the development of our home here in the heart of East Texas.

But Choate was not without controversy. He was very litigious and was involved in dozens of lawsuits, including some from Nacogdoches County. An entire study could be made of these. Choate was a slave owner and used them as collateral on many loans. There are countless real estate transactions between Choate and various parties. At one point he owned as many as 6,000 acres and was among the richest men in the county. But through the years he either sold the land or lost it to bad debts and lawsuits.

Moses Choate died in 1867 and was buried on his land grant, in the cemetery where he buried his children.

Afterwards the family sold the homeplace to Dr. J.H. McCardell and he built a new home on this land.⁴² After

⁴¹Ruth Peebles, *There Never Were Such Men Before*, Page 78

⁴²Polk County Deed Records, Vol. K, Pg. 477

McCardells death, his niece, Mary Katherine McCardell Campbell, wife of attorney Farquhar "Fox" Campbell, Sr., lived there.

The widow, Ursula, and her family then moved to Karnes County, Texas where many of the Choate family had resided for years. The study of Choate's complicated genealogy will be left for another day.

I would like to dedicate this work to the memory of my dear friend, J.D. Coogler, who literally grew up on Choate's Creek and knew every nook and bend as it flowed through downtown Livingston. He was a World War II hero, having completed 35 successful bombing missions in Italy as the flight engineer aboard a B-17. Mr. Coogler was a wonderful man and a tremendous historian. He fostered in me the inspiration to write this narrative and I regret that I did not start it until after his death, at the age of 100 ½ on February 24, 2024. I wish that I could share this with him; he would love it the most.

Gary B. Davis