

A. D. 1948.

Frank T. Smith, Notary Public,
Upshur Co., Texas.

Seal.

W. A. Lunsford,
Milton Rash
E. H. Shaw
A. B. Reynolds
D. W. Gatlin

September 13th, 1948.

Commissioners' Court met in regular session with all members present. Motion made, seconded and carried that:

Delinquent tax collecting contract be awarded to E.S. Fritchard to cover period from date through Dec. 31, 1948.

"STATE OF TEXAS

COUNTY OF UPSHUR

I, the undersigned County Attorney of Upshur County, Texas, do hereby acknowledge that the Commissioners' Court of the said County has notified me to file suit for the collection of delinquent taxes in said county; however, due to the fact that it would be physically impossible for me to personally file and handle such suits, and at the same time to properly discharge the other duties of my office, and to the further fact that the statutes do not provide adequate compensation for a County Attorney to file and to prosecute suits for delinquent taxes, but do make adequate provisions for other attorneys to handle the same, I do hereby decline to file such suits and do hereby waive the thirty days' written notice provided in Article 7335, Revised Civil Statutes, and do hereby agree that the Commissioners' Court of said County may contract with some other competent attorney to enforce or assist in the enforcement of the collection of delinquent State and County taxes.

Witness my hand this, the 16 day of August, A.D. 1948.

Looney E. Lindsey, County Attorney
Upshur County, Texas.

STATE OF TEXAS

COUNTY OF UPSHUR

I, Robert Taylor, County Clerk of Upshur County, Texas, do hereby certify that the above and foregoing is a true and correct copy of a certain waiver executed by Looney E. Lindsey County Attorney, of Upshur County, as the same appears of record in Volume 10 page 218 of the minutes of the Commissioners' Court of Upshur County, Texas.

Given under my hand and seal of office, this 16 day of August, 1948.

Robert Taylor, County Clerk,
Upshur County, Texas.

S, al.

RESOLUTION AND ORDER

On this the 15 day of Sept. 1948, at a Regular meeting of the Commissioners' Court of Upshur County, Texas, there came on for consideration the making of a contract for the collection of delinquent taxes, and motion was made by D. W. Gatlin County Commissioner of Precinct No. 4, seconded by E. H. Shaw, County Commissioner of Precinct No. 2, That subject to approval by the Comptroller of Public Accounts and Attorney General of Texas said Commissioners' Court in behalf of said County do make and enter into a contract with E.S.

Fritchard, a licensed attorney, for the latter to collect delinquent taxes in said County for 15% of the amount of taxes, penalty and interest collected, said contract to end on the 31 day of December, 1948, with six months thereafter to complete pending suits, requiring said attorney to give bond in the sum of \$5,000, and to be on forms currently promulgated and recommended by the State Comptroller.

Said motion being put to vote, it carried by a vote of 4 to 0, Those voting "Aye" were:

- D. W. Gatlin
- E. H. Shaw
- A. B. Reynolds
- Milton Rash.

Those voting "No" were:

It is therefore ordered that said contract be prepared and executed, submitted to the Comptroller of Public Accounts and Attorney General of Texas, and if approved by them, recorded in the minutes of this Court.

- W. A. Lunsford, County Judge
- Milton Rash, County Commissioner Precinct #1
- E. H. Shaw, County Commissioner Precinct #2
- A. B. Reynolds, County Commissioner Precinct #3
- D. W. Gatlin, County Commissioner Precinct #4

CONTRACT FOR THE COLLECTION OF DELINQUENT TAXES

THE STATE OF TEXAS |
COUNTY OF UPSHUR | KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the Commissioners' Court, after having given to the County Attorney of Upshur County Thirty days' written notice to file delinquent tax suits, and having received from him a written statement declining the request of this Court to file delinquent tax suits, for reasons therein stated, and waiving his right to the 30 day period and consenting to the Court's entering into a contract with others for the collection of delinquent taxes, without awaiting the 30 day period, and a record thereof having been made in the minutes of said Court; and

WHEREAS, the Commissioners' Court of Upshur County, Texas, joined by the Comptroller of Public Accounts of the State of Texas, deem it necessary and expedient to contract with some competent attorney to enforce the collection of all delinquent State and County taxes for a percent of said taxes, penalties and interest actually collected and paid to the collector of taxes, as provided in Chapter 21, Acts of the Third Called Session of the Thirty-eighth Legislature, Article 7335, Revised Civil Statutes, 1925, Chapter 8, Acts Fourth Called Session of the Forty-first Legislature, Article 7335a, Vernon's Ann. Civ. St.; and Chapter 229, Acts of the Forty-second Legislature, Article 7264a, Vernon's Ann. Civ. St., and

WHEREAS, after making an investigation into the competency, experience and ability of E. S. Fritchard a licensed attorney, whose post office address is Fort Worth, Texas, as to his fitness for said work, and after considering the same, are of the opinion that he is a proper party to take such steps as may be necessary to enforce or assist in the enforcement of the collection of such delinquent taxes by the preparation, filing and pushing to a speedy conclusion all suits for the collection thereof; and that he has no official connection with any county office within said county, and that he is not related within the second degree by affinity or within the third degree of consanguinity to any member of the commissioners' Court, the tax collector, or county or district attorney, now holding office in said County.

NOW, THEREFORE, THIS CONTRACT made and entered into by and between the County of Upshur,

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Texas, a body politic and corporate, acting herein, and by through its Commissioners' Court, joined by the Comptroller of Public Accounts of the State of Texas, hereinafter styled First Party, and E. S. Pritchard of the County of Tarrant, State of Texas hereinafter styled Second Party:

WITNESSETH

I.

First Party agrees to employ and does hereby employ Second Party to enforce by suit or otherwise, and to aid and assist the local officers in the enforcement of the collection of all delinquent State and County ad valorem taxes, penalty and interest, and all delinquent taxes, penalty and interest (except taxes of independent school districts and incorporated cities and towns) due any and all political subdivisions or defined districts of said county and State which the county tax collector received and receipts for, under the provisions of Articles 7254, R.S. 1925, and shown to be delinquent upon the delinquent tax records of said county from 1919 to the date of the termination of this contract as fixed in Section IX hereof, (Including such personal property or insolvent taxes as the Commissioners' Court and Second Party mutually deem collectible.)

II.

Taxes which are not now delinquent but which hereafter during the term of this contract are allowed to fall delinquent shall become subject to the terms of this contract on September 1st of the year in which the same shall become delinquent. And, further, with reference to taxes not now delinquent but which become delinquent during the term hereof, or taxes which may have fallen delinquent on February 1st, or subsequent thereto next preceding the date of this contract, it is agreed that where suit is or has been brought on any property for prior years' delinquent taxes, second party shall include in his action all taxes on the property involved, delinquent before trial, whether before or after September 1st of such year, and where the State and county or impleaded or intervene in a suit brought by another taxing unit, it shall be second party's duty to include in his answer or intervention all taxes delinquent before trial, on the property involved, whether such taxes shall fall delinquent before or after September 1st of such year and in all such cases second party shall be entitled to the commission herein provided for collecting delinquent taxes.

III.

Second Party is to call to the attention of the County tax collector or other officials any errors, double assessments, or other discrepancies coming under his observation during the progress of the work, and all charges on the tax rolls that show from 1919 to the date of the termination of this contract to be delinquent, which are caused through error, conflicts double renditions, illegal assessments, etc. A cancellation certificate shall be prepared on forms furnished by the State Comptroller of Public Accounts, Austin, Texas, showing how such errors came about, and which shall be sufficiently full and complete as to justify the Commissioners' Court in ordering a cancellation certificate issued and that will meet with the approval of the Comptroller of Public Accounts, Austin, Texas.

IV.

Second Party hereby agrees and obligates himself to communicate with each and every person, firm, association or corporation owing any of such taxes, with the view of collecting same and shall, before filing suits for the recovery of delinquent taxes for any year or years, prepare and mail delinquent tax notices to the owner or owners of said property at their last known address, covering all delinquent taxes shown to be due on the tax rolls of said county, as provided for in Article 7324, Revised Civil Statutes, 1925, as amended by Chapter 117, Page 196, Acts of the Forty-second Legislature, Regular Session. In the event the taxes, together

with penalty and interest are not paid within thirty (30) days from the date of such statements and notices are mailed, then Second Party shall prepare, file and institute, as soon as practical thereafter, a suit for the collection of said taxes, penalty and interest, which suit shall include all past due taxes for all previous years on such tract or tracts and where there are several lots in the same addition or subdivision delinquent, belonging to the same owner, or owners, all said delinquent lots shall be made the subject of a single suit, and which suit shall be prosecuted with dispatch to final judgment and sale unless said taxes are sooner collected.

V.

Second Party, where it is necessary to prepare and file suits for the enforced collection of delinquent taxes on real property shall make and furnish an abstract of the property which shall show the amount of delinquent taxes due against each and every tract, lot or parcel of land, and shall show the number of acres so delinquent and a correct description of the property, the year delinquent, how it was charged upon the tax rolls, the correct name of owner or owners of the property at the time it became delinquent, the person from whom and the date that he or they derived title to said property and the volume and page of public records that his or their deed or other title evidence is of record, and the date that each subsequent change of ownership occurred down to the present ownership; it shall further show the name of any and all outstanding lien holders and lease-hold interests of record, and all other information necessary for the proper preparation and filing of suit or suits for the collection of delinquent taxes. And in case such abstract is not placed with the papers in a court proceeding it shall be filed with the tax collector for the purpose of maintaining its preservation until such time as all of the taxes to which it pertains, or such part thereof as are held to be due, are paid.

VI.

Second Party shall prepare or aid and assist the County or District Attorney in preparing all petitions, citations, notices by publication, personal service citation, notices by posting, judgments, notices of sale, orders of sale and any and all other things necessary or required to be done for the collection of all delinquent taxes, and shall render all necessary and proper assistance to each of the other officers to the end that all taxes assessed or unknown and unrendered new delinquent, or that may become delinquent during the life of this contract and be so reported on Comptroller's forms provided therefore, may be collected, and when collections are not made, to assist in reducing same to final judgment and sale.

VII.

It being further agreed and understood that Second Party shall furnish at his own expense, all stationery, legal blanks or forms, stamps, envelopes and printing, together with all labor necessary to complete said contract including labor and expense incurred in procuring data and information as to the name, identity and location of necessary parties and in procuring necessary legal descriptions of the property, and the expenses incurred in citing the defendants by publication, in all cases where such expenses are not collected as costs against the defendant or defendants in the tax suit and that Second Party shall pay off and discharge any and all bills for any other expenses incurred in the prosecution of said work, and it is hereby understood and agreed that said First Party shall not be responsible for the payment of such expense or any part thereof.

VIII.

First Party agrees to pay to Second Party as compensation for the services hereunder required 15 per cent (not to exceed fifteen (15) per cent) of the amount collected of all delinquent taxes, penalty and interest of the years covered hereby, actually collected and paid to the collector of taxes during the term of this contract, of which Second Party is instrumen-

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tal in collecting as evidenced by copies of communication, tax notices or abstracts filed with the tax collector prior to the payment of such tax, including collection of taxes on property not appearing on the assessment rolls nor shown delinquent but which would have been so shown had it been properly assessed, discovered by said Second Party, as and when collected, following the end of each month within the period of this contract, accordingly as the collector makes up his monthly reports; provided, cost of collecting delinquent taxes shall not exceed the amount of penalty and interest, or an amount equal to such penalty and interest of all delinquent taxes collected under the terms of this contract (Chapter 229, Sec. 2, Regular Session Forty-Second Legislature, having reference to regular 8% penalty and 6% interest). The per cent of compensation here referred to shall be contingent upon the collection of such taxes as by act of the Legislature are required to be collected. Should any remission of penalty and interest on taxes appearing on the delinquent records be made by legislative enactment effective during the period of this contract, the same shall not be collected nor commission allowed there on. Also, ad valorem taxes, delinquent, levied against State owned property for county and district purposes, the payment of which is to be taken care of by Legislative appropriation provided for by Statute, are excluded from the provisions of this contract.

IX.

This contract shall be in force from September 15th, 1948, to December 31, 1948, both dates inclusive (Not to extend beyond December 31, 1948, the end of the present administration of the Commissioners' Court), and at the expiration of said period, this contract shall terminate, except the contractor shall be allowed six months in which to prosecute to trial court judgment suits filed prior to Dec. 31, 1948, terminating date of this contract provided, and shall handle to conclusion all suits in which trial court judgments are obtained during the period of this contract and which are appealed by any party. The Commissioners' Court and the State Comptroller shall have the right to sooner terminate this contract for cause giving thirty (30) days' written notice of such intention, with a statement of the cause or reasons for such termination, after giving Second Party a reasonable opportunity of explaining or rectifying the same. In case of such termination, Second Party shall be entitled to receive and retain all compensation due up to the date of said termination.

X.

Before any commissions are paid out under the terms of this contract, Second Party shall furnish a good and sufficient bond, payable to the county judge and to his successors in office, in the sum of \$5,000.00 Dollars, (Not to be less than \$5000 accordingly as the Commissioners' Court deems just and proper) to be executed by a solvent surety company, or if executed by private parties, the bond shall be signed by at least three good and sufficient sureties owning unincumbered real estate subject to execution, of value equal to the amount of bond and conditioned upon the specific performance of the terms hereof, including the making of reports, provided for in Section XI of this contract, and further conditioned that he shall forthwith pay over to the tax collector, or other persons justly entitled thereto, any money or commissions paid him by mistake, through error, or otherwise, to which he is not entitled under the terms of this contract. Said bond shall be approved in open Commissioners' Court, signed by the county judge, filed and recorded in the county clerk's office, and a certified copy of same furnished the State Comptroller.

XI.

At the end of each month, or as soon thereafter as the tax collector shall have made up his report showing collections made for such month, said Second Party shall have access to said report and shall by comparison of the same with his own files or records of service, copies of which he has filed with the tax collector, make up in triplicate a report of collections out

of which he is entitled to commission under the terms of this contract, Second Party shall also have access to the collector's receipts for such collections and shall, in his reports to be made on forms furnished by the Comptroller, show each year and the taxes collected therefor on a separate line; Also, where collections are made after suit has been filed and commission allowed at a greater or different rate under the terms of this contract, Second Party being guided by the file docket of the Clerk of the court, shall prepare and attach to his reports to be filed with the tax collector a list showing number of suit and date filed. After the report has been signed and sworn to by Second Party two copies of the same shall be delivered to the Tax Collector, one to be attached to and sent with the Collector's monthly report to the Comptroller, the other filed in the Collector's office, and the third copy to be retained by the Second Party.

XII.

Each month, after having received copies of the contractor's report as provided for in the preceding section, and checked the list of taxes shown therein with his own report and with copies of communications filed with him, as provided for in Section XIII of this contract, and after having verified the correctness of commissions claimed, the county tax collector is hereby authorized, ordered and directed to deduct the above specified per cent of said taxes, penalty and interest, or such amount as can be allowed under the penalty and interest restriction, to which Second Party is entitled, and to pay the same to him, unless otherwise herein directed and to take his receipt as provided for on Form 107, Contractor's Report, which when received in the Comptroller's office will be the Comptroller's authority to allow the said tax collector credit for the amount so paid; provided, that the tax collector before complying with the provisions of this section shall first satisfy himself that the bond required of Second Party under the provisions of Section X of this contract has been approved and placed on record in the office of the county clerk; and it is here further provided, that should any question arise regarding commission claimed the tax collector shall withhold the payment of such commission or an amount equal thereto, placing the same in escrow, and apply to the State and county, accordingly as they may be effected, for information and direction as to the proper amount of commission due to be allowed under the terms of this contract.

NOTE: Should the Commissioners' Court and the contracting party elect that the commissions withheld be placed in an escrow fund and paid to Second Party otherwise than as provided in Section XII of this contract, another section setting forth the method of payment to the contracting party should be added to and inserted in this contract preceding the last page prepared for the signatures of the contracting parties.

XIII.

In order that the tax collector may be able to verify and attest the correctness of commissions claimed by Second Party, as evidence of service and to entitle him to the commissions provided for in this contract, Second Party shall file with the tax collector prior to time of payment, copies of such communications, tax notices or abstracts which shall be preserved by the tax collector in some systematical order as will make them easily accessible for the purpose of verification or for such other value as the same may have in case it becomes necessary for the County and State to buy in such properties at tax sales, said copy or copies shall also contain such information or reference as will enable the tax collector to readily locate the tax as it appears on his delinquent forms and/or delinquent records.

XIV.

It is further agreed and understood that this contract is for personal services and is not transferable or assignable without the written consent and approval of First Party. It is also agreed that the Commissioners' Court of said county shall furnish suitable space in or near the courthouse as convenient to the records of said county as may be for the purpose of carrying out this contract.

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XV.

It shall be the duty of the Commissioners' Court and of all other officials of said county to cooperate with and render such reasonable assistance to said Second Party as the circumstances may require, said assistance, however, is not to include the actual performance of the work herein designated to be performed by Second Party; and it being the duty of the county attorney or of the district attorney (where there is not county attorney) to actively assist Second Party in the filing and pushing to a speedy conclusion all suits for the collection of delinquent taxes, it is hereby provided that where the county or district attorney (where there is not county attorney) shall fail or refuse to file and prosecute such suits in good faith, the attorney prosecuting suits under this contract is here fully empowered and authorized to proceed with such suits without the joinder and assistance of said county or district attorney.

IN CONSIDERATION of the terms and compensation herein stated, the Second Party hereby accepts said employment and undertakes the performance of said contract as above written.

WITNESS the signatures of all parties hereto in triplicate originals, this the 13 day of Sept., A.D. 1948, Upshur County, State of Texas.

By W. A. Lunsford COUNTY JUDGE

- Milton Nash, Commissioner, Precinct No. 1
- E. H. Shaw, Commissioner, Precinct No. 2
- A. B. Reynolds, Commissioner, Precinct No. 3
- D. W. Gatlin, Commissioner, Precinct No. 4

FIRST PARTY

E. S. Pritchard

SECOND PARTY

THE STATE OF TEXAS

DEPARTMENT OF COMPTROLLER

I, the undersigned, Comptroller of Public Accounts of the State of Texas, hereby join the Commissioners' Court in the above contract to enforce the collection of delinquent taxes in said county, on this the 20 day of Sept., A. D. 1948.

Geo. H. Sheppard, Comptroller.

Examined and approved this 17 day of Sept. 1948.

Price Daniel,
Attorney General.

Filed Sept 27, 1948, at 4:05 o'clock P. M. Robert Taylor, County Clerk, Upshur County.

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BOND OF DELINQUENT TAX COLLECTOR

THE STATE OF TEXAS |
COUNTY OF UPSHUR |

KNOW ALL MEN BY THESE PRESENTS:

That we, E.S. Prichard as Principal, and Standard Accident Insurance Company, Detroit Michigan as sureties, are held and firmly bound unto W.A. Lunsford, County Judge of Upshur County and his successors in office in the just and full sum of Five Thousand Dollars, for the payment of which we hereby bind ourselves and our heirs, executors and administrators, jointly and severally, by these presents.

Whereas, the said E.S. Prichard, a licensed attorney whose address is Fort Worth, Texas, has by means of a written agreement dated Sept. 13th, 1948, entered into a contract with the Commissioners' Court of Upshur County, for the collection of certain delinquent State and County taxes, during the term beginning September 13th, 1948, and ending December 31, 1948, a copy of which agreement is by reference made a part hereof.

Now, therefore, the condition of this obligation is such that if the said E.S. Prichard shall faithfully perform the services required of him by the terms of said contract, including the making of reports provided in Section XI thereof and shall fully indemnify and save harmless the said County of Upshur from all cost and damage which it may suffer by reason of his failure to do so, and shall fully reimburse and repay the said County of Upshur all outlay and expense which the said County may incur in making good any such default, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

IN TESTIMONY WHEREOF, witness our hands

E.S. Prichard, Principal
Standard Accident Insurance Company, Surety
By C. H. Butt, Attorney-in-Fact.

Seal.

POWER OF ATTORNEY
STANDARD
ACCIDENT INSURANCE COMPANY
Detroit, Michigan.

KNOW ALL MEN BY THESE PRESENTS: That the Standard Accident Insurance Company by J.A. Mullen its Vice-President in pursuance of authority granted by Section 10A of the By-Laws of said Company, a copy of which section is hereto attached, does hereby nominate, constitute and appoint C. H. Butt of the City of Dallas, State of Texas its true and lawful agent and attorney-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed any and all bonds and undertakings, except bonds guaranteeing the payment of principal and interest of notes, mortgage bonds and mortgages, in penalties not exceeding Two Hundred Thousand (\$200,000.00) Dollars each, in its business of guaranteeing the fidelity of persons holding places of public or private trust, and in the performance of contracts other than insurance policies, and executing and guaranteeing bonds or other undertakings not exceeding Two Hundred Thousand (\$200,000.00) Dollars, each as aforesaid, required or permitted in all actions or proceedings, or by law required or permitted.

All such bonds and undertakings as aforesaid to be signed for the Company and the Seal of the Company attached thereto by the said C. H. Butt, individually, as occasion may require. And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and Purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Detroit, State of Michigan, in their own proper persons.

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IN WITNESS WHEREOF, the said J.A. Mullen has hereunto subscribed his name and affixed the Corporate Seal of the said Standard Accident Insurance Company this 27th day of December 1940.

Standard Accident Insurance Co.
by J. A. Mullen, Vice-President.

STATE OF MICHIGAN |
 | ss.
COUNTY OF WAYNE |

On this 27th day of December, A.D. 1940 before the subscribed a Notary Public of the State of Michigan, in and for the County of Wayne, duly commissioned and qualified came J. A. Mullen Vice-President of the Standard Accident Insurance Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer was duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Detroit, the day and year first above written.

Martha Tanner, Notary Public.
My Commission Expires December 23, 1942.

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Extract from the By-Laws of the STANDARD ACCIDENT INSURANCE COMPANY, adopted by the Board of Directors of said Company on August 1, 1922 as Section 9A, and readopted February 14, 1928 as Section 10A.

"The President, or any Vice-President, shall have power and authority to appoint resident Vice-Presidents, resident Assistant Secretaries and Attorneys-in-fact and to authorize them to execute on behalf of the Company and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

I, J. A. Mullen Vice-President of the STANDARD ACCIDENT INSURANCE COMPANY hereby certify that the foregoing is a true copy of Section 10A of the By-Laws of said Company, and is still in force.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name as Vice-President and affixed the Corporate Seal of the STANDARD ACCIDENT INSURANCE COMPANY this 27th day of December A.D. 1940.

J. A. Mullen, Vice-President.

Seal.

I. T. L. Sedwick, Assistant Secretary of the Standard Accident Insurance Company hereby certify that the foregoing is a true and correct copy of Power of Attorney issued on behalf of C. H. Butt, and that same is still in force.

T. L. Sedwick, Assistant Secretary.

SUBSCRIBED AND SWORN TO BEFORE me this 13th day of September, 1948.

Ethel A. MacLean,
My Commission Expires November 14, 1950.

Seal.

CERTIFICATE OF COUNTY JUDGE

THE STATE OF TEXAS I
COUNTY OF UPSHUR I

The foregoing bond of E.S. Fritchard, holding contract for the collection of State and County delinquent taxes in Upshur County, Texas, was read and approved in open Commissioners' Court, this the 11th day of October, 1948.

W. A. Lunsford County Judge
Upshur County, Texas.

Filed for record October 27, 1948, at 2:06 o'clock P. M.

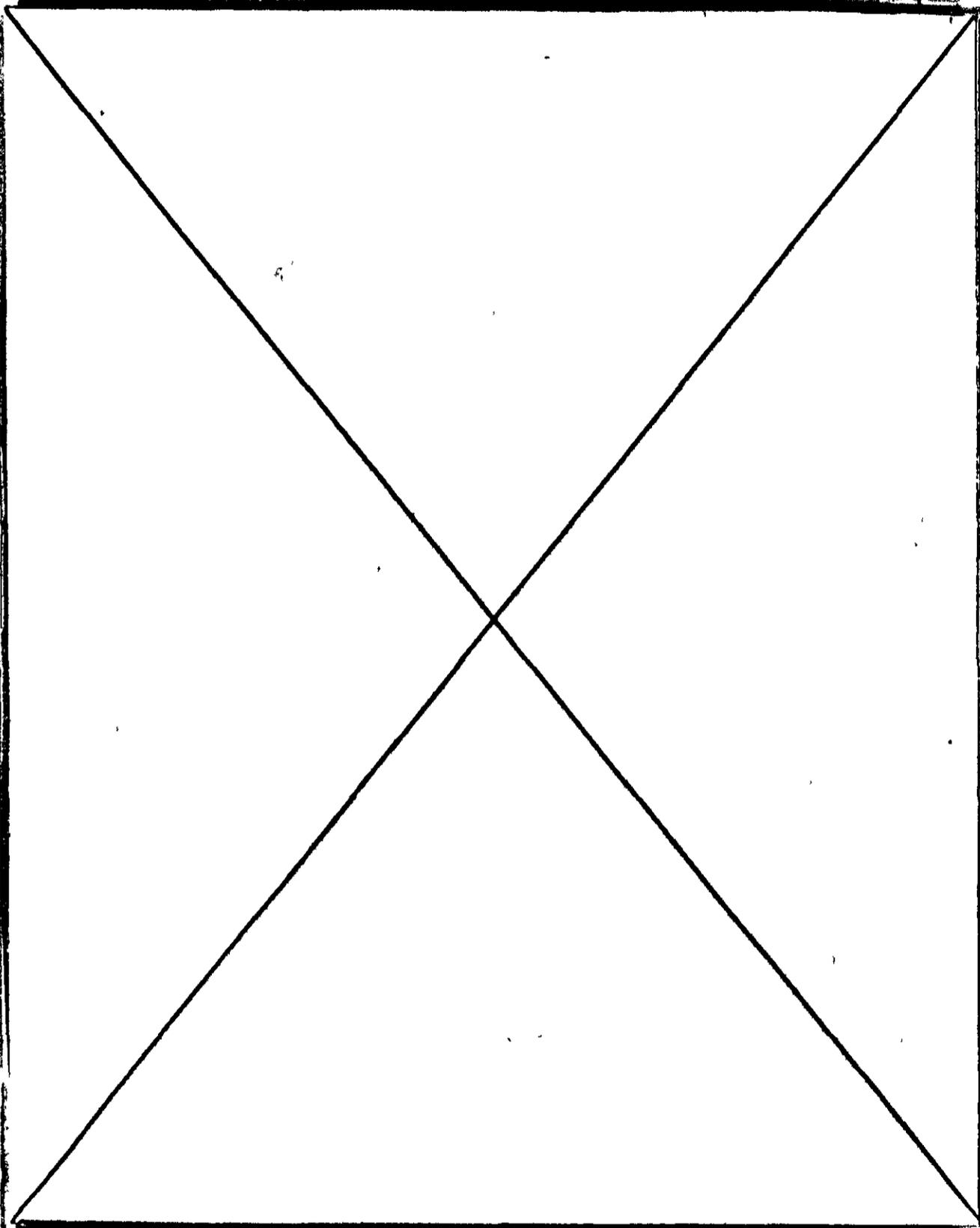
Recorded on this October 27, 1948, at 2:05 o'clock P. M.

Robert Taylor, County Clerk,
Upshur County, Texas.

by _____ Deputy.

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