

CHAPTER K

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James Hunter, Jeremiah Moore and George Johnston were appointed commissioners by the Fairfax County Circuit Court and ordered "to ascertain what would be a just compensation to the owners of the land proposed to be taken by the Alexandria, Loudoun and Hampshire Rail Road Company for its purposes" (W3/51). These commissioners "met together" on 15 and/or 16 November 1854 on each of the lands from which property was to be dedicated (sold) to the railroad and "upon a view of the land . . . and upon such evidence as was before us, we ascertained that, for the said land and for the damage to the residue of the tract, beyond the peculiar benefits to be derived in respect to such residue, from the work to be constructed . . . " what would "be a just compensation." As part of this "just compensation" the commissioners included a specific amount for the construction of "good and substantial fencing."

The Circuit Court, during its February 1855 session, ordered each individual land owner to appear before the Court on the first day of its next session "to show cause why the said report should not be confirmed and recorded." Apparently none of the land owners disputed the findings of the commissioners, or if they did they were not convincing, for in each instance, on 19 March 1855, the report of the Court commissioners was "confirmed and ordered to be recorded."

The specific metes and bounds of each parcel of land conveyed to the railroad on 19 February 1855 are:

- Land of Jane Farr and heirs (W3/52)
 - a: begin on boundary line between the lands of Jane Farr and Benjamin Thornton on the northern side of and 50 feet from the point at which the center line of the railroad as now located intersect said boundary,
 - b: -- (ba*: with Farr/Thornton boundary, crossing center line, S 45° W 100 feet),
 - c: boundary line between Jane Farr and Thomas Cox (cb: N 45° W 4518 feet),
 - d: -- (dc: with Farr/Cox line, crossing center line of railroad, N 30° 30' E 108 feet),
 - a: beginning (ad*: S 45° E 4542 feet).

10.42 acres

Just compensation: \$556, which includes \$415 for good and substantial fencing.

* Lines ad and ba "being parallel to and fifty feet from said center line."

THOMAS COX

JANE FARR

N
1"=620'

BENJAMIN P. THORNTON

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● Land of Thomas Cox (W3/50)

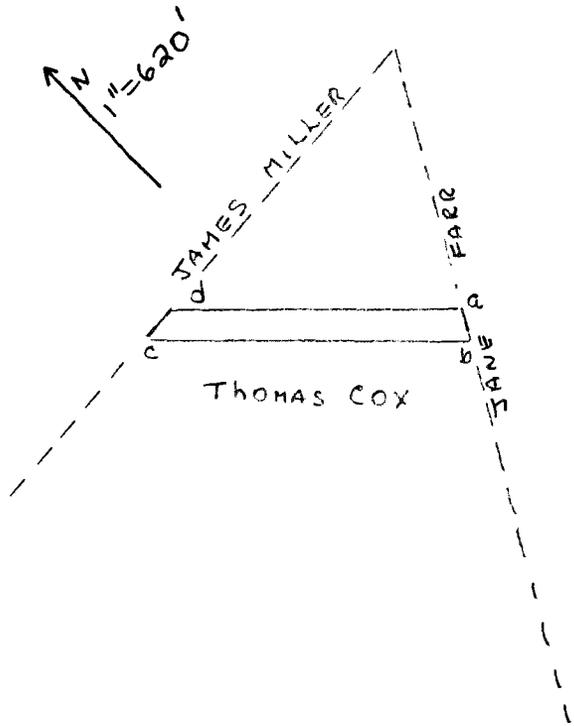
- a: begin on the boundary line between Cox and Jane Farr on the northern side of and 54 feet from the point at which the center line of the railroad as now located intersects Cox/Farr boundary,
- b: -- (ba*: with Cox/Farr boundary, crossing center line, S 30° 30' W 108 feet),
- c: boundary line between Cox and James Miller (cb: N 45° W 1085 feet),
- d: -- (dc: with Cox/Miller line, crossing center line, N 58° 30' E 138 feet),
- a: beginning (ad*: S 45° E 942 feet).

2.31 acres

Just compensation: \$150 which includes \$87.50 for good and substantial fencing.

* Lines ad and ba "being parallel to and fifty feet from said center line."

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● Land of James Miller (W3/58)

- a: begin on boundary line between Miller and Thomas Cox on the northern side of and 69 feet from the point at which the center line of the railroad as now located intersects Miller/Cox line,
- b: -- (ba*: with Miller/Cox, crossing center line, S 58° 30' W 138 feet),
- c: boundary line between Miller and Henry A. Kipp (cb: N 45° W 2000 feet),
- d: -- (dc: with Miller/Kipp, crossing the center line, N 6° 30' E 134 feet),
- a: beginning (ad*: S 45° E 2170 feet).

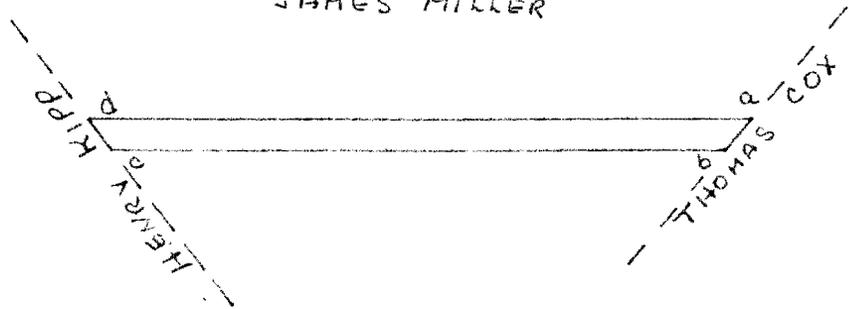
4.80 acres

Just compensation: \$400 which includes \$185 for good and substantial fencing.

* Lines ad and ba "being parallel to and fifty feet from said center line."

N
11620

JAMES MILLER



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● Land of Henry A. Kipp (W3/56)

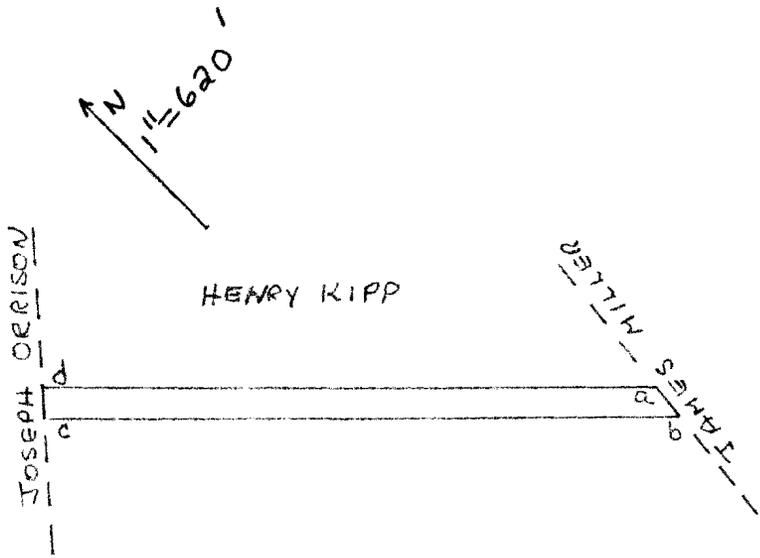
- a: begin on the boundary line between Kipp and James Miller on the northern side of and 67 feet from the center line of the railroad as now located at the intersection with the Kipp/Miller line,
- b: -- (ba*: with Kipp/Miller line S 66° 30' W 134 feet, crossing center line),
- c: boundary line between Kipp and Joseph B. Orrison (cb: N 45° W 2072 feet),
- d: -- (dc: with Kipp/Orrison N 41° E 100 feet, crossing center line),
- a: beginning (ad*: S 45° E 1998 feet).

4.68 acres

Just compensation: \$450 which includes \$178.50 for good and substantial fencing.

* Lines ad and ba "being parallel to and fifty feet from said center line."

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● Lands of Joseph B. Orrison (W3/60)

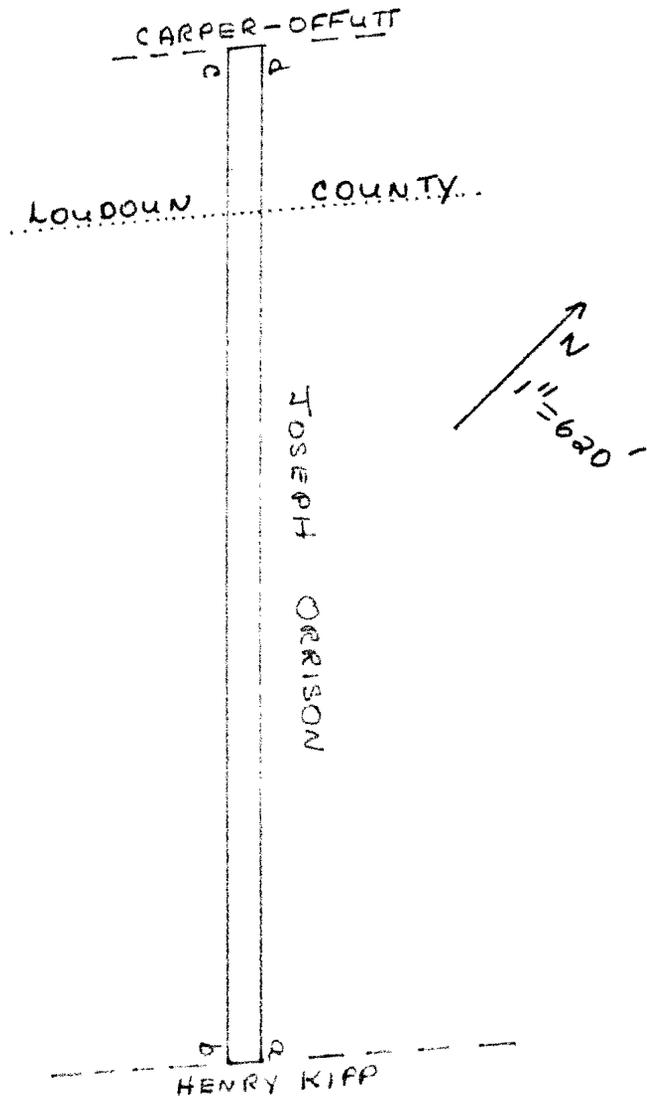
- a: begin on boundary line between Orrison and Henry A. Kipp on the northern side of and 50 feet from the point at which the center of the railroad as now located intersects the Kipp/Orrison line,
- b: -- (ba: with Kipp/Orrison, crossing center line of railroad, S 41° W 100 feet),
- c: boundary line between Orrison and Mrs. Carper and Mrs. Offutt (cb: N 45° W, crossing the Fairfax-Loudoun line, 3300 feet),
- d: -- (dc: with Orrison/Carper-Offutt, N 41° E 100 feet, crossing center line of railroad),
- a: beginning (ad: S 45° E, crossing county line, 3300 feet).

7.59 acres

Just compensation: \$450 which includes \$258.75* for "330 panels good and substantial fencing."

A note was added after the completion of the deed adding "\$15 for five poles in length on the side next to Mrs. Carper by mistake of Mr. Orrison not included in the survey."

* The eight is not clear in the deed--could be a different number.



A rather intriguing exercise is to determine the price per acre given to each owner as well as the price per foot of fencing the owner was allowed. The following table assumes that each owner was compensated for fencing only along his footage parallel to the railroad right-of-way (fence across the right-of-way might impede the movement of the trains, especially if the fence really was "good and substantial"):

	Price per <u>acre*</u>	Price per <u>foot of fencing</u>
Jane Farr	\$13.53	\$0.0458
Thomas Cox	27.06	0.0432
James Miller	44.79	0.0444
Henry Kipp	58.01	0.0439
Joseph Orrison	25.19	0.0415 [includes the extra \$15]

* This price was determined by taking the total compensation, subtracting the amount for fencing and dividing by the total acreage.

This little chart is interesting because it, as with everything in this meandering history of Herndon's land, is surprising and allows several, unanticipated, different modes of thought to wiggle their way to the surface. One, somehow gratifying, rationale for the striking disparity in the value the court commissioners placed on the several parcels of land is that Messers. Hunter, Moore and Johnston (or at least a voting majority

of them) were a rarity among bureaucratic history--people who honestly considered the relative merits and values of several pieces of property and who, rather than just applying an "average" value to all of the land and thereby trying to avoid annoying anyone too severely, tried to critically compare the values and assign meaningful distinctions in relative value. This could account for the spread in land value, but then so could the less lofty observation that the phrase that the commissioners "upon such evidence as was before us" decided fair value of the land really meant that some land owners were more persuasive than others in pleading the "economic harm" they would endure by the sale of this land or that the commissioners might have been influenced by other forms of persuasion than pure logic.

It is rather confusing though, as why the land should increase in value the closer to the Loudoun line it became (except for the one parcel which crossed into Loudoun); it is not at all clear what could actually be different along this two mile stretch that could actually create any appreciable disparity in economic value.

This speculation, of course, leads only to the conclusion that the land values were different but does not lead to any really supportable conclusions as to why the differences.

Of course, one might wonder if there were mistakes in the deeds in recording the dollar compensation. This does not seem very probable since the price per foot of fencing is very consistent for all five parcels which lends some credibility to the speculation that the commissioneers did make a serious effort to arrive at fair values (e.g., they took the time to determine a fair price of fencing, calculate the length of fencing required and, consequently, a fair compensation for installing a fence).