

CURTIS MAITLAND BROWN

Professional Land Surveyor

By: Michael J. Pallamary, PLS

In order to properly explain the importance of Curtis Brown upon the surveying profession, I would like to seek the reader's indulgence. My own experiences are perhaps typical of others. I began my surveying career in Boston, Massachusetts in 1971. After graduating from Boston Technical High School, I took a job with a surveying company in what was supposed to be a summer job. I never looked back.

After attending school at Wentworth University, I relocated to San Diego in 1976. Two years later I attended Mesa College to further my surveying education. As luck would have it, my instructor was a most inspirational man, Charles (Chuck) Safford. As a direct result of his efforts, I was introduced to Curt's works, *Boundary Control and Legal Principles and Evidence and Procedures for Boundary Control*. I immediately took to these books and as I studied these wonderful works, I readily observed that the vast majority of the cases and examples cited therein were all drawn from the San Diego area. In pursuit of my fascination with Curt's work, I began gathering copies of the various maps found within the book. In essence, I was following in Curt's footsteps.

I then began to inquire of Curt and I was delighted to learn that he lived in La Mesa, a small city located east of San Diego. When I asked around, I learned that he had retired and had not been active for some time. After making a few calls, I took the initiative to contact him and I was delighted when he took my call. Following a brief conversation, we agreed to meet and in short order we became friends. Over the years to follow, we spent many wonderful hours together. Although Curt's technical reputation preceded him, I came to know him for his wonderful sense of humor. To this day, I can still hear his infectious laugh, as he'd share one of his jokes with me.

As our friendship developed, we talked about writing a book about local history. Curt, to his credit, knew his health was diminishing. If we were to write a book, we would have to move the project along. And we did. In 1988, we published our book. In the years to follow, we were always delighted to receive unsolicited phone calls from other surveyors who had profited from the information found in that book. Thanks to Curt, a legion of local surveyors have learned to avoid many of the county's problem areas.

My friend, Curtis Maitland Brown was born in Maine on December 16, 1908, the third of five children born to Ona May (Wright) and Royal Caleb Brown. He and his family relocated to San Diego in June 1909. His father was a surveyor for the San Diego & Arizona Eastern Railway and, for a utility company.

Curt attended San Diego State College for lower division work and graduated with from the University of California at Berkeley with an engineering degree in 1932. For his work on a thesis, "The Gas Lift," and for a high scholastic grade average, he was awarded honors at graduation. He also lettered in track. His skills as a runner would help him in the surveying profession. Many years later, Curt could still hold his own with younger surveyors who tried to keep up with him in the field. For a short time, Curt worked at the San Diego natural History Museum. In 1936, Curt married Thelma Larkin of San Diego. Two years later, their son Patrick,

later to be a civil engineer, was born. In 1940, the Browns moved to Rancho Santa Fe where they built their first of six homes, all of which were built by Curt. In 1941, their second son, Thomas was born.

In 1938, before embarking in earnest in his surveying career, Curtis and Thelma began showing purebred dogs. They began with Beagles and later went on to Poodles and Dachshunds. Curt and Thelma spent much of their time with their dogs and in soon Thelma began judging dogs. She soon became an internationally recognized dog fancier and judge. In 1954, the Browns collaborated on a book "The Art and Science of Judging Dogs." Later, Curt wrote a fascinating book entitled "Canine Locomotion and Gait Analysis,' relying in large part upon his extensive knowledge of engineering.

In 1947, the family returned to San Diego and settled in la Mesa where they remained for 47 years. In the following year, Curt obtained his license as California Licensed Land Surveyor No. 2554 whereupon he became a principal in the Surveying-Engineering firm of Daniels, Brown and Hall.

Following graduation, Curt applied himself further and in 1954, the San Diego chapter of the California Council of Registered Engineers and Licensed Land Surveyors announced publication, under its sponsorship, of Curt's first book simply entitled "Boundary Control for Surveyors in California." At the time, Curt was an instructor at San Diego Vocational School and Junior College. Curt compiled the book in his capacity as chairman of the Education Committee of the Council. ACSM described the book as follows:

This 148 - page publication does not discuss the use of surveying instruments nor the mathematical details of surveying, as the title may imply, but presents the rules governing California surveyors in the establishment of boundaries as provided by statutes and the common law of the land. Statutes are quoted, court cases are summarized, and definite rules for surveying are presented. This book will be found to be an invaluable aid to surveyors in California in solving their everyday boundary survey problems.

The introduction to the book describes its purpose as follows: "Laws are but rules of conduct established by legislative action and enforced by the courts. Everyone is presumed to know these rules and, as is commonly quoted, 'Ignorance of the law is not an excuse.' It is doubtful if any man ever knew all the laws of the land, but a person can learn most of the laws pertaining to the particular field of endeavor he is engaged in. Surveying is one of those professions in which it is essential [for the practitioner in that field] to know all the rules for his conduct so that he will correctly and properly delineate the boundaries of real property during the course of his duties.

"The rules of conduct for surveyors would include (1) the statutes of the State, (2) the local ordinances, (3) the common law of the State, (4) the usual custom of fellow surveyors, and (5) a code of ethics....". . . If surveyors are to maintain an honorable position in the community, it behooves them to have a better understanding of the laws of the land and better agreement among themselves....

"In this treatise on the laws and rules governing the conduct of surveyors, it is hoped that a more uniform standard for surveying boundaries will be obtained."

The book sells for \$2.14, which includes tax and postage. It may be obtained from Curtis M. Brown, 2375 San Diego Ave., San Diego, Calif.

(EDITOR'S NOTE. - -This book will be reviewed in the next issue of SURVEYING AND MAPPING.)

When ACSM and its members reviewed his book, it was received with mixed reviews. The review and associated commentaries are reprinted in whole. Of the varied responses, I found William Wattles' comments most intriguing. One suspects a discrete rivalry existed between the two men.

This book, although written from the viewpoint of California law, contains much useful everyday information of value to all surveyors. It is very readable, written very much to the point, and has been well illustrated.

The contents include a chapter on general legal principles which defines the terms commonly used in survey work and also emphasizes the order of importance of the elements involved in a good deed. A chapter on resurveys of subdivisions explains in some detail, and with appropriate illustrations, the techniques to be applied in re - establishing property boundaries. A similar treatise details the problems which face the surveyor in metes and bounds surveys. Other sections of the book cover such subjects as vacations, reversions, riparian owners, adverse rights, and the expert witness.

For some years the Property Surveys Division of ACSM has been interested in developing a handbook for the practicing land surveyor. This publication meets many of the objectives set forth by the Division and might well serve as a model for similar publications in other States.

(EDITOR'S NOTE. - Mr. Brown's book has precipitated much discussion, pro and con. We present below extracts from three letters received by Secretary Dix concerning the book.)

W. C. WATTLES - Mr. Brown's book is a good brief abstract of the statutes and case citations of California, and provides a fair reference work for such matters, including the Subdivision Law and the Licensed Surveyors Act. There are numerous comments, problem diagrams, and statement explanations, which in the main are correct basic procedure.*

My criticism is concerned, principally, with the academic style of recital. The "rules" laid down are basic and generally usable, but are too rigid for the subject matter. There are practically no rules which are 100 percent applicable without some qualification. This applies to the statutes and citations also; every problem requires interpretation of rules in multiple, the "majority probability" attitude; this phase is lacking in the book.

Except for collateral reference, and comparison use of comments made therein on certain procedures, the book does not appear designed to be of too great weight outside California. As a matter of fact, the text itself is specifically California.

As to chapter one, and the introduction, the above statements as to inflexibility are pertinent. The definitions are in several cases insufficient; they imply certain conditions which are not always correct. He who reads must scan between the lines for possible proper interpretation.

General California review will very probably be favorable, and rightly so up to a point, but acceptance without question or analysis will cause difficulties.

The book will be valuable in the hands of those who have the training and experience to

evaluate it, but dangerous to those of lesser capacity; blind acceptance leads to pitfalls.

I have talked with others here about this book and have had similar reaction. One comment (and accepted by the author) is to the effect that there should have been more interspersing of the phrase "but the contrary may be shown."

The book is a necessary project but I feel a revision and modification should be had before ACSM can give it 100 percent support. I haven't had opportunity to discuss the book fully with Mr. Brown, but the short time I spent with him leads me to believe he would be glad to cooperate in smoothing out rough spots.

S. A. BAUER - My impression of the book was very much in line with the opinion of our good friend, Bill Wattles. It is a noble effort to get out such a book, as my experience with the Handbook proves, but I am inclined to agree that in the over - simplification and in the positiveness with which Mr. Brown expounds his views, the book could easily become a damaging rather than a helpful document. I feel that experienced men who know that such matters must be carefully weighed and judged will not need the book particularly, whereas the inexperienced will get the completely erroneous idea that the rules are as inflexible and rigid as Mr. Brown makes them out to be. The difficulty and charm of our very trying profession lies in the fact that no rule is absolute and there is no substitute for intensive study, investigation, and sound judgment. I think the Congress should be very careful not to promote the idea of over - simplification of a complex legal and engineering composite job.

There has been, since the war, a considerable trend in professions toward watering down in order to facilitate work. With all this talk of a shortage of engineers" there is a growing tendency toward this watering - down process. It can only serve to debase the profession and damage the public welfare. On the other hand, efforts such as the one Mr. Brown has made should not be discouraged, but I do think that all efforts should be made to have such documents present a truer picture of the situation than the one presented.

C. R. HERR - So far, most, if not all, comments in regard to the book have been quite favorable. At a meeting of the executive committee of the Southern California Section of ACSM, I asked several members what their reactions were with regard to the book, and they were all of the opinion that it was quite a good and worthwhile treatise.

The book is short, but gives many references to be studied further by those in need of a particular point in question. I feel quite certain that, if every practicing surveyor in California would take time to study this book and then follow the rules and regulations as outlined, there would be a better job of surveying done by the profession as a whole.

I have ordered twelve copies for Pasadena City College to use in my class in plane surveying and hope that the boys can get a better idea of what boundary surveying means.

Curt followed up his California work with another book, co-authored by Fred H. Landgraf, Attorney-at-Law. The book was based in large upon the material he generated while researching his book on California surveying.

As Curt's prominence in the surveying profession elevated, ACSM took notice and in July 1957, ACSM Chairman A. Phillips Bill appointed Curt to the organization's prestigious Property Surveys Division. He was joined by the noted authority, William C. Wattles.

Buoyed by the success of his two books, Curt began traveling on the lecture circuit. Across the country he made presentations to various groups. Typical of his efforts was a 1961 presentation at the Ninth Annual Convention of the California Council of Civil Engineers and Land Surveyors held in Sacramento. The program, entitled "Best Available Evidence" was well received.

In 1962, Curt and another good friend, Winfield H. Eldridge published another book, soon to become a staple in every surveyor's library. Published by John Wiley & Sons, Inc. of New York, "EVIDENCE AND PROCEDURES FOR BOUNDARY LOCATION" was 484 pages in size and measured 6 by 9 inches.

The illustrated book sold for \$9.75. According to the late Walter S. Dix, writing on behalf of ACSM:

To those who have read Curtis Brown's "Boundary Control and Legal Principles," this is the work they have been waiting for. Those who know Curtis Brown and Winfield Eldridge personally or by reputation will buy the book on merit.

Close to 500 pages, the work is a plainly stated and cryptic assembly of facts, rules, advice, and the wisdom of experience that belongs in any library of a professional surveyor with interest in legal boundary or property line surveying.

One could elaborate on its 17 chapters, but the words "Evidence" and "Boundary Location" of book's title should be enough to describe its contents. Besides the typical law and its pertaining precedent, Chapter 8 on "Measurements, Errors, and Computation" Chapter 15 on "Writing Descriptions," Chapter 16 on "The Surveyor in Court," and last but not least, Chapter 17 "Professional Stature," not much else should be needed to recommend the book to every serious land surveyor in the United States. In my opinion, this book will be a college textbook.

In 1969, John Wiley and Sons published the second edition of BOUNDARY CONTROL AND LEGAL PRINCIPLES. The 371 page hardcover book sold for \$12.00. One of Curt's peers, A. Phillips Bill, RLS & PE reviewed the book on behalf of ACSM and its members.

The identification of and the resurvey of the boundaries of previously defined parcels of land involve elements both of the arts and of the sciences. The arts dominate in the analysis of the legal record of descriptive title, the evaluation of this against the record on the ground, and in the presentation of the surveyor's conclusions to his client and to the future record. Science is served in the measurements made by the resurveyor designed to make his findings more useful to the future use of the parcel of land surveyed, and in his considered efforts to make the remonumentation of the parcel more easily available and understandable to the future.

Reference material for the Land Surveyor has always been more than adequate in the scientific aspects of resurvey. However, source material available in the art of the resurveyor has been, at best, fragmentary.

Mr. Brown's definitive text BOUNDARY CONTROL AND LEGAL PRINCIPLES fills a gaping void on the reference shelf of the Land Surveyor, by its thorough treatment of the art of the Surveyor.

Your reviewer, for example, has always felt that Land Survey practice in the area of his first interest (New England) was so insular and so dependent on case

law in the region that analogies would be rare to surveys in other parts of North America.

Thanks to Mr. Brown's book I find that basically the same law and the same responsibility govern the function of the re - surveyor no matter where he practices.

Subject matter is extremely well presented in a simple, logical style and the various aspects of evidence are analyzed clearly and succinctly. The text is well indexed to the drawings illustrating the various problems. I like the illustrations particularly as they simply and clearly augment the text and are not all cluttered up with a lot of extraneous material not really pertinent to the problem being discussed.

All in all, it is hard to criticize any facet of this most important contribution to the literature of our profession.

No Land Surveyor, either in practice or in training, can afford to be without this most important text!

As Curt continued in private practice and his devotion to ACSM and his family, he continued refining his work and in 1981, Wiley and Sons published the second edition of *Evidence and Procedures for Boundary Location*. He was joined by two of the profession's most respected and prominent men, Walter G. Robillard, and Donald A. Wilson. The illustrated, 450-page hard cover book sold for \$38.95. ACSM member James A. Thigpenn, III reviewed the book on behalf of ACSM.

The second edition of the well - known text book on land surveying, originally co-authored by Curtis M. Brown and the late Winfield Eldridge, is a great deal more than a warmed - over version of the original work. Without diminishing the authority of a text enjoyed and respected for nearly 20 years, the authors have obviously reviewed every section of every chapter with a view toward the improvement of both the information and the readability of the material contained therein.

Although a substantial portion of the original publication forms the foundation of the second edition, the many additions, deletions, and revisions found throughout the later version have induced a separate character and a finely tuned statement of matters relating to the practice of land surveying. The most noticeable improvement in the new edition is the inclusion of a chapter on professional liability immediately following an enlarged chapter on unwritten transfers of land ownership, which contains most of the material formerly covered in two chapters plus some additional information. There is also a new chapter on apportionment procedures for land and water boundaries, covering vacated streets, accretions, and relocations adjoining water boundaries, excess and deficiency, fractional conveyances, wills, and other proportional rights in general and in view of recognized differences in various state laws affecting such divisions.

Other chapters have been improved by the inclusion of additional pertinent information, or by restatements of the same material to give a clearer, or more complete picture to the reader. In some instances the changes amount only to a few words dropped, or added, but in other cases,

such as the very important chapter on evidence, changes were noted in more than one - half of the 63 subtitled sections, varying from minor word changes to the addition of several pages of information. A similar expansion of the scope of the original material is found in the chapter dealing with professional stature, and to a lesser degree in other parts of the text. Much of the material added to the text represents the recognition of unique problems in some of the eastern states, as well as reflecting the growing interest of the members of the land surveying profession in the legal aspects of their performance.

It should suffice to say that the established respect for the original text, generated in part by the identity of its contributing co-authors, Brown and Eldridge, could not suffer in its new association with other co-authors of the ilk of Robillard and Wilson.

Besides his other work with the American Congress on Surveying and Mapping, Curt served the Property Surveys Division as chairman of the Legislative Committee and as both Second Vice Chairman and First Vice Chairman of the Division. Curt also served as a part-time college instructor for various subjects, mainly the legal elements of property line determination. As a partner in the firm of Daniels, Brown and Hall, he was in private practice for many years. Writing and teaching have been in the nature of hobbies; his primary interest is in property surveying. He has appeared as a speaker at many of the annual surveyor's conventions: Utah, Wisconsin, Illinois, Michigan, Arizona, California, and Minnesota.

He also spent considerable time as a speaker and lecturer on the legal aspects of surveying, and has taught courses in Land Surveying at San Diego City College. Last year he taught at the Geometronics Institute at Purdue University, and he is scheduled to teach there again this summer.

I believe no discussion of Curt would be complete without additional mention of his wry sense and appreciation for humor. Typical of his humor was his inclusion of an amusing letter published in the otherwise staid "Comment and Discussion" column in the ACSM journal. The article, entitled COLORFUL COMMENTS-COLORFUL MARKS-COLORFUL REMARKS undoubtedly left a mark on the reader.

CURTIS M. BROWN, San Diego, California - Irate neighbors, especially if they are teetering on the brink of sanity, create problems. When locating a disputed line, a hole was dug through asphalt coating in the street (to locate a monument) and lead and discs were set in the sidewalk area as offset markers. The usual fluorescent paint was put around the offset markers, and property corner markers set pink laths. During the survey, the neighbor had to drive around the transit and a street sweeper drove around a parked surveyor's truck. In the letter of complaint, the following was written to the surveyor's client (spelling and grammar uncorrected). The lady (?) was unable to complain about the survey, but she certainly could complain about everything else.

Dear _____,

I told you, and I thought I spoke truthfully, that I would not (could not) be disturbed by the surveyors. I was wrong.

Where most surveyors are content with an unobtrusive little lead mark in the concrete, this megalomaniac uses fluorescent pink paint to underscore his (to his mind) virtuoso performance and definitive drawing of the property lines.

I refuse to believe that my house sits on the property line. Unfortunately, that section of sidewalk which had the lead mark is now gone. Fortunately I'm not interested in putting up a brick wall nor in selling, so it is of little import. Neither am I impressed or convinced except in the following manner:

I am impressed with the man's imperious oafness in directing me where to drive and where to park as if I were an incompetent nincompoop, and blind to boot so that I can neither see him or his tripod. I told him I was sufficiently irritated that by parking where he did, and imperiously directing the street sweeper to avoid his instruments, the sweeper also missed my very dirty street.

No one ever accused me of being reasonable or mild -mannered and your surveyor probably will nominate me for Bitch-of-the Year. And I guess you know I couldn't care less. And I fully intend to remove that garish phosphorescent pink crap from the walk, and its matching pink stick from my/your flowerbed.

I understand according to this mental giant I have suddenly come into possession of a man hole. How I wish I'd always wanted a manhole, and to have my house on someone's property line.

I don't care enough about it to pay for my own survey, which like yours is going to favor the person employing the surveyor. But I don't put this much credence in his line.

However, I'm not gonna fight, dispute, or worry about it. I do tell you I am prepared to ignore it, my original departure point. Lots of luck on whatever made the whole thing important to you.

(Signed) _____

P.S. If that "reference point he claims to have located in the street adjacent to Ross's driveway is more than too unnecessary and unrevealing holes in the asphalt, I may be as blind, and about as stupid as he takes me for.

Curtis Maitland Brown died on March 4th, 1993. He will be sorely missed. To Curt, I thank him for his words of wisdom: "Unless the contrary can be shown."