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Boundary Control and Legal Principles. By Curtis M. Brown.

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BOOK REVIEWS

BOUNDARY CONTROL AND LEGAL PRINCIPLES. By Curtis M. Brown.¹ New York: John Wiley & Sons, Inc. 1957. Pp. ix, 275.

The author ambitiously introduces his works as follows:

Attorneys, because of their legal skill, are eminently qualified to compose the operative portions of deeds. Surveyors, because of their technical and mathematical skills, are best qualified to describe the size, shape, and location of a particular parcel of land. By pooling their efforts, the attorney and the surveyor form a team capable of producing a clear, unambiguous deed. Books that assist such a team by relating real property law to surveying are indeed scarce. Many explain the laws pertaining to real property boundaries, and many explain the techniques of surveying and mathematics, but few integrate the legal elements of title descriptions, boundary law, and surveying. As a surveyor, I realized early that the surveying of land boundaries is dependent upon law and that a text book correlating law and surveying was needed. This is my answer.²

Mr. Brown's answer is not wholly satisfactory although the need for a book of this type is substantial. A text on surveying can be expected to contain but few, if any, pages on legal problems while a legal treatise, although replete with authority, will not focus attention on surveying practice. An earlier work in this area is *A Treatise on the Law of Surveying and Boundaries*³ but it runs to over 800 pages and cannot be of help except as a general reference book. Mr. Brown's book could be quite valuable as a short, readable work providing a general outline of boundary line problems.

The main fault with this work is that the author seems to have forgotten, in many cases, that he is writing for the benefit of lawyers as well as surveyors. If this book were short enough to be readable as a whole, while still containing adequate citation of authority to provide the basis for further investigation and impart confidence in the author's conclusions, it would be most satisfactory. Unfortunately, this is not the case. Although Mr. Brown was assisted by Mr. Fred H. Landgraf, an attorney, the citation of authority is spotty throughout the book. In some places it is fairly extensive while in others it is non-existent. In the preface it is stated, ". . . space limitations do not allow a more detailed proof and

1. Licensed Land Surveyor and Instructor, San Diego Junior College and Vocational School.

2. P. viii.

3. Clark, *A TREATISE ON THE LAW OF SURVEYING AND BOUNDRIES* (2d ed.).

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discussion of the principles presented."⁴ However, this does not excuse the failure to cite a case when one obviously is being discussed. At one point the author, while discussing subdivision monuments, remarks, without any citation of authority, "In a New Jersey case, very similar in nature, the opposite was held. The court reasoned that the unmarked street was a natural monument [?] that should control the artificial monument."⁵ Very tantalizing for the New Jersey attorney interested in this point and not calculated to evoke a favorable response from any reader accustomed to a statement of authority. The treatment of decisional law and statutes is haphazard throughout the book.

Nevertheless, if the reader can put aside his annoyance with this shortcoming, the book is interesting. The author first discusses various systems used to describe real property and then passes on to the transfer of real property, locating conveyances by metes and bounds and subdivisions, sectionalized land systems, location of reversion, riparian and littoral rights, federal mining claims and concludes with a discussion of the duties of the surveyor and various problems in writing deeds.

The book is reminiscent of a geometry work with principles stated as theorems followed by explanations of varying detail. The coverage is not detailed but in most cases is sufficient for an understanding of the problems. The most valuable sections are those which deal with areas which suffer from an abstract discussion. Mr. Brown does not hesitate to provide drawings as illustrations and they are most helpful. There is a most illuminating discussion of ambiguous descriptions.⁶ Knowledge of the dangers present in drafting legal descriptions, which this book imparts, is much more helpful when acquired prior to rather than after the creation of an ambiguous description. Again, the author's use of diagrams is especially helpful in the discussion of the rights of riparian and littoral owners.⁷

If the author was pressed for space, as he claims, it seems that he should not have included Chapter 2 which deals in a very general way with the classification of real property interests and the mode of their transfer. The topics here mainly cover subjects that are obviously unrelated to the remainder of the book, such as the requisites of a valid deed.⁸ Apart from the discussion of dedication and adverse possession,⁹ Chapter 2 could have omitted without changing the character of the book, thereby freeing eighteen pages for the citation of authority and the use of diagrams to illustrate various principles. The last two chapters on

4. P. ix.

5. P. 126; see also the reference to locating "Home Ave." on pp. 135 and 136.

6. Pp. 87-110.

7. Chapter 7, especially pp. 204, 206, 208-13, 220.

8. Pp. 48-53.

9. Pp. 57-64.

the duties of the surveyor and the writing of deeds are subject, in part, to the same criticism, although they are arguably more closely related to the subject of boundary location.

Mr. Brown states that the forerunner of this book was *Boundary Control for Surveyors in California*.¹⁰ The present book although in many respects worthwhile, will not satisfy the needs of many real estate practitioners simple because it was not written with adequate consideration of their interests. Even so, the present book is, in some respects, worthwhile and, if its substantial shortcomings are recognized, belongs on the shelf of lawyers engaged in real estate practice. If the author would revise this book by focusing all his attention on boundary determination, while at the same time going into more detail on the authority for the propositions which he states with a great deal of certainty, such an effort could be a much more valuable contribution to the literature in this field.

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THE SANCTITY OF LIFE AND THE CRIMINAL LAW. By Glanville Williams:
Alfred A. Knopf, Co., 1957.

This book deserves a wide audience among lawyers, doctors, social scientists and all who are concerned with those highly controversial areas in which moral convictions pertaining to the creation and preservation of human life impinge upon the criminal law. The author, a prominent British jurist, discusses in detail and with considerable erudition the legal and moral norms governing infanticide, birth control, sterilization, artificial insemination, abortion, suicide, and euthanasia. The substance of the book was originally delivered as a series of lectures at Columbia University and before the Association of the Bar of the City of New York.

Mr. Williams shows a command not only of the legal and medical literature dealing with these problems but also of the theological literature; for the origins of the relevant statutes and the strong resistance to changing them can only be understood with reference to the positions taken by the spokesmen of official Christianity, both Roman and Catholic and Protestant. Mr. Williams does not hesitate to state clearly his own position: on all of the issues he discusses he is in favor of modifying existing English and American law or its administration in the direction of granting greater liberty of choice to individuals. The book is,

10. P. ix.