

# Chapter News

Volume 6, Issue 2

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**Famous Quotations:**

- **Harry S. Truman:**  
*I never give them hell; I just tell them the truth and they think it is hell.*
- **Oliver Goldsmith:**  
*Our greatest glory consists not in never falling, but in rising every time we fall.*
- **Theodore Roosevelt:**  
*To educate a man in mind and not in morals is to educate a menace to society.*
- **Sergeant Preston of the Yukon:**  
*The view only changes for the lead dog.*
- **Will Rogers:**  
*The minute you read something you can't understand, you can almost be sure it was drawn up by a lawyer.*
- **Abraham Lincoln**  
*The ballot is stronger than the bullet*

## TSPS Celebrates 50 Years

The 50<sup>th</sup> anniversary of TSPS is to be celebrated at the annual convention in Galveston, October 17 – 20<sup>th</sup>. The theme for this year is “Bridging the Years: 1951-2001” with historic exhibits and other special events planned. There will be technical sessions and exhibits, along with the annual member’s meeting and board of directors meetings held at the Moody Gardens Hotel.

ACSM will also be holding their Fall meeting in Galveston. This will give local surveyors a rare opportunity to get a glimpse of the inner workings of the national organization. The Texas Board of Professional Land Surveyors will hold its meeting during the convention as well.

The TSPS annual convention has become one of the largest conventions for surveyors in the nation. Representatives of state surveying

associations throughout the country will be in attendance. Over 67 exhibitors will have booths displaying surveying equipment, supplies, books, maps, software and new technology that will be of interest to surveyors.

Two special events for members and their spouses are the “Party on the Strand” Friday night and the Awards Gala Saturday night. With the convention being held so close to home in Galveston, local chapter members will not want to pass up this rare opportunity to attend one of the nation’s premier surveying convention. Call 512-327-7871 or log on to <http://www.tsp.org> for more information.



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## President's Column

By Nedra J. Foster (email: [nedrajo@exp.net](mailto:nedrajo@exp.net))

This week (7/31) I was privileged to participate in performing a gradient boundary survey on the Red River. This was particularly appealing because it is the river from whence was born the method we surveyors are required

by law to use in determining an inland river boundary. I could well imagine Colonel Arthur Stiles and Arthur Kidder, the two Boundary Commissioners appointed by the U. S. Supreme Court, walking the

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## Adverse Possession: A Case Study in Land Ownership

Adverse possession is often a tricky matter that can cause problems for the surveyor who doesn't do their homework. The following case, although an old one, is a good example of what surveyors must deal with in searching for title ownership.

EAST TEXAS LAND & IMPROVEMENT CO. v. SHELBY et al. (*Court of Civil Appeals of Texas, May 6, 1897*) 17 Tex.Civ. App. 685, 41 SW 542

WILLIAMS, J. Appellees, alleging title in themselves from 10 years' adverse and peaceable possession under the statute of limitations, brought this suit to recover of appellant 320 acres of land, part of the William Pharis league in Jasper county. The defendant pleaded general denial and not guilty. The defendant, at the trial, admitted that the plaintiffs had been "in the actual, continuous, exclusive, adverse, and hostile possession of the land sued for, using, cultivating, and enjoying the same, for more than ten years, to wit, from 1856 to 1880, and that after they abandoned it, in 1880, no one resided on or in any manner occupied the land. The plaintiffs admitted that the defendant held the legal paper title by regular consecutive chain from and under the sovereignty of the soil down to the defendant. Plaintiffs admitted that the East Texas land & Improvement Company bought the land in controversy in good faith for sufficient and valuable consid-

eration, duly paid for same without actual notice of plaintiffs' claim, save and except such notice (if any) as the presence of the remains of the old settlement, such as old fences, dilapidated houses, and old fields all abandoned (not occupied or used) at the time of defendant's purchase, might constitute; and that there was no record whatever of plaintiffs' title or claim at the time of or prior to defendant's purchase, and that the defendant had no actual notice of plaintiffs' title or claim when it so purchased." It was also admitted that defendant was a corporation capable of taking and holding the title to the land. Upon these facts the court rendered judgment for the plaintiffs, and defendant appeals.

It is urged, first, that the admission as to plaintiffs' prior possession does not show that such possession was peaceable. A possession, to meet the requirements of the statute, must be peaceable as well as adverse. But the statute defines peaceable possession to be "such as is continuous, and not interrupted by adverse suit to recover the estate." Rev. St. 1895, art. 3348. The admission is that the possession in question was continuous. If this, with the other language used in the admission, does not imply all that would be included in the word "peaceable," it cer-

tainly implies all but the negative, — that the possession had not been interrupted by adverse suit; and we do not think it was incumbent on the possessor to prove such negative. The conditions stated in the agreement were such as to make at least a *prima facie* case that the possession had the characteristics required by law, and, if it could be rebutted by proof of adverse suit, the burden was on the plaintiffs to prove the affirmative. It would be difficult, consistently with the truth of all the statements in the admission, to suppose that there had been a suit which had the effect to interrupt the possession thus described, and declared to have been continuous.

The only other proposition urged for the reversal of the judgment is the one that, by its purchase without notice of title acquired by plaintiffs, defendant acquired the better right, and should be protected as innocent purchasers. We have heretofore had occasion to consider this question, and have decided it adversely to appellant, in the case of MacGregor v. Thompson, 7 Tex.Civ.App. 32, 26 S.W. 649. Appellant's counsel have urged us to overrule that decision, and have made a very good argument in support of their position, which has had careful attention; but we still think, for the reasons given in the opinion referred to, that the position there taken is the correct one. It is urged that a party acquiring title by limitation might give notice of his claim in three ways: First, by

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## President's Column (continued)

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same bank and examining the terrain as they evolved the process to be followed. I do hope those two surveyors had the good sense to not be doing their work in 104 degree temperatures.

We were working near Vernon, Texas on the 27<sup>th</sup> consecutive day of temperatures exceeding 100 degrees. Lately, I have been telling Darrell Shine (who turned 70 this year) that he does not have to work this hard anymore, but I have had better luck talking to fence posts. Mike Linke from Eules completed our crew. Before we go out on

any job like this, I start the day off by declaring that we will work early and late but under no circumstances will we work in the heat of the day. And sure enough, we worked early and late – as well as right straight through that middle part that was 104 degrees!

We managed to find a qualified bank and meander five miles of river without quite killing ourselves. On the bridge crossing the river and running into Oklahoma, the Texas Highway Department has a sign reading “Texas State Line.” Problem is the

sign is 3800 feet south of the gradient boundary into Texas. I really wanted to move that sign to the proper position, but Mr. Shine wouldn't let me start that range war!

Towards the end of the day when the three of us put together couldn't manage enough moisture to spit, I tried to get a chorus of “Red River Valley” out of the field crew...my, my what a surly couple of guys!



## Case Study Continued

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suit to perpetuate testimony; second, by designation of his homestead; and, third, by suit to recover the land. Without pausing to consider how far any of these proceedings could be made effectual as notice of his claim, we deem it sufficient to say, as we formerly said, concerning the maintenance of possession, that the law has not required any landowner to do any of these things as a means of giving notice of his title to others. It is no more incumbent on the owner whose title has been acquired by limitation than it is upon any other owner to take any of these proceedings. That all of them may do so is a privilege incident to ownership, and no duty to do so is imposed for the protection

of others. We cannot see the soundness of a principle which would take from one thus invested with full legal title to land, and who has done nothing forbidden, and omitted nothing enjoined by law for the protection of others, his property, and bestow it upon another, who has simply made the mistake of buying it, without notice of his rights, from the original owner, whose title has been extinguished by limitation. We do not think it necessary to determine whether or not the evidences upon the land of the former possession were sufficient to give notice. Affirmed.

\*\* Writ of error denied by Supreme Court.

## Special Event !

The Chapter will host its Annual Sporting Clays Shooting Event Saturday, October 6, beginning about 9 a.m. at the 1-in-100 Gun Club in Lumberton. Many prizes will be awarded to the winners as other lucky participants.

All participants will also be treated on seafood gumbo and potato salad afterwards. This event is a popular event with everyone always enjoying themselves. If you have never participated, you have really missed out.

For more information contact: Ana Romano or Mitch Brackin at Access Surveyors. **Tel: 838-6322**

# From Austin....Chapter Representative's Report or "Insanity, Honesty and Surveying"

By Lequin Hilderbrand (email: lequin.hilderbrand@lpcorp.com)

At first glance I am sure you are wondering what does insanity, honesty and surveying have in common. The answer is simple; nothing. How can one be insane and at the same time be honest. Likewise, how can one be honest and be a surveyor. Of course there is, in my opinion, a direct link between insanity and surveying but I have yet to figure out which came first. I have determined though that a flow-chart of this relationship would be very elementary, say one very short line.

Nonetheless, I am reminded of time and time again while at functions held during non-business hours that I am not the same person as seen at the office. I share with my coworkers or friends that I have to be insane to keep my sanity. Make sense? I stay so under wraps "at work" that when the opportunity to really unwind presents itself, look out. However, I have learned to unwind even when not really appropriate. It has proven to be very beneficial because now no one knows what to expect. Just last week I came to work in a baseball cap, deck shoes and jeans; very unLequin-like. One lady even noticed I was wearing no socks. I then added I was wearing no underwear either. It was just way too hot and those darn denim jeans are so heavy.

I think the real insanity is in the way I question or look at things. For example, why is it that the closer you get to the sun, the colder it gets? Or, why is it that when the air and water was so pure and clean, people died when they were 35 years old and now that everything is "so bad", we live to be "older than dirt"? Or, why in restaurants do they bring us a check? Shouldn't it be a bill or invoice since I am paying for it. Or, why do beauticians call it a permanent when it is only temporary? Or, why do doctors and lawyers get paid so well for only practicing? Heaven help us when they figure out what is they really do and then charge us for that. Or, my secretary will come into my office and say "You know something"? Of course this is only a preface to a statement she wants to make but I cut her off and say "No, I know lots". That response set her back a bit but, as charming as she is, she is the same secretary that can't do something wrong right. That's another story for another day. Now that I think of it, insanity is not such a bad thing until total loss of control of body functions is a direct result.

I think insanity is really too broad of a word. I prefer relative. Just last week I was asked a question to which I responded that's relative. Of course, this person had no

ideal what relativity was so I had my work cut out for me. I used this analogy. Ask someone from Kirbyville to relocate to Silicon Valley and work for \$95,000. Ask someone from Silicon Valley to relocate to Kirbyville and work for the same amount of money. One thinks the \$95,000 is a ton of money (until they learn the smallest and cheapest home available is \$450,000). Of course, they also think of Silicon Valley as where bathroom caulk is produced. I liken relativity to one of the most important lessons I ever learned. And I learned it from the 1970's movie "Smokey and the Bandit". During the early part of the movie when Burt Reynolds and Sally Fields are still feeling each other out as to who they are and what they are, he turns to her and says "It depends on what part of the country you are standing in as to just how dumb you are". That is relativity.

As to honesty, is honesty really the best policy? Looking back over my lifetime, as short as it has been, I seriously wonder. If honesty leaves your mind and conscience clear but leaves your face black and blue, what good is that? I was asked years ago "How does my hair look"? I responded, "Other than looking like you drove home with your head out the window, it looks fine". Not

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## Chapter Rep's Report

long ago I was asked "Do I have anything in my teeth"? I advised they had a big blob of green stuff on their right front tooth. Of course I caught grief because you aren't supposed to say that. Next time I will simply let them go back into the meeting looking like snaggle-tooth Rex or something.

All of this leads us to surveying. Why is it that people either think surveying is some space-age mystery or that anyone can do it? Several times in my career I have had the opportunity to give a deposition. On all occasions the opposing counsel was going to teach me something about land surveying. Like Forrest Gump, I simply said "OK". One attorney even indicated I knew nothing because his clients "surveyor" (wasn't registered unless by the AKC) had been taught by someone who worked at the highway department. This particular lawyer actually believed highway department personnel all knew surveying and made the best surveyors. He may be correct but I couldn't pass on an opportunity to share my perception. I responded to his attitude by adding that if he thought surveyors were bred simply because they worked at the highway department, then I needed to don a coat and tie because I watched "Matlock" every Monday night. He wasn't impressed.

What does all this mean?

Nothing but we needed an article for our newsletter so here it is.

On a more serious note, the August board meeting was held in Austin and because Richard Worthey didn't go, there is no real adventure to share. I actually went and returned without a single incident. The highlights of the meeting included reports on SURPAC and upcoming legislative issues; TSPS' participation in the electric power supply industry; and the plans and optimism of the upcoming 50<sup>th</sup> anniversary of TSPS.

As to Chapter activities, our annual meeting and officers installation will be held on Monday, September 10. Please make every effort to attend. Also, we are looking for ideas and volunteers for the Chapter exhibit for the TSPS 50<sup>th</sup> anniversary in Galveston. Finally, on November 14 and 15 we will again be participating in the Region V Annual Career Fair at the Beaumont Civic Center. Again, your thoughts and volunteerism would be appreciated.

In closing, what have you done for TSPS lately? Instead of holding a hand out why not lend a hand. After all, it is your association.



## Minutes of Meeting

The chapter participated in a Joint Meeting for Chapters 6, 8, and 9 Saturday, June 16, 2001 at the Lower Neches Valley Authority facility on Sam Rayburn Lake.

TSPS President Dennis Walker attended as well as representatives of Leica who demonstrated their latest technology in robotic total stations and GPS. Members also participated in games including pacing contests and washers.

Special guest was Dr. Robert Baker, Professor of Forest Management at Texas A & M University who presented the history of the timberlands of East Texas. Dr. Baker background includes performing research in the area of employing NAPP color infrared aerial photographs and annual updates of timber use-values in Texas and electro-optical instrumentation combined with tree crown diameter/bole diameter regression and crown closure to estimate timber stand volume. He is the author of numerous papers on the use of Photogrammetric Engineering and Remote Sensing for use in the timber industry. He is the co-author of "Sawdust Empire: The Texas Lumber Industry, 1830-1940" and author of "Timbered Again: The Story of the National Forests in Texas".

Members lunched on the best BBQ in East Texas courtesy of Chapter 8. Everyone attending had a very special time and lots of fun. The facilities were great and the food and desserts fantastic!

TEXAS SOCIETY OF PROFESSIONAL SURVEYORS -  
DEEP EAST TEXAS CHAPTER NO. 6

P.O. Box 20815  
Beaumont, Texas 77720

Phone: 409-866-9769  
Fax: 409-866-7075  
Email: surveyor@tsp6.org



*Sighting on 2001*



## Calendar of Events

**September 10; Annual Chapter Members Meeting**

V&M Catering at 344 N. 4th Street in Silsbee. TSPS State President Dennis Walker will be guest speaker. Installation of Officers. Social begins at 6:00 PM. Dinner at 6:30 PM.

**October; Annual TSPS Members Meeting**  
State TSPS convention in Galveston.

**October 6; Annual Chapter Sporting Clays Shooting Event**

To be held at the 100-in-1 Gun Club on Hwy. 421 in Lumberton. Starts at 9:00 am. Contact Mitch Bracking at 838-6322

**November 14-15; Region V Student Career Fair**

Beaumont Civic Center.

**December; Annual Chapter Christmas Party**

Time and date to be announced.

### New Area Registrants Recognized

Congratulations to this chapter area's newest registrants Theodore "Ted" B. Harp, Jr., RPLS # 5477 and Anthony M. Leger, RPLS # 5481

Congratulations also go to former Beaumont and new registrant Earnest Steven Holaway, RPLS #5479 of Justin, Texas.

Each one of these individuals worked hard to achieve this goal. We tip our hats to them and congratulate on their new status as Registered Professional Land Surveyors!

### Results of Election of Officers for 2002 are as follows:

President:

*W.J. "Joe" Breaux*

Vice-President:

*Steve Butz*

Secretary-Treasurer:

*Richard Worthey*

Director (2 Year Term Expires 2003):

*Bill Westbrook*

*Lester Landgraf*

Chapter Representative:

*Lequin Hilderbrand*

Current Directors with 1 year remaining in their terms:

*Jack Meaut*

*Jimmy Verrett*