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president’s message
DON GEORGE, ALS

Why is it said that some of us think that we could be compromising ourselves when not doing all surveys in accordance with all parts of the Act?

It appears that some of us have decided over the years, that various types of surveys do not need to be done to the same degree of effort, diligence and tolerances as required by the Surveys Act. Why has this happened? Subdivisions and other surveys registered in the Land Titles Office (LTO) or the Metis Settlements Land Registry (MSLR) office appear to be done, by some of our members, to a higher degree than wellsites, real property reports, and the lowly fenceline survey. When I read Section 2(1) of the Surveys Act it clearly states, “this Act applies to surveys of any lands within Alberta that is within the legislative competence of the Legislature.” I interpret this to state that all surveys (except for those federal lands as stated in Section 2(2)), conducted must be done in accordance with the Act. My interpretation of the Act is “a survey is a survey”, it doesn’t matter what type it is and we should be conducting all surveys according to the relevant sections of the Act.

We have legislation within the Land Surveyors Act to deter unqualified “surveyors” from conducting surveys and we are required to defend our profession by reporting those perpetrators to the Association office under the authority of the Code of Ethics. In the past, Council has asked the courts to apply the legislation, thuly we have been successful in having injunctions placed against some of those non-ALSs practicing in the field of surveying. Our mandate is to protect the public by ensuring only qualified surveyors are conducting surveys.

Let’s also look at Section 10. It falls under Part 1 of the Surveys Act and clearly lays out requirements for supervision, practice and monumentation when conducting ALL surveys. I think most of us agree we must adhere to this section, but there seems to be some confusion about monumentation. Section 10(2) makes reference to monuments so let’s have a look at the definition of it. Section 10(p) states “monument” means a brass tablet, iron post, wooden post, mound, pit, or trench, or anything else used by a person designated… “I believe this means statutory iron posts are to be used for all surveys. I have heard from some of my learned friends stating that when monumenting, the intent is to place a statutory iron post at all locations, but if unable to do so, an alternative monument described in the definition of “monument” could be used. I agree with this—what are your thoughts?

In accordance with the Surveys Act”—WHY?

...it is incumbent upon ourselves to ensure we understand what the legislation requires and what we are signing.

Why is it said that some of us think that we could be compromising ourselves when not doing all surveys in accordance with all parts of the Act? This is a great question and it is incumbent upon ourselves to ensure we understand what the legislation requires and what we are signing. Not to imply that any one of you would ever sign a false affidavit, but Council has clearly stated that they do not condone anyone signing a false affidavit.

Part 3 of the Surveys Act deals with re-surveys and also clearly lays out what has to be done for other surveys that are required to be registered at LTO or the MSLR. Could surveys such as disposition surveys, real property reports and fence line surveys be some examples of those not contemplated under Part 3, especially when they are not being registered at LTO or the MSLR office? Disposition surveys have standards developed by the Director of Surveys office, real property reports are done in accordance with the Manual of Standard Practice and fence line surveys do not appear to have any specific standards.

Do you think I am just picking and choosing between various parts and sections of the Act that fits the type of survey? The scenario of “just doing a rural fence line survey” is a great example of doing a quick survey as the client only wants to spend...
as little as possible and only wants it approxi-
mate (HA). He only wants you to put in lath so there are no requirements for “monuments”. Uh-oh! Could those lath be construed as monuments? What if those marks were found to be placed incorrectly on your fence line survey and you were required to stand before a judge to defend yourself for not doing the sur-
vey properly? The judge asks, “are you an Alberta Land Surveyor?” You reply “yes.” He then asks, “are you familiar with the Surveys Act?” You better answer “yes.” I think you would have a hard time con-
vincing the judge that you are correct in not conducting the survey in accordance with Section 10 of the Surveys Act by not using governing evidence. Remember the price of fencing materials and the effort to put in the fence is very costly, so it is very im-
portant for us to support the Director of Surveys Act, then we should con-
found the judgment on surveys conducted for Sustainable Resource Development. The Director of Surveys office appears to have a significant amount of authority and, over the years, this office has allowed monumentation and the standards for wellsite surveys to be less than required for surveys that are to be registered at LTO and the MSLR office. Interestingly, Part C, Section 3.10 of our Manual of Standard Practice recommends that we place monuments other than statutory iron survey posts on wellsite and related facility surveys. Is the recommen-
dation in our Manual of Standard Practice trying to supersede the Act? The current Director of Surveys wants to upgrade the standards for all disposition surveys as of January 1, 2011 and intends to require monumenta-
tion of all dispositions with iron posts, thus elevating the standards of plans registered with Public Lands. I believe it is important for us to support the Director in these endeavours. As I write this, the ALSA and Director of Surveys office are in the midst of a number of conversa-
tions on this very subject. In the next year and a half, I think we must work with the Director of Surveys office to develop standards and a process that will make this happen. So what am I getting at? When the Director of Surveys requires you to sign an affidavit that states “…done in accor-
dance with the Surveys Act…” in 2011, we should be proud to sign the affidavit knowing we have met all of the require-
ments of the statement that we are sign-
ing. We are the professionals, not those who want to encroach into our profession without having the qualifications. If some of us don’t want to survey in accordance with the Surveys Act, then we should not complain, and give up those types of surveys to anyone who wants to do them, qualified or not! What do you think? I need your feedback!
My wish for you this Christmas is for all of you to stop and reflect on the real reason for this up and coming holiday, on December 25th, to celebrate the birth of Christ.
Eileen and I wish all of you a Merry Christmas and a happy and prosperous New Year.

Without some form of continuing education, how are survey-
ors who were educated in the mid 50s and 60s to keep pace with the developments in researching titles and plans and measuring, positioning, computing, drafting, and plan submission, to name but a few areas where great changes have taken place. This applies equally to those who received their education much later. Even the time spent in university is sufficient to see substantial change. There is a good reason why institutions of learning set relatively short timelines to complete a degree program. In many fields, what was learned in first year may well be obsolete or, at best, out of date by the time graduation comes along.

True, we learn to deal with small changes as they occur. How-
ever, how do we deal with the more dramatic changes that occur? Does one just carry on with the old ways? In some cases it would be possible, even if it puts one at a great disadvantage with fellow surveyors who chose to take the time to be properly trained or educated to deal with the new methodology. In other cases, it is either learn to work with the new methods or get out of that part of the profession. That, of course, is hardly an option, one would very soon be unable to get through even a simple survey.

The field of professional surveying or geomatics has become so broad in scope that it is already past the point where all surveyors can be in a position to offer all geomatics services to the general public.

Continuing Education and Change

Professional development refers to skills and knowledge attained for both personal development and career advancement. Professional development encompasses all types of facilitated learning opportunities, ranging from college degrees to formal coursework, conferences and informal learning opportunities situated in practice. It has been described as intensive and collaborative, ideally incorporating an evaluative stage. There are a variety of approaches to professional develop-
ment, including consultation, coaching, communities of practice, lesson study, mentoring, reflective supervision and technical assistance.

P
ters who were educated in the mid 50s and 60s to keep pace with the developments...

A wide variety of people, such as teachers, health care profes-
sionals, lawyers, accountants and engineers engage in professional development. Individuals may participate in professional develop-
ment because of an interest in lifelong learning, a sense of moral
obligation, to maintain and improve professional competence, enhance career progression, keep abreast of new technology and practice, or to comply with professional regulatory organization requirements (from Wikipedia).

What is the primary motivator for continuing education or professional development? In a word, ‘change.’ There have been tremendous changes in all fields of endeavour as well as in the way people carry out their day to day lives. The changes in technology in surveying certainly have kept up with, if not surpassed, those that effect most people in their everyday lives.

...either learn to work with the new methods or get out of that part of the profession. That, of course, is hardly an option...

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Distinctive. Choice.
We, as individual members, must take full ownership of our continuing competency and professional development.

The proposed voluntary reporting of each member’s time spent at the various categories of continuing education and involvement with fellow members and the community in general will assist the Professional Development Committee in the construction of a course of action or, if you will, a structured system to ensure that all members participate in a program of professional development which will meet their needs.

I see a professional development program consisting of two main parts. The main portion would be a core program of a more or less general nature which would apply to all members. The core portion would be designed by the Professional Development Committee with the approval of the general membership. Part of the purpose of the questionnaire is to assist with the design of this core portion. The greater and the more accurate the response, the more likely the program will reflect the needs of the membership as a whole.

The second part would be more specific, designed by the individual member, and tailored to the needs of that individual. This program may require some sort of approval or there may need to be a set of guidelines to assist in the design of the individual portion of the program.

Next year’s mandatory reporting will have a large impact on the scoring for the next phase of the systematic review (continuing competency) program, which starts May 1, 2010. This year’s voluntary reporting will stand members in good stead for the new reporting process. It is therefore, incumbent on the membership to provide the Committee with an accurate picture of what each member is currently doing by way of professional development.

This is your program. Not the Committee’s, not Council’s and not even the Practice Review Board’s or Systematic Practice Review’s; it is yours. We, as individual members, must take full ownership of our continuing competency and professional development. If we do not own it, you can be sure that someone else will be only too happy to take it on and impose their will upon us. You can rest assured that that will be a bitter pill to swallow. Let’s have a high return rate on the voluntary questionnaire. There really is no reason it cannot be 100%.

editor’s note
BRIAN MUNDAY

When the Alberta economic engine starts humming again, will we be able to attract enough land surveyors and enough survey technologists to meet the challenge of the next boom?

It is always difficult to look into the future. Most of us just aren’t very good at it. In fact, most of us could not accurately predict the future with a magic eight-ball and a Ouija board.

Since we are so often wrong about the future and there are so many pressing current issues (such as this recession and dual plan registration), most of us just do not devote enough time, or any time, thinking about the future.

However, I want to try to change that for just a few moments. As most Alberta Land Surveyors know, the Alberta Land Surveyors’ Association and its sister associations across the country, signed a labour mobility agreement in 2001. This labour mobility agreement allowed licensed land surveyors from other Canadian jurisdictions to become licenced Alberta Land Surveyors with out having to go through the articling process. The candidates in Alberta, however, still had to pass three written exams, three project reports and one oral qualifying examination. This province certainly benefited from this labour mobility agreement. Although it may seem like a long time ago now, the boom of the mid-2000’s would certainly have been even more of a challenge if we did not have so many land surveyors from other jurisdictions come to wild rose country. Even then, the Association struck a committee or two to look at where future Alberta Land Surveyors would be coming from. Can we hire enough University of Calgary graduates? How about the University of New Brunswick? Maybe students at tech schools could find a streamlined route to become a professional land surveyor.

In 2008, at the ALSA AGM, the Alberta Land Surveyors’ Association and the Association of British Columbia land Surveyors signed a TILMA agreement. The TILMA agreement allows a professional land surveyor in one jurisdiction to become a professional land surveyor in another jurisdiction.

In 2008, at the ALSA AGM, the Alberta Land Surveyors’ Association and the Association of British Columbia land Surveyors signed a TILMA agreement. The TILMA agreement allows a professional land surveyor in one jurisdiction to become a professional land surveyor in another jurisdiction. The agreement took effect January 1, 2009. To date, we have certainly seen more Alberta Land Surveyors move to British Columbia than have moved east. There is no doubt in my mind that while British Columbia has benefited from the TILMA agreement so far, both professional associations have benefited from this agreement in that it has kept good land surveyors in the land surveying profession rather than explore other careers in this slower economy.

This concept of a half-day jurisdictional exam has worked so well and been so positively received that the Council of the Alberta Land Surveyors’ Association expanded the concept to beyond the Association of British Columbia Land Surveyors to include the other provincial land surveying associations. When the provincial and territorial premiers amended Chapter 7 (Labour Mobility) of the Agreement on Internal Trade, the land surveying profession was ready.

Yet, despite all these tremendous improvements to labour mobility in the land surveying profession, it might not be enough in the future. When the Alberta economic engine starts humming again, will we be able to attract enough land surveyors and enough survey technologists to meet the challenge of the next boom? I hope that the University of Calgary and the University of New Brunswick will continue to be able to graduate enough students but will they be enough to offset the number of baby boomer land surveyors who will likely retire or semi-retire now and over the next few years? Can the land surveying profession in Alberta grow by just looking at attracting graduates of Canadian geomatics programs?

Other professions have dealt with this same issue. There are not enough nurses. There are not enough doctors. What can be done? Encouraging foreign trained professionals to become licensed in Canada is certainly one option that is getting quite a bit of attention these days. There have been numerous stories in the media over the last few years of doctors being trained in far off countries and driving a taxi in Canada because they cannot get their credentials recognized.

Let’s step back from such media stories for a moment and look at some facts particularly as it relates to the land survey profession. At this time, I should indicate that much of what follows in my article is courtesy of Grant Ainsley, who was hired as a consultant to the Association to do a cross-Canada review of the process for foreign trained professionals, seek best practice procedures from across the country and elsewhere and make recommendations on possible changes to the current system in Alberta. Fund-
...the land surveying profession has not been engaged in any significant manner in attracting foreign-trained professionals to the profession of land surveying in Alberta.

During that same period, the foreign-born population increased at a rate four times higher than the Canadian-born population. At the same time, the land surveying profession has not been engaged in any significant manner in attracting foreign-trained professionals to the profession of land surveying in Alberta. With the exception of some Alberta Land Surveyors who were born outside of Canada, many of them received their formal training in Alberta. Over the past 40 years, only four Alberta Land Surveyors had been commissioned in another country or received post-secondary training in another country. By contrast, over the same time period, the Alberta Land Surveyors’ Association welcomed 127 new Alberta Land Surveyors to the Association. Four out of 127 new members is not going to be enough to sustain the profession into the future. For years, many Alberta Land Surveyors who were interested in the profession of land surveying in Alberta asked and were discouraged from becoming licensed in Canada when they found out how many challenge exams they must write. Again, this is a difficult balancing act.

Are land surveyors from other countries in a different language and CBEPS has a registered legal plan to represent the final disposition location. So maybe having public land plans only filed at SRD helps eliminate some of that problem.

However, like a lot of other land surveyors, I do have some serious concerns about the fundamentals of the new policy as well as hundreds of unresolved issues and details that occur as a result of its implementation. The serious concerns at the heart of the issue are the actual legality of the new policy, for example with respect to sections 44 and 46 of the Surveys Act, and whether the new policy has had a negative impact on the protection of the public.

As far as the legality of the new policy is concerned, the two official, but very different, legal opinions provide little comfort. Did the two lawyers read the same legislation? There seems to be no common ground between the two opinions, and that means that we have very little to build on. I have heard the old saying that you can never predict what decision a judge will render in a case. Since judges are made from lawyers, I guess that makes sense. It just doesn’t provide us with much clarity or certainty. I am unsure of which legal opinion to believe and what consequences are of either. It might be helpful to have the Association’s solicitor provide some commentary to the membership outlining what the legal ramifications to ALSA and individual members would be if we accept and implement the new policy.

Besides the legality, the new policy must not have a negative impact on the protection of the public. With this new policy provide us with an SRD plan deposit that is robust, complete, and accessible! On at least one front, the answer seems to be no. But there is an unanswered question. But it seems that most of the discussion is about how the policy was implemented and all the unnecessary comments in the new policy to ensure that the most current or final revision of a survey plan is submitted to SRD. Our clients and their attorneys require that we are very good at applying for a disposition initially but they are far less diligent about ensuring that all subsequent revisions to our surveys are submitted as amendments to SRD. Although some surveyors haven't done a good job as we should have, and this is true for many surveyors who don't register in a timely fashion, we did have a professional obligation to get those plans registered at LTO. This policy takes that obligation away from surveyors and leaves it with our clients.

As land surveyors, we have to try to answer these fundamental questions about the new policy, and I do not claim to have thought of all of them. If we can do that satisfactorily, it is then our duty to help resolve all the lesser issues and details in the new policy (and there are many). This is an issue that is not covered in FAQs. If the new policy or parts of it are fundamentally flawed, we must find a way to work with the Director of Surveys to resolve these. And just as the Director of Surveys need to find ways to work with the ALSA, not just on this particular issue, but for the overall betterment of land surveying in Alberta.

Thank You
On October 28th we had the privilege of hearing Mr. David Marquardt speak on his experiences in third world countries, and I want to personally thank you on behalf of my junior high school, I would like to thank Mr. Marquardt for generously giving his time to spend with us, and sharing from his heart. We look forward to another opportunity in the future when we may hear him speak again.

Karin Ball—Grade 9
Strathcona Christian Academy Jr. High

As I was encouraging my daughter to write a thank you letter, I thought that I would submit one of my own.

On behalf of the articling students and affiliated members who attended the Exam Preparation Seminar this past September, I would like to extend our gratitude to this fall’s presenters: Ryan Blommaert, Marty Robinson, Mark Schlenker, and Arlin Amundrud for taking a beautiful Saturday away from their families, travelling to Red Deer and sharing their time and expertise with us. Gentlemen, your efforts do not go unnoticed.

As well, I would like to personally thank Ryan and Marty for all the additional time and effort in the exam questions and answer packages that were prepared for this event.
New Members

#833 BILY, Lana M.

Lana Bily was born in Russell, Manitoba in 1979. She graduated from Major Pratt Collegiate in 1997 and went on to receive a diploma in Geomatics Technology from Red River College in 2000 and a BSc in Engineering (Geomatics) from the University of Calgary in 2004. Connie Petersen, ALS served as Lana’s principal from April 2006 until she received her commission on October 13, 2009. Surveying experience includes: topographic surveys of the 2010 Olympic Nordic Centre and Athlete’s Village in Whistler, BC; construction surveys for the Len Cove Tunnel Project in Sydney, Australia; mining construction and municipal surveys in Mt. Isa, Australia; municipal and oil and gas related surveys with Midwest Surveys Inc. in Medicine Hat from 2006 to 2009. She transferred to the Estevan, SK office of Midwest Surveys in the spring of 2009. Lana enjoys travelling, playing sports and spending time with friends and family.

#835 GIESBRECHT, Benjamin R.

Ben was born in Fort St. John, BC in 1982. He graduated from North Peace Secondary School in 2000 and went on to graduate from the University of Calgary in 2005 with a B.Sc.

Bob Wallace, ALS served as Ben’s principal from October 2006 until he received his commission on November 10, 2009. Ben is also an engineer-in-training with APEGGA and served on the ALSA Legislation Committee in 2008-2009.

Ben worked for Waberski Darrow Survey Group from 2000 to August 2006 in the oilfield sector in northern BC. From September 2006 until June 2009 he was involved with municipal and oilfield surveys in Alberta while employed with Global Surveys Group Inc. of Calgary. He is currently employed with Foothills Surveys Ltd. of Hinton, AB.

Ben enjoys mountaineering, skiing, hiking and just being outdoors. He is married to Jacinda and they reside in Hinton.

#834 MAIN, Jeffrey A.

Jeff Main was born in Truro, Nova Scotia in 1968. He graduated from Cobequid Educational Centre in 1986 and received his survey technologist diploma from the College of Geographic Sciences in 1991. Alberta Land Surveyors Jay Abbey and Mark Kocher served as Jeff’s principals from May 2007 until he received his commission on October 28, 2009. Jeff has also been a member of the Standards Committee since 2008.

From 1993 to 1995, Jeff worked for the Nova Scotia Department of Transportation. and from 1995 to 1997 he worked on the Confederation Bridge project. In Alberta, he was employed with Craftland & Associates Ltd. of Calgary from May 1997 to March 2003 and Midwest Surveys Inc. from March 2003 to March 2008. He is currently employed with Millennium Geomatics Ltd.

Activities that Jeff likes to do in his spare time include playing softball, hockey and curling.

Jeff and Kristen Main reside in Calgary. They have four children; Zachary (14 years); Dylan (12 years); Logan (8 years) and Noah (3 years).

Net Notes

The 2009 Webby Awards (www.webbyawards.com) for “business blogs” were announced this past May.

Sites are selected based on excellence in the following criteria (but not limited to): content, structure and navigation, visual design, functionality, interactivity and overall experience.

Webby Award Winner
5 Blogs Before Lunch by 5 Meetings Before Lunch http://www.5blogsbeforelunch.com

People’s Voice Winner
FT Alphaville by Financial Times http://www.ft.com/alphaville

Other Nominees
Richard Branson’s blog by Virgin Management Ltd http://richard.virgin.com
**ACTIVE**

Kevin Beatty is now a sole practitioner. His mailing address is Box 9, Chuurin, AB T0B 0V0. E-mail: kevin.beatty@ sclou.com; Tel: 780-737-4281.

Lana Billy received her ALS commission #833 on October 13, 2009. Ms. Billy is employed with Midwest Surveys Inc. of Edmonton, AB.

Darrin Connatty is now employed with FCS Land Services Limited Partnership of Cranbrook, BC. His mailing address is 255 Victoria AVE N, SUITE 303, Cranbrook V1C 6JS.

Lloyd Crildland is no longer with Midwest Surveys Inc. His new contact information, as a sole practitioner for now, is 99 Sunser Drive SW, Medicine Hat, AB T1B 4H7; Tel: 403-504-1448. E-mail: crildl@telus.net.

Grant Cross joined Hagen Surveys (1982) Ltd. on October 2, 2009. His e-mail address is grantross@hagensurveys.com.

Michelle C. De Neve has officially changed her name to Michelle C. Roy. Mrs. Roy is an ALS and is currently not practicing.

Jason Deschamps is now with Global Surveys Group Inc. His e-mail is jdeschamps@gsi.ca and his phone number is 403-826-4539.

Stephen Vickers articled to Roger Ross, ALS, on August 25, 2009. His e-mail address is vickersr60316@telus.net.

Jennifer Setiawan is currently employed with Millennium Surveys Ltd. of Hinton.

**ALSA Member Updates**

The annual University of Calgary Survey Camp is held in scenic Kananaskis Country, Alberta (named ENSO #105) is a ten-day intensive immersion for students entering their fourth year of Geomatics Engineering. The course is meant to give students a real feel for the practical aspect of surveying and bolster the academic education students acquire in the program. This year's course ran between August 17th and 27th and covered the following topics:

- instrumental familiarization
- boundary retraction
- road design and layout
- precise engineering surveys
- static differential GPS
- real-time kinematic GPS
- laser scanning
- joint peg competition
- land surveying association professional lectures

It is only fair to acknowledge the following companies who donated their time and efforts this year to provide professional lectures to the students. Their project examples gave the students great insight into what a choice in land surveying could have in store for them.

- Rimbey, AB: Assured, they were all great ambassadors of your associations and of our profession.

Michael Thompson from Malais Geomatics; Topic: Official Surveys in Alberta; representing ALSA.

Arlin Amsandrut from Global Surveys Group Ltd; Topic: Land Development Project in Calgary; representing ALSA.

Sandy Kennedy from Novetel; Topic: GPS Development; representing APEGGA.

Courtney Tripp from Midwest Surveys; Topic: Township Re-establishment in Saskatchewan; representing ALSA.

Mark Cahill from Alterra Land Surveying; Topic: Residential Strata survey representing AGLC.

Peter Sullivan from NRCAN; Topic: International Boundaries; representing ACILS.

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Land surveyors who did not go through the U of C's program may not realize the significance of the kind of impact the annual survey camp has on students' career choices. The mix of academic and practical applications of field work survey in conjunction with the professional lecture series continues to play a key role in helping students evaluate land surveying as a desirable career path versus that of other areas in geomatics. Remember, survey camp is a career requirement within the geomatics engineering program that provides "a try before you buy" opportunity for the student. It would be a grave mistake for any of our associations to not take full advantage of this opportunity in having direct access to such a cohort. This is our desired audience; the very group of people we strive to get access to. This is a captive audience that is eager, full of energy, and quite curious about this mysterious profession that we've decided to dedicate so much of our lives in and get so much out of. There are no trade shows that can give our associations anywhere near this kind of "bang for our buck" of time investment.

- lost peg competition,
- laser scanning
- road design and layout,
- boundary retraction,
- joint peg competition,
- land surveying association professional lectures

It is only fair to acknowledge the following companies who donated their time and efforts this year to provide professional lectures to the students. Their project examples gave the students great insight into what a choice in land surveying could have in store for them. Rest assured, they were all great ambassadors of your associations and of our profession.

Michael Thompson from Malais Geomatics; Topic: Official Surveys in Alberta; representing ALSA.

Arlin Amsandrut from Global Surveys Group Ltd; Topic: Land Development Project in Calgary; representing ALSA.

Sandy Kennedy from Novetel; Topic: GPS Development; representing APEGGA.

Courtney Tripp from Midwest Surveys; Topic: Township Re-establishment in Saskatchewan; representing ALSA.

Mark Cahill from Alterra Land Surveying; Topic: Residential Strata survey representing AGLC.

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What I Did on My Summer Holidays
A TRAVERSE OF THE MASON DIXON LINE
BY G. K. (KEN) ALLRED, ALS (RET), CLS (RET)
“GOOD FENCES MAKE GOOD NEIGHBOURS.” ROBERT FROST

Several years ago I wrote a book review (September 2001) on two books about Mason and Dixon—the renowned British surveyors/astronomers who were engaged by the Penns of Pennsylvania and the Calverters of Maryland to establish the common boundary between the two states. This project ended up taking the better part of four years just prior to the cessation of the United States from Great Britain. The books were Drawing the Line by Edwin Danson who was a recent president of the Institute of Engineering Surveyors in the UK, and Mason and Dixon by Pynchon, which is really just a novel based on the Mason Dixon survey and has limited historical value. Drawing the Line (ALSA-H0755), however, is a good book and well worth the read.

The Mason Dixon line is better known as the boundary between the north and the south during the American Civil War some ninety years later. In July, my wife, Marge and I attended the National Conference of State Legislators in Philadelphia, Pennsylvania. As we normally do when we travel to a conference, we try to take an extra week or so to see something other than the interior landscape of a conference centre—and so we did the Mason Dixon line. With some prior assistance from Todd Babcock, PLS from Pennsylvania, we went armed with accurate descriptions of the location of several of the original Mason Dixon boundary stones. And lo and behold, with the assistance of Martha—all in-car GPS system, we managed to find over a dozen monuments—some original from the 1760s and some re-established at later dates.

Some of the monuments were in surprisingly good shape with the Penn crest carved into the north side and the Calvert crest embossed on the south side. Some exist in the middle of farmers’ fields but most are along the edge of the road, or in deep brush. Some have been slightly damaged by snowplows or farm machinery but most of the ones we found were standing erect (about a foot above ground) and in remarkably good shape. The original stone monuments were all shipped from England in the 1760s. In 2002, the Surveyor’s Historical Society held a rendezvous near Gettysburg at which time they replaced one boundary stone. Others have been replaced over the years. I understand that Todd Babcock, is the unofficial guardian of the stones and apparently has a great collection of photographs, coordinates and descriptions of the stones. Our success is an attestation to the accuracy of his information. Perhaps the most interesting part of our journey was, however, our retracing of the boundaries of the State of Delaware. If you look on a map, you will note that the northern boundary of Delaware between Delaware and Pennsylvania is an arc. The arc’s twelve mile arc centered on the steeple of the courthouse in Newcastle, Delaware. (There is apparently some dispute about the centre of the arc as an historian in the courthouse claimed that the centre was at a point two blocks north.)

One of the first jobs that Mason and Dixon were engaged to do was to run the tangent line to this arc from the midpoint of the Delaware peninsula some 80 miles to the south. The midpoint is the southwest corner of the state. (The book Drawing the Line describes the running of the tangent line in great detail and is very interesting.) We found the monuments at the southeast and southwest corners of Delaware as well as the northwest corner and two points along the arc. It is very interesting to follow the arc boundary on Google maps and observe the many very distinct jogs in the arc, and to note that the arc, which is the state line, goes right through the middle of lots in major subdivisions and the northeast corner of the state falls right in the middle of an industrial complex. Actually, it is not really the northeast corner as the entire Delaware River is included within the state boundary, so the corner marker in the industrial complex is really a witness post where the arc intersects the right bank of the river.

This, in all likelihood, the only political arc boundary of this nature in North America if not the world. It is not surprising that the determination of a twelve-mile arc from a courthouse spire would cause some amazing challenges for modern surveyors in the 1760s, if not today. It is not surprising at all that there are zig and zags in the boundary. It would be interesting to research some of the boundary problems and the taxation problems that result from properties presumably being within two different states. Sounds like another trip to Philadelphia!

As well as the Mason Dixon line, there are many interesting things to see and do around Philly. It was the home of Benjamin Franklin and the place where the Declaration of Independence was drafted. The John Bird transit and equal altitude instrument shipped over from England and used by Charles Mason and Jeremiah Dixon for their celestial observations is on display in Independence Hall. It is also the home of the Philadelphia Phillies. Well worth a visit. Maybe in October for the World Series.

What’s New at Stewart Weir?
Lots! Although our core values of quality, client satisfaction, and staff fulfillment remain our focus, we’ve been engaged in some excitement! Our quality management system has received ISO 9001:2008 certification. Our new Lethbridge office will provide an enhanced local presence in Southern Alberta. We are moving forward with new services in digital mapping, engineering photogrammetry, digital imagery, and GIS. We have ventured into B.C. with a new office in Fort St. John. Our Calgary office is moving into a new and larger space. Our Sherrwood Park office has expanded into additional space. All of these elements are geared at providing improved and expanded services to clients.

We are maintaining an attitude of fiscal responsibility and restraint while managing controlled growth. Stewart Weir has been around since 1912 and, with a strong commitment to our clients and our staff, we wish to organize ourselves into a position of providing innovative, valuable, and expansive services.

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Two monuments—one section corner! Oh boy! What now?

Field inspections carried out during phase three of the Systematic Practice Review program have unearthed double monumentation at several section and quarter section corners. That is to say, we have found places where there are two statutory monuments, or traces of them, both purporting to mark the same boundary line. Double monumentation! In this article, we will ask how this can happen. What are the implications and liabilities of double monumentation and, when it is discovered, what remedial actions can be taken?

The original always governs...

If there are two monuments (traces of the pits is a monument) marking the same corner only one of them is correct. The governing (correct) one will always be the original monument or traces thereof. Where the original monuments between quarter sections granted under the Dominion Lands Act 1883 have been lost, the division between them is to be located under the provisions of the Act in force when the lands were granted, for it is under that Act that the parties obtained their grants from the crown and their boundaries will be interpreted according to it.

The Surveys Act states at Part 2 Section (37), in part: “Every parcel surveyed in accordance with sections 29 or 32 shall consist of all the land included between the several monuments placed to determine the boundary lines and no more and no less…”

What about the case where there are two monuments, both of which are not the original?

One iron post may have been restored from traces of the original (perhaps a rust mark or remains of a wood post) and another, placed by a second surveyor from his interpretation of his own “best evidence.” The only way to resolve or avoid these situations is to contact those who placed the monuments and have them review their field notes. This should always be the first course of action. Of course, they may both have resorted to the “best evidence” and both may be convinced they are right. Let us look a little deeper, and let’s ask how this situation could have come about in the first place.

Double monumentation can occur when surveyors ignore or miss the physical evidence of occupation, such as fences and crop lines, or fail to contact the landowners and too quickly resort to mathematical solutions (proportioning) rather than legal principles.

As an example, in a recent field inspection, we found that a practitioner had proportioned along the north/south boundary of a section between two previously restored monuments a distance of three miles replacing five Part 2 monuments. When compared to the crop lines, evidence of old fence lines and other physical evidence, the first of the placed monuments appeared to be seventeen metres south of the physical evidence. The second appeared to be ten metres too far south.

In the excellent Guardpost article on evidence in the June 2009 issue of ALS News, Bruce Jones ALS points out that fence lines provide good evidence. He writes, “Where there is no uncertainty as to the date of construction, and if there is a pattern of fences and other evidence which are mutually supportive.” There was mutually supporting evidence in this case. It may well have been that, in the original survey, an error was made and that proportioning was inappropriate. Blunders did occur in the original surveys, but the location of the “incorrectly” placed monuments still govern (see above). Careful
The credibility of all land surveyors is seriously impacted if the public cannot depend on a monument placed by an Alberta Land Surveyor…

The first step is to contact the surveyor or surveyors who placed the monuments and try to resolve the differences by jointly reviewing the evidence and survey methods. Incidentally, our Code of Ethics at paragraph 5 demands this: “This responsibility includes maintaining the survey system by cooperating with colleagues to resolve any apparent errors or discrepancies in a surveyor’s work and taking all necessary measures to remedy those errors or discrepancies.”

When the two land surveyors agree on a remedy, one or more of the plans will have to be amended at Land Titles. This will involve the approval of all affected parties and the acquisition of a judge’s order to undertake the amendments. See Section 91 of the Land Titles Act. The procedure is as follows:

Application to vary a plan

(5) (a) The Board may, on application and on hearing the persons to whom notice of the application was given

(b) order that any descriptions, registers, certificates of title or plans of surveys deposited or registered in the Land Titles Office under the Land Titles Act or the Metis Settlement Land Registry be varied, amended or altered as may be necessary to reflect the true position of monuments or boundaries, or the corrected wordings of surveys.

The Board’s decision can be appealed to the Queen’s Bench under part 1 of the same Section 9.

In conclusion, I have always remembered the words of Mr. E. Markham, DLS, ALS who, writing in The Canadian Surveyor, got it right when he said: “More evidence has been unearthed—that is the correct word—by spades than all the other survey instruments and implements put together, also much evidence has been destroyed by the careless use of the spade, and it is necessary to consider the spade as an implement for securing evidence, not just for digging.”

So, before you plant the monument, get out that trusty “spade” (shovel), have another dip with the pin locator, and have a last good look around to make sure you cannot be challenged. It may save you a lot of grief.

Chris C. Everett, ALS (Ret.) BCLS, CLS, SLS (Ret.)
Director of Practice Review

study of the original field notes can often point to the possibilities of errors; for example, closing courses not measured. The principle of proportioning was never intended to eliminate gross errors or blunders but rather, in the absence of any physical or parole evidence, to distribute constant errors in an equitable fashion.

I suggest, therefore, that when the calculations are complete, it is essential to stake out the proposed locations, look around for any secondary evidence and search very carefully with the pin-finder and the shovel. This might reveal a rust hole, a wood post or an old fence post stub and if, by doing this, more evidence is found, a re-iteration of the proportioning is necessary.

The establishment of boundary monuments by proportioning is the last resort in the hierarchy of evidence and should always be treated as such.

Two surveyors proportioning from the same found evidence, working within the tolerances permitted by the MSP will usually arrive at slightly different locations to the same monument (it would be practically impossible to arrive at exactly the same location). I believe it is good practice to accept the first surveyor’s work and not place a second monument. By all means, show your own measurements on your plan, or show it “off-line” if it falls outside the allowable tolerances but in no circumstances plant a second monument.

Finally, on this topic, phrases such as “too much snow,” “the ground was frozen,” and “it cost too much” do not appear in any act or regulation and will get you short shrift in court.

There is the question of liability…

The potential for liability is considerable and could be costly if any improvements or further survey are made on the incorrect location. Furthermore, the longer there are two iron posts at one corner and the potential for further development, the resulting risks persists. At the very best, if you placed the second monument and you are correct, you are still leaving yourself and your fellow surveyor exposed to this liability. You will also have to bear the costs of attending the boundary panel meetings or even court to defend your position.

What can be done when double monumentation is discovered?

To begin with, you take a grave risk if you accept either of the double monuments without further due diligence. You cannot just remove one of the monuments if the plans are registered. I refer the reader to ALS News December 2006 where Mr. Cheng, ALS covers the legislation regarding the removal of survey markers in depth at page 37. He points to sections 442 and 443 of the Criminal Code of Canada together with section 50(3) of the Land Surveyors Act in Alberta.

Another situation occurs when no “error” has been made but two surveyors measure slightly different distances for bearings for the same course.

...
Dormant Plans: A PRB Update

Opinions expressed in this piece are solely those of the writer.

Phase 3 of Systematic Practice Review is nearing its conclusion. One of the common themes of the Phase 3 reviews has been dormant legal plans.

In several cases, reviews have identified significant numbers of dormant plans and, as a result, the practitioners have been asked to report monthly to the Practice Review Board on their progress in decreasing those numbers. Despite good efforts by those practitioners, the number of dormant plans remains high in many cases. This is part of the reason that Council now has a sub-committee tasked with finding a resolution to this issue.

The recent Director of Surveys dual registration of public land surveys policy has potential impacts on what are considered dormant plans.

For reference, the Practice Review Board’s definition of a dormant plan is: “Any survey plan of which was required to be registered in the Land Titles Office, that does not get registered within the required time frames.” Part C, Section 3.9 of the Manual. The recent Director of Surveys dual registration of public land surveys policy has potential impacts on what are considered dormant plans. The policy states that “it applies to public land surveys marked with statutory iron posts and provides for not registering these surveys at the Land Titles Office (LTO).” If public land surveys do not need to be registered at the Land Titles Office, then they no longer fit within the Practice Review Board’s dormant plan definition shown above.

However, there are still many unresolved details with respect to the new policy and until such time as those are clarified up, the Practice Review Board will continue to count dormant plans to include public land survey plans. The intent of the Practice Review Board remains to track, report on, and try to reduce the number of plans that are not on the appropriate public record within the required time frame.

I am simply cautioning practitioners not to sweep old public lands survey plans under the table...

Confused! Me too. I am not arguing for or against the new policy. I am simply cautioning practitioners not to sweep old public lands survey plans under the table simply because the new Director of Surveys policy indicates that they do not have to be registered at Land Titles.

Regardless of where you stand individually on this new policy, it is important that the final, correct plans be registered in a timely fashion and available publicly, be that LTO or SDR or both.

For practices that have significant numbers of dormant plans, the reduction and elimination of those numbers is difficult and it takes a real commitment. Often times, the land surveyors cleaning up the old plans are not the same land surveyors who supervised the original surveys. The comment I have heard recently is that there is more free time with the industry slowdown. While there is some merit to this, many firms have had to trim staffing levels and do not have significant excess manpower to deal with as many dormant plans as they might like. The slowdown does reduce the number of new plans being created, which will help those practitioners.

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The best way to reduce dormant plans is to put procedures in place to avoid creating them to start with. The best way to reduce dormant plans is to put procedures in place to avoid creating them to start with. Being committed to a new procedure like this means making it a priority and sticking to it, but once it becomes the habit or ‘norm’ within the practice, it becomes much easier. Some practitioners prepare their legal plans at the same time as the initial survey so that problems can be identified and fixed right then. Other practitioners use spring break as their time to deal with the previous year’s legal plans. There are probably others as well, but the important thing is to have a process and stick to it.

As mentioned above, the dormant plan issue is back with a sub-committee of Council for what we all hope is a final solution. I know that everyone involved, as well as the Practice Review Board, is looking forward to resolving this and moving on to something else.

Snow Kathy, ALS

In order to put together a solid professional education program, that reflects the objectives and desires of the membership of our Association, the Professional Development Committee needs input from you, the membership. By now you will have received a voluntary professional education questionnaire from the Association. This questionnaire is designed to gather as much information as possible about the current professional education activities of the membership...

Help us to make our professional education program a benchmark for other land surveyors’ associations to measure against...

I

Where’s the Beef?

It is not my intent to go into the reasons for mandatory education of professionals. The reasons are well understood by our membership, as evidenced by the overwhelming support the initiative is being given. Suffice it to say that this is but one of many components required to strengthen our profession and to ensure that, in the eyes of the public at large, Alberta Land Surveyors do work in the public interest, and we do continue to improve ourselves in our chosen field of expertise.

Continuing competency for members is a hot button issue for many professional associations across this country, as each strives to ensure that they are seen as more than a self-interest industry organization. Along with rigorous academic training, a period of articles, and practice review, mandatory professional education will be one of the cornerstone underpinning our core competencies.

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As professionals, we have the opportunity to ...slide aside the curtain of mystery that any profession works behind, and show the public what it is that we do, and why their trust in us is valid.

Witness Statements
One of the rarely used tools in the surveyor's repertoire, but one that has a large public relations impact, is obtaining witness statements. Sections 13, 14, 15 & 16 of the Surveys Act give us specific instructions on how a statement can be taken. How many of us have thought about how we would take down a statement? Have you developed a specific form or format that you would use in this situation? Have you thought about the demeanor you would present to the witness, so as to convey the seriousness of the process you are undertaking? Have you spoken to a lawyer to gather a sense of what standards a court would expect from us? How are we fairing from our obtaining a witness statement? Have you re-read the excellent publication on the Principles of Evidence by J.H. Halloway, which is available on the ALSA website?

The ability to...show the public that we are the right group...
The ALSA encourages members to submit their workers’ incidents or near incidents...

The resource information section has reference items on safety topics such as:

- **Bill C-45**—Contains the “Plan Language Guide to Bill C-45” for understanding Bill C-45, an act to amend the Canada Criminal Code that imposes criminal liability on corporations and organizations that fail to take reasonable measures to protect employee and public safety.

- **Drug and Alcohol Policies**—Resources include two Drug and Alcohol Policy models: Enform’s Alcohol and Drug Policy Model for the Canadian Upstream Petroleum Industry and the Construction Owners Association of Alberta’s (COAA), the Canadian Model for Providing a Safe Workplace in the Construction Industry. They are excellent starting points for companies to explore if they are looking to develop a drug and alcohol policy or revising their current policy. Both industry organizations allow companies to adopt and follow their models to ensure a safe workplace for all workers by reducing the risks associated with the use of drugs or alcohol.

**Fatigue**—Includes several reference materials such as Alberta Workplace Health and Safety bulletins and fact sheets on the impact of fatigue in the workplace, in addition to Enform’s Guide to Safe Work: an Employer’s Guide for Designing and Implementing a Fatigue Management Plan for workers. Survey crews sometimes are required to work long hours for extended periods at a time, causing fatigue to become a significant safety concern for employers; making a fatigue management plan beneficial to the workers and their companies.

The safety webpage was created as a result of the ALSA Safety Committee members meeting on a regular basis to discuss safety issues affecting our fellow survey companies and their workers. The intent of the ALSA safety webpage is to share quality health and safety information with the members to assist in the development or enhancement of their company’s safety program and help reduce workplace injuries and illnesses. The safety webpage is divided into two sections: 1. Incidents and near incidents; 2. Resource information.

The incident and near incident section is a place where survey companies can share incidents and learning outcomes with fellow members of the ALSA. If one of your workers sustains an injury or a near incident (near miss), you can report the event to the ALSA via the e-mail link: info@alsa.ab.ca. The incident information will be shared with the members of the ALSA Safety Committee during their regular scheduled meetings, where the Committee will discuss the details and the learning outcomes of the incident and pass on the information to their fellow employees.

So the next time you are browsing the ALSA website, click onto the safety webpage and check out new safety topics and articles or please feel free to report an incident, which will allow other members to learn from your workers' experiences. After all, keeping our workers and workplace safe is the responsibility of us all.

Jennifer Beaulieu
Safety Committee
Researchers Win 10 Awards at the ION GNSS 2009 Conference

The GNSS 2009 conference, held in Savannah, GA, on September 22–25, was another successful annual GNSS conference for the Department of Geomatics Engineering researchers. Ten awards were received, including seven by PLAN Group researchers.

The following six Student Sponsorship Awards were received:

- Fatemeh Ghafoori (supervised by Professor Skone) Correcting the Negative Values of the Retrieved Ionospheric Electron Density Profiles Using the NNLS Algorithms.
- Feng Xu (supervised by Professor G. Gao) A Complexity Reduced Frequency Domain Receiver for Galileo and GPS L5 Signals.
- Ahmed El-Bghazaly (supervised by Professor N. El-Shemy) The Aid of Wavenet Correlator in Carrier Phase Multipath Reduction and Motion Detection
- Messes. Bancroft, Morrison and Murthuran also won Best Session Presentation Awards for their contributions. Mr. Morrison’s paper was selected for publication in GPS World.

Third UNB Geodesy and Geomatics Engineering Student Represented at ION GNSS 2009 Conference

Sophie-Rose Côté, a fourth-year Geodesy and Geomatics Engineering student, took part recently in the Society of Women Engineers 59th annual conference in Long Beach, California. The SWE 2009 conference, with the theme “Women Advancing the World of Technology,” brought together more than 6,000 women from around the world to share ideas about professional development, networking, outreach projects, technology and innovation, sustainable development, balancing family with career, leadership and management techniques, and challenges in adversity and diversity.

The first editorial board meeting took place in Beijing on September 13, 2009 with Prof. Zhang in attendance.

GGE Student Success at Satellite Navigation Conference

Three UNB Geodesy and Geomatics Engineering graduate students received distinctions at the Institute of Navigation’s Global Navigation Satellite Systems 2009 meeting held in Savannah, Georgia, this past week.

Simon Banville, a Ph.D. student working with Prof. Richard Langley, received a best paper award for his paper entitled “Improving Real-time Kinematic PPP with Instantaneous Cycle-slip Corrections.”

PPI or precise point positioning, is a high-accuracy positioning technique used with navigation systems such as GPS. Up to now, PPP’s use with moving platforms has been limited due to several problems including how to effectively deal with jumps in measurements called cycle slips. These occur, for example, when a vehicle goes under a bridge and loses lock on GPS satellite signals. Mr. Banville’s work has gone a long way to solving this problem.

Two other students won all-expenses-paid sponsorships to attend the meeting based on the quality of their submitted papers. Yong-Won Ahn, a Ph.D. student mentored by Prof. Peter Dare and Dr. Don Kim, presented a paper entitled “Positioning Enhancement Based on a New Weighting Scheme to Solve an Ill-conditioned Case.” Landon Urquhart, a master’s student advised by Prof. Marcelo Santos, presented a paper entitled “Atmospheric Pressure Loading and Its Effects on Precise Point Positioning.”

The ION GNSS meeting, which is held every year, is the world’s pre-eminent gathering of researchers and manufacturers working in the field of satellite navigation. More than 350 papers in several parallel sessions were presented over three days to the more than 1200 GNSS engineers and scientists from industry, academia, and government agencies in attendance.

Upcoming Events

Beef & Bun — March 12, 2009; 5.30 p.m. — MacEwan Hall
Department Annual Student Awards Night — March 12, 2009; 5.30 p.m. to 8.30 p.m. — Cassio A&B Room
MacEwan Student Centre

The GNSS 2009 conference, which is held every year, is the world’s pre-eminent gathering of researchers and manufacturers working in the field of satellite navigation. More than 350 papers in several parallel sessions were presented over three days to the more than 1200 GNSS engineers and scientists from industry, academia, and government agencies in attendance.

Scanning of GGE’s Archive of Technical Reports Completed

Since 1970, when it was known as the Department of Surveying Engineering, UNB’s Geodesy and Geomatics Engineering (GGE) has issued almost 270 publications in its Technical Report series. The reports include internal research notes, contract reports, and reproductions of student research reports, theses, and dissertations.

The earliest reports were typewritten. In 1980, the department acquired its first word processor and, in 1984, its first Apple Macintosh computer, allowing easier text and graphics entry and reproduction of reports.

The reports were reproduced using xerography, solidly bound, and featured the distinctive cover page with the red band and department crest. Copies of the reports were distributed to a long list of subscribers and each report was sent to the National Library of Canada as well as UNB’s own Engineering Library.

Beginning in 2002, subscribers had the option of receiving new reports on CD-ROM rather than, or in addition to hardcopy format. By 2004, a decision had made to make new reports available free-of-charge via download as PDF files. This custom continues to the present day and the technical reports are among the most frequently accessed documents on GGE’s extensive web site.

But what about the couple of hundred reports that were issued before 2004? Many of these are still relevant, documenting the department’s front-line research activities, and the department was regularly receiving requests for hard copies. So, a decision was made to scan all of the reports that were still in print (and for which an original copy could be readily found) and to issue each report as a PDF file.

Scanning was done in batches and the department is now proud to announce that scanning of the last batch of reports has been completed and all available reports can be downloaded from the GGE web site.

The list of scanned reports includes many seminal works in geodesy and geomatics including some of the first non-military technical documents on the use of GPS.

Over twenty publications in the department’s Lecture Note series have also been scanned into PDF files and these are likewise available from the GGE web site. Included is the venerable Guide to GPS Positioning, one of the first monographs on GPS.
Planning and Land Use

BY-LAWS—A land use by-law limiting the use of land did not amount to a regulatory taking of land.

Appeal from an order declaring appellant in breach of a land use by-law and granting a permanent injunction requiring her to remove all recreational vehicles, buildings and tanks from her property. The property was formerly used for railway purposes, but the track had been removed in 1991. Appellant acquired the land in 2000 and used it to raise organic chickens. She built enclosures for the chickens and situated a trailer there for her periodic use. The land was assessed as vacant farm land. In 1998, the by-law was adopted by respondent municipality. It provided that property constituting former railway rights-of-way could only be used for railway purposes. In 2007, the municipality informed appellant that she had to remove the trailer from her property. Appellant did not remove the trailer, despite three notices instructing her to do so. Appellant did not comply with a stop order nor did she appeal the order. The municipality subsequently obtained the order under appeal. Appellant argued on appeal that the municipality had no jurisdiction over her land, and she submitted that the by-law that made the land unusable constituted a regulatory taking of the land.

HELD: Appeal allowed in part. Appellant failed to raise the jurisdiction issue in the court below and was thereby precluded from arguing that the municipality lacked jurisdiction over the land on appeal. The by-law did not constitute a regulatory taking of land by merely preventing appellant from using it for a specific purpose. The judge erred in granting the injunction, the absence of evidence supporting the assertion the lands were entirely a purpose. The judge erred in granting the injunction, the absence of evidence supporting the assertion the lands were entirely a purpose. The judge erred in granting the injunction, the absence of evidence supporting the assertion the lands were entirely a purpose. The judge erred in granting the injunction, the absence of evidence supporting the assertion the lands were entirely a purpose.


This article was reprinted with permission and originally appeared in the September 13, 2009 issue of The Lawyers Weekly published by Lexisnexis Canada Inc.

Sale of Land

MISREPRESENTATION—Plaintiff was not entitled to damages related to an alleged encroachment by defendant's septic tank on her property because there was no encroachment.

Motion for assessment of damages. Plaintiff and defendant owned adjacent parcels of land. Plaintiff purchased her parcel from defendant and lived in a house on it. She claimed that shortly after applying for site plan approval, she learned that a portion of defendant's septic tank encroached on her property. She was forced to redesign her new home and build it much closer to the road than she had planned. She sought to recover damages for breach of contract, misrepresentation and loss of enjoyment of land. Defendant did not defend and was noted in default. Plaintiff now seeks to have damages assessed at $250,000.

HELD: Motion dismissed. An undefended trial against a defendant noted in default was not limited to an assessment of damages. It was for the court to determine whether the evidence was sufficient to entitle a plaintiff to judgement. The agreement of purchase and sale contained a clause in which defendant agreed to provide a survey of the property. The survey showed no encroachments and, in fact, there was no encroachment.

The defendant sold to plaintiff included a portion that had clean sand fill on it. The presence of the sand did not prevent her from constructing her septic system where she chose. The city representative who informed her that she could not construct her septic system at the location shown was clearly mistaken, as the supervisor who later attended would point out. The solution was to move the sand, not the house.


This article was reprinted with permission and originally appeared in the October 9, 2009 issue of The Lawyers Weekly published by Lexisnexis Canada Inc.

As we begin our climb out of the slumping economy, the process of training and certifying technical staff has never been more important.

President of the Alberta Society of Surveying and Mapping Technologies I wish all our members, as well as those of the Alberta Land Surveyors’ Association, a safe and joyful holiday season.

My special thank you goes out to those of you who have so unselfishly offered your precious time and effort in volunteering to help the Society realize our successes.

Co-Chair: Barry Bleay, CST
Cathy Bleay
Trevor Bennett, CST
Carol Blackburn, CST
Dwight Adams, CST
David Allen, CST
Brian Ball, CST, CLS
Rob Cream, CST
Charles Goodbrand
Tim Harding, P. Eng, ALS. CLS
Ray Helman, CST
Terry Ingraham, OLS
Jim Kleiner, CST
Kevin Lais, CST
Wayne Latam, CST
Jim Maimdent, ALS
Chris Martin, CST
Ron McGaffin, ALS
Stephen Nichol, ALS
Roland Schwierz, CST
Allan Thristad, P.Eng., ALS
Steven Van Berk, ALS
Bob Wallace, ALS

I also have a few personal messages to pass along.

I would like to extend to all of you in the upcoming holiday season and into the New Year a very Merry Christmas and a Happy New Year.

Ray Helman, CST
ASSMT Past-President

Merry Christmas and a Happy New Year to the membership of ALSA and ASSMT. I am wearing a few different hats this year. Along with my role as past-president, I am also the chair of our Legislative Committee (reviewing our Society’s bylaws in preparation for next year’s AGM) and the ASSMT Liaison to ALSAs Standards Committee. It is a privilege to represent ASSMT’s membership in these roles, and an honour to work with the ALSA membership on the Standards Committee. There is a tendency, at this time of year, to get a little warm and fuzzy, but what’s wrong with a little “warm and fuzzy” I truly wish the best of the season to all, and I hope to see every one of you at some point in the New Year.

Merry Christmas.

Bob Cream, CST
ASSMT Past-President

On behalf of ASSMT and all our membership, we wish you all a happy holiday season and a continued success in the New Year.

Cris Martin, CST
ASSMT Registrar

Amazing where we find ourselves in just over a year. For almost a decade, we have watched Alberta flourish during a time of exceptional economic growth due primarily to the price of a barrel of oil. The services of surveyors and map-makers were in such huge demand that our labour force struggled to meet client time lines and budgets. It didn’t take long for the demand to deplete the pool of skilled geomatics specialists. Although it may not be measurable, my guess is that many of those marginally skilled workers who were drawn into the geomatics industry to meet this demand were not properly trained and they likely had an impact on the bottom line of many surveying and mapping companies due to poor workmanship and lower productivity. Now, more than ever, being more efficient with less may mean the difference of surviving the recent slowdown or not. Quality certified staff is part of this survival and regrowth equation.

So it would appear that during both a robust economy and during a depressed economy, the benefits of having skilled certified personnel can help provide more stability to a land surveying company.

As we begin our climb out of the slumping economy, the process of training and certifying technical staff has never been more important. The role of the ASSMT/ALSA MOU Implementation Committee (AAMIC) is to refine this very process. Although we were only officially established about ten months ago, the framework for this Committee has been in the development stage for almost ten years. This I know because I recently revisited an article I wrote in 2000 that touched on this very topic.

Now I’m excited to say that we have a keenly interested group of Alberta Land Surveyors, certified techs and educators that are willing to help guide the certification of technicians and technologists to the next level.

I would like to take this opportunity to thank all of those volunteers that helped build the very foundation that AAMIC is built on and I look forward to working with David Allen, Chris Martin, Ron McGaffin and our newest member, Steve Fiddler, as AAMIC moves towards its goal in 2010.

Barry Bleay, CST

Once again my special thank you to all of you that has helped us along the way, both past and present.

My sincere Holiday Greetings and wishes for a Happy New Year.

Happy New Year.
UNIVERSITY OF SASKATCHEWAN
A GUIDE TO CANADA'S PROPERTY LAW

Understanding Property

including table of cases, index and references; 8½ x 11 inch—Carman, 2008
Alberta Legislature Library KE 618 B44 2008

“Cadastral surveying is the application of measurement technology to real property law.”

Ken Allred

Understanding Property is a great textbook for a person wanting a comprehensive, yet not complicated, overview of the law of property. The text is divided into four parts: property relations, personal property, real property and Aboriginal title. While the text is primarily directed to real property law (over half of the text), the first two chapters lay the groundwork for a detailed discussion of real property.

The authors, law professors from the University of Saskatchewan, have intentionally attempted to “simplify and synthesize the many layers of property law to provide a meaningful guide to students through first year real and personal property and Aboriginal title.” I think they have done an excellent job, avoiding much of the legalese that is so common in legal texts and describing the concepts in plain language for the most part. The text would serve well for the non-law student as well as first-year students of law.

Understanding Property lays the historical groundwork from early Roman and English law to the present without dwelling in detail on all of the ancient statutes but rather gives a few short paragraphs on the important changes that have a bearing on today’s common law.

Part 3 on real property discusses tenures and estates, co-ownership, interests other than the fee simple estate and land conveying systems including a good description of the principles of the Torrens system.

The last chapter on Aboriginal title will be of particular interest, especially to Canada Lands Surveyors and students preparing for the CLS examinations as the law relating to Aboriginal title has evolved in Canada over a short period of time. Each of the important cases is discussed with emphasis on the legal principles established by those cases.

While the book does not dwell heavily on specific cases, it does cite them throughout the book and sets out a table of cases cited at the front of the text. Graphic illustrations are used to elucidate some of the key principles. As well as a detailed table of contents at the start of the book, each chapter is introduced with a mini table of the items being discussed in that chapter. The text also contains a bibliography and an excellent index.

Overall, I think this would be a good book to add to any survey library as a basic text on real property law and Aboriginal title.

Land Registration

2nd Edition

By Sir Ernest Dowson, K.B.E. and V.L.O. Sheppard, C.B.E.

205 p. including glossary, bibliography and index; Her Majesty’s Stationery Office—1956 (out of print)

“The term ‘general boundaries’ is a euphemism for uncertain boundaries.” Dowson and Sheppard

It may be 54 years too late to be writing a book review on Dowson and Sheppard’s famous book on land registration but as much as I’ve relished reading this book, I have only recently got my hands on a copy, thanks to honorary life member, Ken Pawson. I’ve often seen reference to Dowson and Sheppard in books such as Peter Dale’s Cadastral Surveys within the Commonwealth and S. Rowton Simpson’s Land Law and Registration.

Land Registration is a description and comparison of various land registration systems from around the world, in Europe, Australia, North America, Asia and Africa. The book describes and compares the Torrens system with the English land registration concept and the European cadastral with some case-in-depth detailed analysis of the practices in specific countries. Other comparisons are perhaps a little on the cursory side, especially related to the several provinces of Canada.

In many respects Dale’s Cadastral Surveys within the Commonwealth compares closely to Dowson and Sheppard’s style of analyzing systems on a jurisdiction by jurisdiction basis—Dale dealing specifically with surveys and Dowson and Sheppard dealing with land registration. Both books start with several general chapters on the topic at hand and then get into the detailed comparative analysis of systems around the world.

As would be expected, a work on land registration deals in some depth with surveys as they relate to land registration. In fact, Dowson and Sheppard comment at length on the importance of cadastral surveys as the building block upon which solid land registration systems are built. It could even be surmised that the failure of the original English Land Registration attempts in the mid-1800s was due to the fact that their system had to rely on general boundaries and hence the quotation above.

One must remember that the first edition of this book was originally published in 1952 with the second edition coming along in 1956, so many things have changed in the past fifty years. The chapters on the Evolution of Land Records (chapters 1-4) and the Origin and Development of Land Records on the Continent of Europe (chapter 5) however, are timeless and give a good background to how our systems have developed. Chapter 6 on the Reapportionment of Fragmented Holdings illustrates the problems created in some countries by the continual division of lands to satisfy the division of estates amongst large families. The glossary is an excellent summary of common and not so common land registration terminology.

One somewhat annoying aspect of the book to the uni-lingual Canadian is the frequent quotations of various statutes in French and German (without translation). Presumably the authors felt it was necessary to preserve the exact meanings but it proves difficult to get the meaning when it is in another language. It is, however, not all that necessary since a book like this is not meant to be read word for word but more of a reference. If one were researching the land registration systems in Switzerland, you would probably want to be fluent in French and German, in any event.

Anyways, I found much interesting food for thought in this book and would like to thank my good friend Ken Pawson for lending me the book. It was a bit of a struggle getting through it in places but was well worth it.

G.R. Allred, ALS (ret.)

Regional Meetings

EDMONTON
March 23, 2010
Edmonton Petroleum Club

CALGARY
March 31, 2010
Sandman Inn

GRANDE PRAIRIE
March 27, 2010
Quality Hotel

MEDICINE HAT
March 30, 2010
Desert Blume Golf Club

ALS News December 2009 - 41
On May 9, 2000, Army MacCrimmon interviewed Bill Wolley-Dod as part of the Historical & Biographical Committee’s initiative to capture biographies of prominent Alberta Land Surveyors.

Bill Wolley-Dod was a principal in the firm of Wolley-Dod & MacCrimmon Surveyors Ltd. until his retirement in 1988. He was president of the Alberta Land Surveyors’ Association in 1958 and made an honorary life member in 2002.

Army MacCrimmon was president of the Alberta Land Surveyors’ Association in 1970 and made an honorary life member in 1989.

The interview between former business partners will be printed over the next few issues.

Army—Ken Allred has given me a list of old surveyors and a lot of them are Dominion Land Surveyors. He wanted me to find out whether or not some of these people had names named after them. You had already picked one out—Bridgeiland.

Bill—He was L.J. Harris’ principal.

Bill—Belfay—I don’t think there’s been any streets named after him. I do know where we can get some information on Mr. Belfay who, incidentally, is number one on the list. There are people like Cautley and Charlesworth that are familiar names to me. I don’t know whether they had anything to do with street names.

The Cautleys were brothers who were in Edmonton. Charlesworth, among other things, had something to do with irrigation in the south part of the province. I remember seeing him probably just a couple of years after I got my commission at an ALSA annual meeting at a hotel west on Jasper somewhere. Jack Holloway was at the front table and a very old man came into the back of the room and Jack announced that this was L.C. Charlesworth.

You’ve got a good memory and I’m glad you’re here to do this.

L.C. Charlesworth had the most beautiful signature.

Oh, I’ve seen that—sure. Ken’s note says that he was the first Director of Surveys. Driscoll, Fischart, Farncomb, Johnson—Benny Mitchell—he’s one that certainly was a Calgary surveyor. What was he well-known for—road surveys?

Primarily, you see little road diversions all over southern Alberta and interestingly, Bill Gold worked for him in the summers when he was going to university.

Is that so? Bill Gold—great man—and we did a lot of work for Bill Gold. I always thought he was a prince of a fellow.

H.L. Seymour’s name appears on a street in Southwood in Calgary—would be better to check out to see if that is the same guy as Seymour is not that uncommon a name. Ken has a note attached saying that he was an early town planner.

Abel Seneau Works?

That’s right; a railway surveyor across Alberta. I didn’t know that he had done a lot of railway work.

He was like D.T. Townsend was with CP. I remember tangling with a survey of his. Great fancy plan, out near the government elevators in the south east part of the city.

The plan had a few holes in it. Somehow they had central line information on a boundary or vice-versa. We had the most dreadful time getting it unscrambled. We finally figured out what was going on.

He would mix things up pretty good.

He was noted for very, very fancy plans.

This is Wrack?

No—a railway surveyor, not to be confused with a railway engineer—he would be measuring up rights-of-way. Some thing Pete Muirhead did for Canadian National and Townsend and Barlett for CP.

Bob McCutcheon arrived in Townsend and did a lot of the same work. Ollie Hed- ster—foreman to Hamilton and Olsen. I wouldn’t have known that—Ollie, eh? H.S. (Harry) Day—he appears in that famous photograph that we have of the 1941 Edmonton meeting. I remember Mr. Day attending some of our annual meetings too—he was an old man then, A.G. Stew- art, of course, he was the boss of the Stewart, Weir company. Here’s one—H.E. Pearson who was awarded the Order of Canada. Taylor, Pearson and Carson.

Same Pearson?

Yep—that’s him.

I’ll be darned.

He was an old DLS man up in the tar sands country.

I’m learning all sorts of things. I did not know that. Taylor, Pearson and Carson—a very famous name. Fred Seibert? I know of a person that was a nephew of Fred Seibert’s and I think he has some information on that family. He did a lot of baseline work. Well, he did some. That book—blue book—Seib- ert is listed there somewhere as working on the baseline. W.E. Zinkan?

I think he was a surveyor at LTO in Edmonton. I seem to remember my father talking about him.

Like Ted Ropponi or Spencer’s job?

Yeah.

Doze—we have quite a bit of information on Joe Doze through Zenny Stryczek who assisted in his notes and sort of stealthily, under his cape, looked at the notes. He wouldn’t let Bob look at them all. It seems to me that just before I left, that we had been talking to Ken Pawson about housing them at the City ‘cause we were getting a little tired of people knocking on our door and wanting to look at these notes—two or three visits a week.

Yeah, that’s right—just nothing was done of that.

No.

I think we approached the Association too as to whether or not they couldn’t find some room in their offices in Edmonton because now those old books are not of any use as far as helping a surveyor to do his job.

There is the odd instance out in what they call the inner city but right out of the downtown core, you can still find those Patrick dots.

Can you suppose—yup.

As long as the whole sidewalk hasn’t been ripped up. I remember taking Dick Basll out to show him a set of Patrick dots that were drilled horizontally into the back of a building downtown.

I know where they are—up on the wall about five feet.

Yeah, something like that.

Doesn’t seem to me that was maybe on First Street West or somewhere in that area.

These ones were First Street East—prob- ably gone now because I think it’s where the new convention center is going up.

In the notes that would be an effect from the east side of the street and on the south side of the building—does that sound right?

Well, this was on the south face of the building, on the lane.

Yeah, on the lane.

It was about a foot in from the edge of the building.

So that would be on a special effect?

I guess he’d seen references to them on some Calgary plans about A.P. Patrick’s dots, but he’d never seen them. I forget—was that the CIS convention or something—some function?

That would be about 1978. Is it so? So you took him around and showed him. The other dots on the sidewalks were on line, weren’t they?

Yeah. There was one by the old White Spot on 4th Street and 12th Avenue and that’s the only one that I ever saw that had dots going in both directions and it was like a little star—the centre dot defined line in both directions.

They were all a series of three dots. Good stuff?

We talked about D.T. Townsend and we talked about Bartlett. I can never re- member meeting Mr. Bartlett. Dick Anderson worked for Bartlett. Do you recall that or not—before he came to McCutcheon?

No I don’t. He worked for Scabbey Peace before he came to McCutcheon.

Oh, did he? I may be hyperactive on that. I’m not aware that he worked for Bartlett, but he could have.

I think he died—not for long.

Yeah, I think I only met him once. He died quite a long time ago. Quite a bit before Dave Townsend died.

He is in that famous picture. Charlie (CM) Hans—spelled with a W. You know something. I’ve got his standard tape. I should donate that to the Association. I have Pinder’s.

What were they made of? They certainly didn’t rust anyway.

No they didn’t. They never saw the out- doors.
No they didn't. I guess we checked our chains once in a while. I remember stretching one out in that big long hall there over at Hall's Hardware. There was a place in check chains. So, I should do that. I haven't done that and it might be a keepsake. I remember stories about Mr. Hoar. He did a son of surveys—irrigation work for the Eastern Irrigation District and you will see a whole slew of plans in the Land Titles Office that were surveyed probably in the teens and early twenties.

Levi Harris—there's been a fair bit of investigating on Mr. Harris and article written. We've got a pretty good handle on him. There's a mountain named after him. He was the first white man to climb it—around the Columbia foothills somewhere.

Alex Cormack—Bob McCutcheon thought highly of his surveys. Yeah, he sure did. Mr. Harris was a great guy. I guess. He had his own chain gang. I knew him fairly well. I think Jim worked for him. He was quite a guy I guess. He had his own road widening and diversions and stuff all over southern Alberta.

He was noted for road surveys. R.M. (Bob) Gourley was a funny guy. I never got to know him. The only time I ever met him was at the Land Titles Office. Jim Clark knew him fairly well. I think Jim worked for him definitely. He didn't know, he could have. He was quite a guy I guess. He had his own little astronomical observing point. He was a very clever mathematician and astronomer.

We're going to now switch to your biographical summary. I wanted to get a few things clarified. Your high school days—you went to Central High? Would that be 1950 – 1953? Was 8th St of West of 11th Street in that north side? Yeah, that would be it.

Y'know what! I always thought that you went to Western. I've been telling everybody that that's where you went to high school. To be honest with you, I didn't know that that darn school was there until there was a piece in the Herald here a few days ago. It's been tangling now over at the Calgary School Board and they offer adult training classes I think. I took a drive around it the other day. That is a magnificent old building. Big old stone building.

It's beautiful. How many years were you there? The standard four years! Yeah.

What years would that be? I finished up in '47.

What was the address of your old house? Well, my grandfather's old house that we lived in during the War was 516 – 30 Avenue SW, about a long block south of the McClenon Club. It's still there. It was built by Freddy Lowe who was a real estate developer. They've destroyed his house now. It used to be on the river side of Elbow Drive. It had a big grove of spruce trees and for some reason they knocked it down. He subdivided that whole area in there and donated the land that the Christ Church Elbow Park is sitting on. My grandfather didn't build that house but he was the first occupant. Freddy Lowe built it.

The house is still there? Yeah.

We talked about your grandfather before we got the tape going, so I'd like to get back to that part of your history. The next question is on your mother's family. They ranched out at Grant's Valley, northeast of Cochrane. Were they the original homesteaders out there? They were among the early homesteaders out there. Her father's name was W.D. Kerfoot (William Duncan). He came up to that area on a cattle drive from Montana. He was born in Virginia, Clark County, Virginia. That's the same as Kerfoot Crescent in Calvin Grove.

That's right, how did that happen? Grant McEwen, bringing that great historical street on the north side? Yeah, that would be it.

ALS Short Course - Banff 1952

Although these substantial accretions of new members and article pupils during 1951 were felt to be sufficient proof that the profession was growing quickly under its own steam and that the actions which the government had demanded were hardly necessary, the Association had nevertheless become committed to them and, in any case, the demands for legal survey work were still greater than the current members of the Association could meet. The 1952 Annual Meeting, after much debate, therefore endorsed the proposed new legislation and the prospective short course, although still with some misgivings about the admission of candidates without articulated training. This uneasiness was later found to be not without justification, for the Board of Examiners, under direction of the General Faculty Council, felt obliged to accept a rather broader interpretation of what constituted acceptable practical experience, with the result that a few candidates who had done no legal survey work at all were deemed to have met the requirements by virtue of past field work on engineering surveys and suchlike into which the establishment of boundaries and questions of legal evidence did not enter. Happily, little or no harm was done in the long run, since those concerned were usually intelligent enough to recognize the deficiencies in their training and to seek advice from the Director of Surveys or other surveyors on problems they encountered later.

In fact, most of the formal complaints that arose from time to time during the succeeding years about defective surveys were directed at members who were supposed to have had proper training and, in 1951 and 1952, the Council was much involved with a series of complaints alleging repeated negligence on the part of a Calgary surveyor of long standing, which finally brought about his temporary suspension from practice. This tended to cast some discredit upon the traditional system of articulated training as a means of developing technical skill and professional rectitude.

The members present at the Annual Meeting, evidently well aware of the fact that good survey work depends as much upon the personal honesty, diligence and conscientiousness of the surveyor as upon his technical ability, spent some time in discussing ways and means of assuring that those who might enter the profession without articulated training would be men of integrity. It was agreed that the Board of Examiners be asked to see that proper safeguards were set up in that connection, and at the following session of the Legislature the Act was further amended to require all applicants for registration to produce satisfactory evidence of good character.

The short course on survey law and legal survey practice was conducted in April 1952, at the Banff School of Fine Arts, and was attended by some thirty students, most of whom were recent graduates in engineering. Messrs. Hamilton and Glenday gave lectures on the various provincial acts and regulations pertaining to surveys, the Dominion lands system of subdivision, the Torrens system of land registration, the procedures of the Land Titles Office and the writing of descriptions. The students spent half a day on a conducted tour of the Calgary Land Titles Office, where they were given a first-hand explanation of the registration system, and the course wound up with two days of field exercises in the townsite of Banff and at Morley Settlement which were largely devoted to the finding and re-establishment of corners.

It was agreed by all concerned that the course had gone well, and among the twenty-four new members who qualified at the spring and fall examinations in 1952, there were twelve who had taken the course. Eleven of these became regis- tered that year and, in 1953, the exami- nations were belatedly written by three other Banff students whose names were subsequently added to the register. The influx of new members in 1952 increased the Association's membership by nearly 35 per cent, setting an all-time record for annual percentage growth.
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