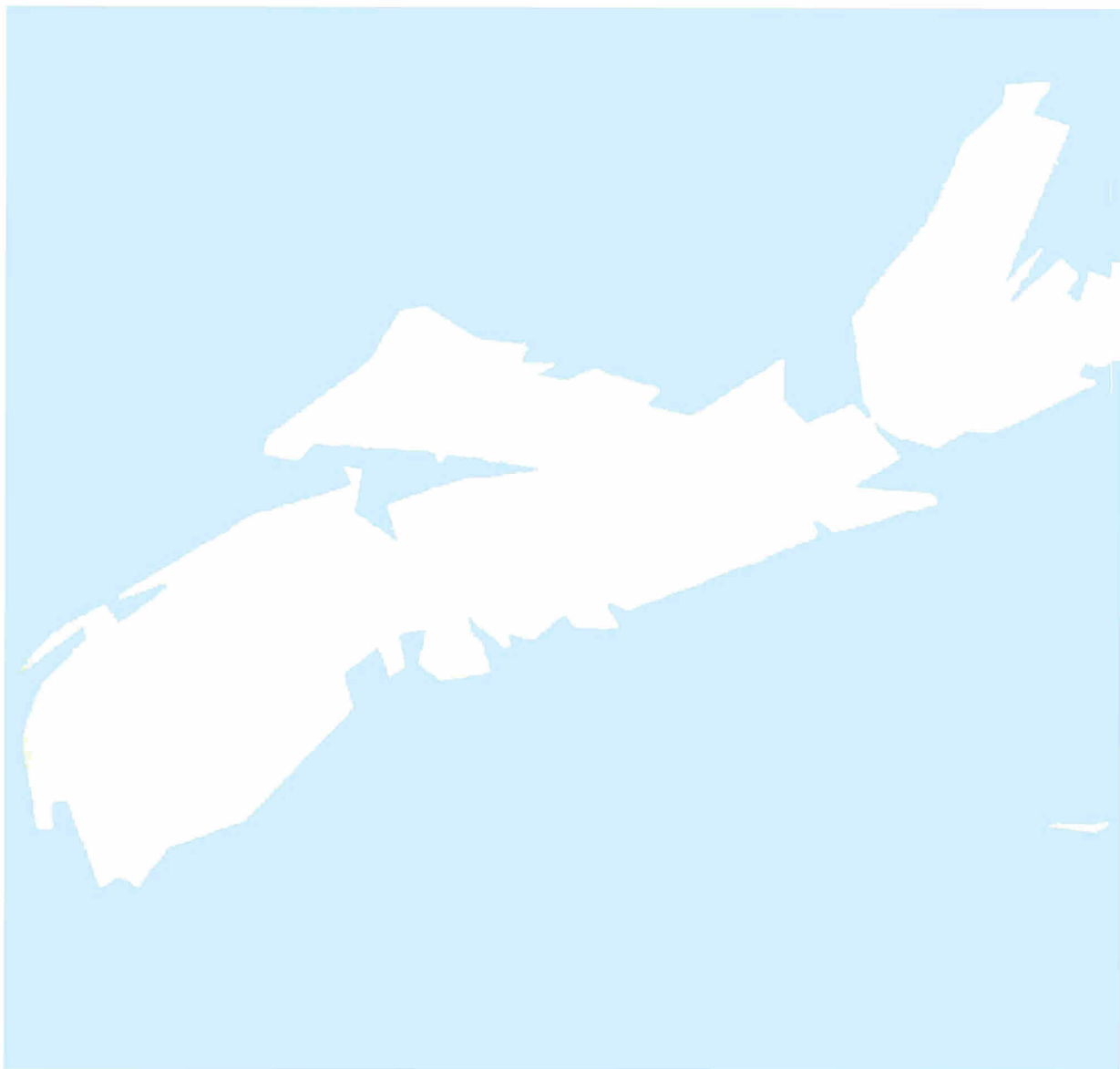
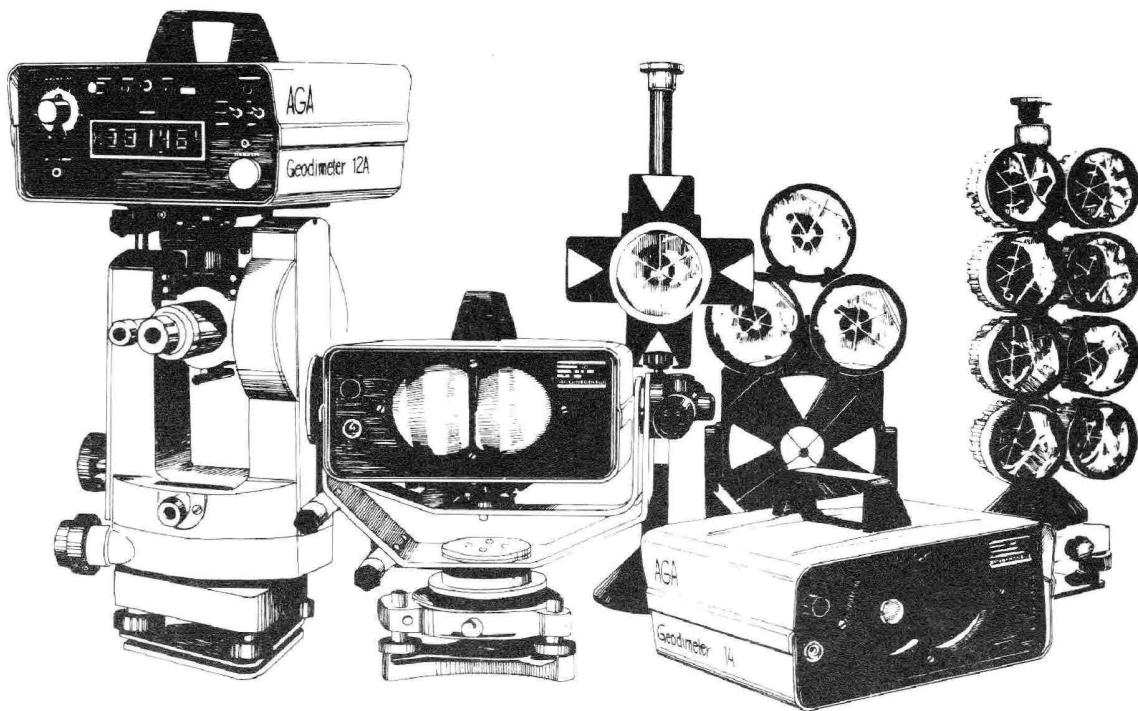


The NOVA SCOTIAN SURVEYOR



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The NOVA SCOTIAN SURVEYOR

Published four times a year by

THE ASSOCIATION OF NOVA SCOTIA LAND SURVEYORS INCORPORATED

Murray J. Banks
President

Walter C. Rayworth
Vice-President

George E. Streb
Secretary

Address all communications to P.O. Box 1541, Halifax, Nova Scotia
Telephone No. (902) 423-2058

Founded 1951

Incorporated 1955

Vol. 37

Summer '78

No. 91

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Subscriptions: - Non-members may subscribe to The Nova Scotian Surveyor' at the yearly rate of \$8.00.

**** C O N T E N T S ****

Views, expressed in articles appearing in this publication, are those of the authors and not necessarily those of the Association.

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SEMINAR NEWS REPORT
FROM
THE CONTINUING EDUCATION COMMITTEE
by Jim Chisholm, Chairman

The five regional seminars on the coordinate system completed last spring were attended by ninety-eight surveyors and twenty-nine technicians across the province. The next round of seminars is currently in the planning stage by instructors: Al Wallace, Keith AuCoin and Garnet Clarke. These seminars are scheduled to be held early in the calendar year, 1979.

A ONE-DAY SEMINAR will be held again this year in conjunction with our Annual Meeting. This seminar is scheduled for NOVEMBER 2, 1978 and the theme will be "BUSINESS PRACTICES". Material on this subject has been assembled by the Ontario Land Surveyors Association, and the committee has asked C.C.L.S. to obtain this material for use in planning our seminar. Members will hear more details on the content of this seminar early in the fall.

In April the Continuing Legal Education Society of Nova Scotia contacted the Liaison Committee with a proposal to arrange jointly a one-day seminar for surveyors and lawyers. The task of planning the seminar was then turned over to the Continuing Education Committee and we are presently working with the Continuing Legal Education Society to finalize the program and administrative details.

The SURVEYOR-LAWYER CONTINUING EDUCATION SEMINAR will be held on SEPTEMBER 30, 1978 at the DALHOUSIE LAW SCHOOL. The facilities will accommodate 250 persons and we are hoping for a record attendance.

A number of members from the legal and surveying fields have agreed to make presentations, and there will be time for open discussion. Topics include: - "SURVEYORS AS EXPERT WITNESSES": "TITLE AND BOUNDARY CASES": "LAWYERS' CERTIFICATE OF TITLE AND SURVEYORS' CERTIFICATES": "THE LAW OF BOUNDARIES IN NOVA SCOTIA": "THE LAW OF EASEMENTS IN NOVA SCOTIA" and other topics of interest to both professions. Members may expect to receive further details in a seminar brochure which will be mailed early in September.



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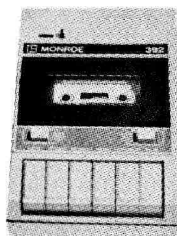
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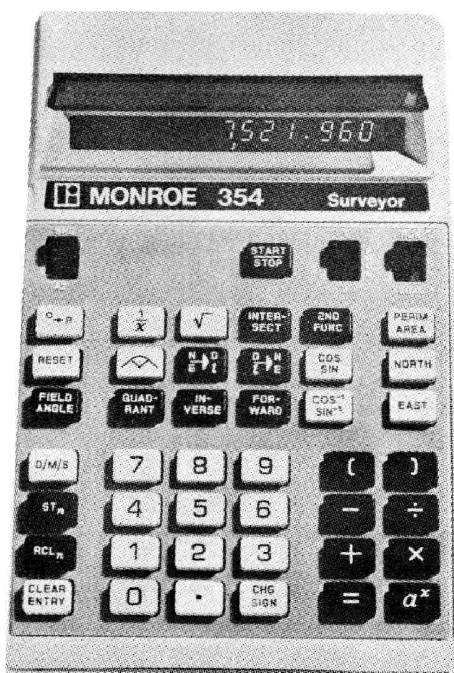


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This is a hard covered book of 220 pages, the same size as "The Nova Scotian Surveyor".

It contains edited reports of the twenty-four boundary cases appearing in the N. S. Reports for the period 1965 to 1977.

The preparation of this reference book has been underwritten by The Association of Nova Scotia Land Surveyors. The selling price will recover the costs of production and postage. It is a non-profit venture.

The enterprise is a portion of the Association's efforts to help the professional surveyor maintain a high standard of competence. Hopefully, the book will be of interest and use to others as well.

Orders should be directed to:

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* * * * *

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** THE ROLE OF THE LAWYER IN THE PROPERTY TRANSACTION **

presented by Ned Kelleher, Barrister & Solicitor, Halifax, N.S.

INTRODUCTION

When I first spoke to Ivan Macdonald about the topic for this panel, I had some trouble deciding what to discuss. I certainly can't tell you anything about surveying - and the legal principles of Survey Law are probably more familiar to you than to me.

The other day, however, when I spoke to Ivan for about the third time, we started talking about the meeting and this panel; after some small talk, Ivan said, "but that's not what I called you about"; "Okay!" I said, "What is it?" Then Ivan spoke those three words that make lawyers tighten every defensive muscle in their body; he said, "you certified title".

At that point, I found my topic - I would like to discuss with you the role of the lawyer in the property transaction, the problems with the property search, some pitfalls, his certificates of title, and his survey problems.

The lawyer is interested in a conveyance to his client of a good paper title. The vendor generally agrees to transfer complete title to the property to a purchaser; the ability of the vendor to do so, however, depends on:

- The quality of his title, that is, his interests or rights in relation to that land;

To determine those interests it is necessary to find:

- a) That the vendor has acquired full ownership rights from his predecessors in title;
- b) That the title to the property is free from encumbrances, liens, charges, or other interests;
- c) That the vendor's title or rights have not been interfered with or extinguished by another.

The job of investigation, examination, report and liability for the findings has traditionally come under the lawyer's area of responsibility.

Now, however, the growth of society, large concentration of populations, and the sophistication which has developed in methods of transferring and financing and charging property has changed that method of operation of the lawyer, while still continuing the legal liability he has for the work performed.

THE LAWYER'S ROLE

The lawyer is employed or retained to "Certify Title" for his client, usually a purchaser or mortgagor of property. A good "chain of title" for the required period of time, usually 60 years will establish ownership rights. A good chain of title involves an examination of the documents of conveyance, for example, deeds - for proper execution, content of covenants, proper words of grant, generally in proper form, mortgages, etc.

It is important that the lawyer be able to trace the parcel of land, as set forth in the metes and bounds or other description, by that description or as an identifiable part of a larger described parcel.

This examination proceeds in this Province, in practice, for a period of 60 years backwards to an owner who held a Warranty Deed to the property.

WARRANTY DEEDS MAY BE DESCRIBED AS FOLLOWS:

Since the enactment of the Conveyancing Act, no covenants or conditions are implied [Section 6 (2)], however, a conveyance of land is usually completed by a Warranty Deed; such a deed is both a conveyance or transfer of the land and a guarantee for the purchaser; the conventional Warranty Deed contains five (5) covenants:

1. Quiet Enjoyment: Not a guarantee of peace and quiet. The covenant guarantees that the purchaser's possession and enjoyment of the lands conveyed will not be disturbed by (A) the Grantor, (B) any person claiming through the grantor, or (C) any paramount claim existing at the time of the conveyance.

The covenant does not guarantee that the title is good; a breach of the covenant arises from a defect in title; guarantees that if there is a defect of title and interference with the purchaser then compensation will be paid.

2. Good Title: States that the vendor lawfully holds the lands.
3. Right to Convey: Generally the breach of this covenant and good title arises from the same set of facts and the recovery is similar. Some differences, i.e., a Trustee or minor may have good title but no right to convey it.
4. Freedom from Encumbrances: Means that the lands are being conveyed free from any judgments, mortgages, tax liens, easements, covenants or anything else restricting the use of the land.

NOTE: The grant of easements above, transfers easements, rights of the vendor to the purchaser over a third party's property. The easements in the covenants means that the vendor's property is free of any easements over his land that would benefit a third party.

The covenant reads "that the same (lands and premises) are free from encumbrances". It is immaterial that the grantee had notice of the encumbrances;

NOTE: Frequently the agreement provides that mortgages, etc. will be assumed or the property is subject to certain restrictions; intrinsic evidence may be called to show this, however, the safer practice is to include a reference to:

- (a) Mortgages assumed and reference made to the recording particulars;
 - (b) Restrictions contained in registered plan, municipal by-laws or regulations, provincial statutes, and in other conveyances;
 - (c) Easements shown on any registered plan or contained in and recorded documents.
5. Further Assurances: To enable the purchaser to obtain from the vendor a further conveyance if one is required to cure any defect in title.

This 60 year period of time is determined by the Limitation of Action Act R.S.N.S., 1967, c. 168 commonly referred to as the Statute of Limitations; this Act prescribes certain time periods after which a persons rights are deemed to have been extinguished or terminated.

Because of the problems with increasing claims against lawyers for errors and omissions, many of which are related to the lawyer's failure to act within times set forth for limitation of actions, the Nova Scotia Bar Society is attempting to compile a list of those statutes or other provisions which should be referred to by solicitors who may be required to "act" under those provisions; the tentative list, apparently by no means complete, lists some 30 Provincial Statutes which provide time limits after which rights will be terminated; this list is not conclusive, contains no reference to Federal Statutes and does not point out that many of the Acts contain numerous provisions within a single Act.

In general, it is commonly believed that a "squatter" or occupier of lands, which are owned by another, will acquire ownership rights against the owner if the possession, is for 20 years, is open notorious, adverse and exclusive; this is a legal determination. It is important, however, to note that a trespasser, or occupier who can invoke the provisions of the Act does not acquire title to property - he merely extinguishes or ends the owners rights with respect to the land. The squatter, if he can establish possession for the required period of time may avail himself of the provisions of the Quieting Titles Act, R.S.N.S. 1967, c. 259, to obtain a Certificate of Title.

If the vendor can establish that there are no prior or paramount claims, and no interference with his rights, by the possession or occupation of a third party for the period required to extinguish the vendors rights and the property description can be traced, the vendor can show a "good title".

Traditionally this work of the lawyer could be performed at the Registry of Deeds; however, because of the nature of the information now required to enable the lawyer to express an opinion, and because of the pressure of time, the method of operation has had to change, for example, lawyers now employ title searchers, other para-legal staff; this method will shortly change again with the new Land Titles System.

Unfortunately, the title search at the Registry of Deeds will not disclose:

- A. Liens, claims, charges or problems on title resulting from death; hopefully, the records of the Probate Act will help, however, this is not always the case.
- B. Liens, charges, or claims, many having priority over the registered documents on title whether or not the lien or charge is itself registered.
 - Bankruptcy Act - provisions
 - Unpaid vendors lien
 - Estate Tax Act lien
 - Assessment Act lien
 - Liens for real property tax, capital charges, etc. under various Municipal Acts
 - Workmen's Compensation Act liens
 - Labour Standards Act liens
 - Income Tax Act liens on property of non-residents
 - Claims by lessees under leases for less than 3 years.

NOTE: A list titled Overriding Interests in Land was recently published in The Nova Scotia Law News, January, 1976, Volume 2, No. 3, by Charles W. Macintosh, Q.C., and Lynne Gavin.

Some of these liens will appear at the Court House, on the Municipal Records, or elsewhere, however, it is very important to note that many are operative and, in fact, have priority over other registered documents even though the lien itself is not recorded.

- C. Restrictions on use of Land - with the possible exception of restrictions or reservations endorsed on the plan approving the lot in question, or perhaps the registration of restrictions, or reservations contained in deeds or separate documents, many restrictions on the use of land are not shown at the Registry of Deeds. Some of these restrictions are found in:
 - Planning Act, Stats. N.S. 1967, c. 16 as amended. Governs regional, municipal development, zoning by-laws, subdivisions plans, registration of deeds of subdivisions, amended plans.
 - Lands and Forests Act, R.S.N.S. 1967, c. 163. Reserving minerals to the Crown with the exceptions of limestone, gypsum, and building materials.
 - Airport Zoning Regulations published in the Canada Gazette.
 - Public Highways Act - governing setback requirement from highways and construction of works or use of property for certain purposes within specified distances from certain highways.

- Navigable Waters Protection Act R.S.C. To restrict use of such waters without permission from Federal Government authorities.
 - Municipal Zoning By-laws. Halifax, Dartmouth, County of Halifax, and other Municipalities set down requirements for permitted uses within specified zones; there is as well the question, often very tricky of the non-conforming use and its continuance or termination; the zoning by-law will as well generally include requirement for occupation density, lot size requirements, set back, side yards requirements, height restrictions.
 - Building Permits By-laws - setting forth requirements for building permits.
 - Building Standards By-laws.
 - Occupancy Permit By-laws.
 - View Planes By-law.
- D. Restrictions on the Boundaries of Land - Restrictions or limitations on size of land based on the enclosure of the ground as determined by the metes and bounds description and the monuments on the ground, the actual description of land when "plotted" may disclose, based on legal principles or survey law, that the quantity is in error.
- With exception for a possible notation on an approved plan, or some registered restrictions, none of the above information is available, at the Registry of Deeds.
- E. The Title Search at the Registry will not disclose:
1. Possession of the property by a third party "squatter" adverse to the owner;
 2. The location or enclosure of the property on the ground;
 3. The location of corners and boundaries;
 4. Encroachments on the property by adjoining owners or users, or encroachments onto adjoining lands;
 5. The location of buildings on the land and the distance of the walls of the building from the boundaries;
 6. The location of retaining walls, shrubs, fences, sidewalks, driveways, on or near the property;
 7. The fact that there has been erosion or accretion to the property. On this latter point it should be noted the lawyer is interested in the physical extent of ownership that is size, location boundaries, corners, encroachments; however, he is unable to determine these matters, and should only express an opinion in a general way - to the extent that the land in question remains intact through the chain of title or perhaps has grown through land assembly or has been reduced through sale or other dispositions.

If the lawyer is unable to identify his land he should resort to a qualified land surveyor who can usually determine by the deed and the evidence on the ground, the limits of the property, and its origin.

Today, many mortgage companies require that a survey plan or certificate be provided; however, it would be wise for all lawyers to recommend a survey to his client as a part of the purchase procedure with or without instructions from the mortgage company.

In the relatively recent decision of the Appeal Division of the Nova Scotia Supreme Court in *Marwood v. Charter Credit Corp.* (1971 2N.S.R. (2d) 743 (N.S.C.A.) at page 746:

"It may well be that purchasers do not always wish to go to the expense of making a survey, but as a matter of practice it is my view that solicitors should always advise them in advance on this matter and make it clear that the certificate of title which will be issued is at all times subject to survey. If this is done ahead of time and a purchaser still insists on going forward without retaining a surveyor, then the responsibility is obvious."

A vendor apart from Statute is not bound to provide a survey where this duty has not been assumed in the contract.

The making of a survey is an ordinary precaution for the purchaser to take; however, many purchases decline to incur the expense involved in a survey and in many cases it may appear unnecessary, but generally speaking, and in the absence of some misrepresentation, a purchaser may fairly be regarded as omitting the precaution at his own risk.

The unreported decision of Chief Justice Cowan of the Trial Division of the Nova Scotia Supreme Court SC#13339* dated the 18th day of September, 1970, points out the problems to be encountered by the failure of the buyer to have the property surveyed before purchase or construction, and as well, the pitfalls that await the surveyor using shortcuts.

(*Gallant et. al. vs MacDonald et. al.)

A subdivision on Lake Charles Drive, Dartmouth, Nova Scotia comprising lots from west to each #1-#13 bounded on the east by the Waverley Road, the South by Lake Charles Drive, the West by the Lake and on the North by the Lake.

Walker bought a Lot #10 from Hoskins in 1953; the deed described the Lot as shown on the Williams' plan of subdivision. Walker said he reviewed the Lot with the owner and saw wooden stakes on the line of the proposed road - there was no building on the lot; two years later he built his house. Walker then poured two concrete posts with pipes located where he said the wooden posts had been located. His house was built during 1956-57.

No survey had been performed for Walker. This property was later sold to Graven whose solicitor had a survey performed -

A certificate as to the location of the building being purchased was given with reference to lot boundaries.

The Defendant, Redmond, purchased Lot 9 in 1959 and built a home on it - a survey was prepared showing the foundation of the building in relation to the boundaries; this survey was prepared by a survey student who had written no final examination and was not licensed as a surveyor. The surveyor himself had not seen the lot.

The survey student's notes indicated that he had used as points of reference the two concrete posts on Lot 10 - he did not check any further references along the subdivision either to the shore of the Lake or to the western boundary of the Waverley Road.

The owner of Lot 8 after the purchase of his lot had a survey performed and that survey indicated that the cribwork on Lot 9 extended over 20 feet onto Lot 8 and the foundation wall of the house encroached about 6-7 feet onto Lot 8.

The last surveyor concluded that there was enough land to satisfy all the deed descriptions, however, a plan on file at the Registry of Deeds, showed a 15 foot right-of-way to the East of Lot 13. Its existence was not established by any documents and was apparently shown in error. The result of putting the 15 foot strip in the plan would cause overlapping.

Another surveyor came to the same conclusion as the above surveyor, i.e. the 15 foot right-of-way was shown in error on the plan.

The surveyor employed by the defendant also accepted the cement posts - he made no further checks. This surveyor made an error further where he said as pointed out at page 12 of the decision: "He, the surveyor, said his plot plan was based on the assumption that if Mr. Hoskin showed certain stakes and a certain lot of land on the ground to the Purchaser, Walker, and then gave a deed to Walker, it didn't matter what was in the deed description, Mr. Walker got title to the Lot shown by Mr. Hoskin on the ground as being the one which he, Hoskin, intended to convey to Walker. This theory, (as pointed out by the Court) of course, is not one which is correct or safe to act upon."

The decision was that the owner of the building on Lot 9 which encroached onto Lot 8 was ordered to remove his house.

Surveys are usually required for at least three different parties - the Mortgage Company, the Client, or the Lawyer. Their interests are to some extent overlapping, in some respects the purpose is different.

Purpose of the Survey:

1. For the Mortgage Company - At least one mortgage company spells out their requirements for the content of the survey and the Certificate of Title:
 - (a) The lot and plan number or concession number of the lands;
 - (b) The measurements of and the boundaries of the lands and any discrepancies between the legal description of the lands and the lands as marked or enclosed on the ground;
 - (c) All buildings and structures or the foundations of all buildings under construction on the lands and their distances from the boundaries of the lands;
 - (d) The dimensions of all existing buildings and structures on the lands and the number of storeys of each and/or the dimensions of all foundations of all improvements under construction;
 - (e) Any encroachments on or from adjacent lands;
 - (f) The location of all easements;
 - (g) The municipal address of the property if an existing building.

Other mortgage companies are less specific and the request takes a general form, for example:

"A surveyor's plot plan or certificate, satisfactory to our solicitor showing the location of improvements within the property lines and no material encroachments (is) (is not) required."

It might at first appear as one surveyor said to me recently, that Kinross, is a particular problem and we are required to provide a lot more information for them, however, it must be kept in mind at least in my opinion, that the brevity and generality of the other survey instructions does not relieve the lawyer of the responsibility if he is to do a complete job.

Perhaps there is no real option out of a complete survey at least for the lawyer, for, whether or not the survey instructions are completely spelled out, the instructions from the mortgage companies regarding the Certificate of Title to be given by the lawyer, may dictate the contents of the survey.

If, for example, we are requested to express an opinion that the title is a good and sufficient one and that a mortgage is a first charge, a survey need not be a detailed one. But, if we are required to go beyond this and express opinions in our certificates with respect to restrictions, easements, location of buildings, use

of land, compliance with relevant statutes, etc., we need the details from the plans and surveys do to this.

We can, of course, become very artful and try to avoid the issues by providing a Certificate of Title in a very restricted way that is limited only to the fact that the records of the Registry of Deeds have been examined and nothing more; there would be no pronouncements with respect to Court Records, zoning by-law compliance, possible statutory lien claims, building regulations, violations and certainly such certificate would carefully set forth the fact that it is subject to a survey to establish physical limits, corners, boundaries, encroachments, etc.

However, in view of the fact that more and more we as lawyers are required to investigate matters outside the records of the Registry of Deeds, and are required in certain cases to take a stand and express an opinion with respect to zoning or other regulations and in view of the fact that the term objections to title or encumbrance may include the information obtained from the other sources or from surveys it may not be possible to completely limit liability and a survey will be necessary.

2. For the Lawyer - If the lawyer is to be responsible for a broad "Certificate of Title" the survey should permit him to verify:
 - Metes and bounds description.
 - Compliance with existing zoning regulations by-laws.
 - No easements or the extent thereof.
 - No encroachments or the extent thereof.
 - Compliance with restrictions, etc.
3. For the Owner - The owner is primarily interested in the location of his "corners" and boundaries; this will enable him to construct walls, fences, etc. or determine ownership of same; he is also able to construct, where size is a problem, a foundation within the zoning tolerances set down.

The Kinds of Surveys Presently Being Provided:

Apparently price, which varies as might be expected, is the main determinant of the type of document provided; however, it seems that the "view" or "approach" of the particular surveyor may have some bearing on the information provided. From my information, surveyors do not have "malpractice" or "errors and omissions" insurance and this may consciously determine the general approach which at times appears to be to provide as little information as possible; the majority of the certificates appear to set forth in some fashion that the structure is within the lot boundaries - the rest of the certificate if it is a plan apparently is supposed to speak for itself.

Other survey firms, perhaps because they are incorporated, and thereby incur limited liability, though in fact it may be because of their dedication to professionalism and the desire to do the job, provide more information and explanations.

From my experience, surveys and certificates are of three (3) general types:

1. The Certificate only - see "A" attached;
2. The Sketch with some detail regarding measurements, etc. and problems identified by positive statement - see "B" attached;
3. The Sketch with what I feel is the least desirable method of presenting the information - see "C" attached.

Each of these surveys has limitations; that marked "A" does not enable the lawyer to verify compliance with Zoning By-laws or other requirements since no dimensions are shown. The lawyer can, however, try to shelter behind the surveyor's certificate since he has nothing more to go on.

The Certificate in "C" presents in my opinion the greatest "ledge" on the part of the surveyor - the building obviously encroaches onto Lot #7, however, the surveyor states: - "is within the metes and bounds of said lot and is located as shown on the above plan"; "encroachments and easements as shown".

These statements in the context of the plan are contradictory and the certificate valueless since the lawyer is left to give the opinion.

The best certificate I feel is that shown in "B" since there is a positive attempt on the part of the surveyor to identify problems with sufficient detail. There is no attempt to avoid liability with escape clauses such as "except as shown above".

Certificates such as that shown in "D" and "E" while limited as to what is certified, do show on the plan the location of fences and driveways which are not on the land as described and in the case of "D" shows an encroachment of the building on the adjacent lot. It is information such as this which helps the lawyer to spot potential problems prior to closing and to resolve land disputes "out of court"; the attempt to resolve such problems at a later time may prove to be a particular problem since parties die, disappear or often become uncooperative.

Perhaps it is true that the lawyers, mortgage companies and surveyors got together to determine what kind of certificate must be given and thereby determine in a standard from what the survey should show and that the surveyor should certify.

Until the practice becomes uniform, the lawyer will continue to bear the full responsibility and must thus either give his certificate in such a way that he opts out of all but the absolute minimum liability.

The more professional approach to the problem, however, is seen as a duty to become knowledgeable of their interests so they can be detected and their nature and effect explained to a client before a purchase is finalized (Charles W. MacIntosh, Q.C. - Lynne Gavin - Article cited above).

If the professional approach is the one to be taken - and I hope that it will be, I would propose that the following information be contained in the survey plan (see recommendations).

In the edited text of the program entitled "Professional Negligence, Loss Prevention and Claims" 1976 by the Department of Continuing Education of the Law Society of Upper Canada, Osgoode Hall, Toronto, it was pointed out that most claims against lawyers for errors and omissions arose out of real estate transactions; claims ranged from 30-40 per cent of the total number of claims.

Until the burden of the lawyer becomes more clearly defined, I feel that a survey plan and certificate should contain the information contained in the following "Recommendation for Survey Plan" attached and marked "F".

In the meantime, lawyers will from time to time, when they least expect it, get calls from clients, surveyors, mortgage companies and others which begin "you certified title"; despite the fact that we are insured, those three words still cause cold chills to run through your body; it is your reputation and professionalism on the line.

APPENDIX "A"

SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT on November 16, 1976, we performed a survey of lands situate on the westerly side of the Purcell's Cove Road but not adjacent thereto, and on the northerly side of Military Lane, at Purcell's Cove, in the City of Halifax, Province of Nova Scotia; said lands being more particularly described in an indenture of deed dated the 12th day of November 1969, between R. Leo Rooney, Trustee, Grantor, and Leona Jenks, Grantee, and recorded at the Office of the Registrar of Deeds at Halifax, in Book 2350, Pages 756-758.

We have the following to report:

1. A one and one-half storey frame dwelling with concrete block foundation, bearing civic number 579, is situate on said lands and is entirely within the limits thereof;
2. There are no encroachments of other buildings onto said lands.

nw
wade

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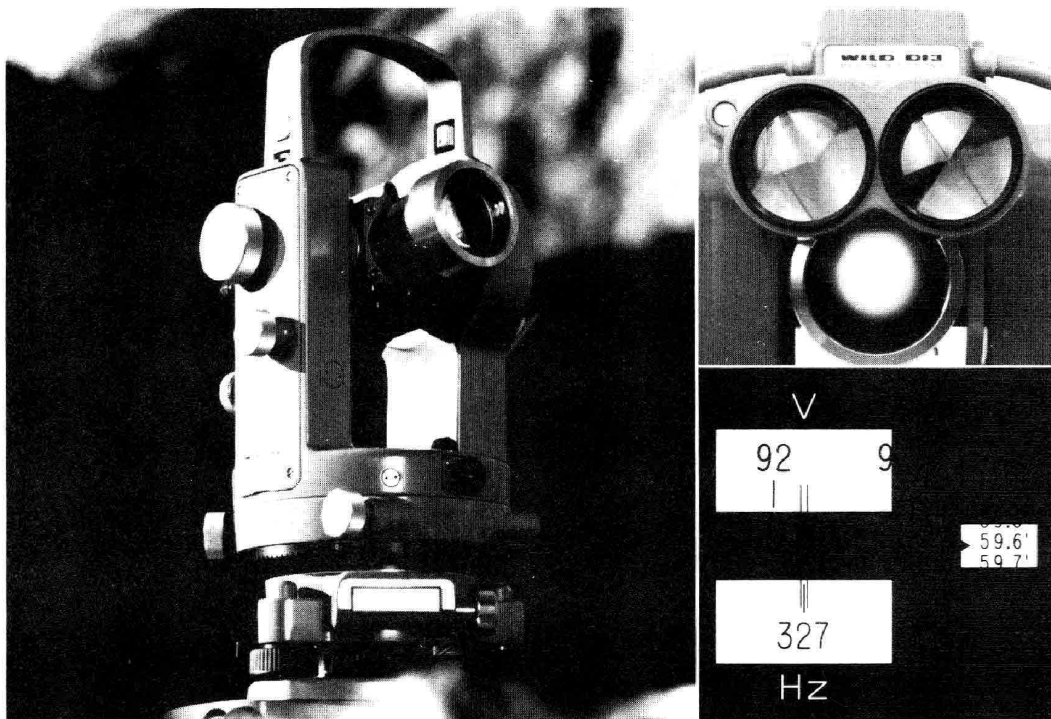
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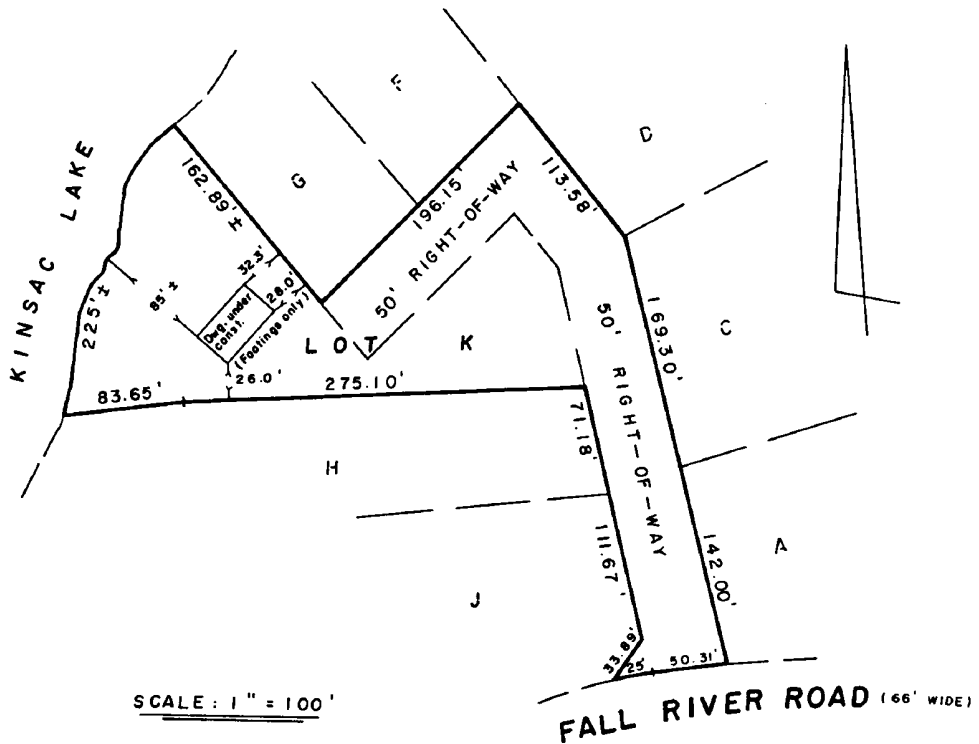
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APPENDIX "B"



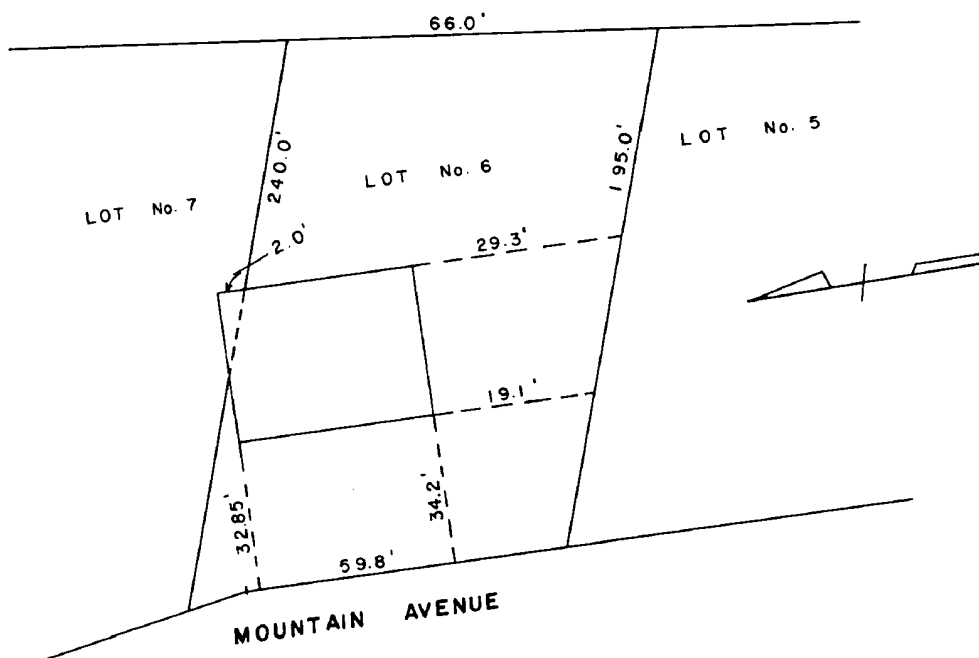
SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT on August 4, 1976, we performed a survey of Lot "K" situate on the northerly side of the Fall River Road and on the southeasterly side of Kinsac Lake at Fall River, County of Halifax, Province of Nova Scotia; said Lot "K" being shown on a plan of subdivision of lands of Shirley Jean Franklin (Couvillier), prepared by Wallace-Macdonald Surveys Ltd., dated May 28, 1976, approved by the Municipality of the County of Halifax on the 23rd day of June, 1976, and recorded at the office of the Registrar of Deeds at Halifax as Plan 14745, Drawer 187.

We have the following to report:

1. A dwelling under construction (concrete footings only) is situate on said Lot "K" and is entirely within the limits thereof;
2. There are no encroachments of other buildings onto said Lot "K";
3. It should be noted that Lot "K" is subject to a 50' wide right-of-way as shown on aforementioned plan;
4. The location of said dwelling under construction is accurately shown on the above plan.

APPENDIX "C"
C E R T I F I C A T E



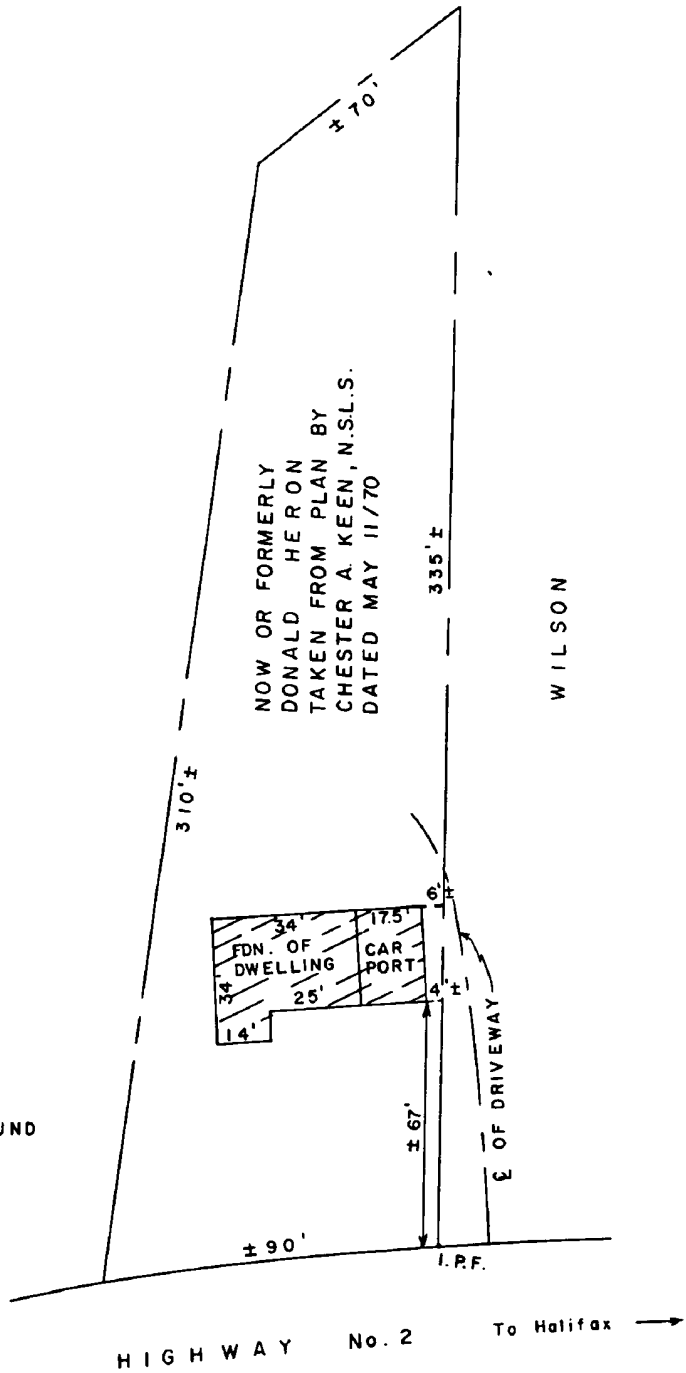
Lot: No. 6
Subdivision: Lands of Clarence Dove
Name: Mr. Eugene Marchand

I certify that the foundation of the dwelling on Lot No. 6, Westphal, Halifax County, N. S., said lot owned by Eugene Marchand, is within the metes and bounds of said lot and is located as shown on the above plan.

Encroachments or Easements - As above

APPENDIX "E"
SURVEYOR'S CERTIFICATE

NOTE : I.P.F. : IRON PIPE FOUND



APPENDIX "F"
RECOMMENDATION FOR SURVEY

Content of Survey Plan:

1. Set forth the lot number, particulars of the registered plan, particulars for approval of the lot;
2. Reference should be made to the description provided by the solicitor or client, the description should be incorporated in the survey certificate;
3. Civil number should be shown;
4. Adjoining lots should be identified;
5. Road frontage should be identified and intersecting streets identified;
6. The dimensions of all buildings and structures on the land and the number of storeys of each and/or the dimensions of all foundations of all improvements under construction;
7. The measurements and bearings and the boundaries of the lands and any discrepancy between the legal description of the lands and the lands as marked or enclosed on the ground;
8. The distance of the walls of the buildings from all property lines;
9. Set out fences, hedges or other "monuments" and the approximate age of same;
10. Any encroachments on or from adjacent lands;
11. Identification of the corners of the property;
12. The location of all easements;
13. The kind of building;
14. The number of storeys, i.e., 1, 2 or 3 storeys;
15. Scale.

The survey certificate should, of course, be signed by a licensed Nova Scotia Land Surveyor who certifies that he has:

- (a) Received a copy of the description of the property from his client;
- (b) That he has visited the site and performed such survey of the subject and other properties as in his opinion was necessary for him to provide the information required;
- (c) That he has searched the records of the Registry of Deeds, or other public records, and made such inquiries as in his opinion were necessary for his survey purposes;
- (d) He should express by positive statement any discrepancies between, for example, the description and the survey findings, encroachments, easements, etc. and identify them;

And finally the lawyer or client should provide for the surveyor a requisition, property description, deed reference, plan references and search information which will clearly state the purpose of the survey and request the information required by the lawyer to be supplied by the surveyor.

N O T I C ESURVEY LAW COURSE

Alex McEwen, LL.M., N.L.S., D.L.S.

John McLaughlin, Ph.d., N.B.L.S.

The University of New Brunswick is planning to offer an intensive, one week Workshop in Survey Law in October of this year.

Topics to be covered will include an introduction to the Canadian Legal System, a review of Real Property Law, Boundary Concepts, Descriptions, Evidence, Boundary Disputes and Political Boundaries.

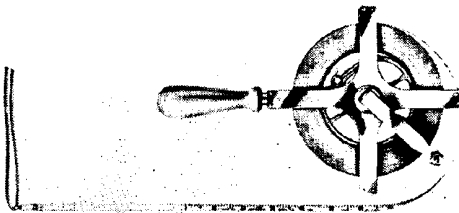
The Course is directed at practicing surveyors and senior articulated students in Atlantic Canada. Others may be accommodated if space is available. Tuition for this Continuing Education Workshop will be in the range of one hundred dollars.

Anyone interested in obtaining further information and a registration form is asked to contact:

Dr. John McLaughlin
Survey Law Coordinator
Department of Surveying Engineering
University of New Brunswick
Fredericton, N.B.

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** SURVEY INSTITUTE GRADUATION **

published in "The Mirror"

Dr. J. E. Blanchard, guest speaker at the Nova Scotia Land Survey Institute, Lawrencetown, graduation exercises this spring, told the 96 graduates that as applied science practitioners, they have a voice in what happens in this future world.

The speaker stressed the importance of communication in this world of changing roles and life styles.

"To communicate properly we must have the ability to speak", he told the students to be precise and not to introduce extraneous words into their speech in the manner of economists who use the word "backwardization - a very backward step whatever it means".

He was critical of the much used phrase "this point in time" which is a superfluity and adds nothing to the spoken or written message.

The speaker made mention of the large number of female graduates and students.

"It is a tremendous step forward. Both sexes can do many of the same things and should have equal opportunities".

Dr. Blanchard said the landscape is a very important part of our world and graduates needed, in order to appreciate it and deal with it, to become aware - not of science and technology, but of the feelings of others.

"Art has given us an appreciation for the environment and what we do with the land, how we treat it is most important".

Valedictorian for the class of '78 was Glenn Myra of Dartmouth. Using the ancient Greek statesman Demosthenes as an example of success, he encouraged his fellow students to do their best.

"There is no limit to what you can do if you are fired by ambition and not discouraged by obstacles", he told the graduates.

Lester Chute of Kingston was presented with the Wild Leitz Prize for first year photogrammetry and Robert Becker of Paradise won the Association of Nova Scotia Land Surveyors' Scholarship.

The Cartography prize was presented to Helen Whitman of Lawrencetown.

Arthur Durant of Halifax was named best All Round Student, and received the Norman Wade Company Limited second year survey prize.

The community planning prize for a second year student was won by Kevin Smith, of Bridgetown, and the community planning prize for first year went to Alan Simpson of Kentville.

Neil Boudreau of New Waterford won the Norman Wade Company Limited property mapping prize and John Mulley of Florence won the survey assistant prize presented by the same company.

J.E.R. March, former Director of Surveys, Province of Nova Scotia, presented Robert Hope of Lake Charlotte with the J.E.R. March prize for the best field book.

The J.A.H. Church prize presented to the first year survey student who made the most progress was awarded to Richard Logue of East Bay.

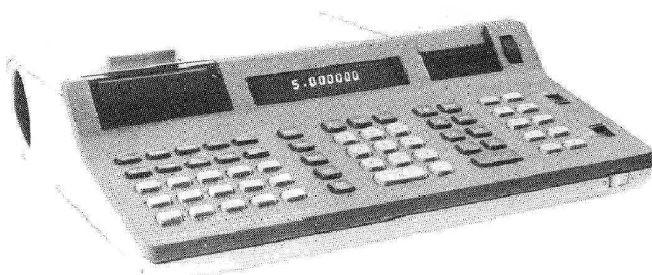
The presentation of certificates and diplomas was made by E. A. Green, Assistant Director of Adult Education, who was assisted by the instructors of the school.

Also taking part in the program were Vice-Principal, J. F. Wightman, former Principal of the School; George Streb; Ms. Ethel Shaffner, pianist; W. C. Rayworth, Vice-President, Association of Nova Scotia Land Surveyors; Director of Surveys, H. B. Robertson of the Department of Lands and Forests; and C. B. Carlin, Manager Land Titles Division Land Registration.

* * *

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 Street Intersection
 Cul-de-sac
 Right of Way
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 Re-number



N O T I C E

IN THE MATTER OF: The Association of Nova Scotia Land Surveyors' Disciplinary Hearing

- AND -

Ralph Hale, N.S.L.S. - Defendant

The following decisions, made in the form of motions, were passed:

MOVED: THAT Mr. Hale be reprimanded under the provisions of Section 25(1)(a) and,

THAT FURTHER under provisions of Section 25(1)(e) the decision be published in the Nova Scotian Surveyor,

AND FURTHER under the provisions of Section 25(1)(g) Mr. Hale pay to the Association the cost associated with this Hearing to an amount fixed by the Discipline Committee and,

THAT Mr. Hale be directed to discontinue from survey actions of this nature in the future,

AND FURTHER under the provisions of Section 25(1)(b) the said Mr. Hale be suspended until such time as he has written and passed the following examinations that form part of the Board of Examiners' requirements for certification as a Nova Scotia Land Surveyor:

1) Section 5(a)(1)(cc) - Survey Computations,

2) Section 5(a)(1)(dd) - Plan Drawing,

3) Section 5(a)(2)(cc) - Description of land.

Motion carried.

MOVED: That we fix the costs to be paid by Mr. Hale at \$150.00.

Motion carried.

As taken from the transcript of the Hearing.

Respectfully submitted,

Walter C. Rayworth, Chairman
Discipline Committee,
The Association of Nova Scotia
Land Surveyors.

Held at 5450 Cornwallis Street,
Halifax, Nova Scotia,
March 31, 1978.

** CANADIAN COUNCIL OF LAND SURVEYORS **

reported by

Ivan P. Macdonald, Director

The regular meeting of the Board of Directors of the Canadian Council of Land Surveyors was held at Banff Springs Hotel, at Banff, Alberta, on May 15 and 16, 1978. All provincial directors and member representatives were present except for Prince Edward Island.

Some of you may be a bit confused with the difference between a provincial director and the member representative. Just remember that the Canadian Council of Land Surveyors is a corporation and must be run as such. Every corporation must have shareholders or equivalent, and a Board of Directors. The member provincial land surveyors' organization is the equivalent to a shareholder and has the final say in the decisions and recommendations of the Board of Directors. The Directors make up the Board that carries out the day to day business of the corporation. Some provincial organizations have appointed one person to be the Director and the member representative, but our Association realizes the advantages of having an appointed Director for a set period, and the Association President, the members' representative. A yearly change of member representatives does not adversely affect the day to day business of the corporation. In fact, I feel that the provincial presidents feel the pulse of their local Council and, therefore, will react to recommendations and decisions of the Board in a manner which will reflect the current feelings.

After the opening formalities, the Associations' Presidents gave brief reports. The following are some of the highlights:-

Annual fees range from \$150.00 to \$350.00. Association membership range from 60 in Manitoba to 720 in Ontario.

A Canadian Company called Geo Study Limited presented an American publicity film. They wanted C.C.L.S.'s reaction to this kind of film. It is their intention to make a Canadian content film which would be available for purchase by each Association. The film would not be a career promotion deal, but a detailed account of the profession directed to adults. The idea of a Canadian film was well received.

The Third Colloquium on survey education held in Quebec, October 17 - 19, 1977, recommended that:

C.C.L.S. be requested to determine the fundamental acceptable levels required in the various subjects by each of the Provincial Associations, to arrive at a common level. This study should avoid the issues of reciprocity.

Ontario had a "Business Practice Seminar", prepared and conducted by the Federal Development Bank. Maybe our Association could make inquiries and sponsor a similar seminar.

The Committee which is looking at a national "Code of Ethics" presented two versions:

- 1) The Dr. John McLaughlin Code of Ethics for the surveying profession;
- 2) The International Federation of Surveyors very detailed Professional Ethics, regarding the independent registered land surveyor.

John McLaughlin's proposed Code of Ethics are worth while listing here:

- 1) The surveyor shall use his professional knowledge and skill for the advancement of human welfare.

- 2) The surveyor shall act for his client or employer in a faithful, discreet and competent manner.
- 3) The surveyor shall act with courtesy and good faith towards his professional colleagues.
- 4) The surveyor shall protect the honour, integrity and dignity of the surveying profession.
- 5) The surveyor shall strive to maintain and enhance his professional knowledge and skill.

The Professional Liability Insurance Committee, of which Nova Scotia is a member, has been busy during the last few months. Arrangements were made that the Committee would meet with representatives from the National Program Administrators and Gerard Parizeau Ltée. (Gestas). Both presentations were detailed and in plain talk. We had a lengthy deliberation period after the representatives were excused. The following is a resolution which the Board of Directors passed unanimously and the member representatives passed unanimously at their meeting:

BE IT RESOLVED - That after reasonable examination of the proposals for Professional Liability Insurance from Gerard Parizeau Ltée. and from the N.P.A. (National Program Administrator), and further discussion with representatives of both firms, we hereby endorse the proposal of Gerard Parizeau Ltée. (and Gestas), and further that we ask each provincial Association to recommend this program to its members.

Gerard Parizeau Ltée. will provide each Association with insurance information and application forms to be sent to all members. It is not the intention of C.C.L.S. to make this insurance compulsory, but to be the organization to make the study and recommendation on a national basis.

C.C.L.S. is now well established and is recognized as the national body for land surveyors in Canada.

* * *

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SANDFORD FLEMING

SURVEYOR OF LAND AND TIME

by Arthur Porter

(Published in the February 1978 issue The Atlantic Advocate)

On September 16, 1977, Canada Post Office issued a stamp to commemorate Sandford Fleming. He is known to philatelists as the designer of Canada's first postage stamp in 1851 when Canada consisted of what is now Ontario and Quebec. This stamp, known as the three penny beaver, features a beaver in its natural setting and over it the Royal Crown of England resting on the thistle, rose and shamrock, with the letters V and R (Victoria Regina) on either side. It was the first stamp in the world to depict an animal. Of course, it is historically emblematic of Canada because it is the beaver who caused the exploration and settlement of our country.

The designer of this famous stamp should be better known to Canadians. His accomplishments cover such a wide range that he is truly numbered among those giants known as empire builders.

Born in Kirkcaldy, Scotland on January 7, 1827, he came to Canada as a young engineer. He joined the engineering staff of the Huron and Simcoe Railway and was subsequently engaged in surveying a route for a railway from Rivière du Loup to Halifax. He became chief engineer in the construction of this Intercolonial Railway. This marked the beginning of a coast to coast railway inspired by the dreams of such men as Sir John A. Macdonald.

Many factors made it imperative to undertake this colossal engineering feat. British Columbia entered into federation with the construction of a connecting railroad an indispensable condition of union. The United States was expanding and exerting its influence in the north-west. This ribbon of steel would be the unifying factor to preserve British North America. The sheer magnitude of the venture prompted many to say it could not be done.

In 1871 Sandford Fleming was appointed engineer-in-chief. His assignment: to survey the vast wilderness between the Ottawa Valley and the Pacific coast . . . *the surmounting of these obstacles represents some of the greatest engineering feats in the world.*

His companion on this prodigious task was his friend, the Rev. George Munroe Grant, Minister of St. Matthews Church, Halifax. This stalwart man of the cloth shared Fleming's vision of a great and united Canada. Their journey on snow shoes, dog sled, horseback and on foot is vividly portrayed in Rev. Grant's book "Ocean to Ocean". The deep forest and wild rivers gave way to gorges and treacherous muskeg. The impregnable fortress of the Rockies presented the greatest challenge, as they surveyed first the Yellowhead Pass and later the Kicking Horse Pass route. The surmounting of these obstacles represents some of the greatest engineering feats in the world.

In the famous picture of Lord Strathcona driving the last spike at the completion of the railroad (1885) the imposing figure of Sir Sandford Fleming stands out. He is attired for the occasion with a top hat, and possesses a magnificent beard. The impossible dream had become a reality.

Among his other activities he was a director of the Hudson's Bay Co., and Chancellor of Queen's University from 1880 to 1915. He was the author of a large volume of railway surveys and scientific reports. It was largely through his efforts that the International Prime Meridian Conference met in Washington in 1884 and adopted the international time measurement system. He has been called the father of standard time. He was vitally interested in postal communications and Imperial cables. As far back as 1879 he proposed a Pacific cable to connect Canada, Australia and other parts of the British Empire, and eventually encircle the globe. He lived to see it become a reality when in 1902 a Pacific cable was completed, covering a distance of 8,272 miles. He was the forerunner of Marshall McLuhan and the global village concept. He was also the gallant monarchist who rescued the portrait of Queen Victoria from the burning Parliament Buildings in Montreal. He was honored with knighthood in 1877.

Of singular interest to Maritimers is the house he built in 1866 on north Brunswick Street, in Halifax, N. S. Although his varied activities kept him away for many years, he maintained the house until his death in Halifax on July 22, 1915.

Last spring, with the help of Heritage Canada, this house was restored. It is hoped that this will spark interest in restoring other fine old homes on the same street to their former Victorian splendor.

Heritage Canada was established in 1972 as an independent organization concerned with the preservation of buildings, sites and places of importance to Canada's heritage. The interest on the initial federal capital grant is used to further the work. Fleming would have heartily approved of this, for it is knowledge of the past that will guide the future.

The life of Sandford Fleming awakens a sense of pride and a desire to learn more of the achievements of Canada's founding fathers. When he first arrived there were only sixteen miles of railroad in Upper Canada. The loosely knit colonies were struggling to give birth to a new nation. At his passing there was a young and growing nation with a railroad from coast to coast.

Of course we cannot all plan global communication systems or transcontinental railways, but we can build human communications that transcend regional differences. We can expand the frontiers of the mind from coast to coast and together build a strong and vibrant nation of unity and purpose.

Well and truly honored by this commemorative stamp is the man whose imagination, intellect and industry helped transform Canada and the world.

versa-table

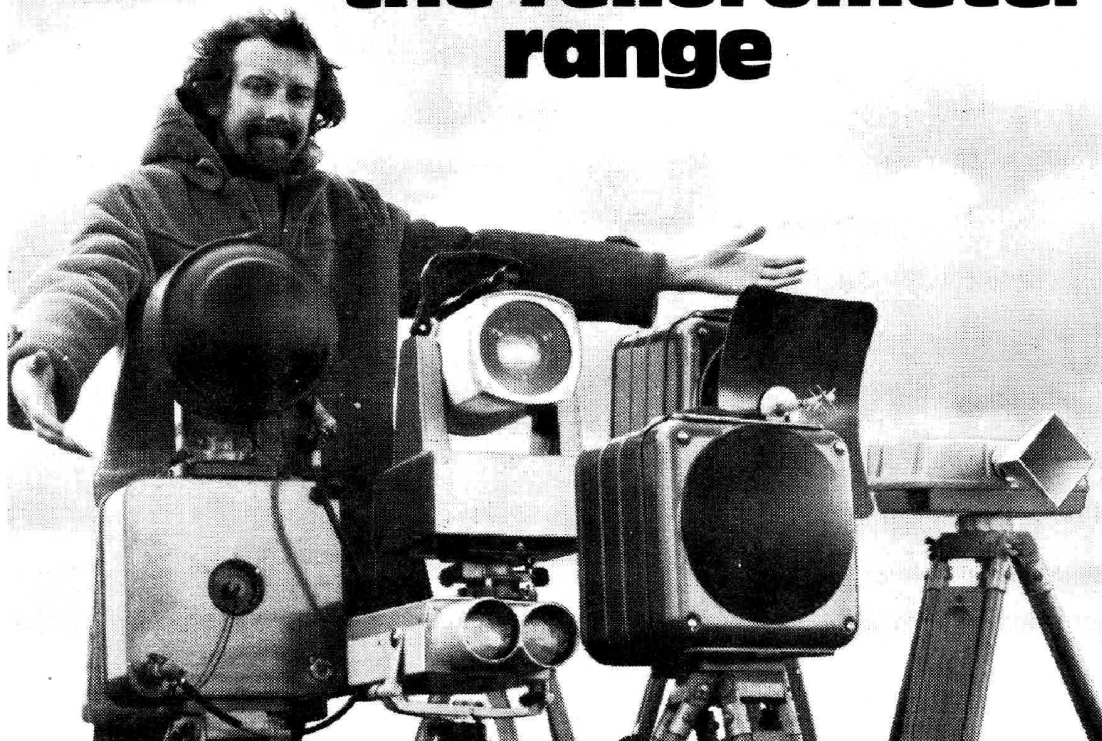


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CA1000. A lightweight microwave system for geodetic survey. It has an accuracy of 5 parts per million and a range of 30km (18½ miles). Its operation is so simple that the remote station can be manned by unskilled personnel.

CD6. A lightweight infra-red system with a high accuracy over a range of up to 2km (1½ miles), which makes it ideal for cadastral survey. Signal reflection is from a suitable target/reflector, so a remote instrument is not needed.

MA100. A well established cadastral infra-red instrument ideal for use in civil engineering and underground applications. A mean square error of only 1.5mm is guaranteed, but many users claim 1mm or better.

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MRA3 and MRA5. Two microwave systems of extremely rugged construction ideal for use under severe environmental conditions. The MRA5 features antenna separation for integral or remote (up to 25m/27 yd) operation and a fully automatic numerical display gives less than 20 seconds measurement time.

Position fixing systems

Systems based on the well established MRB201, integrated with plotters and computers and using auto-tracking antennae, are ideal for use in plotting and position fixing for such work as precision dredging, cable laying, off-shore rig positioning and aerial survey.

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