

Regional Group News

Eastern Group

A general meeting was held at the Queen's Grant Hotel in Brockville. Following dinner, 33 of us — an encouraging number for our group on a fine spring Friday evening — got down to business, with John Hiley in the chair.

After the usual preliminaries indicating solvency, the subject of moon-lighting was again broached, this time a letter from Council in reply to one of ours. In essence, specific complaints were suggested, a reply which didn't suit everyone who would have preferred a council position and later legislation on the matter.

We were glad to again have Bryan Davies, to fill us in on Council's deliberations. He does this knowledgeably and articulately, and it is appreciated. He explained that, on the subject of moon-lighting, there is great anonymity. Names are mentioned in private, but Council must have specifics.

A small committee has been privately formed in our group, to make formal

complaints, and try to get the matter resolved through the Association. Failing that, it was indicated, other alternatives would be considered.

At this meeting, we also

Set the dates for future meetings of the group year.

Pursued the idea of a 1000 Islands cruise in July. A good deal of interest was shown.

Received Bob McCurdy's report on the Annual Meeting, and took this opportunity to give him and his committee a cheer for a very good job. Bob noted that a lot had been learned about annual meeting organization, and this was being assembled for the use of future committees.

Discussed Registrars' Compiled Plans. Bob Meisner pointed out that they have no dimensions because of the frequent conflicts, but there was some opinion that even conflicting information would be better than nothing.

Were given John Bogart's opinion on the matter of a reasonable charge for

field notes. This was not thought to err by being unduly specific.

Heard more about the monumentalization of mortgage certificates, and pronounced ourselves unanimously against it.

Heard Bryan Davies' report from Council, on the matters of a recent discipline hearing, the updating of certificates of authorization, liability insurance, law seminars, branch offices, and the registration of mortgage certificates.

Heard John Hiley's report on the Q.L.S. Annual Meeting. His newly acquired bilingualism helped, since their proceedings are, of course, in French.

Mentally exhausted by all this head work, we adjourned to the bar at 10:30.

Coming Events — South Central Group

September 14, 1979, Annual Golf Tournament at the "Briars", Sutton.

October 15, 1979, Fall General Meeting at Kortwright Conservation Area.

January 8, 1980, Annual Meeting, place to be announced .

were not in effect then it might be possible for one surveyor, merely by request, to demand all of the field notes of any other surveyor.

The goodwill of a surveyor is sometimes represented by field notes. We have argued successfully on behalf of a member of the Association in several cases that field notes, to a surveyor, should be classified in the same manner as a library to a lawyer. Consequently, a large inventory of field notes will add value to a surveyor's practice. To give a surveyor the right to another surveyor's field notes if the same are not necessary for the purpose of preparing a survey would not appear to be the intent of subsection 4 (1). It is further submitted that it is reasonable to expect that field notes will be available during normal business hours.

LEGAL OPINION

Field Notes — A Reasonable Charge

BY JOHN BOGART

As you are aware, Section 4 (1) of The Surveys Act, provides that "every surveyor shall make and preserve exact and regular field notes. . . and shall exhibit or give copies of the same to any surveyor for a reasonable charge". You have requested our opinion with respect to an interpretation of "reasonable charge" and the availability of field notes to "any surveyor".

Reasonable Charge:

It is difficult to give a legal meaning to the phrase "reasonable charge" without an awareness of facts for a given situation. It is submitted that a "reasonable charge" should not be more than an amount equal to the expense of preparing the field notes by the surveyor providing the same. As a surveyor has a professional duty in the preparation of a survey to confirm or verify the accuracy of the work being performed by examining the field notes of all surveyors who have previously conducted a survey within the area the charge should not be such as would tend to penalize him in the course of obtaining all available evidence with respect to the relevant survey. Moreover, the obtaining of field notes should, it is suggested, be of some value in establishing uniform surveys within a specific area.

With the foregoing in mind, a "reasonable charge" for field notes should be the value of the intended use thereof by the purchasing surveyor, as negotiated or left to the discretion of the vendor surveyor. This interpretation may be impractical or difficult to enforce; however, the word "reasonable" must be interpreted as being the median point between extremes, which on the one hand would be represented by a nominal value and on the other by a value equal to the expense of preparing the field notes.

Availability of Field Notes:

Part 1 of The Surveys Act deals primarily with the conduct of the surveyor in the preparation of a survey and his rights to obtain evidence to assist him in this function. Within the context of Part 1 the phrase "any surveyor" should be expanded, it is submitted, to "any surveyor actively engaged in the practice of professional land surveying". It is further submitted that it would be unreasonable for a surveyor to approach another surveyor for the latter's field notes in a situation where the field notes are not required in connection with a survey then under preparation. Presumably, the limitation suggested in the previous sentence might be enhanced by the suggestion that if such a limitation

NOTICE

E.M.R. INSTRUCTIONS FOR SURVEYS DECENTRALIZATION

As of April 1, 1979, and until further notice, surveyors who plan to carry out legal surveys in Indian Reserves and National Parks in the Province of Ontario should request instructions from:

Regional Surveyor,
Legal Surveys Division,
Energy, Mines and Resources, Canada
25 St. Clair Avenue East,
Toronto, Ontario
M4T 1M2
Telephone: (416) 966-7503