

Self-Governance The Mandate of the Profession

THE PROFESSION AND THE CRITICS

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When you look at the professions and those who are critical of the professions, fees, cost, and money, tend to be first and foremost in anyone's mind. You also need to look at the fact that critics and criticism are not always negative. They are not always outside the profession, there are many within the profession. I deal mainly with outside critics. I allude to the government, I allude to the client, I allude to the consumer.

I will start with a statement that was made over 200 years ago by Adam Smith. He was a Scottish economist, a professor of moral philosophy and was one who was opposed to monopolies. He was a very staunch supporter of the laissez-faire policy. He proffered the following and it's advice if you hold a critical view, and an observation if you are the object of the criticism. He said:

"...people of the same trade seldom meet together, even for merriment and diversion; and for merriment and diversion we could insert annual meeting, but the conversation ends in a conspiracy against the public or in some contrivance to raise prices."

He went on further to say that:

"...though the law cannot hinder people of the same trade from sometimes assembling together; it ought to do nothing to facilitate such assemblies, much less render them necessary."

Slightly over ten years ago, it seems that the law makers had finally heeded Mr. Smith's advice. The self-regulating professions were placed under scrutiny. The Combines Law in Canada was expanded to encompass professions, along with service industries. The report presented by the Professional Organizations Committee in Ontario was instrumental in the creation of the *Model Professional Act* to which we be-

came subject as a result of the new Surveyors Act.

These changes occurred as a result of a series of critical reviews of the professions and what I believe to be an uncomfortable feeling which delegators are prone to experience, losing control when they delegate some power and find they don't control matters the way they would like.

The critics speak of benefits or the merits of the market system and bemoan the role or lack of participation by the professions in it. They see self-regulation as hostile or adverse to a competitive system; one where the market sets the terms of production and establishes what they consider the required discipline. Obviously, they have not bid or competed for any of their own contracts.

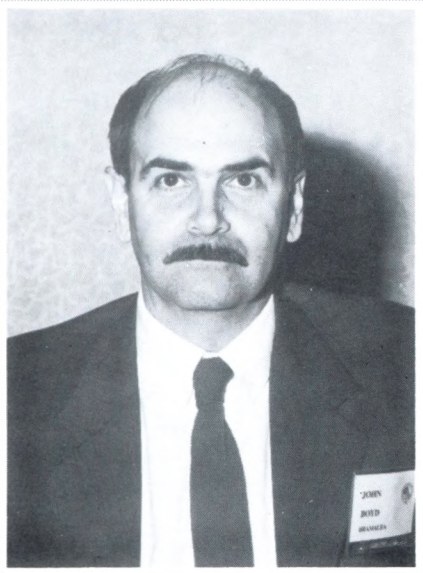
The surveyor or any professional is in daily competition. The market, in my opinion, does set the terms of production as we allow it to do.

We are not immune to the forces of the market, prices, timing, and in some instances, quality. Not as immune as the critics would like us and others to believe. Where the critics fall short in their assessment is in the discipline of the competitors.

The market disciplines us but we have also disciplined ourselves as we have set much higher standards to adhere to than would exist if it were left strictly to the marketplace.

The critics quite often stress that the motives of professional groups are not in question and then they go back to money. It's the effect and costs of the professional behaviour and agreements (and for that matter professional arrangements) which are imposed upon society.

Do the two not go hand in hand? Does the legislation under which the profession is required to work not in itself create increases in costs and have



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a profound effect on the manner in which the professional carries on business, very often with the reverse effect to that desired, i.e. less expensive, more innovative?

Even now the Competition Bureau is asking, "why do you not allow your members to advertise?". Do they not realize that advertising costs money and that someone would be expected to cover that cost? Do they really believe that the cost of cars and toasters and fridges does not include the cost of advertising?

When we met with them while I still worked for the Association, they were reluctant to believe that we would or did allow the membership to advertise as long as it was truthful and in good taste. What's more, they found and still find it difficult to understand that while it may be allowed, there are those who would not advertise anyway.

The critics speak of discouragement members face when seeking to experiment with ways and means of improving production and meeting consumers' needs. It was the Government who was the last to change from chains and links to allow feet and decimals.

In general, the surveying profession is a cautious, conservative group, yet if it were not for the adventurous risk takers, we might still, today, be using tapes, transits and dumping levels instead of electronic theodolites, electronic distance measuring equipment, total stations and satellites to improve production and meet consumer needs.

The cost of experimentation is not easily dispersed when your product relies on necessity rather than desire. When was the last time that you were asked to prepare a survey as a birthday present for someone?

Sylvia Austry, in her address to the Summer Institute of Professional Competence in 1977, referred to what she saw as a discouraging lack of innovation within professions. She said:

"the point is clear, the result of various professional restrictions has most certainly been to delay, if not prevent, the introduction of new forms of service and to lend support to the inefficient and uninnovative practitioner".

I think that we should all take exception to that sort of reasoning, if for no other reason, than the Competition Bureau's failure to recognize the Association's endeavours in promoting efficient and innovative work methods in keeping with the legislated mandate or principle that the public interest be protected and served. More disturbing is their failure to recognize or make any attempt to understand the difference between, in particular, our profession and a trade.

There appears to be a plethora of professionals in today's world. The word professional is used interchangeably with or more often instead of the word expert. No one wants to be an expert when one can command a much higher return by proclaiming professional status.

This professional status claim implies an apparent trust which the consumer can rely on. The critics appear to believe that no matter how it is attained, professional status has been tied to quality at the level of the lowest bidder instead of striving to attain the highest quality at a fair and equitable market price.

We would be the last ones to disagree with their comment that, while licensing should, and in some cases does or should, result in higher prices, it is far from a guarantee of quality and that the fact that the professional has met certain standards, both ethical and practical, is not necessarily an indication of his or her current competence.

We should be the first to stand up and point out the progress our Association has made in areas of peer review, implementation of minimum standards, education and discipline of members, and the education of the public so that they know what to expect.

We should argue long and loud for the continuation of the ethics and the standards of conduct which characterize and set aside the professional from the ranks of the trade experts. We cannot simply say that we are professionals, we must defend our position and be firm in our resolve to abide by the rules but work to have the rules changed where possible and necessary. Or, to keep them the same as with the legislated capability to carry out and

publish the results of fees studies "for the benefit of the consumer."

It is interesting to note in many of the references for comparisons made in studies by the critics that the comparisons are with groups like the television repair industry, the Canadian trucking industry and the prime objective in all instances was to prove that licensing did not necessarily reduce costs or improve quality to the consumer. Never was mention made of the increased cost to the individual or the industry as a result of the implementation of licensing. Quite often it is what is not said that is more important than what is.

To return to advertising, the statement that "advertising, far from being demeaning, can be a dignified and responsible method of informing the public about the type of services being offered and their price". One only has to look at the informative advertising sponsored by various interest groups and trade associations. How naive do they think we are? Look at the full page ads for and against no fault insurance, general sales tax. Do they fit the informative advertising roles suggested by the competition critics?

Look at the number of should's, could's, may and other qualifiers that appear in those ads. It looks like one of my estimates for a Building Location Survey, if this, if that, then maybe. Advertising arrangements that are not harmful to competition are not subject to scrutiny by the Competition Act.

The Competition Act further allows certain standards of professional confidence and integrity to be the subject of rules but reserves the right to decide whether the public is being protected where the rules in their opinion, {the critics}, would unduly and again, it is their opinion, and with their qualifiers, would unduly affect competition or affect the quality of the product and they throw in as an aside the freedom of entry into the profession.

I would add that entry into the profession is not a right. Entry into a profession must be earned. If it's as easy as sending \$5.00 and three box tops to obtain entry, then there will be no respect given it by the members or by the users.

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I'm not sure how you find it but I am concerned with the seeming reduction in quality that is apparent today. In our local newspaper it is a rare paragraph that gets by without one typographical error or spelling mistake. I am noticing it more and more in some of the larger and more prominent newspapers.

Can it be that mediocrity will be the standard of the future? Will close enough count and be good enough to satisfy the critics? Will it make them happy that if you are close enough you are adhering to the competitive edge that they want to see established?

If you look at some of the court cases that have been heard, we find that it's sufficient only to prove that one might be conspiring to fix prices, reduce competition or set rules to secure more than fair return, in order to achieve conviction.

If the critics would take a realistic look at situations where there are enough firms to allow meaningful competition they would see that, if anything, the conspiracy works in reverse, i.e., who can leave the most money on the table which is the opposite to what the critics see as the situation in professions.

The public today are much more cost conscious, are better or more educated and as a result, tend to ask more ques-

tions, want more answers, are more willing to make up their own minds about matters. Still, they look to professionals for advice and direction on matters that are beyond their expertise.

To a certain extent, they can recognize or reconcile reasons for the cost of our work and generally accept the fact that they are receiving value for their dollar, notwithstanding that they will always feel or always believe that they could have obtained it for less elsewhere.

I would like to review the critics' point of view, go back over the points I have touched on. First, that competition provides innovation, improved productivity, more readily meets consumers' needs, weeds out inefficient practitioners. We don't object to competition. What we would like is the same rules for everyone. Specifications so that we are all replying to the same questions. Ample preparation time - public opening of competitive "bidding" - communication of the results.

Second on the list was the price of the product to the consumer. This appears to be of the greatest concern.

No mention is made of the cost to produce the product, investment in time, material, technology. In our own profession each survey is a new product; requiring new research, and

encountering new problems. We can't do all of this and then sell this survey.

It's one time only, has no resale value, there's no production run, you can't take it and put it on the shelf and advertise that you have surveys for sale, that one size fits all. If it needs updating, you are required to do the research all over again. There is no appreciation and by that I mean value added to the survey. It's instant depreciation, a fact that the critics fail to realize or are unwilling to accept.

The third point I raised was advertising. They believe that there should be better communication or information given to the public and the consumer.

The Association has spent countless hours preparing and carrying out a number of educational and informational sessions with lawyers, realtors, and members of the public. We spend time explaining surveys, their value, cost, anticipated problems, anticipated solutions.

There will always be critics.

What we have to do is meet the critics face to face and stand up for what we believe is correct. I will leave you with one thought and this is in the negative aspect of critics.

A critic is a person who knows the way but can't drive the car.

