

Self-Governance The Mandate of the Profession

THIS BUSINESS OF SURVEYING

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The theme of this paper is intended to address the concept that professions in general and the land surveying profession in particular are established with a primary motive of operating in the public interest as opposed to the commercial interest.

Despite the fact that a professional person must charge fees for his or her services in order that he can maintain his family, community and professional obligations, the professional is not in fact in a 'business' with the sole motive of producing a profitable balance sheet.

Perhaps I can start our discussion with a short anecdote about an architect and an artisan. The architect was designing a new church and had an idea for a magnificent new chandelier to highlight the chapel. The architect asked the artisan how much it would cost to construct this new chandelier, to which the artisan replied, "\$10,000".

After it was completed the architect was so pleased that he decided to add four additional but slightly smaller chandeliers to his design. He approached the artisan and asked the cost of the additional four chandeliers, to which the artisan replied, "\$60,000".

The surprised architect then asked why the first one would only cost \$10,000 yet the additional four would cost \$15,000 each. The artisan replied, "Building the first one would be a challenge; building the other four would be work!".

I would suggest that professional practice is much the same as the work of an artist. The files where you are clearly assisting a client to solve a unique new problem become an interesting and challenging labour of love, whereas the day to day routine jobs are merely that - routine! They may pay the bills but they do not give the personal satisfaction which makes life and practice worthwhile.

So how about "This Business of Surveying"? Are you in the business of surveying? Or do you practice the profession of surveying? Or perhaps you are in business to practice the profession of surveying. Is the business aspect or the professional aspect most important in your practice?

Or to put it another way, is it the commercial interest or the public interest that is paramount to the surveying profession?

THE COMMERCIAL INTEREST

I think it is generally conceded that the main objective of business is to make a profit. Profit is necessary for any business to survive. The question however is always: What is a reasonable profit?

David Olive, Toronto author of *Just Rewards* quotes the former Dean of York University as stating:

"Most managers think of profits and market share as moral. Their professional training has encouraged them to think that making as much money as they can for their companies is a primary moral obligation in itself."

THE PUBLIC INTEREST

As a comparison, it is instructive to refer to the often quoted US case of **Stiner v. Yelle**:

"A profession is not a money-getting business. It has no element of commercialism in it. True, the professional person seeks to live by what he earns, but his main purpose and desire is to be of service to those who seek his aid and to the community of which he is a necessary part. In some instances, where the recipient is able to respond, seemingly large fees may be paid, but to others unable to pay adequately, or not at all, the professional service is usually cheerfully rendered."



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This decision was obviously handed down before such social phenomena as legal aid and medicare, but nevertheless the message still has relevance to our discussion.

More recently, the **Honourable Bette Stephenson, M.D.**, in her then capacity of Minister of Education, Colleges and Universities of the Province of Ontario, was somewhat more to the point in addressing a 1984 Bar admission ceremony, and I quote:

"The professional practitioner deals on an individual basis with clients in a close relationship rather than at arms length.

The rule of Caveat Emptor cannot apply when the expert practitioner sells his services to the layman, because the consumer of that service is an individual in need of expert assistance - not an opponent in a game of trade. The professional practitioner expects to provide some gratuitous services and is ever mindful of his duty to sustain the honour and integrity of his profession in all conduct. The members of a profession must not simply maintain the standard of morality and ethics generally accepted by society - they must strive to practice at levels superior to those commonly followed."

"...each member of a profession has a responsibility to fulfill daily requirements of ethical professional practice and to assist the profession in the discharge of its significant duties as well."

In recent years our society has become confused and materialistic. Competition is rampant, yet quality is king. Unfortunately in many fields, particularly the service sector, the unsophisticated consumer does not have the expertise to assess the value of complex products and services. Professional practitioners have a public duty to assist clients (and potential clients) to ensure that they obtain the services most suitable to their requirements, and to ensure that they do not select either less than, nor more than the services they require to deal with their affairs.

THE BASIC DIFFERENCE

Nothing distinguishes the professional from the businessperson more than the reliance on ethics in fulfilling his

commitments to colleagues, employers, clients, and society as a whole.

Where the Businessman's Creed is:

*Profit,
Product,
People, and
Principle*

in that order, the professional must exactly reverse the order and importance of these four criteria to read:

*Principle,
People,
Product, and lastly
Profit*

I don't think there is much argument that the basic premise of business is to make a profit and don't get me wrong, I'm not suggesting that 'profit' is a bad word because profit is necessary in the operation of any business; whether it is a commercial or a professional endeavour.

The point I wish to make with regard to the Businessman's Creed is that the four P's are listed in order of priority: profit, then product, then people and lastly principle.

The professional, on the other hand, is not primarily concerned with the making of money. Certainly a professional practitioner must ensure that his practice operates with efficiency and that he earns a sufficient wage to fulfil his family and community obligations, but his *raison d'être* must not revolve around the balance sheet.

Traditionally business has been identified with profit-taking and professions have been the protectors of the public interest.

Madame Justice Bertha Wilson however, recently observed that:

"there seems to be a cross-over between the professional and the business world. We see businessmen taking refresher courses in the humanities and professional people such as lawyers studying business administration and computer science."

Despite this cross-over, in her comments to the 1985 convocation of the University of Alberta, she upholds the belief that:

"Membership in a profession should be in and of itself a guarantee of competence."

Likewise she acknowledged the need to place,

"honesty and professional service to client" ahead of "acquisition of personal wealth, power and prestige."

THE SURVEYING PROFESSION

The land surveyor has a particularly onerous responsibility in that he must act not just in the interests of the client, but also in the interests of society at large. Every survey done for a client is in fact, a survey of the boundaries of one or more of the client's neighbours and potential adversaries. The surveyor is a public officer.

Your President in the fall issue of the Ontario Land Surveyor, appears to be of the opinion that only les arpenteurs *geometre du Quebec* hold the distinction of being public officers.

I would argue that all land surveyors, whether they be in Quebec, Saskatchewan or Ontario are public officers. Land surveyors are not public officers merely because some statute says they are, but more importantly because of their mandate to exercise the function of property boundary determination on behalf of the state.

A surveyor does not represent a single client in establishing the client's boundaries, but rather he represents society at large.

Every boundary monument marks a boundary between at least two unique properties.

The surveyor, therefore, must be fair and impartial to all parties; he cannot give undue consideration to his client's interests in disregard to the interests of his client's neighbour and potential adversary.

His interests are quite different than those of a doctor, lawyer or accountant each of whom normally need act with only the interests of a single client in mind.

To quote **Tom Shanks, D.L.S.**, in his 1923 article entitled *The Status of the Dominion Land Surveyor*:

"He must preserve in all his work the judicial mind and the impartial attitude of an arbiter, rather than the bias of an advocate."

Despite the fact that a surveyor's professional opinion is always subject to appeal to a court of law, the reality of the

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situation is that the work of the land surveyor is seldom challenged, and is usually accepted by landowners. The surveyor is in all practicality the final boundary arbiter he performs a quasi-judicial function in establishing property boundaries.

Another unique and very important responsibility of a cadastral surveyor which can be attributed to his duty to society at large, is with regard to the ultimate effect of his surveys and the plans resulting therefrom.

The initial surveys conducted by the cadastral surveyor form the basis for the settlement patterns of a nation and its communities. This concept is so beautifully illustrated in the little storybook called, *The Silent Guide* by **Frank C. Wilson** who I understand is a former member of your Association.

In this book, which I presume you are all familiar with, Wilson describes the evolution of a seedling in the forest, through its growth to a small cedar, and then its transformation into a survey post making a township corner, eventually marking a block corner and finally being replaced by an iron post marking the corner of a busy urban community.

A lovely, nostalgic story about the evolution of our country from forested hinterland to the productive communities which most Canadians live in today. Parcels of land ownership are one of the most indelible features on the face of the earth. Land divisions created in Biblical and Roman times are permanently etched into the social and cultural fabric of the Middle East and Southern Europe to this very day. Land tenure based on real property boundaries, is a fundamental precept in all societies, both ancient and modern.

The modern cadastral surveyor must attempt to foresee future developments in preparing his subdivision documents since they will become the basis for land

records; the cadastre of the nation.

Taxation and assessment records, municipal mapping and infrastructure records; basically all land information records for all levels of government as well as private agencies and individuals will rest on the cadastral foundation laid down by the surveyor. His logic and anticipation of future directions will influence development decisions for ages after he is gone.

CONCLUSION

The land surveyors' duties and obligations to the public in general overshadow those duties which are directly fulfilled for the client per se. Unfortunately, the public functions of the surveying profession are often taken for granted by surveyors and not understood at all by the public.

How many of your clients actually have the understanding of legal boundary principles to make a decision as to whether they have received a quality product or not? Nine times out of ten, they will look at the plan and the invoice, and if the plan is reasonably neat and the invoice is less than what they had expected, they will be completely satisfied. But look out if that invoice is 10% higher than your estimate or what some realtor suggested it should be!

The fact that you didn't find sufficient evidence and established their boundaries strictly by mechanical methods, doesn't mean a thing to them, unless of course the survey shows an encroachment or some other obvious problem, and even then many clients will accept your opinion without question. To place the land surveyor in the competitive world of low-balling and corner cutting will eventually result in a deterioration of our system of land tenure.

Since I started with an anecdote related to professional fees perhaps I can end on the same note: This story relates

to an article which recently appeared in the BCLS quarterly, *The Link*.

It was a reprint from an article originally written in 1925 in the *Journal of the Dominion Land Surveyors Association*, which, incidentally, was also a co-production of the AOLS.

The article was entitled, "A Few Thoughts On Surveying As A Means Of Earning A Livelihood". The thesis is made that "the difference between a professional man and a tradesman is that the latter charges the value of the job to himself (i.e. his time), the former, the value to the client."

Needless to say it was the author's opinion that surveyors act like tradesmen in the way they value and charge for their services by the hour as opposed to the value of the service to the client and society.

Some might argue that with the low public perception of the value of surveys, that surveyors are better off charging on a time basis - at least the surveyor gets something for his services.

The author went on to state that:

"A surveyor's responsibility is directly proportionate to the value per foot of the property surveyed and an ad valorem scale of charges is the only one that will gain for the surveyor in general practice an adequate return for his services".

I hope that these comments have been reflective of the role of the land surveyor in Canadian society and particularly his role in serving the public interest.

The primary motivation of a professional is to help individuals solve their affairs, not necessarily for the monetary rewards, but for the personal satisfaction and the challenge of doing a good job and seeing the end result of that service.

A land surveyor like all other professionals must divorce himself from the competitive world around him and remember his *raison d'être* - to serve!