

## President's Report



**Neil MacNaughton, NLS  
President 2011-2012**

In the first few months of my term as President, it has been somewhat difficult to focus on the immediate operation of the Association, due to travel out of the Province. Since returning I also had the distraction of chairing the Geomatics Atlantic 2011 Conference in St John's on October 5-7, but that is history, except for finalizing the paper work.

We have initiated action to address the non-compliance of mandatory capped iron pins in the metro area of St. John's and Mount Pearl. The Secretary-Treasurer and I visited the deeds registry to determine the viability of estimating the level of non-compliance possibly by viewing all of the survey plans in the master plan files since 2003, when the mandatory requirement started. This would require the viewing of approximately 1000 plans, many of which are large sub-divisions, and compiling statistics on parcel numbers and the number of capped pins that should have been placed. However, it was decided that a more direct and timely approach would be to request individual meetings with the surveyors who apparently are not purchasing sufficient markers for the volumes of work they are assumed to be doing.

We have conducted five meetings with members who work in the vicinity of St. John's and Mount Pearl to discuss their use of capped iron pins, and have made phone contacts with other surveyors. These meetings have resulted in a positive exchange of information with some acknowledgement of non-compliance, especially in sub-divisions. There was a general sense of understanding and support for the marker program and commitments to become compliant. Notes were recorded of the meetings and these notes are in the process of being confirmed by all attendants. The ANLS Executive, Council, and the members interviewed are working together to ensure full compliance with the mandatory survey marker requirements.

When viewing some plans for Newfoundland Power easements as registered Master Plans in the Deeds Registry, it was noted that none of the viewed plans were stamped or signed by a Newfoundland Land Surveyor. This matter was discussed at the Sept 30<sup>th</sup> Council meeting, and a formal letter citing non-compliance with the Land Surveyors Act was issued. Recent contact with Newfoundland Power has confirmed that the matter is under review and we expect to meet with Newfoundland Power official early in the new-year and hope to have information for the Council meeting in late February.

After 10 months of waiting, we have received a draft tri-party license agreement, between Crown Lands, the Association and IBL, for the use of the Crown Lands cadastral mapping in Land Gazette. This first draft agreement appears to be generally acceptable, but a number of items have been identified in a written response requesting modifications and clarification.

In a read of the Ethics Section of the Manual of Practice, I was appalled at the presence of subsection 16.7.1 which is absolutely contrary to my training as a Land Surveyor and contrary to the oath of commissioning (subsection 21 (2) of our Act). I can only assume that subsection 16.7.1 was copied from the legal profession code. A lawyer is an advocate of their client, totally biased to the client's best interest. The Land

Surveyor on the other hand, while serving a paying client, judges all evidence found and defends the interests of all parties, both the client and all adjoining property owners. I suspect that failure to protect all adjoining interests and attempting to please the client at the lowest possible cost is the root cause of many discipline cases. This matter was discussed at the Sept 30<sup>th</sup> Council meeting and revision of section 16.7 will be discussed at the December Council meeting.

Since elected President I have only attended one Provincial Association meeting in Nova Scotia on October 20-22, 2011, but plan to attend other meetings in early 2012 with consideration to budget limitations. At the Nova Scotia meeting, I was very impressed with their full day of professional development presentations and their mandatory Professional Development program. I also had an opportunity to question other Association on their use, or non-use, of deferred monumentation in sub-division developments. Generally, deferred monumentation is viewed as problematic and several referred to a bad experience in Alberta – (difficulty in tracking deferred monumentation). In the City of Winnipeg there is a program where the City requires the Surveyor to post a bond to ensure that the markers are placed. In Nova Scotia, their manual of practice provides for placement of markers 10 meters back on the side line, in lieu of a front corner marker.

Over the coming winter months, I look forward to continued developments the issues mentioned above and others identified at our last AGM and as directed by Council.

As we quickly approach the Christmas season, I wish all members a break from hard work, and may you and your loved ones experience a peaceful and joyous Christmas.

Best regards to all,



## Scholarship Awards

Neil MacNaughton, NLS, President Association of Newfoundland Land Surveyors attended The College of North Atlantic Awards Ceremonies. He had the privilege to present the following Scholarships to three students from the Geomatics Engineering Technology Program:

**Curtis Chafe received the Peter J. Berghuis Scholarship (\$500.00)**

**Robert Louvelle received the Association of Newfoundland Land Surveyors Scholarship (\$500.00)**

**Elyse Robinson received the Alberta Land Surveyors Association Scholarship**

*Congratulations*

## In the NEWS

Occupational Health and Safety Violations

Two cases of health and safety violations were reported in October:

- [Englee Company Pleads Guilty to Occupational Health and Safety Charges](#)
- [Excavating Company Faces Occupational Health and Safety Charges](#)

**The Association of Newfoundland Land Surveyors requires all members to comply with all Occupational Safety Guidelines**

[http://www.gs.gov.nl.ca/ohs/safety\\_info/](http://www.gs.gov.nl.ca/ohs/safety_info/)

# Secretary-Treasurer Report



**Keith Renouf, NLS  
Secretary-Treasurer  
2011-2012**

The report of the secretary – treasurer will be short and to the point this Christmas season. On behalf of the council of management it is my pleasure to report on the following:

The income statement for the last year has followed the path of the budget exactly. We will suffer a \$27,000 approximate loss. Monies from the GIC have been allocated to our current account to enable the payment of all obligations for 2011.

The budget for 2012 has been approved by council of management. I am pleased that for 2012 we have a proposed balanced budget. The increase in dues passed at the 2011 AGM has allowed for your council to present this balanced budget.

The marker compliance review is ongoing with every effort being made to ensure compliance through field reviews. Given these efforts for compliance, the budget approved at council has a proposed marker price increase of \$0.75 / marker. This additional revenue will help offset the cost of inflation while ensuring the association maintains a professional presence through a qualified office.

We are attempting to respond to all correspondence in a timely manner. However, we are at the mercy of volunteers who must work through committees to complete tasks on behalf of our association. I thank all these volunteers and trust that we all appreciate the work they do on our behalf.

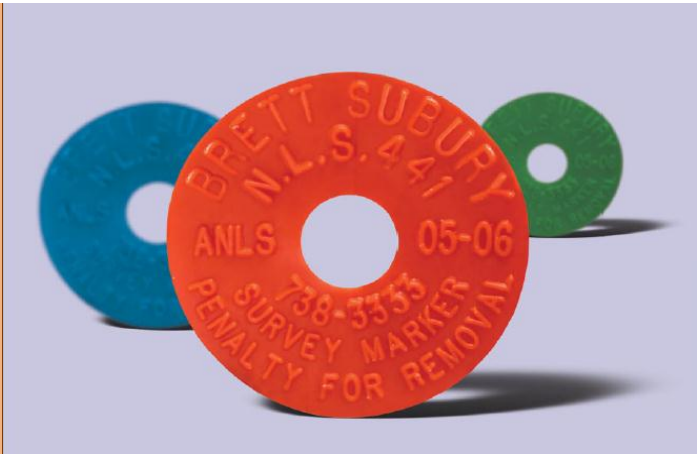
The professional development program will be rolled out in the New Year. There are two components to this program, the reporting of one's activities that will be mandatory for 2013 and the activities themselves. Towards this end, your council is working with the professional development committee to have a number of seminars presented in 2012.

The reports of others have reviewed the work of council in detail. In signing off I trust this finds you in good health and preparing for some down time over the Christmas season.

Respectfully submitted,



**Survey  
Markers  
Are Mandatory  
in  
Newfoundland  
and Labrador  
(Bylaw 19)**



# *Greetings from the Desk of the Executive Director -*

I am pleased to present the following report to our Newfoundland & Labrador Land Surveyors.



**Paula Baggs**  
**Executive Director**

## *Administration –*

The Association's staff complement comprises 2 part time staff; Lynn Murphy who works 4 hours per day with myself working 6. Taking on the work of a regulated provincial association with limited hours has certainly been a challenge and I would like to thank Lynn for her dedication, and professionalism this past year. The mark of a good working relationship is when there is collaboration between staff.

The Financial Review Committee reviewed the 2012 Budget and presented to council a balanced Budget. The Budget will be available to members in the Annual Report. We have engaged Roger K. Coombs, Chartered Accountants again this year to complete the audit. Members Annual Invoices have been prepared and mailed. The Invoices will reflect the increase in dues as was voted

in at the 2011 AGM.

The AGM committee will be meeting early January to review the planned activities for the 2012 AGM. Discussions have begun with respect to activities scheduled for this annual event. This year the AGM will be located at The Capital Hotel, in St. John's, May 3-5.

At last year's AGM Robin Davis read out names of Members who reached 30 year membership. Unfortunately the 30 year pins did not arrive on time for presentation. These members will be receiving their pins and certificates in the mail soon.

## *Executive Director Network -*

I attended the first face to face meeting of Executive Directors from across Canada which was held in Toronto, Ontario on July 21, 2011. I would like to thank the Association of Ontario Land Surveyors for hosting this historical event. This meeting was the start of something we hope will increase knowledge and value for all associations as we open discussions and network across the country. The sharing and utilizing of knowledge and experiences, and enhanced communication will lead to the opportunity for better stronger relationships and joint projects for all associations.

We have made plans to hold one regular face to face meeting per year, with regular communication by phone and email to help build this very important relationship across the country. The next meeting will be a teleconference on November 30<sup>th</sup>.

I found this experience very worthwhile and made the following comments to my fellow colleagues following our meeting; *"I'm looking forward to this year and working together. As I listened to the roundtable discussion, I was getting excited to see that my task list with ANLS for this year has either already been completed or in the process of being worked on through other Associations. I appreciate this joint working relationship that we are establishing. Working with a non-profit regulatory body is very unique and I am looking forward to this opportunity to work with colleagues to achieve common goals."*

## *Membership –*

All committees have their Terms of Reference in place. I would like to thank those committees for their continued support and efforts as we all work toward the betterment of our association and the surveying profession.

The Board of Examiners have been busy. Presently, the Association has the following Articling Students:

Janeil Parrott - Articled under N.E. Parrott Surveys  
Clifton Hawco - Articled under Arnold King, Hawco King Renouf  
Michael Laite - Articled under Keith Renouf, Hawco King Renouf  
Joshua Mailman - Application received – Board to Review File

The Labour Mobility Handbook for Candidates Applying to Become Newfoundland Land Surveyors Pursuant to the Labour Mobility Provisions Under the Agreement on Internal Trade has been posted on-line. The Jurisdictional Examination has been finalized. ANLS Board of Examiners is reviewing the process followed by other provinces with respect to CLS applying for labour mobility and how this affects our province.

A letter has gone out to our Minister looking for assistance in the nomination of a Lay Member for our Council of Management. Mr. David Robbins, M. Env. Sc. has stepped down due to work and personal commitments, leaving a vacant position on our Council for the 2011-2012 year. No reply to date, however, we will be actively pursuing to fill this position on council.

A “Call for Interest” was forwarded to members on September 15, 2011, so that the Association may establish a list of Mediators/ Investigators for the Secretary-Treasurer and Investigative Panel to call upon when undertaking the duty of investigating notarized complaints. If any member is interested in adding their name to this list, please contact the Association office.

#### *Fall Regional Meetings –*

All three Regions hosted Regional Meetings in November. Neil MacNaughton attended the meetings to give membership an update on the Marker Compliance Program, as well as other activities council has been working on since the AGM. Many surveyors from across the province participated with lively discussion and debate. For all upcoming events, check our website [www.anls.ca](http://www.anls.ca) under “Upcoming Events” for times and location in your area.

#### *Government / Municipal Relations -*

##### *Cadastral mapping on-line –*

The Draft Agreement for use of Digital Crown Lands Cadastral Mapping between Her Majesty the Queen in Right of Newfoundland and Labrador, as represented by the Honourable the Minister of **Environment and Conservation** and the **Association of Newfoundland Land Surveyors and Information Brokerage Ltd.**, has been reviewed with the notes, comments and concerns forwarded back to the Crown.

Members of council met with Stephen B. Jewczyk, FCIP of the City of Mount Pearl to discuss copyright the use of digital data and best practices. The objective of this meeting is ANLS would like to work with the City of Mount Pearl to realize the potential to the City of using surveyors’ digital drawings. Specifically, the Association is looking at how the City of Mount Pearl will protect this digital data. A follow-up meeting is planned.

We are looking forward to working with Professional Surveyors Canada Advocacy committee as they move forward on their initiative to develop a set of “national best practices” and an accompanying “tool kit” for municipalities

A meeting is scheduled early in the New Year with Newfoundland Power to review Newfoundland Power Legal Survey Plans for Easements

#### *Public Awareness –*

We are still looking to make the ANLS website unique to the *Newfoundland and Labrador Surveyor*. An invitation went out to members a while back looking for any pictures we may use. If you come across any old or new pictures, we would be glad to post them on our website.

As a way to improve and broaden the use of our website, we have added a "Members Only Page". This page will be used to ensure privacy to members while the public still has access to public information. To access the "Members Only Page", Click on "The Members Login" you will be prompted to log in with the name and password that will be sent to you. We will be encouraging members to access this page for updates and news from the association. Contact the office if you did not receive your *login* information. If you have any ideas that you would like added to the "Members Only Page" just send us an email.

Over the next few months, we are planning to add more information to our website to help inform and educate the public with respect to Newfoundland and Labrador surveying issues.

The website is a working website, if you see any errors or omissions, please inform Lynn.

Survey Marker Ad -

On page 10 of "The Real Estate Book" you will find our Ad 'Big Property Protection Now Comes in a Small Package'. The next issue of the Book, we will be placing a follow-up Ad.

Regards,



## The Act Committee Report

By: Terry Yates, Chair

Council has reviewed and accepted in principal a proposal by the committee to hire through a subsidy program a political science / pre law student to do a review of our Act. This review will then be used as the basis of regional workshops to garner as much feedback from the membership as possible before the Committee puts forward a report to Council of final recommendations.

At present the Committee is drafting terms of reference for the student position. This position is to be advertised January 19<sup>th</sup>, 2012, with the Work Term to begin April 23 and ending August 17, 2012.

## The Archives Committee Report



**Les Winsor, Chair, Arnold King, Member,  
Missing from photo Craig Nightingale**

The Archives Committee is alive and well!!!

The Archive Committee manages the process for the development, approval and maintenance of all archival files, manuals, pictures, data, information and equipment for the Association of Newfoundland Land Surveyors.

We would like to thank Brian Flynn, NLS for donating a "level clinometer and case" which was used by Mr. Flynn during the mid-1960 while he was employed with Harbours & Rivers Branch, Federal Public Works in Saint John, NB.



Over this past summer we also collected two "K & E Transits" and two "Dumpy Levels" from the City of St. John's. The committee would like to thank Ron Collins who helped to obtain these items.

Our committee continues its appeal for any old instruments, even parts of an instrument, old literature, or

anything pertaining to surveying in Newfoundland and Labrador. All artifacts are welcomed by the Archives Committee! If you have an item and would like to donate it please email me at [lwinsor@nf.sympatico.ca](mailto:lwinsor@nf.sympatico.ca), drop it off at the office or maybe deliver it to the nearest Member of the Council of Management and he could bring it to the office at the next Council Meeting.

"The Newfoundland Surveyor History of Surveying in Newfoundland and History of the Association of Newfoundland Land Surveyors to 1974" is now available on our website [www.anls.ca](http://www.anls.ca).

Regards,

Les Winsor, Chair of the Archives Committee

## The Association's Copy of the Cook Charts

By: Les Winsor, Chair of the Archives Committee

The first knowledge many of us had of the Cook Atlas was when Councillor Tim Scammell sent the membership a letter on 1978 06 12 canvassing for a contribution to purchase a copy of the charts. This was a project in the Silver Jubilee Year and the Association had hope of purchasing them and displaying them in a public place.

The Charts were purchased in 1977 by the late Canon George Earle, the principal of Queens College. He had purchased this French version in England for \$2700, and he would sell them to the Association for the same price.

Prior to the canvassing letter Alec McEwen wrote Robert J. Aylward, the President of our Association letters on 1977 08 09 and 1977 08 22. In the first letter he mentioned he was trying to find the best way of assisting us to acquire the Cook Charts, and in the second he said he had made several enquiries on our behalf seeking funding. If, however they were acquired in this manner then they would be part of the Newfoundland Museum's collection.

The next step in the procedure was a letter to Hon. Edward Maynard, then the Minister of Forestry & Agriculture from Tim Scammell, now called "Chairman of the Cook Chart Committee". He explained we were conducting a campaign to raise funds for the 18<sup>th</sup> century charts based on the survey of Captain James Cook. He mentioned that the charts were being purchased with the stipulation that they be put on public display, and requested space at the Howley Building, a display cabinet, security and lighting.

By April of 1979 the Association had purchased the Cook Charts from Queen's College, and were arranging their display at the Howley Building. The Association had taken funds out of the current revenue, and Tim Scammell was again appealing for contributions from the membership.

Approximately 60 people made donations, mostly members, six firms, the A.N.L.S. Wives, and the Canadian Institute of Surveying. The Charts cost \$2700, legal fees \$150, and mail outs \$80 for a total of \$3000.

The legal fees were to cover the drawing up of a three page agreement between The Association of Newfoundland Land Surveyors, as the "Lender", and the Honourable The Minister of Forestry and Agriculture, as the Borrower".

Since acquiring the Charts they have been on display at the Howley Building in the Main Foyer for a while and then in the hallway! After security personnel were replaced by an alarm system they were kept in the Vault! Many of our members were not aware that the Cook Charts were the property of the Associations as the sign on the Cook Chart Case was a bit misleading the sign said they were presented to Alister Kinsman, Deputy Minister of The Department of Forestry & Agriculture. Some took this "presented" to mean given, which was not the case!





**Why so few surveyors?** According to Mr. Burrige, "Prior to the incorporation of the Association of Newfoundland Land Surveyors, a land surveyor was not looked up as a professional many by the general public. At one time, any man with a smattering of geometry, a little political pull, and the cash to purchase a compass and chain could become a Deputy Crown Land Surveyor. He was allowed to make surveys in any part of the province. These men, for the most part, were not well trained and were using their appointment to augment their yearly income with little or no thought to the future. There was a considerable amount of undercutting in fees and a lack of ethics on the part of one surveyor to another. It is any wonder that you have overlaps of grants, inadequate starting points and faulty descriptions? A survey for a simple application for land can become a major surveying job before any existing boundaries can be properly located. Such condition renders the cost of these surveys prohibitive, and it is for the better from a surveyor's point of view to have no plan to go by than to have a faulty one."

**Thank heavens those problems don't exist today!**

Some recommendations put forth by Mr. Burrige to alleviate the problems were:

1. A training course starting at grade 10, to continue for a two to three-year course at Memorial University before receiving a diploma in surveying.
2. Intensive apprenticeship training in the field after graduation, under the leadership of a Newfoundland Land Surveyor.
3. Studying and examination for the various Land Acts.
4. Most important of all a "Strong" Association of Newfoundland Land Surveyors that can:
  - a. Discipline its members and see that they live up to and within a certain code of ethics.
  - b. Setup and enforce a minimum fee scale for surveying.
  - c. Look after all matters of surveying within the province.
  - d. Keep its members informed of new methods of surveying.

One observation made by Mr. Burrige was "since the incorporation of the Association of Newfoundland Land Surveyors, three surveyors left the employ of a paper company to establish themselves in the private sector and would not have done so if they thought the Association would not provide them some protection against the undercutting in fees and the such that has been happening in the past."

In his closing remarks, Mr. Burrige stressed that surveying is becoming a highly trained and exacting profession in every province and standard examinations should be set.

**We have come a long way .....**

## *Moving Forward - 2011-2012*

### **Mandatory Continuing Professional Development Program**

By: Paula Baggs, Executive Director

#### **History –**

The founders of the Association understood and knew the importance of continuing professional education programs as can be seen from the previous article. The following Resolution was made at the 1987 Annual General Meeting –

*Be it resolved that the membership of the Association of Newfoundland Land Surveyors direct the Council of Management to develop a recommended continuing education programme within the next year for submission to the 1988 AGM. Aspects to be considered should include, but not limited to:*

1. *The possible compulsory nature of such a programme.*
2. *An accumulative point system allowing credit for participation in council, committees and attendance at Annual General Meetings.*
3. *An awareness of the requirements and circumstances of members residing outside the St. John's area, carried.*

As I read through the Annual Reports over the years, I found very similar Resolutions presented by members. At the Annual General Meeting held in Corner Brook, NL in April 2011, the following Resolution was made –

*Be it resolved that Council of Management investigate Continuing Education Programs and report back to the membership on a suitable system for the Association.*

*Moved by: Ian Edwards*

*Seconded by: Cliff Hawco*

One of my tasks as Executive Director was to investigate for the Continuing Professional Development committee a Mandatory Continuing Education (MCE) / Mandatory Continuing Professional Development (MCPD). I have been asked to make continuing education a priority for the association. To deliver educational seminar(s) before the next AGM, with the ultimate goal to develop a sustainable, mandatory Program. Also, an ACTION item from the meetings with our members on the Marker Compliance Program requests that council move forward and implements a Continuing Professional / Educational Program.

#### **Rationale –**

The surveying profession has undergone rapid evolution in the past 30 or 40 years as all of you are aware as you work in the industry on a daily basis. Reading through the history of the Association and surveying in Newfoundland and Labrador puts this growth and change to paper. Our Association, whose objective and mandate is to protect the public, is under more pressure and scrutiny to make sure that all of our members maintain their competence and that our members are up to date with today's changing technology, legislation and business standards. We all know that change requires commitment from our members. Council is now looking to you for that commitment.

Most professions have adopted three methodologies to help meet this objective. The model that the majority of the surveying professions have adopted across the country is a ***Mandatory Professional Development Program*** or ***Mandatory Continuing Education Program***. I have spent the last couple of months reviewing other provincial programs that have been developed and are working well. The program that ANLS Continuing Professional Development committee is reviewing is based on the experience gained from our sister associations and other regulated professional organizations in Canada.

#### **Objective –**

- **To ensure that our members maintain professional competence as Newfoundland Land Surveyors**
- **To demonstrate to our regulator and the public that our members maintain professional competence as Newfoundland Land Surveyors**
- **To work with Professional Surveyors Canada and provincial surveying associations to develop workshops / seminars and on-line courses that will be available to Newfoundland and Labrador members.**

The following members were appointed to the committee at the first meeting of council following the AGM in Corner Brook and may be contacted for further information.

Keith Renouf - Chair

Ian Edwards; Clifton Hawco, Jr.; Robin Davis; Jon Williams

#### **In Closing -**

The time is now to move forward with this Program. The Land Surveyors Act, 1991, Section 6 (a) and (b) state the following objectives of the Association:

(a) to establish and maintain standards of professional conduct, knowledge and skill among its members to assure to the general public the proficiency and competency of land surveying in the province and to serve and protect the public interest;

(b) to promote, increase and improve the knowledge, skill, efficiency and proficiency of its members in all matters relating to the profession and practice of land surveying in the province;

The trend towards mandatory programs has been around quite some time. Most professions have moved in this direction, due to a response to political pressure regarding de-regulation.

*A good mantra to live by  
"If not now than when – if not you then who ....."*

The Associations' Mandatory Continuing Professional Development Program in "DRAFT" is available on our website [www.anls.ca](http://www.anls.ca) under Member's Login. Please forward any comments to Keith Renouf, Chair of Continuing Professional Development Committee.

## **The CBEPS Report**

By: Robert Leeman, NLS, ANLS CBEPS Director

We have had a number of board meetings in 2011 by telephone/computer conference. Typically every two months. In order to manage costs the CBEPS Board is no longer having any face-to-face meetings. Discussions have covered a variety of on-going management issues. Agendas of these meetings can be provided to Council and Members by me upon request.

Some highlights:

- Of significant importance is that the AOLS is withdrawing from CBEPS at the end of this year. I have also heard that Manitoba has concerns upon continuing their CBEPS membership but no official word there. I understand they are worried upon declining membership and possible encumbrances for potential new members. Ontario's withdrawal is a definite concern and was reported to Council and our B of E some time ago.
- College of the North Atlantic has applied for review of their CBEPS exemptions. Good news. We should try to keep abreast of their progress with that.
- CBEPS is concerned about lack of understanding of their activities by the various provincial associations and has initiated a quarterly newsletter. There is a draft version available now but it does not appear to be on their website yet. I assume these newsletters will be sent to our office and can be re-directed to the membership by email or linked on our website.

Further information can be had about CBEPS by visiting their website:

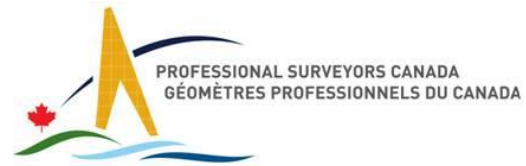
[www.cbeps-cceag.ca](http://www.cbeps-cceag.ca)

Or simply by contacting J-C Tetreault directly:

Jean-Claude T treault, CLS, a.-g., P. Eng., MBA  
Registrar  
Canadian Board of Examiners for Professional Surveyors  
900 Dynes Road, Suite 100E  
Ottawa ON K2C 3L6  
Canada  
Tel: (613) 274-7115  
Fax: (613) 723-5558  
[registrar@cbeps-cceag.ca](mailto:registrar@cbeps-cceag.ca)  
[www.cbeps-cceag.ca](http://www.cbeps-cceag.ca)

# Professional Surveyors Canada

Prepared by: Paula Baggs, Executive Director



## ***PSC Vision***

**That all Canadians come to respect the art and science of the surveyor's role.**

Our Vision Statement reflects the ultimate hope, dream, or ideal that Professional Surveyors Canada holds as something to strive for. It captures a high level vision for the profession that surveyors and the organization can work towards together and provides the ultimate focus for all activities of the organization.

## ***PSC Mission***

**Professional Surveyors Canada will work on behalf of its members to encourage and enable an environment where their work is valued as underpinning the fabric of society for the safety and economic well-being of Canadians.**

## **Highlights –**

Professional Surveyors Canada has been working with Susan Lewis, Partner with *Wolfworks* communications together as they work to “*brand*” Professional Surveyors Canada. Together they have produced a great looking and informative e-Newsletter entitled “*Horizon*”. The premiere edition was launched October 2011. Take some time to peruse while getting acquainted with your new national body.

### *PSC Webpage*

Another great tool to find out what is happening nationally is the PSC Webpage [psc-gpc.ca](http://psc-gpc.ca) - click here for news, upcoming initiatives/events and information etc. ANLS has some Job Postings under their National Job Bank page. For further information on posting a job for your company, contact the Association office.

### *National Compensation Census*

By now you would have received in your email boxes the *National Compensation Survey* initiative from PSC. The survey has gone out to PSC full contact list which includes approximately 2500 surveyors nationally. This information will help the entire profession – please support your profession by responding to this Survey.

### *PSC Board of Directors Elections*

First Board Elections set for November 30, 2011. Robin Davis, NLS has been nominated to represent the PSC members in Newfoundland and Labrador. The newly elected Board of Directors will be taking position March 2012.

### *Special Thank You*

On May 9, 2011, Gary Hughes, NLS received a well-deserved thank you letter from the Sarah J. Cornett, Executive Director of PSC. Noted in Sarah’s letter she thanks Gary and “*recognizes him for his contributions towards the creation of a new National Organization*”. Also noted in the letter “*amongst its many accomplishments, the Canadian Council of Land Surveyors successfully created and managed our national professional liability insurance program, managed our accreditation of university surveying programs, negotiated and managed our labour mobility agreement, built consensus around our new national surveying syllabus and implemented and managed our youth career awareness program. This success would not have been possible without a strong spirit of cooperation and mutual support and we hope to pass on this legacy to Professional Surveyors Canada as we seek to take national cooperation to new heights*”.

Gary was part of this initial team and has represented the Association as a Director with CCLS and PSC since 2007. The Association would like to take this opportunity to thank Gary for his dedication and commitment of service to our national body and join with Sarah to say "Thanks again for making a difference!"

Are You Looking to Join PSC?

Advocating for an integrated and dynamic Canadian surveying profession.

**Join Now!**

Apply online at [psc-gpc.ca](http://psc-gpc.ca)

Should you have any questions regarding the initiatives the PSC is pursuing, or require information on how you can become a member you may contact Gary Hughes [rgaryhughes@gmail.com](mailto:rgaryhughes@gmail.com) or the ANLS office.

## ANLS Upcoming Seminars

Professional Management Seminar	The Capital Hotel	Eastern Region	February 10, 2012
Lost Control Seminar	The Capital Hotel		May 3, 2012

*Stayed tuned - the following Seminars are in the planning stage –*

Professional Ethics  
Riparian Rights  
Wetland Boundary / Water Courses  
Disciplinary Workshop

## Land Surveyors Copyright Enforcement Group

To support and join the many Land Surveyors across the country that have joined the Copyright Enforcement Group investigating steps necessary to enforce Surveyor Copyright, we would like to contribute \$500.00 toward the legal option on the issue of copyright of our plans of survey and the management of the group.

Payments should be made out to:  
*Land Surveyors Copyright Enforcement Group*  
*c/o T.A. Bunker, O.L.S., C.A.,*  
*P.O. Box 1180, 150 John St. N.,*  
*Gravenhurst, ON P1P 1V4*

FIRM NAME: \_\_\_\_\_

Please include Contact Information

Mailing Address: \_\_\_\_\_

Prov: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

# Ethics and the Professional Land Surveyor

*By the Honourable Justice Jean Cote*

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*Brian E. Munday, Executive Director, Alberta Land Surveyors Association*

*A few years ago, the Alberta Land Surveyors Association was able to get Alberta Court Justice Cote (the grandson of one of their founding members) to speak on ethics and the future of professions.*

*It is a speech that their members still refer to today.*

I regret that I can't bring you an entirely sunny and optimistic view of the horizon. But it is useful to know what may lie ahead for this profession, like a number of other professions, and also to know why and where it's coming from, and whether anything can be done about the future. This is a very serious concern.

It will be useful to start with a bit of a thumbnail sketch of where professions have come from and how they have got to where they are now, because the human mind is not all that inventive in social matters and what seems to be the new trendy idea of the moment is usually the swing of an old, old pendulum. There are three basic ways in which the regulation of a profession or a would-be profession can be approached. They are very simple. One is no regulation at all – or no effective regulation. One is regulation by the government. And one is self-regulation. By and large, the history of professions, or any given profession, is an alternation of those three approaches.

In medieval times, there were many ways of earning a living which were self-organized. They controlled admission to the craft or the guild or the mystery or the profession; they gave training, largely through some form of apprenticeship; and they had various internal forms of regulation and rules. Superficially, they looked somewhat modern. The problem was that they placed a great deal of emphasis on protecting the profession, keeping out competition from others, maintaining a monopoly, keeping up prices, and so on. Though they doubtless did a great deal of good for the public, that wasn't the intention. Any good to the public was something of a by-product. Then, as more modern times came and medieval institutions decayed and people thought little of them, by and large, what replaced them was anarchy or no regulation at all, or merely going through the forms of regulation. Then, in the nineteenth century, reforming brooms swept clean everywhere, and the modern professions emerged. What, until recently, we've taken absolutely for granted as the universal and permanent form of regulation of a profession emerged. That is, the Legislature recognizes the profession, gives it a statutory monopoly and confirms the legal existence of the professional organization. More importantly, the Legislature gives that professional organization some say over either entry to the profession or what qualifications you need to get into the profession, puts it in charge of education, either continuing or otherwise, and most important of all, gives the profession the power to discipline and eject its members. In return for all that, the Legislature gives a monopoly.

We've all grown up with that and we assume that exists for the same reason that the sun rises in the east and sets in the west, because it's in the necessary nature of things and it's always been that way. But that's wrong. It isn't in the necessary nature of things, and it hasn't always been that way. I think, and I dare say, most of you think, it's the best system. But, as we've seen from the modern world, what seems to us to be the best way of running things isn't always what happens. What has seemed to be a long-established way of doing things can change pretty quickly? All of this is of particular interest to a profession like surveyors. What a surveyor does has a much larger public, semi-governmental aspect than with most professions. Basically, what a physician does is cure you. That's really only directly of interest to you and, maybe, those who depend upon you. Leaving aside the question of epidemics, it's not of much public interest whether you or I get cured by a physician. Consider auditors. One of the functions of a chartered accountant is to do an audit and express an opinion, publicly, on the books of a company – often a public-traded company.

That is a public certifying feature. Consider a notary in the province of Quebec. The notary is, in effect, a branch of the government registry. The notary preserves, in perpetuity, original wills for example.

Now you see the analogy to a surveyor. A surveyor certifies to the whole world that a certain point or a certain plan ties in to a large, overall publicly-ordained scheme of things. As you know well, a surveyor has all sorts of public powers. You can enter on to private land, you can question people under oath, and you

make judgments. It isn't just a mechanical matter, you weigh evidence and come to conclusions and that sticks and it is accepted by everybody, including the courts.

So far that looks good, but the problem is that within that are the seeds of the danger that is growing.

Before I go to the danger, I have to set the scene on another part of the stage. Typically, a modern, organized, legally recognized profession or professional organization has a number of quite different functions all rolled into the one body. The first is administering the statutorily granted monopoly. Just as you and I can't go out and start practising medicine because we are not registered with the College of Physicians and Surgeons, similarly, people can't just set up as surveyors without having the proper qualifications and registration. Second, training (particularly prior training), at least governing what credentials a person needs to enter into the profession. The third function is certifying that people have or have not met those requirements and so are on the rolls or are not on the rolls. Fourth is regulating internal competition and prices. This one may be illegal now. The previous attack on professions was mounted by the federal government about thirty years ago, and it was done by what was then the Combines Branch under what we now call the Competition Act. They took the view that the professional regulators were committing a serious criminal offence if they talked about the prices that their members should charge. Maybe that fourth function is off the table.

Traditionally, the fifth function of a profession is "ethics." Let me point out that quite apart from the philosophical underpinnings of professional ethics, which Ken Allred has sketched out in two papers, for practical purposes professional "ethics" are simply law; simply legislation. There is nothing optional, nothing debatable about professional ethics. Those are a set of ordained rules imposed upon you. They may be imposed democratically, but they are not debatable and there are very real sanctions for violating them. That's a mandate given to a profession. The Legislature of Alberta has delegated some of its legislative powers to your professional body as it does to other professional bodies and lets it legislate to govern its members. You can be thrown out of the profession for violating them.

The sixth traditional function of a professional organization is continuing education. Once you qualify, once you belong to the profession, keeping you up to date with latest developments, reminding you of what you've forgotten, and maybe mandating continuing professional education.

The second last traditional topic is trying to do something to calm disputes between members of the profession and their clients, such as arbitrating fee disputes or something like that. Some professions do that, some don't, some sponsor another body to do it, but it is a recognized function of a profession. The last traditional function of a professional organization is what was almost the only one in medieval times. That is advancing the interests of the profession. That can be done in many ways – making sure that the field of the profession isn't invaded by someone else, making sure that the legislation is up to date, pointing out to the government any policies which it proposes that may be harmful to the profession, and making sure that the profession is understood by people out there. That is extremely important for a profession like surveyors. Most of us have some grasp of what a physician or a surgeon does, but the average member of the public has a most hazy idea about surveying. And that is true of the public's knowledge of quite a number of professions. That the public really understands what a chartered accountant does, for example, is doubtful.

There is a problem in all that. It is that your professional organization, like any professional organization, wears a lot of hats. That leads to confusion. Worse still, when someone for any reason at all wants to mount any kind of an attack on your profession or its function, then it gives them some ammunition. You can make cheap debating points off that, you can claim that these functions are in conflict, or that it gives the professional organization a conflict of interest. So far that would just be potential – nothing really to worry about too much.

Now let's turn to a deeper look at what are the modern impediments now impeding the traditional role of self-government, independence and self-regulation of a profession.

The first one is expense. This is particularly acute for a profession the size of the Alberta Land Surveyors. Alberta has only a little over three million people and that's not very big on the world stage. Within Alberta, the land surveyors have a much smaller membership than, say, the physicians and surgeons or the barristers or solicitors. As in a company, a union, or anything else, there are economies of scale in a professional organization. One law society in Canada a few years ago had about forty-two members. If one

of their members did something seriously wrong, and they had to start a hearing to disbar that member, can you imagine what that expense would do to fees for that year and the next three years? A professional organization of some forty members may not be economically viable. Back in the 1980s when the architectural profession in Alberta was going through a depression, they had a major court case which went all the way to the Supreme Court of Canada. They are still hurting financially from that.

I have to admit candidly that the courts bear a share of the blame for this expense. Courts see discipline cases and appeals from professional tribunals, one at a time. They don't tend to spend time on the bigger longer-range picture. They see the individual case before them, and the temptation always is to say that this poor man or woman is being thrown out of their profession; every possible safeguard must be given to make sure they've had a fair hearing and a fair chance. The result sometimes is that another layer of procedure gets added on and the expense and the delay increases. That is the first impediment to modern self-regulation of a profession.

The second impediment is lack of understanding by people outside the professions. If someone is a physician, they will understand why the land surveyors are self-regulating and self-disciplining. But if someone does not belong to a self-governing, self-regulating profession, the concept is foreign; it's not understood. Furthermore, many people in many walks of life have spent their whole working life in either a large company, or in government, or maybe the military. For them an essential framework for their viewing the whole world is a hierarchy. They cannot understand anyone who is not part of a hierarchy. It's just like suddenly discovering a planet that isn't in an orbit and is just floating around unpredictably in the solar system. They think it's wrong and dangerous. Yet, every member of a self-regulating profession is such a person, free and outside of a hierarchy.

In addition, there is a tremendous belief in the powers of government regulation today. All you have to do to sell newspapers on a slow day is to put a headline in a newspaper saying, "Beauticians Totally Unregulated by Government," and give a small horror story of somebody whose hair got frizzled. "Why doesn't the government do something? This is just shocking." We regard government regulation as the natural, God-given order of the universe, and anything outside it as abhorrent.

The third impediment to continued, traditional self-government and independent regulation of professions is hostility of the public to some of the best-known professions. It will not shock you to hear that the public in general, and the media in particular, don't like lawyers. I think it's a view that's ill-founded and, in part, it is founded on lack of understanding of a profession. But never mind whether it's well-founded or ill-founded, the dislike is a fact. It's just as true as the fact that people like ketchup on their fried potatoes. Because of the way that health care has played out in the last two generations, everything to do with physicians has become politicized and of interest to the media. People have inconsistent views about physicians. They like their own doctor, but the media have taught people to think that doctors in general, or organizations of doctors, are very suspect. The way the media portray health care issues, the doctors are not the heroes. When you ask the public about professions, they think about doctors and lawyers. So, if they don't like doctors and lawyers, that's a danger for land surveyors and every other profession. When it's proposed that the government regulate something, there will always be a few people who can see some personal benefit in it. It's always nice to be the new director of such and such or the regulator of such and such. For one thing, it's a wonderful chance to increase the budget of your particular branch, department or division.

The next obstacle to continued independence and self-regulation of a profession is the media. I won't repeat what I've said before, but the negativity, lack of information and disinterest in the positive aspects of the topic found in the public at large are a muted echo of the attitude of the media. The media have always in the background, a chant, a drum beat, and it is not a favorable to independent regulation of professions.

Finally, there is what I had adverted to before, that the public is very ignorant about what a land surveyor is or does. So far, I have just been saying to you that it is windy and stormy out at sea; nothing very specific so far. Is this just a vague cautionary tale to make you feel philosophical when you think a few deep thoughts? No; my message is much more specific. I told you that I was just setting the stage. Now the actors will come upon the stage and the drama will play before you.

Consider the fate of the legal profession in a number of English language jurisdictions. Historically, in England, the barristers were quite tightly organized. The solicitor or attorney used to be a bad joke until about the 1840s when they came into the modern mould. The United States, having split off from Britain

before that, did not have much of a tradition of self-regulation of lawyers. In theory, to some degree, any regulation of lawyers in the United States tended to be done by the courts or the judges of a particular state. Then, in the last few generations, the model of independence, self-governance and self-discipline extended to American lawyers in a number of states. But how deeply that plant took root is doubtful, and the public was never satisfied.

I visited Madison Square in New York a few years ago. Madison Square Gardens is no longer in Madison Square but Madison Square is still there. Off it is a delightful 1900 two-storey court house with rich decoration. Beside it, and connected to it integrally, is a non-descript medium-sized high-rise office building from the 1960s. I was being shown around the premises of the Appellate Division of the Supreme Court of New York, which is the intermediate court of appeal there. We were up on a high floor with a fine view over mid-town Manhattan. Walking along, I noticed the signs on some of the doors said something like "professional discipline." "Oh," said I, "doesn't the State Bar Association do that?" "They used to, but we took it away from them," was the reply. In New York, and in a number of other states, discipline of lawyers is no longer in the hands of the legal profession; it has gone back to the state supreme court. I don't whether it's happened yet, but there has been a recommendation that the same thing happen in California. If you've got to the age I have and lived in Canada that long, you know that anything which happens in New York or California, is likely to happen later in Edmonton and Calgary.

In England, public and government confidence in the way that the barristers organized and disciplined themselves was fairly high. Not so with the solicitors, which of course, were a much more numerous profession? There were a lot of complaints about how the complaints and discipline process of the Law Society of England and Wales was run. The result was a two-stage take-over. The government first put in a sort of parallel reviewing process for solicitors. Next, it pretty well took it over. So, if you decide to go into the legal profession in England and qualify as a solicitor, you will be leaving the realm of professional self-discipline and entering the realm of government regulation. Government regulation is what barbers and debt collectors have in Alberta. In England (the home of the legal profession), a legal profession admired around the globe, self-regulation is gone.

In Australia, there were similar serious complaints about the way that the legal profession handled complaints and discipline matters in a number of states. Two of the biggest states effectively took away from the Bar or the law society, the regulation and discipline and disbarment of lawyers. They put it in the hands of a government body. The criticism in the State of Queensland was that the lawyers' professional complaint and discipline body had turned into what they called a mere post office. When you take away the power of striking off the rolls from a profession and give it to the government, that profession is, in a very large sense, no longer self-governing or independent. You might argue that it really isn't a profession anymore. In Tasmania, the smallest of the Australian states, the legislature took *all* professional functions away from the Law Society. They don't admit, they don't disbar, they don't discipline, they don't regulate, they are, I suppose, just a voluntary organization to talk about the better interests of lawyers. They are powerless. Many years ago, the high profile San Francisco lawyer, Melvin Belli, was expelled from the American Bar Association. That is a purely voluntary organization which just tries to advance the interests of lawyers. It's not the state bar, you don't have to belong to it to practise and when Melvin Belli was expelled from the American Bar Association, he said, "that's like being thrown out of the Book of the Month Club." The Law Society in Tasmania is now like the Book of the Month Club.

In the United States, the Securities and Exchange Commission is the best known and most powerful of the federal regulatory agencies. For many years, it has claimed the right to discipline lawyers. While the Securities and Exchange Commission does have some court-like aspects, they are not the main part of their work. It is true that the Securities and Exchange Committee can have a hearing if they are going to bar an investment dealer from acting as a broker or impose heavy fines on people, and so on; but that is not the bread and butter work of that or any other securities commission. Mostly, what securities commissions do is accept pieces of paper tendered for filing, look them over, say here's how it needs to be fixed up, get the piece of paper back later when it's fixed up, say that's correct and put a rubber stamp on it. Then people can market their shares or whatever. Securities lawyers deal with their local securities commission every day but they are essentially drafting pieces of paper, negotiating with the securities commission, and filing them. Securities lawyers wouldn't go to any sort of a hearing once in twenty years. But these securities commissions have all taken the view, sometimes successfully and sometimes not, that they can discipline or bar a lawyer from having anything to do with them, even though that lawyer is in good standing with his or

her bar association, has not been struck off the rolls, and no charges professional have been brought against the lawyer. If you are a securities lawyer and the Securities Commission says “we won’t recognize you or deal with you anymore,” you are out of business instantly.

Let’s talk about physicians. In the United Kingdom, for years and years, the General Medical Council was the disciplinary organization which could strike physicians off the rolls. It had the only function in that regard. The English newspapers are a bit more sensational than they were forty years ago. A number of years ago they started a big campaign about rogue doctors and they told of a couple of cases of doctors who seemed to have been poisoning patients or something. On that ground-swell of synthetic public emotion, the government introduced a plan under which the government could cut off from Medicare billing, any doctor whom some government tribunal decided was guilty of something or other. I realize that there are some physicians who are in totally private practice and they are not part of Medicare. I believe there are none, or virtually none, in Canada. If you were a physician in Canada and you were told that you can’t bill Medicare any more, theoretically you have two choices. One is to practise medicine absolutely free, paying for the rent, the receptionist and the nurse all out of your own pocket, and getting your income from your spouse or inheritances. The other is to stop practising medicine. To cut a physician off from Medicare billings is, in effect, to expel the physician from the profession. That happened in England.

I told you that what happens in New York and California will probably come to Edmonton and Calgary sooner or later. If it also happens in London, then it may be very similar to an earthquake at sea. You can calculate how many hours it is ‘til the tsunami arrives. I don’t say that all this is inevitable, but I say that these are very, very worrying trends. I know that the various law societies in Canada believe that they are under serious threat of loss of their independence and their professional status.

It would not be responsible to point out the dangers just over the horizon without talking about whether something can be done about it. So, I will try to end on a more positive note. What is to be done? The first obvious answer is that since the threat seems to come largely from the media and governments and, to some degree, public opinion in general, do something about that. That suggests public relations and political initiatives. I’m not competent or suited to speak on those topics. I don’t mean they’re unimportant, I mean, I couldn’t say anything useful on them and shouldn’t.

The second task is that we have to understand why professions exist and why they should continue to exist and have legal sanction, legal monopoly of practice, and legal powers of self-discipline and self-regulation. If the members of the professions don’t understand that fully and practise it, then there is no legitimate reason to keep independence and self-regulation and discipline of the profession. There is no way that that the politicians or the media will ever get a glimmering of why the profession exists unless every member of the profession understands it full well.

Why do we allow independent, monopolistic, self-governing, self-regulating professions? It is because experience shows that, in the long run, the public interest is best served that way. The professions are almost all groups of people who practise in areas where immense harm could be done to the public if the individual members of the profession did not practise properly. Almost invariably, professionals practise in an areas where the ordinary member of the public is not competent to judge whether they are getting a good product or not. If I buy a toaster from The Bay, I have some idea pretty quickly (as technologically inept as I may be) about whether I’ve got a good toaster. I learn over time whether to buy my small appliances from The Bay or from Sears or from another kind of appliance store. But you could show me four different accounting or bookkeeping firms and I wouldn’t have the faintest idea which of them was doing a proper job and which was not, or whether their bills were proper.

How can a profession honestly say that it is advancing the public interest and is a better alternative than government regulation? If you can’t say that honestly, then you should just pack up and quit. That is true of any profession – doctors, lawyers, accountants; anybody else. How can it say that?

First, you have to have the wherewithal to do a proper job of self-regulation and self-discipline. That means you need more than forty members. It also means that you have to charge enough fees to keep the organization properly funded and do a proper job of education and discipline and self-regulation. And, as I say, the legal fees involved in disciplining a member or throwing him or her out of the profession are very significant. What if the average member of the profession says, “you know, it’s hard to make a living these

days and I've got expenses all over, and why am I paying x number of dollars a year to this professional association?" Churchill said once, during the Second World War, "You may ask what we are fighting for? If we stop fighting, you'll find out soon enough." That's what I say to professionals like that.

Second, keep separate the functions of the professional organization which deal with things like professional discipline, breaches of the Code of Ethics, and so on, on the one hand, and the self-interest of the profession on the other. The media are very quick to question anybody which disciplines people but seems to have a "conflict of interest." They are always attacking police discipline bodies which are run and manned by the police. They are always saying "Why can't we have an independent discipline body?" There are arguments both ways, but they don't know the arguments for professional self-discipline. Keep those two functions separate. In some jurisdictions, the teachers' profession has been split into two bodies. I don't say there is necessarily an actual conflict; I say that the public relations aspect is very dangerous.

A third thing to maintain those good standards and give the public something worthwhile is to maintain public respect for every single aspect of the profession. Psychologists tell us that credibility is a large, broad concept that has no water-tight compartments. Honesty, confidence, ability, experience and attitude are all part of it. That means that at all times the public must be knowledgeable about and thoroughly convinced of the competent ethics and standards of **every** member of the profession. A member of an independent, self-regulating profession has a piece of paper that says he or she is a surveyor, a physician, or a chartered accountant or whatever. That's not a certificate that most members of the profession have those standards, it is a certificate that every single member, including the one holding this piece of paper, has those standards. It means that the profession must clearly show the public that it can do a better job for the public than any other alternative form including government regulation or anything by outsiders. By do a better job, I'm not just talking about curing patients better, or more accurately commenting on balance sheets. What I am talking about is whether that profession does a better job of educating, regulating and disciplining its members and throwing out the bad ones.

That particularly applies to complaints. What killed the independence of a number of those legal and medical professions in a number of highly respected English-language jurisdictions I've talked to you about was the fact that the public came to the conclusion that their complaints weren't being adequately addressed. Years ago, I heard a talk by the then head of the College of Physicians and Surgeons in Alberta and on the same platform, the then head of the Law Society of Alberta. Everyone knows that physicians often can't communicate; they do good work, but they often don't tell you what's going on. What is not generally known, since lawyers talk a lot and are always very good orally, is that lawyers are also very poor at communicating. Analysis and investigation showed that the majority of professional complaints to the Law Society and to the College back in those days were cases where the lawyer or the doctor was doing or had done a decent job but hadn't communicated the facts. It is so tempting for a profession, when they find that out, to send out a form letter to the person saying we've investigated and everything's fine; or this isn't the sort of complaint we deal with; or we don't handle negligence complaints; or we don't handle fee complaints; or something. From the point of view of regulating the profession, that decision may be the right one. You're not going to throw someone out of the profession or suspend them for six months every time he or she has a dissatisfied client. But, from the point of view of satisfying the public about what the profession is doing to regulate itself, it is not at all satisfactory.

Therefore, it seems to me that the next solution which a self-regulating profession can investigate is this. I believe that every self-regulating, self-disciplining profession should have a very effective, independent objective way of testing whether it is handling complaints which will satisfy the majority of members of the public. You can't satisfy every member of the public all the time. There are people out there totally lacking objectivity. There are people who don't understand the first thing about a profession. You can't have perfection. It's true, you can't keep all of the people happy all of the time. But keeping sixty percent of the people happy most of the time doesn't cut it. The numbers have to be far, far higher.

Most independent professions have recruited a few "lay people," people who are not members of that profession, and put them into certain positions in the profession. I wonder how many have had non-members retained to do an objective screening of the complaints process simply to see whether the average reasonable, but **not** well-informed, member of the public would understand the process and see that it has been handled well. I have certainly heard of or seen instances where the Law Society has not handled complaints formally discipline the lawyer, but that's of small comfort to a fairly reasonable member of the public who got up enough courage to write in to the Law Society and got back a brief form letter.

The final suggestion I have is this. I believe that if a profession is going to stay independent, self-governing, self-regulating, it should be proactive. I'm not a very creative person, but I admire people who are creative. I don't know much about public relations, but I admire people who do. Do not wait for criticism and then try to do what someone in England said of the Law Society of England and Wales: too little and too late. I believe that it behoves the profession to be proactive and constantly offer a better and better product. I'm not talking about a better way to survey a piece of land. I'm talking about a better professional product, a better regulatory product, a better self-discipline product.

In 1938 Alberta's Social Credit Government had been in power for two years, and it was very hostile to lawyers and to professionals generally. That was the era of the Banker's Toadies case and so on. This was a very strong populist movement, the economy was in a total mess, and a lot of people looked very seriously sideways at all established institutions. Premier Aberhart's government was making unpleasant noises about lawyers, and they had a lot of run-ins in the courts. The government lost every one of those, so they had some reason to hate and fear lawyers and judges. The Law Society of Alberta responded as follows. They invented the Assurance Fund. The first place in the British Commonwealth to do so, here in Alberta, and for all I know the first place in the world. They said that all the lawyers of Alberta will chip into a fund ahead of time – they will be required to do it. This will build up a large sum of money. If any lawyer embezzles money from his clients – takes money out of his trust account or whatever – they will be instantly reimbursed by that Assurance Fund. That was creative and proactive. Eventually every other legal regulatory body followed Alberta in that. Usually, as I tell you, ideas start in London and New York and trickle their way thirty-five years later to Edmonton and Calgary. But that was an instance where the idea was so good, that it trickled the other way. And it shut up, for forty years, any talk about impinging in any way on the self-disciplining power of lawyers. The message I want to leave with you is that there are black clouds of smoke on the horizon. Below the smoke, you can see the flickering, orange flames of the brush fire. But it is not too late to buy a hose and pump; it's not too late to plow a fire break around the homestead.

**In the quiet stillness of the first snowfall,  
The world is made new.**



Season's Greetings

**Wishing you all a wonderful season and prosperous New Year!**