

"EVIDENCE"

To: The Members of the Association of Ontario Land Surveyors.

From: The Examiner of Surveys, Office of the Director of Titles.

Re: Evidence

It was pointed out in comments of the Examiner of Surveys on page 8 of No. 2, Volume 1 of this quarterly journal that "delay is most frequently caused by the omission of evidence found, evidence created, and field notes", in the clearing of survey plans for registration and recording.

The requirements of The Land Titles Act in respect of field notes originated in 1 Geo. V, c. 28, s. 105 (1911) and reads:-

"In the case of survey hereafter made the plan shall be accompanied by a copy certified by the Surveyor by whom the survey was made to be a true copy of the field notes of the survey, if any."

This sub-section remained unchanged until the 1958 amendments to the Act.

The comparable section in The Registry Act was set forth by 1 Geo. V, c. 17, s. 31 (1911).

The Surveys Act for many years before this required that field notes be kept. Section 40, Chapter 181, R. S. O. 1897 reads:-

"Every land surveyor shall keep exact and regular journals and field notes of all his surveys ----- etc."

which section was not new at that date.

The Code of Standards and Procedures for Surveys and Plans (Ontario Regulations 111/58) now specifies in some detail the minimum requirements of field notes. In regulations 26 and 28 it is

stated that the evidence upon which the survey is based must be shown. Because some 13 per cent of the plans examined since February 1957 have been materially altered before registration due to the demand of this office for such information, it is obvious that the regulations are of great importance.

To answer the question of what constitutes sufficient evidence would require a major treatise. A wealth of material exists and will be made available by this office upon sufficient request from the membership.

What then, you may ask, are our requirements? Basically this:- every line of prior surveys controlling an area now under survey must be substantiated and proven according to the rule of best evidence as laid down by common law or statute law. The nature, status and other relevant data concerning such evidence can be found, that fact must be so stated and the position re-established by some valid method.

The quarterly review is intended as a medium of expression for the membership of this Association and we are endeavouring to clearly set forth in these pages the matters of concern to this administration under The Land Titles Act and The Certification of Titles Act.

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"I hold every man a debtor to his profession; from the which as men of course do seek to receive countenance and profit, so ought they of duty to endeavour themselves by way of amends to be a help and ornament thereto."

- Francis Bacon