Syllabus Topics:

The Canadian Legal System:

- Case law and precedent; Common Law; Civil Law in Quebec; Principles of evidence; Expert and lay witnesses; Estoppel; Constitution Act; Limitation of actions;

Real Property Law:

- Easements and rights of ways; Statutory rights of way (or rights of way without a dominant tenement); Exceptions and reservations; Covenants, Caveats and other title restrictions; Prescription; Adverse possession; Dedication of roads; Expropriation; Escheat, All types of descriptions of parcels.

Boundary Law:

- Creation of boundaries; Retracement and reestablishment of lost or obliterated boundaries; Resolution of boundary uncertainty; Bornage; Unauthorized removal or disturbance of monuments or other boundary markers; Hierarchy of evidence; Jurisdictional boundaries (international, provincial/territorial, municipal); Offshore boundaries and maritime zones; Leases at sea.

Natural Boundaries:

- Water boundaries; Riparian and littoral rights; High and low water mark; *Ad medium filum aquae*: Erosion, accretion and avulsion; Excavation and fill adjacent to natural boundaries; Navigable waters and determination of navigability; Boundaries defined by artificial lines;

Principles of:

- Subdivisions; Condominiums (including boundaries, common property, administrative framework, structure, fees and governance); Strata plans; Air Space plans; Mineral interests, Mining and placer claims; Petroleum and natural gas interests, Well site leases; Special surveys.

Professional Practice:

- Function of associations; Purpose of codes of ethics and standards; Negligence; Disciplinary process; Common causes for disciplinary actions.

Integration of Property Surveys:

- Typical requirements; Role of coordinates in retracement and as evidence; Surveys of parcels under a land registry system and under a land titles system.

**Recommended Prior Knowledge and Skills:**

Item C8: Cadastral Studies

**Learning Outcomes:**

In order to satisfy the requirements of this syllabus item, candidates should be able to:

1. Explain and illustrate the basis of the Canadian legal system and how our legal system is affected by case law and precedent.
2. Demonstrate a clear understanding of Federal and Provincial statutes, the Common Law and the Civil Law in Quebec as they affect property rights and cadastral surveys.

3. Explain and illustrate the limitations of actions and estoppel.

4. Explain and illustrate the principles and admissibility of evidence including the role of an expert witness and how an expert witness differs from any other witness.

5. Explain road dedication, easements, rights of way, statutory rights of way and the various means through which they are created.

6. Explain adverse possession, prescription and be able to clearly articulate their differences and similarities.

7. Explain and illustrate grants, reservations, transfers through deeds and other land related documents.

8. Explain and illustrate water boundaries and their definition, the common law doctrines of accretion and erosion and the principles of apportionment, how property rights are affected by the ambulatory nature of water bodies and related case law.

9. Explain riparian and littoral rights and how they have been affected by modern statutes.

10. Explain the classification of waters, offshore boundaries and zones, tenures over bodies of water and at sea, jurisdiction over the offshore, navigability

11. Explain the various types of boundaries, their creation and demarcation, descriptions, retracement and reposting, and the hierarchy of evidence.

12. Explain the various ways of resolving boundary uncertainties, including mediation, litigation, statutory confirmation, bornage, and the land surveyor's role in each.

13. Explain the role of a surveyor as a member of a self-governing profession and its benefits and obligations.

14. Demonstrate a good knowledge of historical and modern case law relating to all of the above.

In many learning outcomes, an explanation would be enhanced by an accompanying example or illustration or both.

**Essential Reference Material:**


Court decisions related to the syllabus topics including the following, as well as those listed in Core Syllabus item C 8 Cadastral Studies. Comments are given for those cases to which reference has not been given in Survey Law for Land Surveyors in Canada.

Case reports that are not available via the Canadian Legal Information Institute, <www.canlii.org>, are available for download from CBEPS, unless another source is specifically mentioned.


Esson v. Mayberry (1841), 1 N.S.R. 186 (C.A.)

Flello v. Baird 1999 BCCA 244 via CanLII

Re: proprietary estoppel; conventional boundary under land titles; interpreting judicial pronouncements

Grasett v. Carter (1884), 10 S.C.R. 105


Hedley, Byrne v. Heller, [1964], A.C. 465 (H.L.)

Howard v. Ingersoll (1851), 13 Howard 381, 54 U.S. 381 (U.S. Sup. Ct.)
Irving Refining Ltd. v. Eastern Trust Co. (1967), 57 A.P.R. 155 (N.B. S.C.)
   Re: declaration of title to an alleged “gore”, in dispute; sequence of surveys since 1891; bearing error; official surveys; reference to Cooley’s original lines must govern (SLiC §11.63)
   Re: dispute over 11 Ac “gore”; conflicting surveys/plans under land titles; errors almost 60 years ago; hierarchy of evidence
Palmer v. Thornbeck (1877), 27 U.C.C.P. 291 (Ont. C.A.)
Paul v. Bates (1934), 48 B.C.R. 473 (Co. Ct.)
Piercy et al. v. Briggs & Little Woolen Mills Ltd. 2003 NBQB 210 via CanLII
   Re: appeal of a decision under the Boundaries Confirmation Act, upheld; failure of claim of adverse possession
R. v. Robertson (1882), 6 S.C.R. 52, affirming 1 Ex. C.R. 374
   Re: riparian boundaries and rights; non-tidal and non-navigable river; severed part of island, ad medium filum aquae applied; differing expert evidence and opinion.
Candidates are encouraged to compile discussions/reviews of case reports concerning real property law, land surveying, and professional conduct. Several sources are recommended: "Geomatics and the Law" in Geomatica; "The Legal Corner" in The Canadian Surveyor; "Legal Notes" in ALS News [<www.alsa.ca>]; and similar efforts and articles in these and other association publications and their web sites.
Supplementary Reference Material:

These are in addition to those listed in Core Syllabus item C 8 Cadastral Studies.


*Although a bit dated, it is a thorough treatment.*


*Although Ontario focussed, it is a useful dealing with water boundaries.*


*Although this has an American focus, it is a comprehensive treatment of evidence gathering, in keeping with the judicial function of a surveyor.*