

## Surveyor, Spare That Tree!

Council's attention has been recently directed to the passing of Tree-Cutting By-Laws by various municipalities. These by-laws passed under The Trees Act, prohibit the cutting of particular species of young trees and prescribe stiff penalties for violations (in one case, as high as \$2,000.00). Although some activities are exempt from the provision of these by-laws—for example, trees may be cut "in forestry stand improvement operation in accordance with good forestry practice"—no specific exemptions have been made for land surveyors.

The by-law approved by the former County of Halton last year was referred to the Association's Solicitor and the following are extracts from Mr. Bogart's reply to our President:

"I feel that Wayne's comments are well taken in that any Ontario Land Surveyor who violates the tree-cutting by-law could be subject to a nuisance action by a resident of the Municipality in which the by-law is in force. I would even go further and suggest that the by-law itself will most likely create a problem with respect to the removal of trees although I am not convinced that Section 6 of The Surveys Act gives a surveyor the right to cut down trees.

"Notwithstanding the above I feel that a surveyor has the right to cut trees in

order to complete a survey if he can establish that it is necessary for him to do so. It would be unfortunate if, in the municipality where the by-laws were in effect, a surveyor was required to prove the necessity of cutting down trees upon completion of a survey since the time and expense involved would be considerable. I assume that the municipalities, in preparation of the by-law, overlooked Section 6 of The Surveys Act and consequently I feel that the Clerks of the municipalities should be contacted in order that the by-law will not apply to a surveyor or to a person in the employ of the surveyor while making a survey.

"For example, clause 4 of the tree cutting by-law enclosed with your letter might be amended by the addition of a further sub-clause:

*'(f) interfere with the rights or powers of a surveyor or a person in his employ while making a survey pursuant to The Survey Act'.*"

At the Council meeting of May 9, 1974, the Secretary was instructed to ascertain those municipalities with tree-cutting by-laws and make the necessary contact to ensure that surveyors are not further restricted in their activities.

Although Council is taking action in this matter, there is further obligation on the practicing surveyor, namely:

—to maintain contact with the Clerks of the Municipalities situ-

ate within the limits of his practice and endeavour to have the necessary protective clause added to any proposed tree-cutting by-laws;

—to ensure that line cutting is kept to a minimum and can be justified, if a nuisance action ensues.

**NOTE: Under authority of Section 4 of The Trees Act, R.S.O. 1970, Chapter 468 and with the approval of the Ministry of Natural Resources, counties or municipalities may pass by-laws with respect to private lands to restrict and regulate the destruction of trees by cutting, burning or other means. Such by-laws have been passed by the following municipalities:**

Regional Municipalities:

Niagara and Ottawa-Carleton

Counties:

Brant	Leeds and Grenville
Bruce	Middlesex
Dufferin	Norfolk
Elgin	Northumberland and Durham
Grey	Oxford
Haldimand	Peel
Halton	Perth
Hastings	Renfrew
Huron	Waterloo
Lambton	Wellington
Lanark	Wentworth

Townships:

Brunel and  
Hudson