Disputes arising on modern day construction projects typically involve extraordinarily complex factual scenarios, technical issues and legal issues. Were the ancients concerned with how to resolve problems involving construction? The principles of law pertaining to the built environment can be traced back several thousand years. Our modern civil justice system is founded on biblical principles and reflects a 4,000 year evolution of beliefs and knowledge of construction beginning with the earliest development of western civilization.

The earliest known principles of construction law can be found in the Code of Hammurabi. Hammurabi was the sixth king of Babylon and ruled from 1792 BC to 1750 BC. The Code of Hammurabi contained 282 laws inscribed on twelve stone tablets which were placed in public view. Hammurabi’s Code was one of the earliest written codes of law in recorded history. Several of the laws pertained to the built environment:

229 If a builder builds a house for someone, and does not construct it properly, and the house which he built falls in and kills its owner, then that builder shall be put to death.

230 If it kills the son of the owner, the son of that builder shall be put to death.

231 If it kills a slave of the owner, then he shall pay, slave for slave, to the owner of the house.

232 If it ruins goods, he shall make compensation for all that has been ruined, and inasmuch as he did not construct properly this house which he built and it fell, he shall re-erect the house from his own means.

233 If a builder builds a house for someone, even though he has not yet completed it; if then the walls seem toppling, the builder must make the walls solid from his own means.

The Hammurabi system of justice included the initial presentation of the law of retribution, which the Hebrew Bible refers to as the concept of “an eye for an eye” and which the Romans often referred to using the Latin phrase lex talionis. Significantly, Hammurabi’s Code establishes the concept of civil damages, whereby one must pay compensation for defective work - a concept that has survived to this day.

As laws pertaining to the built environment evolved, building codes were also established and evolved over thousands of years. Modern day building codes are intended to protect the public health, safety and general welfare as they pertain to the built environment. The same was true in antiquity. For example, the Bible contains some of the earliest evidence of the development of uniform building and construction codes. In biblical times, the Israelites utilized a classic form of residence called the four room Israelite house. The Israelites utilized its flat roof as a place to sleep and
stay cool at night. Obviously, if the Israelites built a flat roof with no wall around it then they would create a fall hazard where someone could easily fall and be injured. In what may be the earliest evidence of a building code, the Bible addressed this issue directly. Deuteronomy 22:8 states:

*When you build a new house, make a parapet around your roof so that you may not bring the guilt of bloodshed on your house if someone falls from the roof.*

The Bible also addresses other public safety and health issues involving the built environment and suggests an apparent methodology for performing a toxic mold remediation. Leviticus 14:39-45 describes the procedure the Israelites were to follow when mildew was found in the home:

*On the seventh day the priest shall return to inspect the house. If the mildew has spread on the walls, he is to order that the contaminated stones be torn out and thrown into an unclean place outside the town. He must have all the inside walls of the house scraped and the material that is scraped off dumped into an unclean place outside the town. Then they are to take other stones to replace these and take new clay and plaster the house. If the mildew reappears in the house after the stones have been torn out and the house is scraped and plastered the priest is to go and examine it and, if the mildew has spread in the house, it is a destructive mildew: the house is unclean. It must be torn down—its stones, timbers and all the plaster—and taken out of the town to an unclean place.*

Translations of the Hebrew Bible vary and this passage has been variously translated by biblical scholars to refer to mold, mildew and the plague of leprosy. In any event, the suggested remediation methodology is harsh. Moreover, there is no suggestion offered as to any compensation and it appears that any financial loss would be borne alone by the unfortunate homeowner.

Fast forwarding, American law regarding the built environment began a relatively rapid evolution beginning in the mid-1800s.

- **1857:** The American Institute of Architects (AIA) was founded.
- **1878:** The American Bar Association was organized but did not yet recognize construction law as a distinct area of legal practice.
- **1880s:** States began to enact mechanic's and materialmen's lien laws.
- **1888:** The AIA and the National Association of Builders (predecessor to the Associated General Contractors of America) drafted and promulgated the "Uniform Contract." The Uniform Contract was the first attempt to create a standard form construction contract.
- **1893:** Congress enacted the Heard Act, which required federal contractors to post surety bonds to protect subcontractors, laborers and materialmen against the contractor's nonpayment and protect the government from the contractor's nonperformance.
- **1897:** Illinois Architects Act of 1897 was enacted. Illinois recognized design professional specialization by enacting a state design-professional registration law.
- **1905:** Revisions to the Uniform Contract included a provision for arbitration of disputes.
- **1906:** The Great San Francisco Earthquake prompted municipalities to take building and fire codes more seriously and to enact new comprehensive building and fire codes.
- **1911 to present:** The AIA published sixteen editions of standard form construction documents.
- **1925:** Federal Arbitration Act enacted by Congress.
- **1935:** Miller Act was enacted by Congress. The Miller Act was more comprehensive and replaced the Heard Act. All states followed the federal government’s lead by enacting their own versions of the Heard Act or Miller Act.
- **1949:** At 22 years old, Overton Currie opened a law office in his home town of Mississippi. His first two jury trials were construction cases.
- **1955:** Uniform Arbitration Act was promulgated and eventually adopted by most states. The courts then began to embrace and favor arbitration as a method of dispute resolution.
- **1955:** Overton Currie moved to Atlanta, Georgia and began graduate
studies at Emory University Law and Divinity Schools earning a Master of Divinity Degree. He also earned an advanced Master of Law Degree from Yale University.

- **1959**: Overton Currie resumed his law practice in Atlanta as a construction lawyer.
- **1965**: Maynard Smith, Overton Currie, and Reginald Hancock formed the partnership Smith Currie & Hancock, focusing their practice on the construction and government contracting industries.
- **1976**: The American Bar Association formed the Forum on the Construction Industry thereby recognizing construction law as a distinct area of legal practice. The Forum now has over 6,000 members.
- **1989**: Fifty-six senior American construction lawyers, including Overton Currie, one of Smith, Currie & Hancock's founders, formed the American College of Construction Lawyers (ACCL). The ACCL's stated mission is to improve and enhance the practice and understanding of construction law and to promote the positive role of lawyers as "friends of the project."
- **1991**: The American Bar Association, Forum on the Construction Industry, awarded Overton Currie the Special Achievement Award and described Overton as "the Founder and Dean of the Construction Bar."
- **1994**: Thomas J. Stipanowich, while a law professor at the University of Kentucky, published an article entitled "Two-Minute History of Construction Law (King James Version)". The article recognized Overton Currie's profound contribution to the evolution of construction law. The article begins "IN THE BEGINNING there was Overton Currie" known as one of "the MIGHTY MEN of OLD".

While the evidence of laws and codes involving the built environment dates back over 4,000 years, construction law as a distinct area of legal practice was first recognized in the United States in the mid-1970s when the American Bar Association formed the Forum on the Construction Industry. Smith, Currie & Hancock was formed in 1965 and for over four decades has developed a nationally recognized practice focused on the construction industry and the variety of legal issues facing the construction industry. Since 1965, Smith, Currie & Hancock has been committed to helping the construction industry by sharing information through published articles in trade industry newsletters and regional and national publications and by presenting seminars and lectures throughout the country focused on construction law principles and practices and on contemporary legal issues facing the industry. Smith, Currie & Hancock's countless publications and presentations to the industry number in the thousands. From its inception to today, Smith, Currie & Hancock has represented clients from the entire spectrum of the construction industry and has demonstrated its commitment to the highest levels of service and leadership to the construction and government contracting industries.

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(This article was originally published in the Construction Connection Newsletter. See www.constructionconnection.com.)

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