

No. 101

2nd Session, 15th Legislature, Alberta
13 Elizabeth II

BILL 101

A Bill respecting Alberta Land Surveyors

HON. MR. HOLOWACH

Explanatory Note

1. This Bill repeals and replaces The Alberta Land Surveyors Act, R.S.A., 1955, chapter 169, which was originally passed in 1910. Generally, it deals with the management and functions of the Alberta Land Surveyors' Association and the qualifications and professional conduct of Alberta Land Surveyors. It confers on Association members the exclusive right to practise as Alberta land surveyors.

2. Definitions.

3. The present section 4 revised to continue the present Association as a corporation.

4. Powers of Association. The present section 5 revised.

5. Application of funds. The present sections 48 and 49 revised.

BILL

No. 101 of 1965

An Act respecting Alberta Land Surveyors

(Assented to _____, 1965)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Alberta Land Surveyors Act, 1965*".

2. In this Act,

- (a) "active member" means a member other than an inactive member or a suspended member;
- (b) "Association" means the Alberta Land Surveyors' Association;
- (c) "Co-ordinating Council" means the Co-ordinating Council of the University of Alberta;
- (d) "council" means the Council of Management of the Association;
- (e) "member" means a person registered as a member of the Association;
- (f) "prescribed" means prescribed by the by-laws of the Association;
- (g) "register" means the Alberta Land Surveyors' Register.

The Association

3. The Alberta Land Surveyors' Association as heretofore constituted is continued as a body politic and corporate.

4. The Association may

- (a) acquire and hold real property and sell, lease or otherwise dispose of its real property or any part thereof, and
- (b) may borrow money for the purposes of the Association and may mortgage or charge property of the Association or its sources of funds as security for moneys borrowed.

5. (1) All fees, levies and fines payable to the Association under this Act

6. The present section 6 revised. The by-laws of the Association will now require approval of the Lieutenant Governor in Council.

- (a) may be recovered as debts due to the Association, and
 - (b) shall belong to and shall be expended by the Association for the purposes and uses authorized by this Act.
- (2) The council may in the name of the Association invest any sum not required by the Association for its immediate purposes in such securities as are approved for the investment of trust funds under *The Trustee Act*.
- (3) Any income derived from
- (a) any sums so invested,
 - (b) the sale of publications of the Association,
 - (c) any donations, grants or bequests of money made to the Association, and
 - (d) any other sources,
- shall be added to and accounted for as part of the ordinary income of the Association.
- (4) The Association may use any of its surplus funds or invested capital for
- (a) the rental or purchase of land or premises,
 - (b) the building of premises to serve as offices, lecture rooms or libraries,
 - (c) the printing and publication of a land surveying manual or any other book or periodical containing material relating to land surveying,
 - (d) the purchase of furniture and office equipment, and any books and periodicals to be placed in a library for the use of members and articulated pupils, and
 - (e) any other purpose of benefit to the Association or for the furtherance of the practice of land surveying.
- (5) The Secretary-Treasurer shall enter in books to be kept for that purpose a true account of all sums of money received and paid by the Association under this Act.
- (6) The books and accounts shall be audited by the auditors and submitted to the council or the Association at such time or times as the council or the Association may require.
- 6. (1) The Association may make by-laws**
- (a) for the government and discipline of its members and of articulated pupils,
 - (b) for the management of the Association, its property and funds,
 - (c) prescribing the registration fees, annual fees and other fees payable to the Association,
 - (d) for the maintenance of the Association by an annual levy upon the members not to exceed in any year the sum of fifty dollars on each member,

7. Association meetings. The present section 18 revised.

8. New. Officers of the Association.

- (e) respecting the calling and conduct of its meetings and the meetings of the council,
 - (f) respecting the time and place of the annual meeting and special meetings of the Association and the notice necessary therefor,
 - (g) prescribing the manner of proof of good character of candidates for registration as members,
 - (h) prescribing forms to be used for any purpose under this Act or the by-laws,
 - (i) prescribing the information that may be entered in the register with respect to a member,
 - (j) prescribing the rights of inactive members,
 - (k) respecting the transfer of articles of service, and
 - (l) generally, providing for any other matter pertaining to the management of its affairs and the exercise of its powers and duties.
- (2) No by-laws made under this Act are valid until they are
- (a) ratified by a majority vote of the members of the Association in attendance at an annual meeting or at a special meeting called for that purpose, and
 - (b) approved by the Lieutenant Governor in Council.

7. (1) A general meeting of the members of the Association shall be held at least once in every year and not later than the last day of April.

(2) A special meeting of the Association shall be held at the call of the council or upon petition signed by not less than fifteen active members of the Association and delivered to the Secretary-Treasurer.

(3) A special meeting called by the council shall be held on such date and at such place as the council determines or, if called for upon petition, at such place as the President shall determine and within sixty days of the date of receipt of the petition by the Secretary-Treasurer.

(4) Notice of every meeting of the Association shall be given by the Secretary-Treasurer to each member of the Association showing the date, time and place of the meeting at least twenty-one days before the date of the meeting.

8. (1) The officers of the Association are the President, the Vice-President, the Secretary-Treasurer, the Registrar and the auditors.

(2) The offices of Secretary-Treasurer and Registrar may be held by the same person.

(3) The Vice-President shall be the Acting President if the President is absent or unable to act.

(4) A majority of the council may appoint one of their number as Acting President if both the President and the Vice-President are absent or unable to act.

9. Honorary and life members.

10. The present section 7, subsection (1) revised to include the immediate past President.

11. The present section 8 substantially revised.

(5) The Acting President has the powers and shall perform the duties of the President.

(6) Where the Secretary-Treasurer or the Registrar is absent or for any reason unable to act, the President may appoint any other member as Acting Secretary-Treasurer or Acting Registrar, as the case may be, and that member, when so acting, has the powers and shall perform the duties of the officer for whom he acts.

9. (1) The Association may by resolution

(a) appoint as a life member of the Association a person who has been a member for at least thirty-five years, and

(b) appoint as an honorary member of the Association a person who is not a member.

(2) An honorary member shall not be registered as a member of the Association.

(3) A life member shall not be required to pay any annual fee or any levy payable to the Association.

The Council

10. (1) There shall be a Council of Management of the Association which shall consist of the President, the Vice-President, the immediate past President and six active members of the Association.

(2) The term of office of a member of the council other than the President, Vice-President or immediate past President shall be two years.

11. (1) The council shall manage and conduct the business and affairs of the Association generally and may exercise the powers of the Association.

(2) The council shall

(a) appoint from its number such standing or special committees as it considers necessary and prescribe their terms of reference,

(b) control the expenditure, investment and use of the funds of the Association,

(c) appoint the Secretary-Treasurer and the Registrar,

(d) prescribe those duties to be performed by the Secretary-Treasurer and the Registrar which are not expressly specified by this Act, and the duties to be performed by any other officer of the Association, and

(e) present to the annual general meeting of the Association a report on the operation of the Association, which shall be prepared from the minutes of all meetings of the council held during the preceding year.

12. Elections and election by-laws.

13. New. Petition to Supreme Court as to validity of election. This now conforms to most of the other professional Acts. The present section 16 permits the council members "duly elected" to decide the legality of elections in cases of doubt or dispute.

12. (1) At each annual meeting of the Association, an election shall be conducted in accordance with the by-laws to elect the President, the Vice-President, three members of the council and two auditors, all of whom shall be active members.

(2) The Association may make by-laws governing the election and such by-laws may

- (a) provide the procedure for the nomination of candidates,
- (b) provide for the appointment or designation of presiding officers for the election,
- (c) prescribe the forms to be used,
- (d) prescribe the procedure to be used in the holding of elections and for determining the persons elected, and
- (e) define acts that constitute offences in connection with elections.

(3) Only active members are entitled to vote at an election.

13. (1) A member of the Association may dispute the validity of an election under section 12 or the validity of the election of one or more of the persons declared elected by petition to the Supreme Court filed within thirty days of the date of the election.

(2) The petition shall be heard by a judge of the Supreme Court in chambers in a summary way.

(3) Where it appears to the judge that the election or the voting was conducted substantially in accordance with the requirements of this Act and the by-laws and that the non-compliance, violation, mistake or irregularity did not materially affect the result of the election or the voting, he may adjudge the election or the voting to be valid.

(4) Where the judge decides that the election is invalid, he shall

- (a) give directions as to the holding of another election, and
- (b) direct that the persons who held office immediately prior to the election shall continue in office or resume their offices until that election.

(5) Where the judge decides that the election of one or more but not all of the persons declared elected is invalid, he shall

- (a) direct the remaining members of the council to appoint another or others in his or their stead until the next annual election, or
- (b) give directions as to the holding of another election to fill the vacancies and the terms for which they shall be elected.

14. The matter of examinations, etc. is presently dealt with in sections 19, 20 and 21.

15. Qualifications to enter into articles. The present sections 22, 23 and 24 (1) revised.

16. Articles between a member and a pupil. The present section 24, subsections (3) and (4) revised.

(6) The decision of the Court is final and the costs of the proceedings shall be in the discretion of the judge.

Examinations

14. (1) The examination of candidates for admission as articulated pupils or registration as members shall be under the control of the Co-ordinating Council, which shall prescribe the subjects of all examinations.

(2) The Association may enter into arrangements with the Co-ordinating Council for conducting the examinations.

Articled Pupils

15. (1) A person shall be qualified to enter into articles of service with a member if

- (a) he is at least eighteen years of age,
- (b) he has passed the examinations prescribed by the Co-ordinating Council, unless the examinations are waived by it, and
- (c) he complies with subsection (2) and pays to the Association any prescribed fees.

(2) Each person who proposes to enter into articles of service with a member shall

- (a) give six weeks' notice to the Co-ordinating Council of his intention to present himself as a candidate for examination and pay to the University its required examination fee, or
- (b) apply to the Co-ordinating Council to have the examinations waived and pay to the University its required fee.

(3) No articles of service shall be entered into unless

- (a) the pupil is qualified under subsection (1), and
- (b) the member is an active member actually engaged in practice as an Alberta land surveyor and has so practised for a period or periods totalling not less than two years.

(4) A member shall not enter into articles with more than one new pupil in the course of each year.

16. (1) An articulated pupil shall, within two months after the execution of the articles, file one copy thereof with the Secretary-Treasurer together with the prescribed registration fee.

(2) Articles shall be in the form prescribed by the by-laws.

(3) If subsection (1) is not complied with, the term of service under articles shall commence from the date on which the articles and the fee are received by the Secretary-Treasurer instead of from the date of execution thereof.

17. Educational leave to pupil. The present section 27 revised.

18. New. Termination of articles.

19. Transfer of articles. The present sections 31 and 32 revised.

20. The present section 26 revised.

21. The present sections 25 and 28 revised.

17. (1) An articulated pupil may, with the permission of the member to whom he is articulated, attend the University of Alberta or any Canadian university, college or technical school for the purpose of taking a course of study that, in the opinion of the Co-ordinating Council, provides suitable tuition in any of the subjects required in the examination for registration as a member.

(2) The periods of time during which the taking of the course of study requires the pupil to absent himself from service with the member shall not be reckoned as part of the term of articulated service.

18. (1) If an articulated pupil leaves the service of the member to whom he is articulated or if, through any wilful breach by the pupil of his obligations under the articles the member considers that the articles should be terminated, the council, upon report by the member and after a hearing of which the member and the pupil are notified, may order that the articles be terminated.

(2) When the service of an articulated pupil is terminated by mutual consent of the member and the pupil, the member shall so inform the Secretary-Treasurer by means of a letter signed by the member and the pupil.

19. (1) An articulated pupil may be transferred from the service of one member to another in accordance with the by-laws.

(2) Subject to the by-laws, when a member dies, leaves the Province, is suspended or struck off the register or ceases to practise, the articulated pupil of that member may complete his term of articulated service with another member.

Educational Qualifications of Candidates for Registration

20. A person has satisfactory educational qualifications for registration as a member if he

- (a) has passed the examinations prescribed by the Co-ordinating Council, and
- (b) has served under articles of service in accordance with this Act for not less than three years, of which at least twelve months have been in actual practice in the field.

21. (1) Subject to subsection (2), a person has satisfactory educational qualifications for registration as a member if

- (a) he is authorized to survey lands under the provisions of the *Canada Land Surveys Act* or an Act of a province of Canada governing the profession of land surveyors, and
- (b) in becoming so authorized, he has
 - (i) served a term under articles to a surveyor sim-

22. The present section 29 revised.

23. The present section 30 revised.

ilar to the term prescribed by clause (b) of section 20, and

- (ii) passed examinations in academic and technical subjects relating to surveying that are, in the opinion of the Co-ordinating Council, comparable in scope and standard to the examination in such subjects prescribed under clause (a) of section 20, except for subjects relating to Alberta statutes and regulations,

and

- (c) he has passed the examinations prescribed by the Co-ordinating Council on subjects relating to Alberta statutes and regulations.

(2) If the service performed or the subjects of the examinations taken outside Alberta by a candidate for admission under this section are, in the opinion of the Co-ordinating Council, not sufficiently similar in scope and standard to those prescribed under section 20, it may

- (a) examine him in any other subjects prescribed by it, or
- (b) require the candidate to complete a further specified term of service under articles to a member and to pass such further examinations as it may prescribe.

22. A person has satisfactory educational qualifications for registration as a member if

- (a) he has been authorized under any statute, ordinance or regulations in that behalf as a surveyor of public or Crown lands in any country, state, province or territory of the British Commonwealth other than the provinces and territories of Canada,
- (b) he has had, either as a surveyor or as a pupil to a surveyor, at least two years of practice and training in land surveying, of which at least six months has been in actual practice in the field,
- (c) he has also served under articles of service with a member for not less than one year, of which at least six months has been in actual practice in the field,
- (d) he has passed the examinations prescribed by the Co-ordinating Council on subjects relating to Alberta statutes and regulations pertaining to land surveys, and
- (e) he has passed any examinations prescribed by the Co-ordinating Council on any other subjects except those in respect of which examination is waived by the Co-ordinating Council.

23. (1) A person has satisfactory educational qualifications for registration as a member if

- (a) he has successfully completed in any university or college a regular course of study of at least three

24. New.

25. The present section 33 revised.

years in the technical and academic subjects in which candidates for admission are required to be examined under section 20,

- (b) he has served a term or terms totalling not less than one year under articles of service in accordance with this Act of which at least six months has been in actual practice in the field, and
- (c) he has passed the examinations prescribed by the Co-ordinating Council.

(2) The Co-ordinating Council shall decide whether the course of study in the university or college meets the requirements of clause (a) of subsection (1), and, if it decides that it does not, may

- (a) refuse any application for examination under this section, or
- (b) require the candidate to serve a longer term under articles than is specified in clause (b) of subsection (1) or vary the examination requirements under clause (c) of subsection (1).

(3) A person who has successfully completed the first two years of a course of study that is approved by the Co-ordinating Council for the purpose of clause (a) of subsection (1) may then commence the term of articulated service required under clause (b) of subsection (1), and such periods as he thereafter serves as an articulated pupil shall be recognized as part of the service required under the said clause (b).

(4) If a person who commences his articulated service as provided by subsection (3) does not successfully complete the course of study required by clause (a) of subsection (1), his term of articulated service under clause (b) of subsection (1) and the period of field practice required of him shall be of such longer duration as the Co-ordinating Council requires instead of the term and period specified in the said clause (b).

24. Any person has satisfactory educational qualifications for registration as a member if

- (a) he has successfully completed a two-year course of study and training in surveying at a provincial Institute of Technology in Alberta and has been granted a diploma by the Institute,
- (b) he has served a term or terms totalling not less than two years under articles with a member, including at least twelve months of actual practice with him in the field, and
- (c) he has passed the examinations prescribed by the Co-ordinating Council.

25. (1) Every person who wishes to take any examinations required under section 20, 21, 22, 23 or 24 shall

26. The present section 34 revised.

27. New.

28. New.

- (a) apply to the Co-ordinating Council at least six weeks before the date when he proposes to submit himself for examination,
- (b) file with the Co-ordinating Council such credentials as are required by the by-laws to verify his service under articles and his qualifications for admission to the examination, and
- (c) pay to the University its required fee.

(2) Where a person seeks to qualify under section 22, his application to the Co-ordinating Council may include a request for the waiver of the examinations in any or all of the prescribed subjects other than the subjects relating to Alberta statutes and regulations.

26. (1) When a candidate applies for examination as provided in section 24, the Co-ordinating Council shall notify the Secretary-Treasurer of the application.

(2) Upon being notified of an application, the Secretary-Treasurer shall make a report to the Co-ordinating Council as to

- (a) those portions of his service under articles and actual field practice performed by the candidate prior to the date of the examination,
- (b) the validity of the credentials presented by the candidate in support of an application for examination under section 21 or 22,
- (c) the sufficiency of the training and practice in land surveying of a candidate for examination under section 21 or 22, and
- (d) the term of articulated service and the period of field practice that should be required of a candidate pursuant to clause (b) of subsection (2) of section 21 or clause (b) of subsection (2) of section 23.

(3) When a candidate for membership has passed his prescribed examinations, the Co-ordinating Council shall issue to him a certificate to that effect and shall forward a copy thereof to the Registrar.

27. The Co-ordinating Council shall decide any question that arises as to the qualifications of a candidate for examination under this Act or as to his compliance with any requirement made by the Co-ordinating Council in respect of examinations or articulated service.

28. Where a candidate for membership has served the required term under articles but has not passed the examinations prescribed by the Co-ordinating Council, he shall, unless the council otherwise directs, continue to serve under the articles until he has passed the examinations.

29. The present section 40 revised.

30. The present sections 35 and 37 revised.

31. New.

32. New.

Registration

29. The Registrar shall keep and maintain a register called the "Alberta Land Surveyors' Register" in which shall be registered the names of all persons entitled to registration as members of the Association and such other information with respect to each member as the by-laws prescribe.

30. The Registrar shall register a person as a member of the Association if he receives in respect of that person

- (a) proof that he is at least twenty-one years of age,
- (b) proof of his good character,
- (c) the certificate of the Co-ordinating Council issued under subsection (3) of section 26,
- (d) if he has been required to serve under articles with a member
 - (i) a certificate as to his service in the form prescribed by the by-laws and made by the member with whom he served under articles, and
 - (ii) an affidavit by the member in the form prescribed by the by-laws stating the particulars of his actual field practice in such detail as the Registrar requires,
- (e) proof that he has taken and subscribed before a judge of the Supreme Court of Alberta or a district court the oath of allegiance and the official oath prescribed by *The Oaths of Office Act*, and
- (f) the prescribed application and registration fee and, unless he elects to be an inactive member, the annual fee and the annual levy, if any, for the current year.

31. The Registrar may refer an application for registration to the council and thereupon

- (a) the council shall consider the documents presented to the Registrar under section 30 and decide whether they are sufficient or not, and
- (b) direct the Registrar to register or refuse to register the candidate, as the case may be.

32. (1) A member or a person entitled to be registered as a member may by a notice filed with the Registrar elect to be registered as an inactive member, and an entry to that effect shall be made in the register.

(2) An inactive member is not entitled to

- (a) vote at a meeting of the Association, or
- (b) be elected or appointed as an officer of the Association or as a member of the council,

and has only those rights given to inactive members by the by-laws.

33. New. Resignation subject to council approval.

34. The present section 41 revised.

35. Sections 43 and 44 revised.

36. New.

(3) An honorary member of the Association is not entitled to

- (a) vote at a meeting of the Association, or
- (b) be elected or appointed as an officer of the Association or as a member of the council, or
- (c) be registered as a member,

and has only those rights given to honorary members by the by-laws.

33. No member may resign from the Association unless his resignation is submitted to and approved by the council.

34. (1) When an inactive member or a former member wishes to be registered as an active member, he shall

- (a) apply to the Registrar, and
- (b) pay to the Association
 - (i) the annual membership fee and the annual levy, if any, for the current year, and
 - (ii) in the case of a former member, the inactive membership fee for each year intervening between the year for which he last paid an annual membership fee and the year in which the application is made.

(2) This section does not apply where a person is a former member by reason of having been struck off the register upon the order of the council.

35. The Registrar shall

- (a) not later than the first day of March in each year
 - (i) prepare an annual membership list showing the names and addresses of all active members registered as of the preceding first day of February, and
 - (ii) send a copy of the list to each member and to the Director of Surveys and each Registrar of Land Titles,
- and
- (b) keep the register at his office for public inspection without charge.

36. When a person is registered as an active member after the annual membership list is sent out and before the next first day of February, the Registrar shall

- (a) prepare a supplement to the annual membership list, showing his name and address and the date of his registration, and
- (b) send a copy thereof to the Director of Surveys and each Registrar of Land Titles, and
- (c) send to him a copy of the current annual membership list and supplement.

37. New. Suspension for non-payment of fees, levy or fine.

38 to 52. These provisions are a revision of the present sections 38 to 38s dealing with discipline. The effect is to bring the procedures more in line with other professional Acts.

Clause 38 is the present section 38n in part and section 51, revised. Clauses (e), (f) and (g) are new.

39. New.

37. The council may, without notice, suspend a member who is in default of payment for a period of at least three months of an amount owing by him to the Association as an annual membership fee or levy or as a fine and upon payment of the amount owing and a fee of five dollars, the suspension by reason of the default is thereby cancelled.

Discipline

38. (1) The council may order

- (a) the name of a member to be struck off the register, or
- (b) the suspension of a member for a fixed period, or
- (c) the imposition of a fine against a member not exceeding five hundred dollars,

where that member is found by the council to be guilty of conduct unbecoming an Alberta land surveyor.

(2) The question of whether a member is guilty of conduct unbecoming an Alberta land surveyor shall be determined by the council or, on appeal, by the Supreme Court.

(3) For the purposes of this Act, the following acts are deemed to be conduct unbecoming an Alberta land surveyor:

- (a) any act or conduct that is inimical to the best interests of the public or the members of the Association;
- (b) acting as a professional agent of a person not duly qualified to practise as a land surveyor;
- (c) using or suffering his name to be used in any such agency;
- (d) doing any act or affording any means
 - (i) that is calculated to, or does, or may lead the public or a person to believe that a person who is not a member is entitled by law to practise as a land surveyor, or
 - (ii) tending to enable a person who is not a member to practise in any respect as an Alberta land surveyor or to be paid any fee or sum of money for the performance of any survey;
- (e) falsely certifying as to the service under articles of a pupil when such service has not been actually and *bona fide* performed in the manner required by this Act and in accordance with the articles;
- (f) failing or neglecting to instruct an articulated pupil in the practice of land surveying in the manner required by the terms of the articles entered into by him;
- (g) the contravention of any provision of this Act or the by-laws.

39. The Association may make by-laws

- (a) providing for the preliminary investigation of com-

40. The present section 38 with the addition of a new subsection (4).

41. New.

42. New.

plaints against members and prescribing the powers and duties of the member or members appointed to conduct the investigation,

- (b) subject to this Act, governing proceedings of the discipline committee appointed under section 40, and
- (c) governing proceedings before the council in matters pertaining to discipline.

40. (1) The council shall from time to time appoint from its own number a committee of not less than three members to be known as the "discipline committee" and shall designate its chairman.

(2) Three members of the discipline committee constitute a quorum.

(3) The council may at any time alter the number, constitution, and tenure of office of the discipline committee.

(4) The discipline committee, subject to the provisions of this Act and the by-laws of the Association, may regulate

- (a) the convening, notice, place, management, conduct and adjournment of its meetings,
- (b) the mode of deciding questions,
- (c) its rules of procedure and evidence, and
- (d) generally, the transaction and management of its business.

41. (1) The chairman of the discipline committee shall review all complaints received against members of the Association and shall either

- (a) direct that the complaint be dealt with by the discipline committee, or
- (b) direct that a preliminary investigation be held regarding the complaint in accordance with the by-laws, or
- (c) direct that no further action be taken, if he is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming an Alberta land surveyor.

(2) Upon receiving the report of a preliminary investigation, the chairman of the discipline committee shall either

- (a) direct that the complaint be dealt with by the discipline committee, or
- (b) direct that no further action be taken, if he is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming an Alberta land surveyor.

42. Where the chairman of the discipline committee directs, pursuant to subsection (1) or (2) of section 41, that no further action be taken regarding a complaint, the complainant may appeal his direction to the council who may

43 New.

44 The present sections 38c, 38e and 38k revised.

45. New.

46. The present section 38l revised.

make any direction regarding it that the chairman could have made under either of those subsections.

43. (1) Where the chairman of the discipline committee or the council directs that a complaint is to be dealt with by the discipline committee under this Part,

- (a) the chairman shall direct the Secretary-Treasurer to lay a charge of conduct unbecoming an Alberta land surveyor against the member concerned containing particulars of the complaint, and
- (b) the charge shall be heard by the discipline committee.

44. (1) The discipline committee shall inquire into the charge against the member.

(2) At least ten days' notice of the date, time and place of the meeting of the discipline committee for the hearing of the charge shall be served on the member charged.

(3) The notice shall contain a copy of the charge that forms the subject of the inquiry.

(4) If the member charged does not attend, though notified, the committee may proceed in his absence.

(5) The meetings of the committee shall be held in camera.

45. (1) The member charged may be represented by counsel.

(2) The evidence of the witnesses shall be taken under oath.

(3) Any member of the committee may administer oaths to witnesses.

(4) There shall be full right to cross-examine all witnesses called, and examine all documents and reports, and to adduce evidence in defence and in reply.

46. (1) For the purposes of an investigation by the discipline committee, the discipline committee may summon witnesses and require them

- (a) to give evidence before it, and
- (b) to produce such documents and things as the discipline committee requires for the investigation.

(2) A witness

- (a) who fails
 - (i) to attend before the discipline committee in obedience to a notice to attend,
 - (ii) to produce any books, papers or other documents in obedience to a notice to produce them, or
 - (iii) in any way to comply with either such notice, or

47. New. Equivalent to the present section 38m.

- (b) who refuses to be sworn or to answer any question directed to be answered by the chairman of the discipline committee,

is liable to attachment upon application to a judge of the Supreme Court and may be punished as for contempt of that Court.

(3) Where the witness referred to in subsection (1) is the member charged, his failure or refusal may be held to be conduct unbecoming an Alberta land surveyor.

(4) Witnesses are entitled to the same allowances as witnesses attending upon the trial of an action in the Supreme Court.

(5) Testimony may be adduced before the committee in such manner as the committee deems proper and the committee is not bound by the rules of law concerning evidence applicable to judicial proceedings.

(6) A member whose conduct is being investigated by the discipline committee is a compellable witness and may be examined on oath on all matters relevant to the charge and shall not be excused from answering any question on the ground that the answer

- (a) might tend to criminate him,
- (b) might subject him to punishment under the disciplinary provisions of this Act, or
- (c) might tend to establish his liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any statute,

but the answer so given, if it is such as tends to criminate him, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act of the Province.

47. (1) The committee shall report in writing to the council giving a summary of the evidence adduced, its findings and such recommendations as it deems advisable.

(2) The absence of one member of the committee during the investigation does not invalidate the report.

(3) Upon considering the report of the committee, the council shall dismiss the complaint or make an order under subsection (1) of section 38.

(4) Any member of the council who has been a member of the committee investigating the particular charge shall not participate in any proceedings of the council relating to that charge.

(5) A copy of the order, with the council's findings and reasons, shall be served upon the member charged.

48. New.

49. The present section 38s revised.

50. The present section 38o, subsection (1) and 38p, in part, revised.

51. The present sections 38o, subsection (2) and 38p, subsection (1) revised.

48. (1) When the council finds the member charged to be guilty of conduct unbecoming an Alberta land surveyor, it may direct that the costs of and incidental to the inquiry be paid by that member.

(2) When the complaint is dismissed on the ground that it is frivolous or vexatious, the council may order the payment by the Association or the person making the complaint of such costs as it considers just to the member charged.

(3) Any costs that are not ordered to be paid by the member charged or by the person who made the complaint shall be borne by the Association.

(4) After taxation of the costs of the taxing officer of the Supreme Court at Edmonton or Calgary, execution may issue out of the Supreme Court for the recovery thereof in like manner as upon a judgment in an action in that Court.

(5) The costs to be taxed and allowed shall, as far as practical, be the same as the like costs in an action in the Supreme Court.

(6) The taxing officer may also allow such fees and disbursements for work done or proceedings taken before notice of complaint as he deems just.

49. No action lies against the Association, the council or the discipline committee or any member thereof or any person conducting a preliminary investigation for any act done in proceedings taken in good faith or orders made or enforced under the disciplinary provisions of this Act or the by-laws.

50. (1) A member who has been found guilty of conduct unbecoming an Alberta land surveyor may appeal to the Supreme Court by originating notice of motion

(a) from the finding of guilt, or

(b) if an order has been made against him under subsection (1) of section 38, from the finding of guilt and the order or from the order only.

(2) The Registrar, upon the request of any person desiring to appeal, shall furnish him with a certified copy of all proceedings, reports, orders and papers upon which the council acted in making the order appealed against.

(3) Notice of the appeal shall be given to the Registrar.

51. (1) The judge hearing the motion shall consider

(a) the proceedings before the committee and the evidence taken,

(b) the report of the committee, and

(c) the order of the council, if any, certified by an officer of the Association.

(2) The judge may

52. Cf. the present sections 38g and 38r.

53. The present section 3 revised to include reference to The Public Lands Act. These exceptions are made due to the common practice of having oil and gas well site locations surveyed by professional engineers. Mine surveyors are also now included.

- (a) receive further evidence by oral examination or by affidavit, or
 - (b) direct a trial to determine any or all of the matters in issue.
- (3) The judge on the hearing of the appeal may, as the case may be,
- (a) confirm the finding of guilt, or
 - (b) confirm the order to the council made under subsection (1) of section 38, or
 - (c) order that the appellant be reinstated as a member of the Association, or
 - (d) cancel, reduce or lengthen the appellant's suspension from practice, or
 - (e) cancel, decrease or increase the fine imposed by the council, or
 - (f) make any order in substitution for the order of the council under subsection (1) of section 38, or
 - (g) cancel or vary any order of the council under section 48 as to costs, or
 - (h) make such other order as to the judge seems just, and award costs in his discretion.

52. Except during the period that an appeal is pending before a judge, the council at any time may

- (a) order the restoration to the register of the name of a person whose name has been struck off, or
- (b) cancel or reduce the period of suspension of a person from practice,

upon such terms and conditions as the council deems just.

Offences and Penalties

53. (1) No person within the Province shall act as a surveyor of any land other than land of the Crown in right of Canada unless he is registered under this Act as an active member of the Association.

(2) This section does not apply to a person who is

- (a) authorized to act as a surveyor of land by the provisions of
 - (i) *The Oil and Gas Conservation Act* or regulations thereunder, or
 - (ii) *The Right of Entry Arbitration Act* or the rules of procedure and practice of the Board of Arbitration thereunder, or
 - (iii) regulations under *The Public Lands Act*, or
- (b) authorized to survey mines within the meaning of *The Coal Mines Regulation Act* by reason of being the holder of a mine surveyor's certificate under that Act.

54. The present section 42(1) revised.

55. The present sections 3(2) and 42(2) revised.

56. The present sections 45 and 46 revised.

57. The present section 43, subsection (2) revised.

54. No person, other than a member, shall take or use the name or title of "Alberta land surveyor", either alone or in combination with any other word or words, or any other name, title, description or abbreviation implying that he is a member of the Association or entitled by law to practise as an Alberta land surveyor.

55. A person who contravenes section 53 or 54 is guilty of an offence and liable on summary conviction

- (a) for a first offence to a fine of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days,
- (b) for a second offence to a fine of not more than three hundred dollars and in default of payment to imprisonment for not more than sixty days, and
- (c) for a third or subsequent offence to imprisonment for not more than three months.

56. (1) If the Registrar

- (a) wilfully makes or causes or allows to be made any falsification in any matters relating to the register or the annual membership list, or
- (b) wilfully omits to make an entry therein that should be made,

he is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than six months.

(2) A person who wilfully procures or attempts to procure registration under this Act by making or producing or causing to be produced or made a false or fraudulent representation or declaration either orally or in writing is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than six months.

(3) An entry in the register or in the annual membership list that is proved to the satisfaction of the council to have been fraudulently or incorrectly made or omitted shall be removed from, added to or amended in the register or list accordingly as the council may order.

Miscellaneous

57. In any action, proceeding or prosecution a certificate signed by the Registrar shall be admitted in evidence as *prima facie* proof of the registration or non-registration of any person as a member of the Association or of the suspension from practice of a member of the Association, without proof of the office or signature of the Registrar.

58. The present section 47 revised.

59. New.

60. Transitional.

61. Chapter 169 of the Revised Statutes is repealed.

62. Commencement of Act.

58. (1) Unless otherwise provided in this Act or the by-laws, any notice or other document that may or is required to be served under this Act, may be served by mail.

(2) A notice or other document may be served on the Association or the council by serving it on an officer of the Association or a member of the council.

(3) A letter containing a notice or other document served on a member by mail is sufficiently addressed if it is addressed to him at the address indicated for him in the register.

59. Nothing in this Act applies to or affects a professional engineer registered as such under *The Engineering and Related Professions Act* in the practice of his profession.

60. Upon the commencement of this Act

- (a) the "Surveyors' Register" under the former Act becomes the register under this Act,
- (b) the members, officers, council and committees of the Association under the former Act continue, respectively, subject to this Act, to be the members, officers, council and committees of the Association under this Act, and
- (c) proceedings or appeals pertaining to discipline commenced under the former Act shall be continued as if it had not been repealed.

61. This Act repeals and replaces *The Alberta Land Surveyors Act*.

62. This Act comes into force on the first day of January, 1966.

No. 101

SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

BILL

An Act respecting Alberta Land
Surveyors

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOLOWACH
