

FROM THE ASSOCIATION OF DOMINION LAND SURVEYORS, APRIL 1882—TO THE ASSOCIATION OF CANADA LANDS SURVEYORS, MARCH 1999

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For our non-surveyor readers, perhaps it is appropriate to describe what Canada Lands Surveyors are, provide some background as to their origins, and depict what Canada Lands are.

Canada Lands Surveyors (CLS's) are persons who hold a commission from the Government of Canada that, until March 18 of this year, entitled them to carry out surveys on Canada Lands. More about March 18, 1999 later but after that date, other requirements will come into effect before a CLS is authorized to survey on Canada Lands.

Canada Lands, in general, are the northern territories, (Yukon and Northwest Territories), most of the Indian Reserves, the Offshore areas of Canada and the National Parks. (Figure 1)

Until 1979 Canada Lands Surveyors were called Dominion Land Surveyors (DLS's), which name goes back to 1874. Before then, they were called Deputy Surveyors. A review of the attempts at self-regulation by Dominion/Canada Lands Surveyors must include a brief look at the associations formed by the surveyors over the years. It was through those organizations that the attempts at self-regulation, or related efforts such as requests for exclusivity of practice, were made.

Founding the Association of Dominion Land Surveyors

In Volume 2 of *Men and Meridians*, a History of Surveying and Mapping in

Canada, author Don W. Thomson records that on April 24, 1874 a group of Deputy Surveyors met in Winnipeg and passed a motion that "it is advisable that the Land Surveyors resident in Manitoba and the North-West Territories (Figure 2) form themselves into an association for the better organization of the profession and that the association be composed of Deputy Surveyors employed under instructions of the Dominion Land Office and duly qualified Land Surveyors from any of the Provinces of the Dominion." A telegram was sent from this meeting to Canada's first Surveyor General, J. S. Dennis (Figure 3) in Ottawa, as follows "Land Surveyors formed Association. If the Land Act is before Parliament please propose to change Deputy Surveyor to Dominion Land Surveyor." Dennis complied with their request and as a result, federal government surveyors were granted the title borne by them until the passing of the Canada Lands Surveys Act in 1979. In December 1880 a new constitution was adopted and officers elected. Thomson says, "There is evidence that the first name proposed for the new organization was The Association of Dominion Land Surveyors of Manitoba and the North-West Territories. However, in the bill of incorporation passed on May 25, 1881 the name appeared as Association of Provincial Land Surveyors." Although it was not the original intent, this organization eventually became the Association of Manitoba Land Surveyors, making it the oldest land surveyor's association in Canada.

The Association of Dominion Land Surveyors was founded one year later with Otto J. Klotz (Figure 4) as its

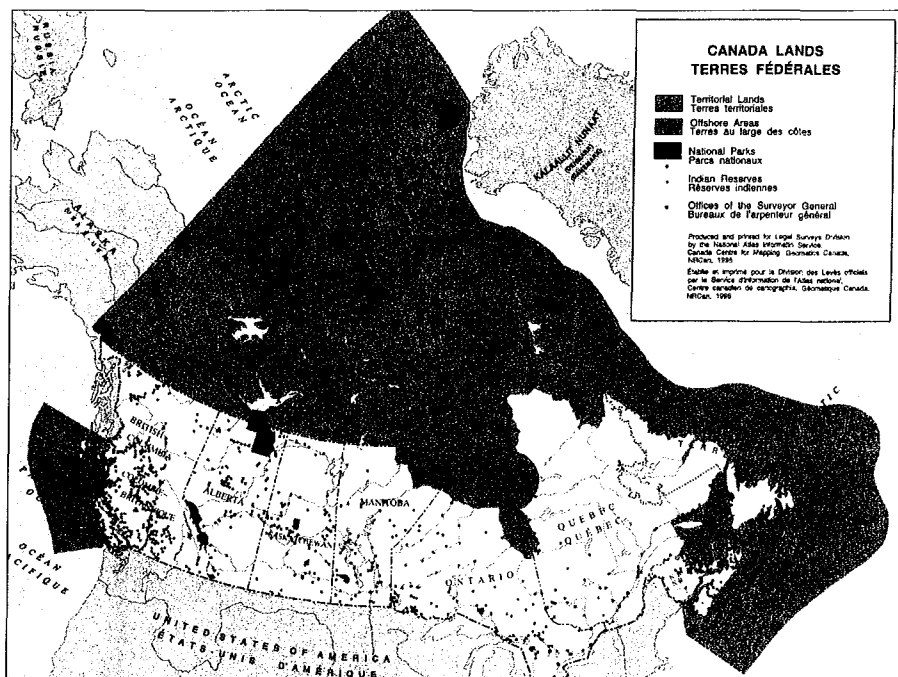


Figure 1

This paper was originally presented at the XXI FIG Congress in Brighton, UK July 19-26, 1998, in a condensed form.

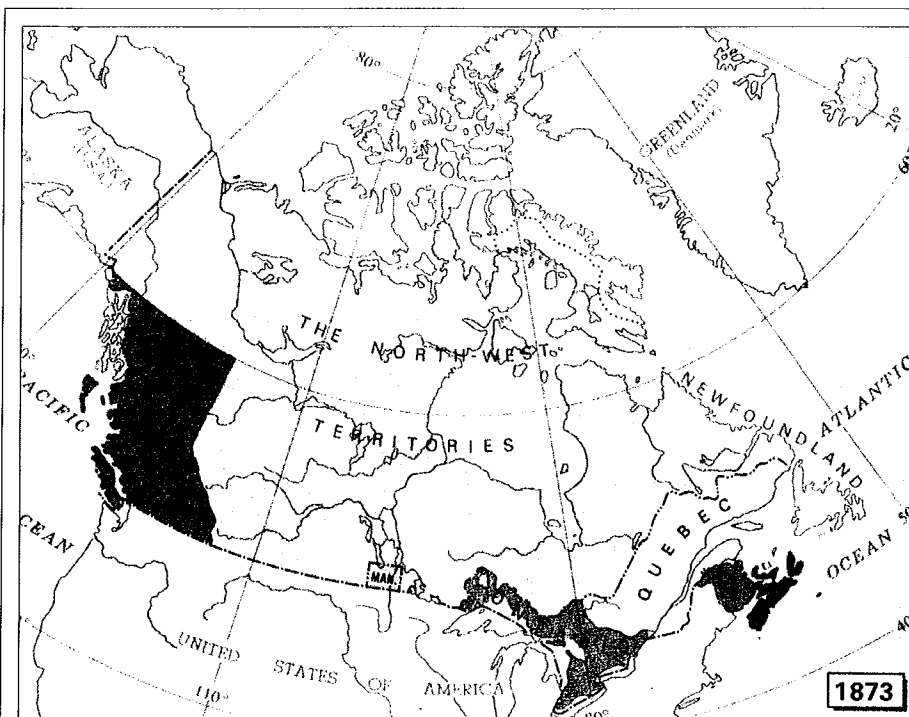


Figure 2: Canada in 1873. Note small size of the Province of Manitoba.

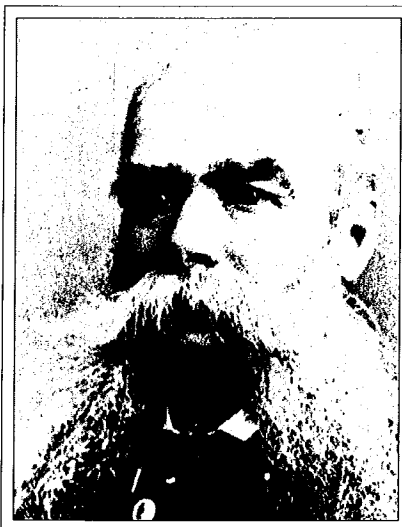


Figure 3: J.S. Dennis, first Surveyor General of Canada.

first President. We are indebted to this distinguished Canadian surveyor for his notable diary, kept over a period of 56 years with the lapse of only one day's entry. It provides us with many details missing from the records.

It is worthwhile noting that surveyors had great influence in those days. During their Association meeting the next year in Ottawa, Otto Klotz's diary for February 21, 1883 says that he drafted a memorial to Sir John A. Macdonald (Canada's first

Prime Minister) and later interviewed him at the House of Commons. Apparently this was in reference to improved financial conditions for surveyors. In later records we learn that the Association had regular meetings with senior Government officials and held some of their functions in the Parliament buildings.

First Attempts at Self-Regulation

The Association experienced 12 years of considerable vitality. During this period there were several attempts at achieving limited exclusivity of practice and one major attempt at becoming self-regulating. We find in the records of the meeting of the Association in 1885 three significant motions:

'Resolved that a deputation consisting of the President, Secretary and Executive Committee wait upon the Honourable the Minister of the Interior and urge upon him the necessity and justice of having the survey of that part of the Province of British Columbia, granted to the Dominion Government by the Government of that Province for railway purposes, made in accordance with the system of survey which governs the survey of other Dominion Lands, and by Dominion Land Surveyors only.'

'Resolved that the Association of Dominion Land Surveyors in their annual meeting assembled, considering the advantages that they would derive from incorporation, apply at once to Parliament for such legislation.'

'Resolved, that...[a Committee be formed]...to frame a Bill to be presented to Parliament to incorporate the Association of Dominion Land Surveyors with such powers, privileges and prerogatives as may, in their opinion, conduce to the existence and well-being of this Association.'

Evidently the draft Bill would have given the Association certain self-regulatory powers for in the record of the 1886 meeting the minutes state that "Regarding incorporation, nothing effectual was done, for the Government did not look favourably upon the scheme, especially that part relating to the power of examining and granting commissions."

Going into Battle

Apart from the motions referred to above, in 1885 the Association took a particularly aggressive action. Word of a clash between the followers of Louis Riel and the Northwest Mounted Police on March 26 at Duck Lake, in what is now Saskatchewan, (Figure 5) had reached Ottawa while the Association was holding its annual meeting. Many present had surveyed in the North-West and realized that outright hostilities could seriously affect western survey work for the 1885 season.

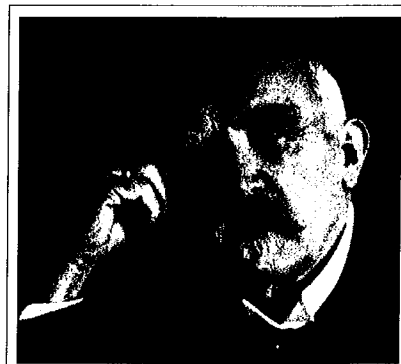


Figure 4: Otto J. Klotz, LL.D, D.Sc., DTS

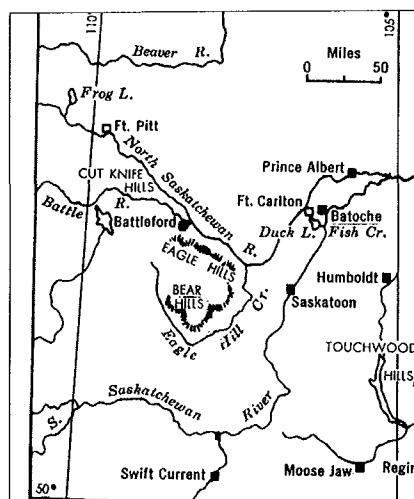


Figure 5

On April 1 a special meeting was called to organize a surveyor's militia unit of fifty men, to take active part in any military expedition formed to quell the disturbances. The unit, called The Dominion Land Surveyors' Intelligence Corps, was quickly formed and arrived in Winnipeg on April 11. After a brief training period, the unit saw its first action on May 12. Unfortunately, Lieutenant A. W. Kippen, who had received his DLS commission in 1884, was killed and two other DLS's were wounded.

Protecting the Practice

At the 1886 annual meeting of the Association, two motions intended to protect the practice of Dominion Land Surveyors were passed. The first instructed the officers and Executive Committee to find out if DLS's were signing plans of surveys made by non-DLS's and if they were, to request the Board of Examiners to cancel the commissions of the offending surveyors. The next called for a committee to be appointed to draw up a memorial to be presented to the Government, setting forth the injustice done to Dominion Land Surveyors by allowing civil engineers to sign plans of right of way surveys for railways in the North-West Territories and asking that the

Government refuse to accept or file any plans signed in this way.

The Association's efforts to have the government use DLS's exclusively on railway surveys were rebuffed in an 1888 letter from the Department of the Interior stating "legal opinion indicates that the Government is under no obligation to employ Dominion Land Surveyors to survey the right-of-way or to prepare the necessary plans."

Evidently the Association persevered and took the matter to the Department of Justice. In the meeting of 1890, the President, Mr. J. S. Dennis, Jr., in his address referred to the objection the Association had raised with the Department of Justice over the fact that surveys of Indian reserves in the Railway Belt in British Columbia were being made by persons who were not Dominion Land Surveyors. He reported that the Deputy Minister of Justice had advised that all such surveys should have been made by duly qualified Dominion Land Surveyors.

It seems this small victory did not help much because the seventh annual meeting in 1890 was the last successful meeting of the Association for several years. Indeed the 1894 meeting, which was brief and poorly attended, was entirely devoted to ways and means of suspending the organization. The decline in fortunes of the Association has been attributed to widespread economic depression, the falloff in immigration, the drain of members away to provincial associations and quite possibly, the Association's inability to achieve the self-regulating status the provincial associations were steadily achieving.

Attempts at Affiliation

In the late 1880s some attempts were made at affiliating the provincial surveyors' associations of Québec, Manitoba, Ontario and British Columbia with the Association of Dominion Land Surveyors. Since the provincial associations had achieved self-regulation and were thriving, perhaps the DLS Association leaders saw this as a way of reinvigorating their Association and perhaps even changing the attitude of the federal Government on self-regulation. However at the 1891 annual meeting the President reported that "Québec and

Manitoba, for the present at least, do not see their way to the accomplishment of the [affiliation] scheme."

Revival

The resurgence of interest in western settlement in the early 1900s caused a resumption of subdivision surveys in the Canadian west, mostly done under contract, and this resulted in a revival of the Association. It was reorganised in 1907 under a revised Constitution and Bylaws but there are no records of any of the meetings until 1911. The meeting of that year was called the 'Fifth Annual Meeting' so evidently the members felt the 1907 organization was so different from the previous one that a new series of numbers for the annual meetings was required. However, for historical purposes in Canada, we consider them as one continuous organization.

Transformation

At the annual meeting of the Association of Dominion Land Surveyors in 1920, it was proposed "that a Dominion-wide Association of land surveyors be formed for the purpose of better protecting and advancing its interests and promoting its good and welfare." It appears the real concern was that the work of the Dominion Land Surveyor was gradually disappearing. A committee was instructed to contact other surveyor's associations across Canada for the purpose of organizing such an Association.

By 1934 this had led to an amendment of the Association's constitution which made qualifications for membership as "the holding of a commission for land surveys in Canada" and also as "the engagement in surveying in a professional capacity acceptable to Council in any of the branches of federal or provincial departments or other organizations." The name was changed to the *Canadian Institute of Surveying*, (since 1992 called the

Canadian Institute of Geomatics / Association canadienne des sciences géomatiques) and the new Institute welcomed to membership "hydrographers, topographers, aerial surveyors, geodesists, etc."

During the period 1907 to 1934 there is no record of any further attempts at self-regulation, or of obtaining exclusivity of practice.

The editorial in the October 1934 issue of *The Canadian Surveyor* said "While the future of the Institute and *The Canadian Surveyor* seem bright, it is felt that it is a matter of real importance to Canada that the liaison be strengthened rather than weakened between the provincial associations, who have formed and will continue to form the attitude of the provinces on survey matters, and The Canadian Institute of Surveying which, while it replaces the Association of Dominion Land Surveyors, will continue to carry on the traditions and perform the functions of that Association as well as embracing a wider field of activity."

Despite the promise, or perhaps, wishful thinking of that editorial, after a number of years the influence of Dominion Land Surveyors in the Institute began to decline. This was a natural result of the broader-based membership of the Institute and the consequent growth of technical interest in other areas of surveying and mapping.

Dominion Land Surveyors Grow Restless

The Canadian Institute of Surveying (CIS) continued to grow and prosper but some Dominion Land Surveyors began to feel the need of an association or organization that would better respond to their professional needs. This led to a meeting in 1969, at which informal discussions were held regarding the formation of a separate association of DLS's. C. H. 'Charlie' Weir, (Figure 6), was at this meeting and reported that the idea of a separate association was rejected because it would compete with, and possibly lead

to the weakening of, the CIS. Furthermore, since the CIS had originated from the old Association of Dominion Land Surveyors, it would be natural to look to the CIS for their support in the formation of a committee or such, within the CIS, to represent Dominion Land Surveyors.



Figure 6: C.H. Weir, CLS, ALS, SLS. Mr. Weir was President of FIG 1985-87

Dominion Land Surveyors Professional Affairs Committee

In the early 1970s, a number of events took place that would lead to the eventual incorporation of the Association of Canada Lands Surveyors (ACLS) and a new initiative towards self-regulation.

By 1970, there was a growing fear in the oil industry that Dominion Land Surveyors, responsible under statutes for conducting legal surveys in the Offshore did not in fact have the expertise to conduct these surveys. There was also a perception that the need for these surveys would increase dramatically, resulting from increased mineral exploration in the Offshore. Actions taken to resolve this problem resulted in the establishment of the Weir Committee, formation of the Dominion Land Surveyors Professional Affairs Committee, and revision of the Canada Lands Surveys Act. The revision of the CLS

Act provided for a new and expanded Canada Lands Surveyor commission and for an enlarged Board of Examiners for Canada Lands Surveyors.

The task of the Weir Committee was to (quoting from the report)... "seek out a workable solution to the involved but pressing need for restructuring the surveying profession in its federal aspects." In other words, it had to find ways to raise the expertise of DLS's to enable them to meet the perceived need for legal surveys in the Offshore area. Although this challenge was the principal task, the committee's report goes on to say "There is little doubt that this study was undertaken also in the hope of halting, even reversing, the trend towards fragmentation in the Canadian profession as a whole. In any event, there was a need for leadership on the federal side in order to remedy the rather alarming situation which was developing."

In addressing the total scope of the problem being faced, the committee members prepared a declaration of the principal aims inspiring their enquiry. The propositions put forward by the committee (which it termed the "Magna Carta" of the profession) were meant to... "envisage a reconstitution of the profession, initially in the federal government sphere but ultimately in its national aspects". The committee's declaration was expressed in the following terms:

"Whereas there is an evident need in Canada for updating the surveying qualification or commission in order to help maintain and respect the public trust implicit in the continuing provision of professional surveying services in the public and private domains:

This committee therefore recommends the creation of a designation '*Canada Surveyor: Géomètre Canadien*' in succession to and absorbing the title and functions of 'Dominion Land Surveyor' and that this new commission be provided for in an Act of Parliament replacing, in part, the Canada Lands Surveys Act. This committee recommends also that the suggested commission encompass all disciplines applicable

in the broad survey field such as cadastral, engineering, mining, photogrammetric, geodetic and hydrographic surveys as well as cartography, photo-interpretation, remote sensing and cognate areas.

It is submitted that the implementation of this proposal will be an initial step towards the development, in time, of a surveyor with the capability to apply for authority to render his professional services anywhere in Canada.

The committee further recommends that the educational requirement in qualifying for such a commission be a baccalaureate degree in science or in engineering, followed by a period of professional experience. Provision in the proposed Act of Parliament should also be made for a formal meeting ground for those who are or who become entitled to the commission.

The committee feels that the proper maintenance of the new designation and of the high standard of service that it represents are dependent upon the existence of a central, financially self-sustaining secretariat and/or a formally constituted body corporate which could assume the functions of such a secretariat and assure that lines of communication with the membership be kept open."

At the same time that the Weir Committee was conducting its federal investigations, Mr. Weir also served as Chairman of the Committee on DLS Affairs, established by the Canadian Institute of Surveying. The main objective of this committee was to investigate the need for a formal meeting ground for Dominion Land Surveyors. As part of its study, this committee conducted a survey among DLS's as to whether they favoured the idea of an organization to promote the interests and professional affairs of DLS's. A large majority of the respondents were in favour. As a result, the Canadian Institute of Surveying established a new standing committee known as the *Dominion Land Surveyors (DLS) Professional Affairs Committee*, later the *CLS Professional Affairs Committee*.

Forming the Association of Canada Lands Surveyors

At the annual meeting of the CLS Professional Affairs Committee in Ottawa in 1982, a workshop was held in which the feasibility and desirability of forming an association was discussed. At the conclusion of the meeting, a vote was taken and a large majority was in favour of forming an association. Some were even in favour of immediately trying for self-regulating status.

Over the next three years, plans for forming an association were developed and the process begun. This required the development of bylaws for the new association and an application for a federal charter. During that time the possibility of the new association attaining self-regulating status was investigated. The conclusion was reached that since there were no jurisdictional or right-to-practice clauses in the constitution of the new organization, self-regulation was not likely achievable.

On May 30, 1985, the inaugural meeting of the new Association was held in Edmonton, Alberta. Therefore, one hundred and three years after the founding of the Association of Dominion Land Surveyors; and fifty-one years after it ceased to function under that name, the original organization was reborn as the *Association of Canada Lands Surveyors (ACLS)*. The organization is officially bilingual with the name in French being *Association des Arpenteurs des Terres du Canada (AATC)*. As with the previous organizations, membership in the new Association was and is voluntary but most practising CLS's have joined.

The objects of the association are:

- (a) To promote and enhance the practice of professional land surveying and the use of the Canada Lands Surveyor commission to the professional fields of cadastral, geodetic, hydrographic and photogrammetric surveying of Canada Lands, as defined in the Canada Lands Surveys Act, in order that the public interest may be served.
- (b) To develop, establish, and maintain standards of qualification, knowledge, and skill, among its members.

- (c) To maintain high professional standards of conduct and ethics among its members.
- (d) To promote good relations among and assist in the exchange of information among Canada Lands Surveyors and between Canada Lands Surveyors and other similar or related professional groups.
- (e) To monitor and review the qualifying requirements and standards for Canada Lands Surveyors.
- (f) To promote public awareness of the role of Canada Lands Surveyors and the Association of Canada Lands Surveyors.
- (g) To further the professional development of Canada Lands Surveyors.

Invitation to Become Self-Regulating

The affairs of the Association were fairly routine for the next few years following incorporation but during this time a letter was sent to the Minister of Energy, Mines and Resources offering assistance in discharging ministerial responsibilities related to the Canada Lands Surveys Act. This resulted in a series of meetings and discussions between the ACLS Executive and officials of the Department.

Eventually the Association was invited to submit a proposal to take over the responsibilities of the Board of Examiners for Canada Lands Surveyors. This in effect would mean the ACLS would take on the mantle of a self-regulating association. This was partly because the government in power at the time was in a privatization mode and was divesting itself of a number of boards and committees. More importantly, government officials recognized that because of the ever increasing numbers of CLS's, in order to ensure the public was properly served and protected, more regulation would be required than the Board of Examiners or Legal Surveys Division would be able to provide.

Working out an Agreement

Based upon past experience of some ACLS members with preparation of amendments to previous legislation, it was estimated that it would take seven years from the time work was begun for the new legislation to be passed by the Parliament of Canada. When this time frame was shown in an early draft proposal, the response from Government was that seven years was unrealistically long and that the Government was so supportive of this initiative that it could be 'fast-tracked' in three years. Eventually a period of five years was agreed upon and in early 1991 a contribution agreement was signed under which the Government agreed to provide financial support to the Association. This support would enable the Association to establish a structure and the committees necessary to transform itself into a self-regulating organization.

The contribution agreement was dated to expire on March 31, 1995, which meant that April 1, 1995, would be the date that the ACLS would assume its responsibilities as a national, self-regulating association.

Drafting the Canada Lands Surveyors Act

As previously noted, in order for the ACLS to become a self-regulating association, an Act of Parliament would have to be passed giving the ACLS that status. It was recognized that the Parliament of Canada conferring self-regulating status upon a federally incorporated association would be highly unusual. Indeed, the entire proposition was challenged on the grounds that under the Canadian Constitution, the power to create self-regulating associations rested with the provinces.

A legal opinion was obtained from the Department of Justice, which confirmed that since the administration and control of Canada Lands was under

federal jurisdiction, the power to regulate surveys on these lands would also rest with the federal government. It would therefore be possible to create a self-regulating Association of Canada Lands Surveyors.

To accomplish the conversion process, the main task was to convert the present Canada Lands Surveys Act into two separate acts, the *Canada Lands Surveyors Act* and a revised Canada Lands Surveys Act. It was agreed that the ACLS would take the lead in drafting the Surveyors Act, the Regulations under the Act and the Bylaws of the 'new' Association. The Department of Energy, Mines and Resources through their Legal Surveys Division, would draft the new Canada Lands Surveys Act. The drafting of the two Acts was to proceed in tandem to ensure compatibility between them. The ACLS's newly established Bylaws and Legislation Committee commenced work on the Surveyors Act in the autumn of 1991.

In October, 1992, after Draft 3 had been sent out, a timetable for the ACLS work was prepared indicating that likely at least five drafts of the Act would have to be produced. In fact, seven drafts were required before a final document was submitted to the Government in March 1994. Three drafts of the Regulations were also produced and two drafts of the Bylaws.

Unfortunately, for various reasons Legal Surveys Division never did rewrite the Canada Lands Surveys Act. Thus the opportunity for a badly needed modernization of the Act was lost and the only change that will be made is removal of the section covering the regulation of surveyors.

Rationale used in Drafting the Canada Lands Surveyors Act

The foremost priority of the new Surveyors Act is to provide the legislation to enable the Association to serve the public. This is done by setting the standards of qualification for Canada Lands Surveyors; reinforcing the existing Code of Ethics; establishing comprehensive complaints and discipline procedures; establishing a practice review process; and developing a continuing professional development program.

To assist in the development, all of the existing surveys and surveyor's acts of the Canadian provinces, as well as some of the engineer's acts were obtained and thoroughly analyzed. The best features of each were incorporated in the new Act.

Where the new Canada Lands Surveyors Act differs from the provincial acts is in its multi-disciplinary aspects. It is the only surveyor's Act in Canada that provides for the establishment of cadastral surveys by non-traditional methods. A primary function of the Act is to provide the Surveyor General the expertise needed to execute the surveys required under the Canada Lands Surveys Act. Canada Lands represent an area larger than the landmass of Canada because of the Offshore. Although the Surveyor General's basic responsibility is to establish and maintain boundaries, his jurisdiction is so complex, conventional surveying methods will not satisfy his needs. The new Act has been drafted to provide the use of a wide range of technology and multidisciplinary expertise. It also provides the Surveyor General with the ability to regulate any survey for which he issues instructions, a power required to guarantee clients a minimum standard of work.

The Long Wait

As previously noted, April 1, 1995 was the target date for the creation of the self-regulating Association of Canada Lands Surveyors. During the five-year period of the agreement with the federal government, leading up to April 1, 1995, the Association met all of its obligations with respect to the agreed upon timetable. However, for various reasons the government was unable to meet its obligations, there was delay after delay and as a result, the process ran considerably behind schedule. There is no solace in noting that the Association's own forecast of seven years for the time it would take to become self-regulating, was itself eclipsed last year.

A positive action did occur in 1995 when the Surveyor General declared that even though the Canada Lands Surveyors Act had not been passed, beginning on April 1, 1995, a person would have to be a Canada Lands Surveyor to carry out surveys on Canada Lands.

Early in 1998, a flurry of excitement occurred when the Act was given first reading in Parliament in February and we received word that it would get priority treatment thereafter, in order to give it second reading before the Easter recess. However, Easter came and went with no activity whatsoever on our Act.

The usual process for a Bill in the House is that after second reading it goes to a committee for review and analysis before being brought back for third reading. So, now the Association was becoming concerned that this process would not be completed before Parliament recessed for the summer.

Finally though, on a sunny May 6, 1998, the House went into 'Committee of the Whole' a process that bypasses separate committee study and the Act received second and third reading on

the same day. A month later on June 10, the Act was passed by the Senate and received Royal Assent the next day.

The Final Steps

Now that the Act was in place, the only activity remaining was proclamation and that would not occur until the Minister approved the Regulations under the Act. This was considered to be a fairly straightforward task because the Association had already produced several drafts. Consequently, after receiving assurances from Government there would be no impediments to the chosen date, the ACLS scheduled its meeting to become self-regulating for October 23, 1998.

Unfortunately there were impediments and editing of the Regulations took much longer than expected. The October 23 meeting had to be cancelled and a tentative new date of February 12, 1999 was chosen, subject to the Regulations being approved in time. That date also had to be cancelled.

As this is being written, March 18, 1999 has been set for the date of the

Annual General Meeting of the ACLS and on that date there will be a 'new' self-regulating Association of Canada Lands Surveyors. Although self-regulation was not the goal of the ACLS when it was formed in 1985, it is noteworthy that 114 years after the first attempts at self-regulation by the Dominion Land Surveyors, their successors the Canada Lands Surveyors have achieved their goal.

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92nd ANNUAL GENERAL BUSINESS MEETING

of the

**CANADIAN INSTITUTE OF
GEOMATICS**

August 16, 1999

Ottawa, Ontario

NOTICE is hereby given, pursuant to Section 9.1 of the CIG By-Laws, that the 92nd Annual General Business Meeting of the Canadian Institute of Geomatics will be held at 15:30, Monday, August 16, 1999 in the Governor General Room of the Westin Hotel, Ottawa, Ontario, Canada.

92^e ASSEMBLÉE GÉNÉRALE ANNUELLE

DE

**L'ASSOCIATION CANADIENNE
DES SCIENCES GÉOMATIQUES**

le 16 août 1999

Ottawa (Ontario)

Conformément à l'article 9.1 des règlements de l'ACSG, avis est par la présente donné que la 92^e Assemblée générale annuelle de l'Association canadienne des sciences géomatiques sera tenue à compter de 15 h 30, le lundi 16 août 1999 dans la salle du Gouverneur Général à l'hôtel Westin, Ottawa (Ontario) Canada.