

# Monopoly or public protection? Origins of licensing in Ontario

by Dwight Hamilton

**A**lthough Ontario as we know it today wouldn't exist if it weren't for engineers, it wasn't until 1937 that the province passed a licensing act that restricted the profession to qualified practitioners.

The Canadian Society of Civil Engineers (CSCE) had existed since 1887 as a result of the efforts of many people involved in canal and railway construction. But, as a technical society and lobby group, it had no enforcement powers. The British North America Act of 1867 had put professional licensing in the provincial domain, and CSCE chapters were left to convince their respective governments of the merits of licensure one by one. Ontario proved to be one of the toughest battlegrounds.

## Miners and Montreal

A major hurdle was the influence of the mining industry in resource-rich Ontario. Although many mining engineers favoured legislation that would enable licensing, because bogus engineers often squandered investment capital (thus tarnishing the reputations of legitimate mining engineers), the owners of the mines saw things differently. They felt restrictions would impair development of Canada's mineral base and unfairly restrict companies in terms of whom they could hire for engineering work. Another problem for Ontario was that many fans of licensure were senior CSCE members from Montreal, and there were fears from Toronto and the rest of Canada that this elite group would wind up controlling the entire profession.

The desire for regulation among engineers was nevertheless high. The First World War produced a surplus of people with engineering skills, who came home

to a country ripe for further industrialization. The war had helped instill a spirit of cooperation among the various engineering specialties, none of which had legal recognition. The high number of people with some technical know-how increased competition, put quality standards at risk, and depressed salaries.

It was by then clear to most engineers that a common voice to represent them was required. However, the predominant political mindset of the day was that the best governments regulate the least, and some politicians feared that engineers would greatly increase their rates to the public if they were granted monopoly status. Nevertheless, workers in the mines were getting organized, and mine owners saw both unions and licensed engineers as "dangerous collectivist developments." Nevertheless, the government was becoming concerned about public safety. As the use of new technologies became more widespread, the dangers of relying on unqualified personnel to apply them became increasingly obvious.

This cloudy climate in the early 1920s compounded the original opposition from the mining industry when the CSCE, now renamed the Engineering Institute of Canada, formed the Advisory Conference Committee to push for governing legislation for the profession. The committee initially included representatives from the American Institute of Electrical Engineers, American Society of Mechanical Engineers, Canadian Institute of Mining and Metallurgy, Canadian Society of Chemical Industry, Ontario Association of Architects and Association of Ontario Land Surveyors.

## Closing the Act

Despite this broad representation, mining interests were to win the day. When the Professional Engineers Act was passed in 1922 (giving birth to PEO), all of the proposed enforcement clauses had been deleted. Anyone could practise engineering as long as they didn't call themselves a "professional engineer"; use of the title was restricted to association members. PEO also had no control over engineers' qualifications to practise.

It would be almost 15 years before new lawyers H.D. Anger and J.C. McRuer, along with another advisory committee, succeeded in drafting a bill that would satisfy both miners and the government. On March 25, 1937, the Professional Engineers Act was finally "closed," meaning that, in Ontario, only licensed professional engineers could do professional engineering work.

## Recent developments

A major revision to the Act in 1969 improved regulation of engineering partnerships and corporations, gave a better definition of Council's role in dealing with discipline, and recognized membership outside Ontario. As well, it gave rural members representation by providing for the election of Councillors from five regions in the province.

Amendments in 1984 revised the definition of professional engineering, incorporating protection of life, property and public welfare. They also expanded the objects of the association, and introduced a more formal complaints procedure, as well as limited licensure, fees mediation, arbitration provisions and a broader range of sanctions for professional misconduct and incompetence. Finally, the Act now required all P.Engs offering services to the public to have a Certificate of Authorization, even sole practitioners.

The Act and Regulations continue to evolve today, with amendments enabling PEO to transfer funds to the Ontario Society of Professional Engineers and revising the definition of professional misconduct to include harassment being passed in fall 2000. Now, more amendments are being proposed aimed at improving PEO's regulatory processes. These non-controversial amendments are expected to be passed this spring through the Ontario government's Red Tape Bill process. Once made law, they will enable implementation of the recommendations made by the Task Force on Admissions, Complaints, Discipline and Enforcement that require legislative change. These include a new admissions appeal process and a provisional licence for applicants who have met all licensing requirements except the 12 months of "in Canada" experience. ◆