

May I say first of all, that I am most pleased to be here today to take part in the First Annual Conference on Land Transfer. My subject is "Problems in Boundaries", and in this regard I would like to speak in the context of Registry Office problems which can be resolved by application of the Boundaries Act and if available, the First Registration procedure under the Land Titles Act.

There are many areas of the Province where the survey records and title records have decayed to such an extent that the cost of surveying in these areas is excessive, having regard to the value of the land. One of our previous speakers, Mr. LaFontain, has referred to the problem of the vanishing survey fabric. It is in these particular areas that I would like to discuss the application of the Boundaries Act and the First Application procedure of the Land Titles Act. There are many reasons why these areas have decayed to their present state of survey and title chaos, and I would like to refer to three of these:

Firstly, the title system fails in not requiring surveys to accompany the divisions and transfers of land. This perhaps should not be referred to as a fault of the system, as the system does not attempt to warrant accuracy; but nevertheless, if surveys had been required by the title system, then to a great extent the present state of decay would have been reduced.

Secondly, we must consider the legal profession at fault in not recommending to clients that they obtain surveys to determine the extent of their lands,

And lastly, but certainly not least, the Ontario Land Surveyor must assume a large measure of responsibility for not making known the dangers of subdividing and transferring without surveys. Surveyors are of course, one group of individuals who should be most keenly aware of the dangers of dividing and redividing and selling land without modern accurate surveys. To a certain extent, the surveyor must also assume the responsibility for the present state of decay due in part to the lack of monumentation and co-ordination of survey records and field notes.

In my opinion, the division of land presupposes monumentation. In this regard I submit that the origin of most of our boundary problems today can be traced to disregard of this principle of monumentation. Our original township systems, as Mr. LaFontain has described earlier, were only partially surveyed and monumented, since this time we have placed division over division in most instances without surveys and even where surveys were made, they lacked in most instances permanent monumentation and precision. We have built a title system based on where the boundaries should be if no errors occurred, rather than a title system based on the physical location of real boundaries - that is, monumented limits. To repeat then, the division of land presupposes monumentation, and unless we recognize this principle, we cannot hope to stop the escalating decay that is taking place today.

We have then in certain areas problems. What are the solutions to these boundary and title problems? One solution that can be applied to these areas to clean them up, to bring them back into a modern state of survey and title record, is to apply the Boundaries Act, and if available, the First Application procedure under the Land Titles Act. In that regard, I would like to first of all briefly explain the Boundaries Act procedure and the Land Titles Act First Application procedure.

The Boundaries Act is an Act to provide for the confirmation of the true location on the ground of lost or obliterated boundaries, it also provides a method of registering a plan of a parcel of land for which no registered plan exists. It does not provide for the creation of new division lines; it re-establishes and confirms

lines which have become lost or boundaries about which errors or ambiguities exist. The positioning of the confirmed boundaries are dependent upon the statutes controlling surveys and Common Law principles of evidence. The Act provides for a period of twenty days in which time appeals to the Supreme Court can be made and after the expiration of the appeal date if no appeal has been made, the confirmed line becomes unalterable and the Act provides for the removal of all monuments which conflict with the confirmed position of the line. It also provides for the registration of a plan in the Registry or Land Titles Office, and that all future conveyances conform to and refer to the registered Boundaries Act Plan.

Turning now from the Boundaries Act procedure to the Land Titles Act, parties interested in bringing land under the system, may apply to the Local Master of Titles for a particular area to have land which is presently registered in the Registry Office transferred to the Land Titles Act. The title of the Registry Office lands will be searched by members of staff of the Director of Titles Office, an accurate monumented plan of survey will be requested; notices will be sent to adjoining owners and finally an absolute title given under the Land Titles Act.

Perhaps the simplest way to illustrate the application of the Land Titles Act and Boundaries Act is to describe to you one of the projects which is presently under way with the Director of Titles Office.

Consider the Town of Hawkesbury. Population 8,000. Number of individual properties contained in the Town, about 3,000. The original plans of the Town and the surrounding area are dated in or around 1900. No one is sure if the original Town plans were monumented or not, but we do know that these original lots have been divided and resold many times over. The survey conditions had deteriorated to such an extent in Hawkesbury that by the Spring of 1963, Ontario Land Surveyors were refusing to survey in the Town. The Town had reached the final state of survey decay - it was no longer possible to survey property for a reasonable price. \$200.00 per lot could be extended in survey costs without the surveyor being able to rely on the resulting lines or to provide his client with any assurance that the lines could not be upset at a later date by further surveys.

The title records were in a similar state of decay.

In the Spring of 1963, it was decided to place every boundary in the town, about 10,000, under the Boundaries Act, and also to transfer the entire town from the Registry Office system to the Land Titles system. This was a decision of the mayor and Town Council. I would like to describe to you some of the details of such a double barreled application, that is Boundaries Act and Land Titles Act.

The first requirement is a modern, accurate, monumented survey. Under the supervision of this office, survey cost estimates were obtained and survey instructions issued to a firm of private Ontario Land Surveyors. In approximately 10 days' time, the field work which started last September will be complete. Every property corner in the entire town will be monumented with an iron bar of concrete monument and all boundaries will be measured. At the same time that the survey is being prepared by a private firm, the staff of the Director of Titles Office are searching the title of every property in the town.

On completion of the survey and title work, Hearings to settle disputes will be held before the Director of Titles. Under the Boundaries Act, every owner in the town and adjoining the town boundaries will be notified of a date of a Hearing, when the positioning of the boundaries will be considered. At the Hearing, which is conducted similar to a Court Hearing, new evidence will be heard, assessed and noted in the record.

After the Hearing, the Director will publish an order confirming all boundaries in the town in accordance with the new survey or in positions changed to reflect new evidence brought out at the Hearing. There are 20 days allowed by the Act for

appeal to the Supreme Court. Should there be no appeal, then the confirmed boundaries become absolute and unchallengable. All boundaries are fixed by the new monumented survey.

The next problem after boundaries, is to decide who owns the land contained within the individual boundaries. This is decided on the basis of the title search by the Director's staff. If there are title problems which prove difficult, then a Hearing will be held under the Land Titles Act to receive and review new or conflicting evidence. In this regard, I might mention that the decision of the Director of Titles under the Land Titles Act pertaining to ownership is not absolute, and could be shown to be incorrect at a later date; however, the Director's decision as to ownership and related details is backed by a \$1,000,000.00 Assurance Fund, so that if an error is made in ownership, the injured parties can be compensated.

Well now, we have dealt with the problem, the solution, and now turn to perhaps the most important aspect - cost. Staying with the Hawkesbury project, the total cost including survey, title searching, Director's fees and Assurance Fund contributions amount to less than \$30.00 per unit or lot. The Provincial Government contributed a subsidy of 25% of the total cost, the County of Carleton an additional 25%, leaving \$15.00 per unit unaccounted for. I understand that this \$15.00 will be split 50% on the general tax levy, and the remaining 50% taxed against the individual property owner.

To review then, we change from an area of title and survey chaos to a series of fully monumented registered plans with all boundaries confirmed as unalterable and all title details fully set out and guaranteed in cash for a cost of \$30.00 per unit or as it appears on the individual tax bill - \$7.50.

As mentioned earlier, this Hawkesbury project is presently under way and will be completed we trust in about six months. The entire project will have taken about a year and a half. We have completed such a project previously for the Village of Vineland near St. Catharines. In this area the Boundaries Act and Land Titles Act dealt with 330 properties at a cost of less than \$30.00 per unit.

We are presently under way with similar projects in the Village of Pinegrove, in this instance an estimated cost of \$34.00 per unit, dealing with approximately 200 lots; the Port Dalhousie project is approximately 1,000 units at an estimated cost of less than \$30.00 per lot; South Grimsby 300 units at a cost of approximately \$17.00 per unit. With regard to this last cost estimated, it should be noted that extensive survey work had been done in this area recently which it was possible to utilize under the Boundaries Act, and the Land Titles Act.

Obviously Gentlemen, in the example I have provided on Hawkesbury, the solution can only be fully effective if the Land Titles Act is available to the area where the problem is located. The Boundaries Act however, is by itself fully effective in all areas of the Province.

A typical example of use of the Boundaries Act without the Land Titles Act in a Registry Office area might be the confirmation of the boundaries of a county road or trespass road. At the present time, we have such an application in the County of Lincoln. In this instance the application is composed of approximately 10 miles of county road. The origin of the road is unknown. It could be a forced or trespass road, perhaps an original settlement road, or a quarter sessions road. In any regard, it exists as a fact and its right to exist is not challengable in law. Our problem today is where are the boundaries? The Boundaries Act will establish the true position of the boundaries of the road, monument them, declare them unalterable, remove all conflicting monuments, register a plan of the road in the Registry Office, and require all future conveyances to agree with it.

It is of course impossible to deal fully or completely with a subject as large

as "Problems in Boundaries" in a short period of time; I have attempted to set facts before you and state some of my own opinions for the cause of our present problems. In conclusion, I would like to summarize this brief and necessarily incomplete paper by stating that areas of the Province which can be considered to be boundary problem areas, or title problem areas, can be cleaned up. It is necessary, first of all to recognize the problem and the factors which created it, and then to have the desire and the funds to resolve it - - - the legislation is ready and waiting.

-o/s-

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THE SECRETARY'S PAGECHANGES IN OFFICIAL REGISTER

Date 1964		Reg. Number	
Apr. 7	COLTHAN, James Thomas	433	Deceased
Apr. 9	ANDERSON, Ralph Mackenzie	435	Deceased
Apr. 14	BOWMAN, Edgar Peterson	375	Deceased
May 7	BROUSE, Douglas David	970	Retired
May 8	COOK, Beverley Graham	1149	New Registration
May 8	IAROCCHI, Mario	1150	New Registration
May 8	ASHMAN, Douglas Ross	1151	New Registration
May 8	KIHL, John Eric	1152	New Registration
May 8	KEATING, John Webb	1153	New Registration
May 8	McHUGH, Ignatius	1154	New Registration
May 8	VAN HARTEN, Menno Peter	1155	New Registration
May 8	FISHER, Walter Dennis	1156	New Registration
May 8	CARTER, Edward Christian	1157	New Registration
May 8	McGUINNESS, Peter Joseph	1158	New Registration
May 13	RICHARDS, George Henry	551	Retired
May 31	SMITH, Oliver	500	Retired
May 31	GIBSON, Ansel Bee	561	Retired
May 31	DEW, William Oakley	801	Retired
May 31	NASH, Abram Leland S.	492	Retired
May 31	KING, John Albert Shirley	527	Retired
June 11	GILLIES, Archibald	525	Deceased
June 15	ANNIS, George David	1159	New Registration
June 15	CLARKE, Robert Nash	1160	New Registration
June 17	GRAY, James Edward	611	Deceased
June 19	BEWS, David Matthew	977	Retired

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