

Don't Wait For Polaris

BY DAN MERSICH

Editor's Note: Some time ago I read in "Canadian Datasystems" an article about POLARIS by Mr. Mersich. I wrote asking permission to reprint. In response, Mr. Mersich expanded the article for us. We are most grateful for this succinct treatment of a matter of importance to us.

In response to an invitation from your editor, the following is to expand on a recent article by me which appeared in Canadian Datasystems regarding POLARIS and the question of computer based land record systems. In it, I suggested that POLARIS is misdirected because it proposes highly ambitious technical solutions over the next ten or twenty years, while overlooking less dramatic but useful steps which can be taken immediately to ease a situation in Ontario Registry Offices which has been described as in a state of crisis.

By way of personal background, my private law practice has been restricted entirely to computer related matters for almost ten years, and I have been associated with the computer business in other capacities for fifteen years. As regards my experience and knowledge of land surveying, I can say that it is just enough to make me dangerous. I was employed as a summer student by R. Blake Erwin O.L.S., who has not yet been sued for negligence as a result of my toil. Presumably this means that the quality of my work was at least passable - or, that it still remains undetected.

Much of the confusion that surrounds computer based registry lies in the mixing of two related but separate facets of such systems. Land surveying on the one hand, and document storage and retrieval on the other. Some reports and opinion have presumed that a universal grid is a highly desirable if not an absolutely necessary part of a computer based registry system. Even a casual inspection of that proposition reveals its weakness.

If the actual position of Blackacre does not agree with its legal description, then perhaps a simple survey is in order. If both location and description agree, but the searching of title in the Registry Office is problematical, then perhaps a new method of record keeping is needed. In either case it is unnecessary to put Ontario under a grid; a surveying task which most agree would be monumental if not impossible even with modern technology - eye in the sky satellites included.

Well then, where is the problem? We seem to have a solution in hand (computers) just begging for a problem to solve. The problem in my view lies in the method of record keeping and the tortured searching procedures which spring out of the Registry Act, a statute with which most readers here will have a passing familiarity. Therefore no attempt will be made here to explain those procedures in detail except perhaps to contrast them with those under The Land Titles Act.

Under the Registry Act, a title search involves rummaging through several large volumes called abstracts and ferretting out all document numbers pertaining to the parcel in question. After these documents have been examined by the purchaser's solicitor, he is able to certify whether an unbroken chain of title goes back at least forty years, and whether there are any outstanding encumbrances on the parcel, such as a mortgage for example.

The job of searching is rarely done by the solicitor himself, rather it is given to a title searcher. The work is tedious and susceptible to error because document numbers and terse descriptions are scattered through several different abstracts and intermingled with thousands of other entries regarding nearby lands.

To compound the madness, this whole procedure is repeated from scratch each time the parcel is sold, unless the purchaser's solicitor happens to use the same searcher, who like a land surveyor builds a catalogue of past jobs.

By comparison, the Land Titles Act creates another system for keeping land records in Ontario, but it is structured much more sensibly. It gathers, on a single sheet of paper, all the document numbers which relate to a particular parcel, thereby eliminating the need to search abstracts. Furthermore the Master of Titles guarantees that all relevant documents in his office are accounted for on that single sheet.

Clearly then, one must ask why have computers at all? Why not just bring everything under Land Titles? If such a wholesale conversion could be easily accomplished, my own feelings would be strongly in that direction.

But I fear that the infrastructure of people and paper which has built up under the Registry Act is now so great that it has a critical mass all of its own

and therefore cannot be dismantled. Certainly that precedent is not unknown; institutions that have become useless or perhaps destructive some time repel all attempts to dislodge them. Cynics might even claim that lawyers have the greatest vested interest in the status quo and would therefore have the most to fear from a system not so dependent on them.

If then one accepts as a fact of life that Registry Act lands cannot be brought under Land Titles in a single stroke, it behooves him to examine how computers might be used to at least achieve an equivalent result. In this writer's view, computers can play a very useful role; without disturbing existing procedures; without putting Ontario under a grid and without waiting ten to twenty years as POLARIS suggests.

The first and probably most important hurdle to clear is that of ascribing a unique identifier to a parcel of land, whether it be a city lot or a several hundred acre farm, in the same way that a SIN number is used for people. Conveniently, the present system already operates so as to provide us with one - the registration number. Every document in a Registry Office has a serial number and is filed accordingly. One can see that a parcel of land will come to have many such numbers associated with it over time as deeds, mortgages, discharges and the like are registered.

If by decree a start date were to be named, then a given parcel could be given its unique identifier as a natural consequence of existing procedures merely by ascribing it with the next registration number that it gets through a sale. This would then become its permanent number.

In addition, a further decree would make it a requirement for the purchaser's lawyer to submit the list of document numbers which make up the chain of title. Just as the chain of title is gathered in a single physical place under Land Titles (a single sheet of paper), it is gathered in a single logical place (computer memory) under an automated system.

Such an approach has the desirable features of leaving the existing Registry Act structure intact, and of naturally bringing high activity parcels into the new system first. This can be accelerated even more by making attractive offers to title searchers to put their catalogues into the system. After all, they would do the actual searching and are far better at it than lawyers.

On another related front, the delicate political question of foreign ownership in Ontario has raised its head from time to time, and no doubt has caused Queen's Park to wonder about who is

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buying land. Reports from the government that it does not have that information cause me dismay, for it is a simple matter to glean it from the daily activities in the county land registry offices. A one line report describing each registered sale as to its price, zoning and residence of the parties can be created in a few minutes each day. These data can be electronically massaged by computers to provide very revealing reports.

Whatever route government decides to follow, it should first decide what goals it wishes to achieve. To date that seems to have been at the bottom of the problem. A system like that which I have described makes no pretence to being elaborate or space age. It simply attempts to put computers to work doing the dull mindless things which they do best, namely sifting through mountains of data.

The computer community tends to get drunk on its own wine. Its incurable optimism has it believing that anything can be done at the push of a button. If computerization of land registry gets caught up in that whirlwind of euphoria it can only land with a resounding thump. ●