

# Land Registration in Muskoka - 127 Years of Service

by R. Craig Stewart, O.L.S.

TO: Brian Munday

I was interested to read the articles on the 200th anniversary of the Registry Act. I am enclosing an article I wrote as a hand-out to our clients this summer. My purpose was to present a short history of land registration in Muskoka and the importance of the early surveyors in opening up Ontario's prime vacation land.

The year 1995 marks the 200th anniversary of the enactment of Ontario's first land registration law. As an indication of the importance placed on public registration, on August 10, 1795 the Legislative Council and Assembly of the Province of Upper Canada passed "An ACT for the Public Registering of deeds, Conveyances, Wills and other Incumbrances which shall be made, or may affect any Lands, Tenements or Hereditaments within this Province, 35 Geo. III, c.5." Provision was made for the appointment of "a person of sufficient integrity and ability" as a "register" (registrar) and for the establishment of "register" offices "for the enregistering of memorials of all deeds and instruments" that conveyed interests in land. The registrar was instructed to keep "an alphabetical calendar (index) of all townships and parishes within the said county ... and of the names of the parties mentioned in the memorials."

Registration under this act was "at the election of the party or parties concerned" unless a memorial of a deed of the same land had been previously registered. Registered instruments were recorded in "registers" (commonly called copy books) and it should be noted that a "memorial" (i.e. a handwritten copy) and not the original document was registered. These memorials were recorded alphabetically under the surnames of both the grantor and the grantee and not geographically under lots and concessions within townships.

As the population increased and settlers acquired more land, this system became increasingly difficult to administer and search and, in 1865, a new act (An Act Respecting Registry Offices and the Registration of instruments, 29 Vict., c.24) was passed making the registration of original documents mandatory, as well as requiring document recording on a geographical basis under the abstract index. This was a superior system to the old alphabetical index and is still in use today under the present Registry Act.

A second system of land registration came into force in Ontario on July 1, 1885. Entitled "An Act to Simplify Titles and to Facilitate the Transfer of Land," it is better known today as the Land Titles Act. Based on the English Land Transfer Act of 1875, this new Act guaranteed title and simplified recording procedures. With the exception of new provincial Crown Grants of land in the districts, registration under this Act was purely permissive, on the application of owners under the Registry Act. Muskoka's first Crown Grant under this Act was registered on May 26, 1888. Today, about 40% of the properties in Muskoka are registered under the Land Titles Act.

Muskoka, of course, did not exist in 1795. This was fur trading country, occupied by the remnants of the Huron and Algonquin Indians after near total annihilation by the Iroquois. These tribes continued to trade furs until about 1820. Realizing the potential of Muskoka, the government secured a treaty in 1850 with the local Indians who relinquished possession of Muskoka in exchange for a lump sum payment and a yearly stipend.

During the years 1826 to 1858, explorers visited Muskoka looking for a waterway between the tributaries of the Ottawa River and Georgian Bay. The most notable was explorer and surveyor David Thompson who, in 1837, surveyed four large lakes in the area. Later to be known as Lake Joseph, Lake Rosseau, Lake Muskoka and Lake of Bays; his maps depicted them with remarkable accuracy.

While the purpose of his survey was to locate "a Canal for Ships of seven feet of water above the sill of the Locks," Thompson concluded that a good portion of Muskoka was suited for cultivation, and reported that a road was needed for access by the settlers. Little official interest, however, was shown in Muskoka for the next ten years. Muskoka at this time was merely "wild lands" at the north end of Simcoe and Victoria counties.

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Interest in Muskoka rekindled in 1848 with the arrival of Robert Bell P.L.S. completing the survey of his 80 mile exploratory line from the Madawaska River westerly across Newcastle District to the east limit of Home District near the present Town of Bracebridge. His line was later used for the boundary between Macaulay and Draper Townships.

In 1857 the Muskoka Road was commenced, to be built from Washago to South Falls. With the new log-covered road came the settlers and the first location tickets for 100 acre lots along the road were issued on October 1, 1859. With the passing of the Free Grants and Homestead Act in 1868, the real rush for Muskoka locations began and soon traffic on the road had increased to such an extent that the Government surfaced eight miles of the road north of the Severn River with two million feet of white pine planks three inches thick and eight to ten feet wide. The northerly three miles to Gravenhurst were surfaced with gravel taken from the large deposits found in the area. Present King's Highway No. 11 closely follows this old pioneer road.

The flood of settlers that began with the improved access to newly surveyed townships soon created the need for a county/district organization and the es-



establishment of a registry office. Thus a petition was presented to the Legislative Assembly on January 14, 1868, by A.P. Cockburn MPP. The petition, signed by the residents of Morrison, Muskoka, Macaulay, Draper, Watt, Stephenson, Brunel, and Humphrey, requested that "a Division Court be established, that Bracebridge be appointed the place for holding the Court, that a visiting judge be appointed, and that steps be taken to constitute the District for registration purposes." The petition was granted and Muskoka's first Land Registrar was appointed. Formerly "Registrars of Deeds" under the Registry Act and "Local Masters of Titles" under the Land Titles Act, the term "Land Registrar" now encompasses both.

There have been six Land Registrars in Muskoka over the past 127 years:

- Charles W. Lount (1868 - 1876)
- J. Ewart Lount (1877 - 1925)
- Charles E. Lount (1925 - 1944)
- Norman E. Prowse (1944 - 1947)
- William E. Towns (1947 - 1979)
- R. Craig Stewart (1980 - present)

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Muskoka's first Land Registrar, Charles W. Lount was appointed as Registrar of Deeds, Stipendiary Magistrate, and Crown Lands Agent in 1868. The District of Muskoka had now been created and a new clapboard building had been built by the Department of Public Works at a cost of \$768.05. It was located at the northeast corner of Ontario and Dominion streets, in front of where the court house stands today. Charles Lount and his son, J. Ewart Lount, maintained the land records in this office, which also doubled as a gaol, but space soon became a problem and in 1877 a new brick registry office was built on Dominion Street next to Chancery Lane at a cost of \$2,275. The building survived until 1954 when it was torn down and replaced by a new building of modern design at a cost of \$100,000.

It is interesting to note that Charles Lount also maintained his own office, advertising in newspapers of the day his services - "Barrister, Attorney-at-Law, Solicitor-in-Chancery, Conveyancer, Commissioner for taking Affidavits, etc."

Registrars of Deeds at this time were highly political appointments and the Lount family members played a prominent part in Ontario's early days. Charles' father, George Lount was a Provincial Land Surveyor and Simcoe County's first Registrar of Deeds. He held this position from 1826 until his retirement in 1872. In his younger days as a surveyor George surveyed several townships in Simcoe County with his brother Samuel as an assistant. Although he never became a

qualified surveyor, Samuel was a skilled woodsman and proficient blacksmith who later turned to politics and was soon to pay the ultimate price for this decision.

Elected in 1834 to the Upper Canada Legislature as the member for Simcoe County, Samuel Lount soon took issue with the patronage operations of the "Family Compact." Defeated in the election of 1836 by votes bought by the opposition, Samuel began to train an "army" of south Simcoe farmers and forged arms in his blacksmith shop. On December 7, 1837 Lount led them down Yonge Street where they joined up with rebel leader William Lyon MacKenzie at Montgomery's Tavern in North York. The rebellion by the 700 fighters was quickly crushed and Samuel tried to escape to the United States, but was captured and condemned to death for treason.

George Lount's efforts to petition for Samuel's pardon failed and Samuel Lount was hanged on April 12, 1838, behind the Adelaide Street Courthouse in Toronto. This tragic event apparently did nothing to deter the Lount family from maintaining their interest in politics, as Charles Lount's younger brother, Wil-



Bill Yates, O.L.S. (Ret) assisted Carol-Lynn Lepard research her article on the registry office for MCCR's *Intercom* magazine (see Fall '95 Quarterly).

liam was elected as member for Simcoe North. Lount Township, established in 1874 in the District of Parry Sound was named after him.

The year 1985 saw the old Muskoka registry office, built in 1954, torn down and replaced by a modern office of about double the size at a cost of \$1.2 million. Although the office is up-to-date in terms of equipment, many of the old registers (or reproductions) dating back to 1877 are still in use. The basic geographic recording system instituted in 1865 has changed very little and is still being used today, a testimony to its practicality.

The form of the legal documents themselves took a giant step forward in 1984 with the passing of the Land Registration Reform Act. Greatly simplified, with the elimination of most affidavits, legal documents can now be processed with improved efficiency and much less chance of error.

The next five years will see technology completely take over with the computerization of all land records in Ontario. The old books and documents will be retired to the archives, and a way of life for over 200 years among the land conveyancing community will end.

