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Time to repeal outdated law

Statute Labour Act could mean that some Ontario taxpayers must perform road work



The owners of a farm in England have been hit with a bill for more than 500,000 (\$1 million) by the Church of England as the result of an old law dating back to the time of King Henry VIII. Their unfortunate predicament has striking similarities to a law here in Ontario that could require homeowners to perform work on public roads.

In the wake of Henry's fight with the Catholic Church in the 1530s, Parliament authorized the seizure of all of the monasteries, rectories and abbeys in England.

Many of the lands were sold off to citizens who became what is known as lay rectors. Title to the properties was then and still is subject to an ancient liability to pay for the upkeep of the chancel, which is the area near the altar of the local parish church.

Some years ago, Gail Wallbank inherited a farm in Warwickshire, England, from her father. In 1990, she received a bill from the local parish church council for the equivalent of about \$12,000 to repair the church chancel. She refused to pay.

Eventually, the church council in Aston Cantlow took Wallbank and her husband, Andrew, to court to collect the costs of repairs to the church. In 2003, a five-judge panel of the House of Lords ruled that the Wallbanks could not escape liability for the church repairs.

Earlier this year, the case went back to the British High Court, which assessed the Wallbanks' liability at the equivalent of about \$200,000, plus potential legal costs of another \$500,000. Combined with the fees of their own lawyers, the couple face a bill which could well exceed \$1 million.

To pay for the damages and costs, the Wallbanks might have to sell their farm except that with title subject to liability for chancel repairs, no one would want to buy it.

The scary part of the Wallbank litigation is that the Church of England now has free rein to search out thousands of property owners on 1.4 million hectares of former church land in some 5,000 parishes in England and Wales. It can then force them to pay unlimited amounts for building repairs to the local church. In many cases, the repair costs will exceed the value of the average house, leaving the unfortunate owners with no equity at all.

Even worse is the fact that liability for chancel repairs does not have to be mentioned on the property deeds. If it can be traced on other ancient documents, it is binding on all current and future owners.

This mess in England reminds me of a similar outdated law still on the books in Ontario. The Statute Labour Act has its origins in the earliest days of British settlement in Ontario.

In colonial times, many local roads received no government funding and male residents were forced to work on roads and bridges for as much as 12 days a year. Eventually, the number of work days required came to be tied to the assessed value of a settler's property.

Landowners had the option to pay the municipality to hire someone to work on the roads in their place. Refusal to perform statute labour or pay for its value was punishable by up to six days in prison.

Eventually, statute labour came to be an indirect form of taxation. Under the current Statute Labour Act, every person whose name appears on the assessment roll of a township that has not abolished statute labour is bound to perform up to five days' labour if the property is assessed at not more than \$900. For every \$300 in excess of the \$900 assessed value, one additional day of labour is required.

Combining this formula with current property values, a landowner today might have to perform more than 365 days labour on local roads in any given year!

I think it's time for the Ontario government to repeal the Statute Labour Act.

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