Ontario's woodlots: Going . . . going . . .

by Arthur Mathewson¹

Ontarians are blessed with a great natural, social and economic asset in privately owned and operated woodlands. They have been threatened with serious degradation in the past, but far sighted government policies have helped them recover and thrive. They are threatened again, but the report of the Ontario Fair Tax Commission provides a ray of hope. Will the government see the light?

Les Ontariens ont la chance d'avoir amplement d'une ressource naturelle, sociale et économique sous la forme de propriétés boisées privées et exploitées par des individus. Ces boisés ont été sous la menace d'une importante dégradation dans le passé, mais des politiques gouvernementales d'avant-garde leur ont permis de récupérer et de survivre. Elles font l'objet de menace à nouveau, mais le rapport de la Ontario Fair Tax Commission laisse entrevoir quelque espoir. Est-ce que le gouvernement suivra cette voie?

Over the years there has always been tension between those whose sole interest and responsibility lies in gathering the financial resources needed to discharge the obligations assumed by the government of the day and those whose livelihood may be threatened by the surrender of those resources. It is a sad and unpleasant fact, however, that when it comes to forestry on private land in the Province of Ontario, taxation has put the activity at risk and, in many cases, caused its demise. At the very least, taxation policies or their application have impeded the establishment, restoration and growth of forests in many parts of southern Ontario where their continued existence has become increasingly a matter of public concern.

Statistics on southern Ontario forests in private hands are impressive, even though they constitute only about 12.5% of the forest land in the province. They cover over 3.4 million hectares and are owned by close to 140,000 individuals of whom roughly 45% are farmers. Even more impressive is the fact that they produce nearly 20% of Ontario's timber harvest by volume and about 30% of that harvest by value. To this should be added the calculation that 70% provide recreation values for the people of the province. If one adds the well over 500,000 hectares of abandoned sub-marginal farm land that could be planted for productive forest purposes one recognizes the existence of a major resource available for development on a sustainable basis.

It would be wrong to say that there have been no efforts over the years to encourage and support private land forestry. On the contrary, the history of private land forestry in the Province is filled with examples of farsighted and successful measures by both governments and private citizens. In 1871 legislation was passed which encouraged municipalities to pay landowners \$.25 per tree for reforestation along roadways. (The state-ly maples one finds lining many country roads today are monuments to this Act of the Ontario Legislature.) In the early years of this century there was a spate of publicly encouraged activity to restore the forests of southern Ontario, including the establishment of a tree nursery at Guelph and the distribution of trees free for reforestation. The Counties Reforestation Act of 1911, the Reforestation Act of 1921, the Forestry Act of 1927 and the Conservation Authorities Act of 1946 each contributed to the growth and improvement of private land forestry by enlarging and encouraging the concept and practice of woodlot management. They were joined, in 1946, by the Trees Act which authorized

municipalities to pass bylaws to regulate the cutting of trees. Finally, in 1966 the Woodland Improvement Act was passed enabling the Ministry of Natural Resources to enter into agreements with private landowners regarding the planting of trees and management of their woodlots. This was probably the high point of direct government involvement in the management of private forest land.

The actions of government were assisted and supported through the years by many individuals and groups who saw the need to stem the wholesale destruction of forests which had been going on since the time of confederation. For example, the Ontario Forestry Association has devoted its energies to increase knowledge of the need for and the means of achieving forest conservation. Its brief to the Ontario Farm Classification Advisory Committee in September 1973 spoke eloquently of the need for healthy and productive forests and "their immense value in terms of watershed protection, wildlife habitat, recreation, scenery, climatic influence, wood and syrup production, Christmas trees, employment and tax revenue". The Association was also active in its early years in promoting tree farming and in establishing the principle that land, rather than the crop growing on it, should be the basis for assessment. However, this proved to be of no help for most forms of tree farming which are still not (subject to special treatment of up to 20 acres per farm) considered a farming operation. Indeed, with the exception of land devoted to Christmas tree plantations, fruit and nut orchards, and nursery stock, no land devoted to the growing of trees is considered as "farm land".

The consequence of this difference of approach between "farming" and "tree farming" has been severe for the care and maintenance of private forest lands in the province, particularly in areas close to major urban centres. Within reach of population concentrations pressure exists for development or, somewhat further out, for the building of seasonal dwellings. With the establishment of market value as the basis for assessment of residential property and the rapid growth of property as the basis for municipal taxation, the tax burden on private forest land rose dramatically.

The inequity of requiring farm land to bear the burden of financing activities which bore no relation to its exploitation or productive capacity was recognized early with legislation that based farm land assessment on the use to which it was put. Forested land, on the other hand, has been assessed on the value of the property for potential future uses. In a period of rapid growth in recreational properties, forested land has been assessed on the basis of its potential for development. Farms have not.

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To further encourage the conservation and productivity of farming in the province, farming property has for many years been eligible under the Provincial Land Tax Act for a rebate, originally intended to offset taxes to finance local benefits which bore no relation to farming. This coupling of an assessment based on actual use with a system of rebates has contributed greatly to the preservation of the family farm.

None of the benefits or incentives associated with farming were available to the private woodland owner who could not claim the woodlot as part of a farm. This had potentially devastating consequences, particularly in southwestern Ontario which was threatened with the virtual disappearance of forested land. This loss of forest cover from parts of the province led, in 1974, to the establishment of the Managed Forest Tax Reduction Program. Under this program managed forest land became eligible for a rebate of 50% of municipal taxes levied on it; the same rate as was rebated at the time on farm properties. Both rates were subsequently raised to 100%. This parallel treatment continued until 1990 when the rate enjoyed by farm land was, for reasons that remain unclear, reduced to 75%.

Under the Managed Forest Tax Rebate system taxes on managed forest land would be paid by the owner and then rebated. The mechanics of the rebate were handled by the Ministry of Municipal Affairs. The funds to pay the rebate were contained in the budget of the Ministry of Natural Resources. The responsibility for property assessments rested with the Ministry of Revenue under rules that made assessments highly sensitive to upward pressure by speculation and development of recreational properties. The cost of the program rose from about \$500,000 in 1975 to over \$5,000,000 in 1990. In such a situation, where financial responsibility is completely divorced from control, it is not difficult to understand why the Ministry of Natural Resources would not struggle to retain the tax rebate program in a period of financial stringency.

The Managed Forest Tax Rebate Program was in many respects admirable, but coupled with the policy and practice of market value assessment it created a cruel paradox. So long as the owner of a managed forest continued to receive the rebate there was no incentive to protest the ever higher assessment of the property. The Ministry of Revenue, responsible for the assessment process and concerned with the ability of municipalities to finance local services was content with higher assessments. The Ministry of Education, anxious to enhance the quality of education in rural areas, was happy to see assessments rise as the percentage of the municipal tax bill devoted to education increased from 40% in 1975 to 60% in 1992. The government was content to have assessments rise, for this produced greater revenue overall with only a small portion being rebated.

The full dimensions of the paradox were revealed with the phased strangulation of the Managed Forest Rebate Program. First the rebate was cut by 25%, paralleling the reduction of the farm tax rebate. Then the cut was increased to 50% and rules governing eligibility for the rebate were made more stringent. In 1993 the rebate scheme was cancelled altogether. Now landowners receive verbal encouragement to put otherwise "unproductive" land into trees and, for the time being, may purchase seedlings at subsidized prices. However they receive no incentive to prepare, plant or tend their woodlot to ensure the proper growth of the trees.

Individual private landowners have been quick to voice their concerns. The prospect of paying significant taxes on prop-

erty that will yield little if any income for years to come is disturbing to most, devastating to some. To obtain a clear picture of the consequences of cancellation of the rebate, the Ontario Forestry Association launched a survey of former recipients early in 1994. They were asked to indicate the consequences for their plans for planting, tending, harvesting and ownership of the land. What full analysis of the survey returns will reveal is as yet unknown, but some owners have already taken action to withdraw investment in their management operations.

Hope for the future is now focussed on the recommendations of the Ontario Fair Tax Commission. Established by the Minister of Finance in March 1991, the Commission conducted extensive studies and hearings in pursuit of its mandate "to provide advice concerning the design and implementation of a more equitable tax system in the province".

In *Fair Taxation in a Changing World* (1993) the Commission states that "the most important step Ontario can take to improve the relationship between taxes and the ability to pay of taxpayers is to reduce this province's dependence on local property taxes as a source of funding for education and to replace the revenue foregone by increasing rates in more progressive taxes". This is spelled out in the following terms:

"The commission recommends a new system for financing elementary and secondary education in Ontario with four key elements:

1. Provide full provincial funding of education at a standard capable of meeting Ontario's objectives for elementary and secondary education.
2. Replace the \$3.5 billion raised from residential property taxes as a source of core funding for education at the provincial standard with funding from provincial general revenues, principally personal income tax.
3. Replace the local non-residential property tax for education with a provincial commercial and industrial property tax levied at a uniform rate across Ontario.
4. Provide for a local levy on residential property at the discretion of the school board, to be limited to 10% of each board's provincial funding, to pay for local services beyond the provincial standard."

The application of these elements to the situation of farming property, woodlands and wetlands is expressed as follows: "We believe the current practice of assessing the farm residence and one acre of land as residential property should continue."

However, we see no reason why farming property other than the residence and one acre should continue to be taxed as residential property. Farming should be considered for property tax purposes to be a commercial/industrial activity. It should be assessed and taxed on the basis of its value in current use or rental value, based on available provincial data on soil quality and productivity, and taxed locally as commercial and industrial property.

Although we heard extensive submissions from farmers arguing for an exemption from municipal taxes as well as from education taxes, we cannot accept the argument that farming property should be exempt from property taxes levied for local services.

With respect to property taxes for education, we recommend a different approach consistent with our general framework for education finance. As residential property, the farm other than the residence would not be subject to a local levy for education. As commercial property, however, it would normally

be subject to a property tax levied by the provincial government.

However, for reasons outlined in our discussion of provincial taxation of commercial and industrial property, we concluded that farming property should be exempt from that tax.

Similar tax treatment should be provided for managed forests and wetlands. They should be assessed based on their current use and subjected to local taxation on that assessment. These types of properties should be exempt from the provincial commercial and property tax."

This extract from the *Highlights* of the Commission report is quoted in its entirety for two reasons. First, it makes clear the close relationship in the minds of the commissioners between farming and forest management. Second it demonstrates recognition of the inequity of assessing similar properties differently simply because one is part of an operation that is arbitrarily classified as "farming" and the other is not.

Further, the Commission notes that "the exemption from taxation for a woodlot of up to 20 acres attached to a farm is also difficult to justify. While our proposal for managed forests (including woodlots) and wetlands would result in lower assessments for these properties than for productive farmland, thus providing some tax relief, we see no reason here for a tax exemption". This is followed by the recommendation that

The exemption from local property tax for up to 20 acres of forestry land attached to a farm (a wood lot) should be eliminated. Such property should be assessed and taxed based on its value in use as a wood lot.

Later the Commission, recognizing the dramatic impact of their recommendations regarding the taxation of farm property, concluded that a reduction in net support for the farming industry on the scale contemplated should be contemplated only in the context of an evaluation of considerations that went beyond the Commission's mandate. In that context as well they recommend abolition of the Farm Tax Rebate Program.

The Managed Forest Tax Rebate Program has already been abolished when the Commission made its report so there was no need to recommend its abolition. However, the Commission could only contemplate the exemption of managed forests from the provincial commercial and industrial property tax in the context of an evaluation that, similarly, exceeded its mandate. Again no recommendation was necessary for such an evaluation had already been conducted.

In June 1993 the Ontario Forest Policy Panel reported on performance under its mandate to take "a fresh look at what the people of Ontario want from their forests, and how forest policy should be developed . . .". The result of 18 months of study and consultation was "a comprehensive forest policy framework for Ontario" to serve as "the cornerstone of forest policy in Ontario for the next decade".

In its report *DIVERSITY: Forests, People, Communities* the Panel drew attention to the need for incentives to encourage timber production from non-industrial private land and for "appropriate property tax assessment methods" to encourage landowners to maintain their land in forest cover "for ecological, commercial and aesthetic reasons". Focussing directly on the taxation issue, the Panel wrote:

"Current tax policies involve assessing forest lands at market value. While this may be attractive to the municipalities, it can be difficult for the owners, particularly since there may not be any offsetting revenue from the properties. It is crucial that forest landowners be encouraged to keep their land

forested, for ecological, economic and social reasons. The property tax system should ensure that the land is assessed and taxed on the basis of actual use".

So what are the prospects for Ontario's woodlots? Responsible owners have been willing to bear their fair share of the tax burden. The issue has been fairness and, more importantly, the future of forests, particularly in southern Ontario, if the disincentives to sustainable forest management continue. With advice as clear and consistent as that received from the Fair Tax Commission and the Forest Policy Panel, perhaps the government will take the steps needed to introduce both fairness and enlightenment into its policy towards private land forestry.

It will be for government to decide whether the people of Ontario can afford to forego taxes on forest land altogether by exempting it from the proposed commercial and industrial property tax. Certainly a case can be made, as the Fair Tax Commission does, for exempting farms, managed forests and wetlands. Some forest land owners would agree, happily committing their land to forest in perpetuity. Others would prefer to retain the flexibility unencumbered ownership would provide. Perhaps landowners might be provided with the option of having their land assessed on the same basis as cottage or recreational properties. These properties would be subject to taxation like all other residential property, including rising assessments according to market value as population pressure and speculation drive up the market price. Those who choose the alternative of maintaining land as forest could be exempted or subjected to a reduced level of taxation related to an approved management plan that takes into account not only the peculiarities of the particular forest, but also its type, geographic location and the productivity of the soil, data readily available today. No taxation regime is perfect, but one designed along these lines would at least provide hope for the future of forests in southern Ontario.

Time is on nobody's side. It is not on the side of the forest owners who must bear the added burden of taxation on property in which considerable and continuing investment has been made to make it productive both for the individual and for the general public. It is not on the side of the public who are already seeing their places of recreation destroyed or converted to operations that produce quick cash return. It is not on the side of government which must face the wrath of an electorate promised a green Ontario which turns grey before their eyes. Least of all is it on the side of the forests themselves which are already being cut up, or cut down.

It is difficult to find any justification for the victimization of a relatively small group engaged in a useful and productive activity simply because their numbers are small. That, alas, is the situation of the small scale managed forest owners of the province. The way to better, healthier, more productive private forests is forward to a regime in which incentives to better forestry practices are conditional on demonstrated willingness and capacity to engage in those practices. This need not, indeed must not, take years to accomplish. The Government should immediately begin the process of adoption and, on a step by step basis, implementation of relevant recommendations of the Fair Tax Commission. While there is a degree of interdependence among their recommendations, some can be regarded as free standing. These should be implemented on an accelerated basis. Relief for a threatened section of our rural economy will then be at hand. All society will benefit.