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CANADIAN TAX FOUNDATION

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Twelfth Annual Report

FOR THE YEAR ENDING
DECEMBER 31st, 1957

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CANADIAN TAX FOUNDATION

BOARD OF GOVERNORS

Elected March 25th, 1958

W. Fay Anderson, C.A.	- - - - -	Calgary
Ralph L. Bamford, F.C.A.	- - - - -	Moose Jaw
Paul Bruneau, C.A.	- - - - -	Quebec
William M. Carlyle	- - - - -	Vancouver
*H. Marcel Caron, C.A.	- - - - -	Montreal
*H. Weir Davis, Q.C.	- - - - -	Montreal
D. W. K. Dawe, Q.C.	- - - - -	St. John's
Jacques de Billy, Q.C.	- - - - -	Quebec
*Raymond G. Decary	- - - - -	Montreal
G. Fitzpatrick Dunn, F.C.A.	- - - - -	Victoria
T. E. H. Ellis, Q.C.	- - - - -	Vancouver
*E. B. Fairbanks	- - - - -	Montreal
*A. Willard Hamilton, C.A.	- - - - -	Montreal
Horace A. Hanson, Q.C.	- - - - -	Fredericton
G. Richard Hunter, Q.C.	- - - - -	Winnipeg
*Campbell W. Leach, C.A.	- - - - -	Montreal
*A. J. Little, F.C.A.	- - - - -	Toronto
Gerald E. Martin, C.A.	- - - - -	Halifax
*C. K. MacGillivray, F.C.A.	- - - - -	Hamilton
*C. G. McConnell, F.C.A.	- - - - -	Toronto
Donald McInnes, Q.C.	- - - - -	Halifax
G. Kenneth McKenzie, C.A.	- - - - -	Saint John
*Hugh J. McLaughlin, Q.C.	- - - - -	Toronto
John C. Newland, C.A.	- - - - -	St. John's
*James A. Renwick	- - - - -	Toronto
Douglas G. Scott, C.A.	- - - - -	Winnipeg
*Lancelot J. Smith, F.C.A.	- - - - -	Toronto
S. Bruce Smith, Q.C.	- - - - -	Edmonton
*Stuart D. Thom, Q.C.	- - - - -	Toronto
David M. Tyerman, Q.C.	- - - - -	Regina
*Henry F. White, Q.C.	- - - - -	Toronto
H. G. Williams, C.A.	- - - - -	Charlottetown

**Executive Committee of the Board of Governors*

OFFICERS

Chairman	- - - - -	Henry F. White, Q.C.
Vice-Chairmen and Co-Chairmen	{ - - - - -	Campbell W. Leach, C.A.
for the Executive Committee		Stuart D. Thom, Q.C.
Past Chairman	- - - - -	A. Willard Hamilton, C.A.
Director	- - - - -	- - - J. Harvey Perry
Secretary	- - - - -	William H. Zimmerman
Treasurer	- - - - -	James A. Reid

STATEMENT OF FINANCIAL POSITION
AS AT 31st DECEMBER, 1957
(With comparative figures for 1956)

	<u>1957</u>	<u>1956</u>
ASSETS		
CURRENT ASSETS:		
Cash on hand and on deposit - - - - -	\$ 26,653.61	\$ 26,590.09
Investment—Crown Trust Company		
Guaranteed Investment Receipts - - - - -	40,000.00	30,000.00
Deposit with Trans-Canada Airlines - - - - -	425.00	425.00
Account receivable - - - - -	210.00	—
	<u>\$ 67,288.61</u>	<u>\$ 57,015.09</u>
FURNITURE AND OFFICE EQUIPMENT - - - - -	\$ 12,226.78	\$ 11,219.67
Less accumulated depreciation - - - - -	5,960.77	4,738.09
	<u>\$ 6,266.01</u>	<u>\$ 6,481.58</u>
	<u><u>\$ 73,554.62</u></u>	<u><u>\$ 63,496.67</u></u>

LIABILITIES		
Accounts payable - - - - -	\$ 1,666.66	\$ 105.54
Subscriptions received in advance - - - - -	7,650.00	—
	<u>\$ 9,316.66</u>	<u>\$ 105.54</u>
INCOME AND EXPENSE ACCOUNT BALANCE- - - -	64,237.96	63,391.13
	<u><u>\$ 73,554.62</u></u>	<u><u>\$ 63,496.67</u></u>

APPROVED ON BEHALF OF THE BOARD OF GOVERNORS	
A. Willard Hamilton	Henry F. White
<i>Chairman</i>	<i>Vice-Chairman</i>

STATEMENT OF INCOME AND EXPENSE
FOR THE YEAR ENDED 31st DECEMBER, 1957
(With comparative figures for 1956)

	<u>1957</u>	<u>1956</u>
INCOME:		
Subscriptions—Corporate - - - - -	\$114,690.00	\$109,535.00
—Individual - - - - -	18,580.00	17,530.00
Interest - - - - -	1,447.10	1,348.64
	<u>\$134,717.10</u>	<u>\$128,413.64</u>
 EXPENSE:		
Salaries- - - - -	\$ 67,197.22	\$ 63,332.46
Publications (net) - - - - -	26,846.12	18,684.85
Rent - - - - -	10,490.00	6,670.80
Expenditures on new premises- - - - -	—	8,933.98
Special studies- - - - -	4,617.83	1,327.66
Travelling - - - - -	4,409.32	3,587.50
Postage- - - - -	3,832.16	2,731.72
Pension plan - - - - -	3,681.00	3,237.00
Office printing, stationery and supplies - - -	2,891.79	3,466.58
M. L. Gordon Fellowship award - - - - -	2,650.00	2,636.96
Books and periodicals—library - - - - -	1,817.57	1,417.22
General office expense - - - - -	1,505.17	1,516.76
Telephone and telegraph - - - - -	1,393.14	1,234.73
Conferences expense (net)- - - - -	1,316.27	2,021.90
	<u>\$132,647.59</u>	<u>\$120,800.12</u>
Provision for depreciation of furniture and office equipment - - - - -	1,222.68	1,121.97
	<u>\$133,870.27</u>	<u>\$121,922.09</u>
 EXCESS OF INCOME OVER EXPENSE FOR THE YEAR ADDED TO THE BALANCE CARRIED FORWARD - -	 <u>\$ 846.83</u>	 <u>\$ 6,491.55</u>

ORMSBY & ORMSBY

CHARTERED ACCOUNTANTS

15 TORONTO STREET

TORONTO 1, CANADA

GERALD Y. ORMSBY, F.C.A.
ANTHONY J. ORMSBY, C.A.

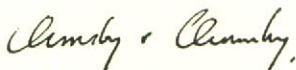
TELEPHONE - EMPIRE 3-5405

AUDITORS' REPORT

To:
The Board of Governors and the
Members of
Canadian Tax Foundation,
154 University Avenue,
Toronto, Ontario.

We have examined the Statement of Financial Position of the Canadian Tax Foundation at 31st December, 1957, and the Statement of Income and Expense for the year ended on that date. Our examination included a general review of the accounting procedures and such tests of accounting records and other supporting evidence as we considered necessary in the circumstances.

In our opinion, the accompanying Statement of Financial Position and Statement of Income and Expense present fairly the financial position of the Canadian Tax Foundation as at 31st December, 1957, and the results of its operations for the year ended on that date.



Chartered Accountants.

Toronto, Canada.
February 3rd, 1958.

Report of the Chairman
To the Twelfth Annual Meeting of the
Canadian Tax Foundation
March 25, 1958

This is the twelfth annual review of the affairs of the Foundation to be presented by its Chairman and it is my good fortune to be able to report another year of progress and development. The uncertainty in the general climate of business has not been reflected in our own activities and I am pleased to tell you that our membership has grown, our revenues have increased and our activities have been expanded. Financially, the year ended with a small balance on the credit side of the books.

The details of our activities can best be discussed under their appropriate main headings.

Conferences

Despite the fact that the chief emphasis in the year-round activity of the Foundation is on research, I believe that our annual conference is regarded as one of the most significant contributions made by the Foundation to the study of tax problems. This gathering of accountants, lawyers, businessmen, officials and others now occupies a special place in Canadian public affairs. Frequently conference discussions lead to the reconsideration of existing principles and practices and result in changes in the tax laws. Frequently also we have been able to provide a forum for the objective discussion of controversial public issues.

Our conference in Toronto last November 11th and 12th lived up to our highest expectations in every respect. The attendance of some 600 was by far the largest number yet and the range of subjects discussed was the most diversified. For the success of this conference we are indebted to the programme committee under the chairmanship of Mr. Henry White, composed of Mr. Campbell Leach, Mr. Pete Little, Mr. Hugh McLaughlin, Mr. James Renwick and the Director, and in no little measure to the efforts of our permanent staff.

Following the procedure of the past few years a verbatim record of the discussions was made and printed as a report which will be in your hands in the very near future.

It has already been announced that our 1958 conference will be held in Winnipeg at the Royal Alexandra Hotel on November

13th, 14th and 15th. These days are respectively Thursday, Friday and Saturday and for the first time, therefore, the conference will be extended beyond the usual two-day period. We hope, in this experiment, to achieve a somewhat more relaxed atmosphere and to overcome some of the organizational problems involved in the shorter conference.

As forecast in the annual report of my predecessor, we also held regional conferences in 1957. Ideal material for such meetings was available in the study of forestry taxation. The fact that interest in this subject had been intensified through enquiries by Royal Commissions in two of our main forestry areas also provided ideal circumstances for these conferences. At Vancouver, B.C., with the co-operation of the university and our local governors, a very successful meeting was held in September. A month later a similar, though somewhat smaller, conference was held in Saint John, New Brunswick. Both of these meetings attracted leading men from industry, government, the universities and other forestry interests and received excellent coverage in the Press. All comments were most favourable and we now feel confident in going ahead with similar arrangements when suitable subjects are available.

For the current year, plans are to hold conferences in Toronto and Montreal on the new Estate Tax legislation. These will be one-day sessions in which the local committee now studying the Bill, will act as the panel members. These meetings will be held in the next month or so and announcements of specific dates will be made shortly. If satisfactory arrangements can be made similar conferences will also take place in some of the other large centres. Two years ago we experimented with afternoon meetings in Toronto and Montreal on the annual income tax bill and these turned out quite successfully. If the 1958 bill contains matters of broad interest, we will consider repeating this type of meeting.

There is great scope for the extension of our activities through smaller meetings of this kind and with the addition of another staff member, whom we hope to secure to act as an executive assistant for the Director, it should be possible to develop a much broader programme for the future.

Publications

Conferences are one visible sign of the Foundation's activities. Of equal importance are its publications.

Where a few years ago our only regular publication was the Tax Bulletin, there are now several publications appearing at

periodic intervals. The Canadian Tax Journal continues to be the chief medium for the Foundation and a brief inspection of the contents of even the issues for one year indicates the breadth of the coverage and the high calibre of the contributions. The Tax Memo series deals with subjects of topical interest and the latest to appear gives a survey of the new Estate Tax Bill. One of the more successful additions to our publication list is "Taxes Abroad". These brief surveys of taxation in other principal jurisdictions have received very favourable comment from persons both in Canada and in foreign countries. It is rather interesting to note, for example, that we have received many requests from the United Kingdom for copies of our release dealing with that country.

During 1957, we introduced a compilation of Canadian financial data under the title, "Canadian Fiscal Facts". This publication has been welcomed as a useful handbook containing material previously not readily available and we propose to re-issue it at regular intervals. Undoubtedly the most successful of our annual publications on government finance is that which deals with the vast operation of the federal government under the title, "The National Finances". This survey is being used extensively for teaching purposes throughout Canada and the Director tells me that many professors have said that it makes possible for the first time an intelligent presentation of the national budget. It may be somewhat premature to mention it at this stage but as a long-run project we have in mind the publication of a companion piece — "The Provincial Finances".

Needless to say the preparation of these publications occupies a good part of the time of the staff. With a regular volume of this size it is almost true to say that the Foundation is as much a small publishing house as it is a research organization.

The past year saw the publication of two very important special studies. The more comprehensive of these — "Forestry Tenures and Taxes in Canada" — was the result of an intensive study carried on over a period of nearly three years. The main part of this work was done by Mr. A. M. Moore, with material assistance from other members of the staff. The final report, a volume of over 300 pages, is probably the most comprehensive analysis of the principles and practices of taxation of the forestry industry available at the present time anywhere in the world. The fact that forestry and its related activities form the largest industry in our own country fully warrants the scope of the enquiry conducted by the Foundation. As I mentioned previously the report was discussed at two regional conferences and again at our national

conference. The study was a unique contribution in the taxation of natural resources and, as previous chairmen have indicated, is the first in a series of such studies. We are now engaged in the preparation of the second — a study of the taxation of the petroleum industry.

In the extremely important field of social welfare expenditures the Foundation also made a major contribution during the year. Our publication — *Financial Aspects of Health Insurance*, by Professor Malcolm G. Taylor — is the most thorough review yet to be made of this subject of national importance and has already received many favourable comments.

Tax Legislation

It is difficult to pick out specific activities of the Foundation which relate directly to tax legislation because in a sense it can be said that the introduction, the repeal, or the improvement of tax laws is the ultimate end of nearly all of our work. However, some of our activities are more closely directed to this objective than others. One of the most important of these is our co-operation with the Joint Taxation Committee in the preparation of the annual brief to the Minister of Finance and his colleagues. Another is the sponsorship of a committee to review the annual income tax amending bill with the officials in Ottawa immediately after its introduction. The latter activity however was suspended in 1957 because of the brevity of the bill.

During the past year the area of taxation which received our closest attention was that of provincial taxation of company profits. The situation which arose with the re-introduction of the Ontario tax and the adoption by both Ontario and the Federal Government of new rules for the allocation of profits received close attention. Last summer a survey was made of our corporate subscribers by questionnaire to ascertain the nature and extent of the problems that were arising under the new arrangements. This survey indicated that a situation of some gravity and perplexity was in the making. At our conference in November further discussion revealed that companies had very grave misgivings as to the new rules and later discussions with the Provincial and Federal officials were instrumental, we believe, in bringing about the changes announced in recent weeks by both Federal and Ontario governments. While the situation that has emerged is by no means ideal it represents a fairly satisfactory compromise under a very complex and controversial set of circumstances.

The most recent event in the field of tax legislation of course has been the appearance of the new Estate Tax Bill. The Foundation staff has already produced and issued a brief summary of the legislation and, as already intimated, committees organized under Foundation sponsorship in several cities are now engaged in giving it detailed study. We have asked our governors in other locations to organize similar groups and we will welcome comments as well from other sources. As soon as the legislation has been given the most thorough possible review a brief will be prepared for presentation to the Federal Minister of Finance. At this point it is difficult to foresee when this brief will be completed but we plan on having it ready in ample time for consideration by the authorities.

Some aspects of income tax will receive particular attention during the coming year. It is becoming increasingly evident that the rules governing the deductibility of business outlays are being obscured rather than clarified with the passage of time. It is proposed to give some special study to this subject. Another aspect of income tax which has not received much consideration in the last decade is the taxation of co-operatives and if we can find a suitable person an examination will be made of experience under the legislation enacted in 1946.

The sales tax has not been the subject of active study in the past year but that is not because we have lost interest in it. After devoting a good part of our activities to this area for many years we do not now propose to let the matter drop. We understand that the revision of the Excise Tax Act is under continuous study by the authorities in Ottawa and we must be content therefore to await the results of this activity before taking any further steps. A complete revision of the Act is a job of formidable proportions and will require many months, extending perhaps into a year or longer to complete. We trust that in the not too distant future new legislation will be introduced to Parliament but if it is not of course we will have no choice but to resume an active interest in the promotion of this objective.

Membership

As you know there are two classes of member in the Foundation — individual and corporate. The former are numerically the greater body and the latter are the source of our financial strength. Needless to say increases in both categories are most welcome.

In this respect the year 1957 was a very gratifying one. At the

end of the year we had some 1,480 individual members, a net increase of 130 during the year. Even more striking has been the increase in individual memberships during 1958 to date. One of our sponsoring bodies — The Canadian Institute of Chartered Accountants — generously gave us assistance in our membership campaign by publicity in the Canadian Chartered Accountant early this year. At the same time as a means of attracting new members we offered to a wide list of prospective members the opportunity to secure, for a modest amount, a copy of the Proceedings of the 1957 conference. As a result of these combined activities we have added in the current year about 140 new individuals, giving us a total membership in this category of over 1600. In the last six years we have more than doubled the number of individual memberships in the Foundation.

I might add that the Canadian Bar Association have also undertaken to assist in a similar manner and we hope to add a considerable number of lawyers to our membership as a result of publicity which will appear in the near future in the Bar publications.

The number of corporate subscribers also rose during the year, to 477. An additional large group of Canadian companies — some 300 in all — are represented in our membership through association subscriptions made in lieu of contributions by individual companies and adding these to the figure I have just mentioned gives us a total of about 780. It is perhaps even more significant that some 40 of our existing corporate subscribers made increases in their subscriptions during 1957. We are continuing to add to our corporate membership and so far in the current year have enlisted 8 new companies.

Taken together our individual and corporate members at the end of 1957 totalled 2,260 and at the present time, because of the substantial number of new members recently added, the total is about 2,400.

A year ago my predecessor expressed the view that he saw no reason why our active membership should not be two or three times its present size. The encouraging results of each effort made to broaden our membership gives support to this view and it may not be many years before it will be possible to report that this objective has been achieved.

Finances

The notice of the annual meeting, that has already been distributed, contains a statement of our financial position for last

year and members have, therefore, had the opportunity to study it. On the revenue side an increase of about \$6,000 was shown to reach a level of receipts of about \$135,000. The increases in corporate and individual memberships, I have just mentioned, were almost solely responsible for this result. Expenditures rose more than revenues, however, the increase being about \$12,000. The largest increase was in the cost of publications, although increases also occurred in our charge for rent, — since we occupied our new premises for twelve months as compared with only five months in the previous year, — and in fees for special studies. The over-all net result was a modest surplus of about \$850, which compares with a surplus of \$6,500 for the previous year.

M. L. Gordon Fellowship

The Foundation continues to award a fellowship of \$2,500 for postgraduate work at the doctorate level in honour of the first chairman, the late Molyneux L. Gordon. The committee of award has been meeting currently and an announcement will be made in the near future.

Changes in the Board of Governors

The retiring members of the Board of Governors this year are as follows:

Henri L. Belanger, C.A.	Montreal
Harold E. Crate, F.C.A.	Toronto
Walter W. B. Dick, C.A.	Moncton
T. Earle Hickey, C.A.	Summerside
Donald J. Lawson	Victoria
Roger Letourneau, Q.C.	Quebec
John deM. Marler, Q.C.	Montreal
Donald A. McGregor, C.A.	Calgary
D. Ross McMaster, Q.C.	Montreal
Robert M. Sedgewick	Toronto
Gordon M. Stirling, Q.C.	St. John's
M. Gerald Teed, Q.C.	Saint John

All of these men have demonstrated a sincere interest in the work of the Foundation and during their term of office each in his own way has made some contribution to our progress. It is my pleasure to express the appreciation of the Foundation for their efforts. I am sure that all will agree that special tribute should be paid to our retiring Past Chairman whom many of us

know as Jerry Teed. Mr. Teed returned to the Foundation as an officer, to serve as Vice-Chairman and Chairman, having previously retired from the Board after serving for some years as a governor. He has been a staunch supporter of the Foundation for many years.

In addition to electing the governors who are continuing, you will be asked today to elect new governors in place of those now retiring. The persons nominated for this purpose by the presidents of the Canadian Bar Association and the Canadian Institute of Chartered Accountants, in accordance with our by-laws, are as follows:

W. Fay Anderson, C.A.	Calgary
H. Marcel Caron, C.A.	Montreal
D. W. K. Dawe, Q.C.	St. John's
Jacques deBilly, Q.C.	Quebec
Raymond G. Decary	Montreal
T. E. H. Ellis, Q.C.	Vancouver
E. B. Fairbanks	Montreal
Horace A. Hanson, Q.C.	Fredericton
C. K. MacGillivray, F.C.A.	Hamilton
G. Kenneth McKenzie, C.A.	Saint John
Stuart D. Thom, Q.C.	Toronto
H. G. Williams, C.A.	Charlottetown

Staff

During the past year there was only one change in the staff of the Foundation. This was the resignation of Mr. Milton Moore during the summer in order to take up employment with the Canadian Pulp and Paper Association. Mr. Moore had made his mark in several fields during his stay at the Foundation and he will be remembered particularly for his pioneering efforts on the federal sales tax and in the forestry taxation study. While we sincerely regret having him leave, he went to a position of increased responsibility and naturally left the Foundation with the best wishes of all who had known him.

Mr. Moore has been succeeded by Mr. Don Cerigo. Mr. Cerigo has excellent qualifications having specialized in the study of law and public finance at Paris University. I am sure that many members of the Foundation made his acquaintance at the annual conference last fall. Mr. Cerigo has devoted most of his time since coming to the Foundation to the study of petroleum taxation now underway. The other members of our staff are by now I am sure

familiar figures to many of our members. We have been very fortunate in having them work together over a period of several years because knowledge of any subject and particularly one as complicated as taxation is a cumulative process and we are now beginning to reap the advantages of the teamwork of this relatively small group. Mr. Roger Carswell, our Statistician, has made many contributions to fiscal studies already. Mr. David McGurran is specializing in sales tax and income tax and is responsible for the Taxes Abroad series. Mrs. Gwyneth McGregor is the busy editor of our many publications and is making a reputation for herself as contributor of the "Around the Courts" section of the journal. This group under the guidance of the Director might be termed the research team of the Foundation. Just as important to our functions however is the other half of the organization. Our ever-reliable Jim Reid, our industrious Librarian, Mr. Rawkins and our three hard-working secretaries, Miss Gurney, Mrs. Wilkinson and Mrs. Altan — each makes an essential contribution to the work of the Foundation. As Chairman of the Board of Governors I take this opportunity of expressing our warmest appreciation to them all.

Now I must try to find a special word to express our appreciation to our Director, Harvey Perry, for his unlimited and unstinting efforts of the past year. He obviously finds a great challenge in his work and derives, I know, immense satisfaction from it. Perhaps these are the keynotes indicating the range of his activities on behalf of the Foundation. If we realize this, then he will realize how expressive is our simple "thank you indeed".

The Future

In looking to the future the Chairman has a particular responsibility to emphasize the need for continued expansion of the financial resources of the Foundation. This responsibility rests squarely on the shoulders of the governors and the other individuals who have volunteered assistance from time to time. I know of no other organization in the field of taxation that is comparable either in its reputation or in its financial support. There are somewhat similar organizations in the United States but in relative terms the Canadian Tax Foundation undoubtedly ranks very high by comparison. This position has been achieved through the voluntary efforts of the members of the sponsoring associations and is a remarkable evidence of the farsightedness of the Canadian businesses which provide its funds.

Excellent as our record has been it gives no grounds for complacency. I think our experience of this past fall is a striking demonstration of the keen sense we all have of the necessity for moving forward. As I indicated at our conference in November we then faced the possibility of quite a substantial deficit for 1957. However, even at the time I spoke, the effects of previous appeals to the governors were beginning to be felt and as a result of special efforts during the fall several thousand dollars in new revenues were found. As a result we showed a small surplus for the year.

I am sure that the spirit of co-operation which produced this achievement will continue to be evident in the coming year. Three years ago we set as our financial objective annual revenues of \$150,000. For 1958 our budget calls for an expenditure of about \$143,000. In this budget we have made provision for an Executive Assistant for the Director, a position which has been authorized for some time and which we now feel warranted in filling. If our revenues do not exceed those of last year we will face a deficit of about \$8,000. This is the gap then that we must fill and I have every confidence that the challenge will be met in the coming year with the same success that has marked our experience in the past.

Conclusion

As retiring Chairman I wish to express my appreciation for the generous support and co-operation of my fellow officers and governors during the past year. May I conclude by expressing my conviction that the Foundation will continue to play an important role in the life of our country and by wishing the new officers and the new Board of Governors every success in their part in carrying out that role.

A. WILLARD HAMILTON

Report of the Director
to the Twelfth Annual Meeting of the
Canadian Tax Foundation
March 25, 1958

REVIEW OF A DECADE

It is one of the happier arrangements of our annual meeting that the Chairman is obliged to report on the practical details of our operations, thus leaving the Director with a relatively free hand. In considering how to fill the void it occurred to me that 1958 was the end of a very significant decade in our fiscal history and that it might not be inappropriate to review this period to see where it has left us. The Chairman concluded his remarks with the warning that there is no reason for complacency in the Foundation's present level of membership and finances. I propose to demonstrate that the same warning holds for the present state of our research activity.

Tax Legislation

First let's consider the course of tax legislation. This after all is the very heart of the fiscal system and all else will stand or fall on the record in that regard.

Undoubtedly the decade has been one of marked progress. At the end of the war nearly all our tax legislation was in a state of chaos. The Income War Tax Act in its original 1917 version was a tolerably good statute, but two wars and mammoth injections of ministerial discretion turned it into a legislative monstrosity. This was so unanimously the view that all hands fell to with a will, and by 1948 a wholly new bill had been drafted and after intensive public examination was enacted by Parliament. It would be naive to pretend that the 1948 revision was a simple statute, but it presented the income tax in an accessible form, it removed almost all the ministerial discretions and it codified most of the departmental administrative practices. In other words we got off to a good start with the new law. It would be pleasant to be able to record that the subsequent development of this statute had lived up to its earliest promises, but in my view this unfortunately has not been true. Gradually the original law has been disappearing under an over-burden of long and involved provisions of limited application. Some of its promises of greater

flexibility — particularly in the valuation of inventories and the treatment of capital expenses — have not been realized. The growing emphasis on the written word has been subjecting us to a more rigid machinery of income tax.

Sweeping generalizations of this kind beg several questions. First, is it any longer possible, in our increasingly complex society, to have simple laws? Simplicity in legislation is usually gained at the cost of some inequity and disregard for the subtler shades of meaning. Perhaps in our age we are doomed to massive and wordy statutes. Second, how are unusual cases to be dealt with if they are not covered in the statute? Under the Income War Tax Act the stock answer was “ministerial discretion,” but that road has hazards with which we are all familiar. Third, how are we to develop a system of tax jurisprudence if there is no legislation on which the courts can adjudicate?

These are certainly powerful considerations, and their force cannot be denied. At the same time they do not remove from my mind a sense of uneasiness as to the course which we have been following. It was precisely the same process of legislating for special cases rather than establishing general rules of law that reduced the Income War Tax Act to chaos, and the postwar revision was in large part a matter of restoring some sense of generality to the statute. Perhaps we have already reached a position when a similar process of critical re-examination is required.

Another possibility is that our law-making process itself needs re-examination. If the present procedure produces the result that the law must be purged periodically of a host of special rules, perhaps we should consider the adoption of a different medium for the promulgation of these rules. The requirement of putting them through the legislative mill has the effect that far fewer of them are established than might be desirable. Even the present volume of complex tax legislation almost makes a farce of the processes of parliamentary examination. If some other medium were to be used, such as an order in council or regulation based on a general statutory directive, perhaps even with informal departmental hearings of interested parties, then we might achieve the double purpose of retaining a relatively simple statute and building up a far more comprehensive body of written rulings and regulations than will ever be possible under present methods. Perhaps we have reacted so strongly against ministerial discretion that we are now caught in a dilemma. Almost everything must go into the law but the law can't possibly meet every situation

that will arise. The answer may lie in having a whole sub-mass of law far more extensive than anything we have yet contemplated in this country.

These observations apply to the income tax law but not necessarily to other parts of the federal tax system. In the case of the Excise Tax Act, for example, the present situation is almost the reverse. A great body of written or verbal rulings has already been issued under the sales tax and it remains largely to provide an expanded statutory base to give them validity. We hope, as the Chairman has indicated, that this development will not be long postponed. If the statutory base is provided and that step is followed by a co-ordination and codification of the supporting rulings and regulations, then the legislative framework of the sales tax will have been vastly improved.

The new Estate Tax Bill of course is so recently arrived that it is impossible to predict what ultimate problems it may create. Because it is new, however, it may give the opportunity for experimenting with some extensive subsidiary written regulations such as I have suggested for the Income Tax Act.

Problems and Anomalies

So much for the statutory context. Looking at the substance of the income tax it is evident that there has been a great deal of improvement over the past decade. When one considers the measures for removal of double taxation, for the relief of the burden on undistributed income, for the extension of the carry-forward provisions and for the more generous allowances for fixed capital outlays, one appreciates that many of the great issues of a decade ago have disappeared. Again, however, there is no ground for complacency. There are many problems yet unsolved. Let me mention only a few of them.

First of all I find it difficult to rationalize in terms of any of the traditional concepts the treatment of the corporation under our income tax laws. It will be recalled that the alternative approaches here are that the corporation on the one hand is simply a funnel through which income passes to the shareholders, and on the other that it is a separate legal person and a distinct economic entity. The one concept leads to the proposition that all taxes paid by corporations are in lieu of personal income tax, and the other that the company pays taxes in its own right and without reference to the ultimate destination of the profit. Apply either of these concepts to the treatment of the corporation

under our present income tax law and you find that neither fits. The lines have become very blurred — or as our American friends say, the corporate veil has been pierced — and in many places. The theoretical basis of our law is that the corporate tax rate is levied as though no shareholders existed. But in actual fact corporate-shareholder relations govern many of the major provisions of the law. The dividend tax credit is a beneficial result of this juxtaposition and the designated surplus provision a very harsh demonstration of it. Furthermore there are now several instances in which corporations are either required or entitled to make payment of a tax which is in lieu of personal income tax which would otherwise be payable by shareholders.

The practical effects of this development have been well received where they relaxed pressure on the taxpayer's pocket book and blasphemed where they increased it. Certainly no one expects theoretical consistency in a taxing statute, but one wonders where inconsistency in the present proportions of the Canadian law will ultimately lead. As a group corporate taxpayers appear to resent the blurring of their status only when it brings a penalty. Perhaps they are right in this. Perhaps we have achieved the best of both worlds in not rigidly adhering to one concept or the other. There is no doubt however that it would be very difficult to delineate the exact status of the corporation in our present income tax.

If the position of the corporation has been blurred it can be said that some of the rules governing the profit computation have become downright obscure. I am certainly not one of those who professes to view with alarm a growing chasm between the so-called "business" and so-called "tax" concept of income. But I do feel — and I know that others share the same view — that in particular the rules governing the deductibility of business expenses have been obscured rather than clarified in recent years. When one considers that camel loads of deductions are swallowed without question in the computation of income it seems ridiculous that so much of the time of tax advisers, the administration and the Courts is spent in straining over the gnat of those that stick in the throat. And the great damage done by this latter process is that it forever prevents the emergence of any clear-cut principles as to what outlays should be deductible.

Here, I would suggest, is a realm in which both legal and accounting professions can contribute a great deal towards clarifying basic issues by some fundamental research. It is difficult to accept that the majesty of the law requires that the last possible word on the subject was said by Lord Davey in *Strong vs. Woodfield*.

Nor is it easy to reconcile oneself to the idea that the contribution of the accounting profession is limited to categorically declaiming that the denial of certain outlays is contrary to sound accounting principles. Between the pragmatic rules of the law, which are seldom articulated in terms of principle, and the principles of accountancy, which are seldom articulated in any terms at all (except as something being offended against), there must be some middle ground for objective research — some place where the solid truth can be disentangled from the present confusion of voices.

The other big question in the income equation — the one we refer to glibly as “capital gains” — has followed rather a different development. Here the result of a decade of study, discussion and litigation has been to clarify the governing criteria to a degree that would have seemed unlikely in 1948. But this very degree of clarification has in itself presented its own embarrassment. Anyone with half an eye can now see that certain kinds of activity have been isolated as being income-producing, while certain others very little different in form have been left tax-free as productive of returns which are not income. The contrast that comes easily to mind is between the treatment of real estate transactions on the one hand and security transactions on the other.

It is far from my purpose to leave the impression that I support a capital gains tax; on the contrary, I am opposed to it on both economic and administrative grounds. At the same time if we are quite honest with ourselves I think we must admit that the position we have achieved after ten years is, to say the least, highly anomalous. Where we go from here, or whether or not we should go anywhere from here, are issues to which we should face up.

In a quite different vein, but perhaps of even greater influence for the welfare of taxpayers, is the whole question of efficiency in tax administration. Undoubtedly great improvements have been made in the last decade in the collection of the income tax. The forms and administrative procedures have been improved, the backlog of unassessed returns wiped out, and facilities for appeal vastly expanded. In the indirect taxes we hope that current re-examination of the basis of the law will result in a revision of certain aspects of that administration, particularly as it relates to appeals. Despite this improvement one basic and vitally important question of tax collection, particularly where the income tax is concerned, remains unsolved. The administration has not

even come close as yet to devising a system of collection that will ensure that all who should pay actually do pay. Much of the so-called special investigation work of our income tax division is probably a good deal less effective in practice than we are led to believe, and it is amply evident from the concentration on certain classes of the community, where the pickings are likely to be easy, that there is very little science in the approach to effective tax enforcement. Naturally this is not a subject in which taxpayers can be expected to express a warm and enthusiastic interest, but for our own protection and in the interest of fair and efficient tax collection they should. No doubt there are methods of enforcement that would spread the net more widely and effectively than at present, and these methods should be studied and adopted.

So much for some of the more concrete issues in the tax system as they appear at the conclusion of a highly productive decade. There are many others I could have discussed, but I want to look now at a few of the broader aspects for a moment.

The Effect of High Tax Rates

The most prominent feature of the last decade is that for peacetime the tax rates have been higher than we have ever known before. In fact it is trite to say that by any previous peacetime standards our present rates are fantastically high. Most of us know why they are at this level — defence and the welfare state explain most of the increase — but I venture to say that none of us has anything but the vaguest notion of what the result of continued high rates of this kind has been on our political, economic and social structure. Obviously the results must have been profound, and if they have been profound it goes without saying that we run a grave risk in being ignorant of them. Have high rates been robbing our industrial capital of funds needed for expansion, to our economic detriment? Have high rates so raised the cost structure of Canada that we suffer a handicap in foreign competition? Are high tax rates gradually undermining business morality in Canada as they have so conspicuously done in certain other countries? Have high rates in fact so sapped individual initiative that we are suffering a substantial economic loss as a result? Are high tax rates bringing about a social revolution in Canada the dimensions of which are unknown to us?

These and many questions of similar tenor sound quite familiar, I am sure, and I am also sure that most of us could give an

answer to them based on personal experiences and impressions. I have myself on many occasions expressed fairly positive views regarding some of these matters. But the plain fact is that we simply do not know for sure how close we are to the real truth in giving answers based on personal impressions on matters of such profound importance as these. Only organized research on a comprehensive scale could produce anything resembling a trustworthy conclusion, and in Canada we have not even taken the first step in studies of this magnitude.

The question just posed might have been phrased in the words — "What is taxation doing to us?" An equally relevant question is, "What are we doing to taxation?" Or in the much more picturesque words of a recent writer — "Will the tax system survive under private enterprise?" Certainly some of the most fundamental tenets of taxation have been subjected to very severe scrutiny in recent years. Even the most sacred of these, the progressive income tax, has been castigated in a manner reminiscent of the storm it evoked half a century ago when it was first seriously put forward. In the writings of some leading authorities of today we find proposals being seriously advanced for new forms of taxation, such as a graduated purchase tax, and in some countries of the world we find these new ideas being applied in practice.

It is not my personal belief that there is much that is new under the sun in the sphere of taxation. Henry George is probably the only man in fiscal history who produced a really revolutionary idea, and that wouldn't work. Therefore the thought of deliberately attempting to revolutionize our tax system for some theoretically appealing purpose does not arouse much enthusiasm. What is of greater interest to me, and I imagine to others as well, is a sense that without any such theoretical objective in view we have in fact made some pretty profound changes in our national tax structure in the last decade.

Changes in Tax Structure

I wish I were able to delineate exactly the nature and effect of this change, but again lack of research makes it impossible for me to do so. Two developments lead me to feel that something fundamental is afoot. First, the corporation has become increasingly the vessel from which the proceeds of economic activity are syphoned off for the state. With profits taxes now apparently fixed near the half-way mark and the corporation responsible for

paying a flat rate tax on undistributed income in lieu of personal income tax, the corporation has assumed a role that has profound implications in our tax system. The fact that about one-quarter of federal revenues now comes from a tax the effects and incidence of which are the subject of most violent disagreement among tax experts, is in itself a remarkable outcome of the past decade.

My second observation is that our personal income tax has been changing its character. On the one hand the mere process of not raising exemptions while prices and income have been rising has brought into its toils millions of wage-earners to whom the income tax would normally have remained a profound mystery. On the other hand the tax bite on people with larger incomes, who might be regarded as regular customers, has been eased relatively by some moderation of the upper rates, by the introduction of the dividend tax credit, by the substitution of corporate-paid flat rate taxes for the graduated personal income tax and by various devices for spreading incomes, including the recently inaugurated retirement savings plan. All this may be summed up in the statement that our personal income tax has become a levy of mass application of less steeply graduated impact. Behind that trite statement must lie a world of meaning for the future which is as yet veiled from us.

In three other respects the last decade has witnessed changes so profound that it will be out of the question to do more than mention them here.

The first of these is fiscal policy, or more specifically the use of the government budget for contra-cyclical economic effects. The "brave new world" enthusiasm for guiding the economy through tax changes has gradually been cooled off by the disturbing realization that not enough was known either about the disruptive effect of drastic measures or about the proper time for applying them. Of recent years the federal budget has become increasingly immobile, with changes being motivated largely by expediency.

The second fundamental change has been in the realm of inter-governmental relations. As the faith in a busy policy of taxation for economic purposes gradually waned so did the desire for the complete centralization of the tax system that was felt essential for carrying out that policy. As a result some of the rigidities have gone out of the federal-provincial arrangements. These arrangements are as yet far from rational, however, and a good deal more knowledge of the financial requirements and resources of the various provinces will be necessary before they

can be made so. There is also a danger that the relaxation of the control of the tax structure by Ottawa will be replaced by an increasing control over the functions of government of the whole country through money grants (with strings attached) to the provinces. In my view the drift towards expedient devices of this kind is a far greater threat to provincial autonomy than was the control over tax sources.

Finally we must record the advancing tide of the welfare state in the past decade. What the balance sheet now shows for economic and social costs on the one side and economic and social benefits on the other is only a guess — we simply don't know. Even less can we know of what the balance sheet will show five, ten or twenty-five years from now. But simply to drift along from one expansion of an old programme to the next, from one new programme to another, with expediency our only guide, is surely the road to ruin. Here of all places the need for some standards is pressing.

Conclusion

This long and I am afraid rather solemn dissertation was not intended to fill my listeners with gloomy forebodings. My sole purpose has been to demonstrate, by reviewing the very important developments of the past decade, that there are as many unanswered questions today as there were ten years ago — indeed there may now be more, because some of the answers we thought were right have turned out to be otherwise. All this adds up to the obvious conclusion that the role of an organization such as our own continues to be an extremely challenging one. Some of the questions I have posed here are beyond the reach of research as we know it, but most of them are not. And of those which come within our ambit we have not even yet begun to scratch the surface.

In concluding these remarks, which I hesitate to describe as a report, I should like to express my personal gratification for another year in which the Foundation has moved forward. The supervision of an organization such as the Foundation calls for rather unique qualities — with which our Governors, by some happy stroke of fate, always seem to have been copiously endowed. Our officers of the past year have been most faithful and helpful, and in particular I have found Willard Hamilton a thoughtful, imaginative and hard-working Chairman. I am sure I speak unanimously for the staff in expressing our sense of devotion to the

Foundation and our appreciation for the interest taken in our welfare. In turn, as the person to whom the staff is immediately responsible, I wish to express to them as my colleagues complete satisfaction with their efforts. Each year in working closely together all of us have become more experienced and sure-footed in our own field, and I hope we will continue to do so. In this respect we felt it a loss to have Milton Moore leave our ranks last summer, but have been happy to welcome Don Cerigo in his place.

In conclusion may I welcome the new Governors who have been elected today and express the hope that their association with the Foundation will be a gratifying one.

J. HARVEY PERRY,

THE Canadian Tax Foundation was established in 1945 as an independent tax research organization. Its Governors are nominated each year by the Canadian Bar Association and the Canadian Institute of Chartered Accountants, and its work is supported by some twenty four hundred Canadian individuals and corporations.

The purpose of the Foundation is to provide both the tax-paying public and the governments of Canada with the benefit of expert, impartial research into current problems of taxation and government finance. This work is carried on by a well-qualified, permanent staff and by outside experts commissioned for special studies. The Foundation publishes the Canadian Tax Journal and other books and pamphlets, and its activities include holding conferences, providing speakers, granting university scholarships and making submissions to government.

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