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CANADIAN TAX FOUNDATION

ESTABLISHED BY THE JOINT ACTION
OF THE CANADIAN BAR ASSOCIATION
AND THE DOMINION ASSOCIATION
OF CHARTERED ACCOUNTANTS

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Third Annual Report

FOR THE YEAR ENDING
DECEMBER 31st, 1948

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MCGILL UNIVERSITY CARLTON STREET, TORONTO 2, ONTARIO

CANADIAN TAX FOUNDATION

BOARD OF GOVERNORS

ELECTED AT ANNUAL GENERAL MEETING

2nd FEBRUARY, 1949

A. Irvine Barrow, C.A.	Halifax
C. C. Calvin, K.C.	Toronto
K. LeM. Carter, F.C.A.	Toronto
J. R. Church, C.A.	Vancouver
Rosaire Courtois, C.A.	Montreal
F. M. Covert, K.C.	Halifax
K. W. Dalglish, C.A.	Montreal
F. E. H. Gates, C.A.	Montreal
T. A. M. Hutchison, F.C.A.	Toronto
W. G. H. Jephcott, F.C.A.	Toronto
W. A. G. Kelley	Toronto
Hon. Frederic A. Large, K.C.	Charlottetown
C. W. Leach, C.A.	Montreal
C. W. Lynde, C.A.	Winnipeg
J. A. MacAulay, K.C.	Winnipeg
R. deWolfe MacKay	Montreal
H. L. McMackin, C.A.	Saint John, N.B.
H. C. F. Mockridge, K.C.	Toronto
W. A. Morrell, F.C.A.	Amherst, N.S.
K. J. Morrison, F.C.A.	Calgary
G. R. Munnoch, K.C.	Toronto
W. S. Owen, K.C.	Vancouver
L. Phillips, O.B.E., K.C.	Montreal
C. S. Richardson, K.C.	Montreal
A. B. Shepard, F.C.A.	Toronto
W. Givens Smith, C.A.	Regina
H. H. Stikeman	Montreal
Andre Taschereau, K.C.	Quebec, P.Q.
M. G. Teed	Saint John, N.B.
J. Ross Tolmie	Ottawa

CHAIRMAN	W. G. H. Jephcott F.C.A.
VICE-CHAIRMAN	H. C. F. Mockridge, K.C.
SECRETARY-TREASURER	H. F. White
DIRECTOR	Monteath Douglas

Report of the Chairman of the Board of Governors

**Presented to the Members
at the Third Annual General Meeting of the
Canadian Tax Foundation**

My Report to this meeting will deal principally with the affairs of the Foundation during the past year. The Director, in his Report, will tell you something of our plans for the current year.

Last March the staff of the Foundation moved from temporary quarters to the present offices at 4 Carlton Street. The space there provided is suitable in all respects and is sufficient to accommodate anticipated staff requirements. A combined Library and Board Room is provided which the Director hopes will be availed of by our members. Considerable data have been obtained bearing on taxation and a continuous policy of accumulation will, in time, establish the Library as a useful and valuable source of information. More suitable and commodious premises have made it possible to increase the staff. In addition to the secretarial staff, the Director now has two assistants who participate in the inquiries and research incidental to the program of work laid down from time to time. It is clear that the Director should have further assistance as the program of the Foundation becomes more ambitious and as funds are provided which permit and enable the Executive Committee to employ assistants of the calibre required. Owing to the continued support of our subscribers and members, the finances of the Foundation have passed the stage where we are living from hand to mouth and it should be possible to attract the additional staff required as the enterprise becomes more firmly established. I wish to make it clear, however, that it is not the policy of the Foundation to rely entirely on permanent staff. Recourse must also be had to part time services of assistants who are only available on this basis. It will also, at times, be necessary to seek the part time services of specialists. The Foundation will, of course, continue to look to its own membership within the two sponsoring professions for assistance, effort and advice in matters requiring their special knowledge and experience. Requests for assistance of this kind have always been met with a hearty and generous response which encourages us to believe that we may rely on this special assistance. One of the assets of the Foundation is its ability to convene a panel or working party to serve gratuitously. I venture to say that if some of these panels were convened on the footing of professional rewards which the participants might nor-

mally expect, the aggregate cost would be prohibitive to any other enterprise.

At our last annual meeting, the program then envisaged included the revision of the Income Tax Act, a study of the Dominion Succession Duty Act and a study of Provincial taxation of corporations. Obviously, the revision of the Income Tax Act was of primary importance because the procedure for revision adopted by the Government seemed to afford special opportunities for public service.

Shortly after our last annual meeting, we published a Report of the Foundation's First Tax Conference which contained a valuable consensus of professional opinions on the proposed Income Tax Act. Over one thousand copies of this Report were distributed to public bodies and private individuals throughout the country in addition to our own membership and it was used extensively in the preparation of various recommendations which were submitted to the Government. The Director was gratified by the public reception of this Report and we have every reason to believe that it was generally regarded as an important contribution.

We think that this Report was the more valuable because it did not express the conclusions of the Foundation as such but gave expression to various points of view which were advanced at the Conference.

Although the two sponsoring professions, acting through their respective Associations, undertook to submit specific recommendations to the Government relative to the Income Tax Act, the Foundation thought it proper to prepare and submit its own recommendations. To assist the Director in this task, a Committee of members drawn from both sponsoring professions was established, composed of individuals who were not directly engaged in the preparation of the individual recommendations of the Associations representing these professions. Recommendations were thus prepared on behalf of the Foundation and submitted to the Minister of Finance. The work already done at the Tax Conference proved very useful in this connection. It was necessarily recognized that the revision of the Income Tax Act was not intended to involve any major changes in governmental policy. It was thus inevitable that some of the recommendations duplicated those made by the Associations of the sponsoring professions but each recommendation made to the Minister by the Foundation was determined independently by the Director with the advice of his Committee. When circumstances make it necessary or desirable to put forward recommendations to a Government on tax legislation, it is a moot point whether the two Dominion-wide

Associations representing the sponsoring professions and the Foundation should each submit separate recommendations. At the present time, the majority opinion is favourable to this being done having regard to the distinctive contributions that each of the sponsoring professions is particularly qualified to make on a subject of this kind.

When the revision of the Income Tax Act was submitted to Parliament and referred to the Standing Committee on Banking and Commerce, the Foundation was represented at the hearing and a Report was immediately sent to each member. The hearing before the Committee occupied three days and was confined to evidence given by the Government's own officials. The Foundation did not request to be heard because the proposed legislation had not been available long enough to enable the submission of considered views based upon adequate study. However, exception was taken to the inclusion in the Bill of section 126 relating to tax avoidance. This section, as you will recall, is a hangover from section 32A of the Income War Tax Act. Speaking only for myself, I think it regrettable that, after more than thirty years of experience in imposing and administering Income Taxes, the Act should still contain in section 126 a threat at nursery level

"The Treasury Board will catch you if you don't watch out."

I have never been able to satisfy myself whether this kind of legislation arises from an inferiority complex or from a lack of sportsmanship. The avoidance of tax is a legitimate indoor sport. When does it become "improper"? The word "improper" is normally associated with manner, dress or behaviour in the personal sense. Even a dog is sometimes allowed one bite and if, after all these years, some canine should snatch a bone from the Treasury those who rule over us should rejoice that human ingenuity has not perished and should not use the Treasury Board as a dog catcher or seek to recover the bone by retroactive and retributive legislation.

After the Income Tax Act became law, the Foundation proceeded to review the result and considerable time and effort were expended by the Director and his staff to this end. This study was directed not only to the intended scope of the revision but also to matters of policy relative to the principles of taxation which the revision had retained. This was necessary in order to determine the basis upon which the Foundation's Second Tax Conference would be asked to proceed in considering the new Act.

The Second Tax Conference of the Foundation which was held in Ottawa last November dealt not only with particular questions arising out of the revision but also with matters of policy which were

important for the future and which it is believed should be urged upon the Government. One panel of the Conference gave its time exclusively to the consideration of succession duties and in particular the Dominion Act. About 150 of our members attended the Conference which shows an increased interest in this recurring event. It is not necessary to report fully on the Conference because the complete proceedings will presently be published and will, we hope, be of value to our members and others. I should add, however, that one of the features of the Second Conference was the fact that study groups had been organized in advance in different parts of Canada whose conclusions were circulated at the Conference and became the focal points of discussion. At our next Conference the Director plans to develop this method further and will endeavour to make the preliminary Reports of the study groups available to all members well in advance of the date of the Conference.

With regard to succession duties, I wish to say that the Foundation made a preliminary canvass to determine the views of a number of individuals selected because of their wide professional experience concerning the operation of the Dominion Succession Duty Act. This canvass indicated a substantial measure of dissatisfaction with various technical and administrative features of the Act but left broad questions of principle untouched. A special study group composed of people experienced in this field was constituted with a view to wider consideration of the subject at the annual Conference. The work of this group will continue during the current year and inquiry will be made as to the validity of the underlying principles. I would be remiss if I did not say that interest in this matter has been powerfully stimulated by the challenging address which one of our members, Mr. A. Roy Courtice, delivered at the Conference. This address is regarded by many as the most thorough discussion of the subject that has yet been put on record by anyone in Canada within the limitations necessarily imposed by an after dinner address. When the study group has completed its work, it is the intention of the Foundation to issue a report of the conclusions reached.

Preliminary inquiry into the problem of Provincial taxation of Corporations was started later in the year, as soon as staff commitments made it possible to do so. We have received valuable information and help from the officers of a number of companies who have given us the benefit of their practical experience and precise information as to the difficulties encountered. When the relative studies have been completed, a report will be published dealing with the concurrent impact of the taxes to which companies are exposed by reason of doing business in more than one Province and the inequities

which now arise by reason of conflicting or inconsistent provisions. This report should stimulate interest and it is proposed that a second report will follow suggesting remedies and improvements. While the first report will be the work of the Foundation's staff alone, we plan to convene a qualified study group to deal with the suggestions and recommendations to be included in the second report.

It may fairly be said that the activities of the Foundation during the past year have been directed for the most part to matters of detail and in particular to those arising in connection with Income Tax legislation. This has been unavoidable but it has nevertheless prevented the limited staff of the Foundation from giving adequate attention to broader questions of taxation policy which the Foundation is expected to investigate and on which it should report its findings. We think, however, that the time has come when the Foundation can move on to enterprises of broader scope and more in keeping with its original objectives. It should be borne in mind that one of the principal objects of the Foundation is research both by its own activities and by encouraging and arousing the interest of others. The revision of the Income War Tax occurring when and as it did naturally demanded our full attention and became the first objective of the Foundation's endeavours. This task has not, however, obscured the broader objectives. These objectives will, of course, include the study and treatment of outstanding questions relative to income tax which the recent revision did not touch and which it was not intended to touch. If I may again speak for myself for a moment, I think that far too many representations are made to the Government without adequate research and so without the compelling evidence of instances calling for reform. I hope the Foundation will never fall into this error and that any representations which it makes on matters of policy will be adequately supported by compelling findings of fact. To achieve this requires effort and time. The Foundation is not equipped to perform miracles.

Without wishing to unduly invade the territory assigned to the Report of the Director, I instance that inquiry and report have been authorized regarding the taxation of corporate income and dividends which necessarily includes consideration of the double impact of tax on distributed earnings. It will also extend to other problems arising from the current distinction, for taxation purposes, between the corporate entity and the beneficial owners. A special aspect of this matter is the taxation of co-operative enterprises and in turn the Foundation will also review the practical effect of the legislation introduced in the year 1946 following the Report of the MacDougall

Commission. I wish to make it clear that in dealing with such matters the Foundation will make its own findings of fact.

In all the activities of the Foundation, it should be remembered that the Foundation is the creature of two sponsoring professions and its independence of thought and expression is thus assured. It had its origin in the circumstance that accredited representatives of The Dominion Association of Chartered Accountants and of The Canadian Bar Association decided to meet together as a joint committee to make pre-budget representations to the Government of Canada. To what extent unity of effort will be accomplished through the Foundation must necessarily be a matter of continuing development. The reality of the relationship is much more important than the formal expression of it. As matters now stand the Foundation is represented by its Director at joint or separate meetings of those who represent the two sponsoring professions so that the Foundation will at all times be aware of the work in progress and future plans. I think it would be appropriate to suggest the wisdom at the present time of leaving questions of technical detail, calling for special experience in tax practice, to be dealt with by those representing the two sponsoring professions and that matters which concern the underlying policy of taxation and so requiring extensive study or research should be assigned to the Foundation. Occasions will no doubt arise in which a collective effort will be desirable. The future achievements of the Foundation depend inevitably on its ready recourse to the best professional assistance available in this country and the rich experience of those who are actively engaged in tax practice. From time to time within its professional membership the Foundation will call upon men of experience who are already hard pressed in the activities of their vocations and who, in some cases, will be giving time to the special activities of committees or study groups acting within the organization of their own professions. But it is my experience that the best achievement comes from those who are already and fully occupied and fortunately there is no limit to the elasticity of interested human endeavour. I shall presently be vacating the office of Chairman with which I have been honoured for the past year and it is my most earnest hope that the admirable co-operation of the members of the two sponsoring professions will long continue to find expression in the Foundation, remembering as I do that this necessitates a real measure of sacrifice on the part of men of high professional attainment who must necessarily be convened to assist the Foundation in arriving at conclusions which will command respect.

During the past year the number of individual members has increased by 334 and of corporate subscriptions by 21, the respective totals being 391 and 62. Plans have already been made by the Membership and Finance Committee which should substantially increase the figures mentioned before the end of the current year. It is our belief that the Foundation should stand on a broad base of individual and corporate support.

In the course of an established system of rotation, nine of our Governors will retire this year—

MR. A. E. BEAUVAIS, C.A.

HON. G. P. CAMPBELL, K.C.

MR. L. A. FORSYTH, K.C.

MR. W. J. B. GENTLEMAN, C.A.

MR. J. G. GLASSCO, O.B.E., F.C.A.

MR. H. P. HERINGTON, F.C.A.

MR. L. J. LADNER, K.C.

MR. J. MCG. STEWART, K.C.

MR. J. S. SWINDEN, C.A.

I wish to thank each of these gentlemen for their contribution to the work of the Foundation during their respective terms of office, and I am sure that their interest in the work of the Foundation will continue unabated. Mr. Glassco has served the Foundation both as its Chairman and its Vice-Chairman. At all times, his leadership, interest and effort have exceeded the line of duty. He has made an exemplary contribution to the establishment and achievements of the Foundation. During the past year, Mr. Herington has served as Vice-Chairman of the Foundation and Chairman of the Executive Committee of the Board. I also wish to acknowledge the admirable leadership given by Mr. Herington in the affairs of the Foundation and his invaluable contribution to its achievements. Fortunately, the experience and ability of Mr. Glassco and Mr. Herington will be retained for the Foundation as members of its Standing Advisory Committee.

I wish to make special reference to the admirable contribution of our incomparable Secretary-Treasurer, Mr. Henry F. White, to the work of the Foundation. He has voluntarily performed the onerous duties of his office since the inception of the Foundation at no small sacrifice of his time and with his characteristic accuracy and skill. Mr. White has earned and holds in full measure the appreciation and gratitude of the Foundation.

I also wish to thank the Director and his staff for their loyal co-operation and efficient service during the past year. From time to time the work of the Foundation creates sustained pressures which have always been accepted in a spirit of hearty and cheerful co-operation.

Except for a few personal observations, this Report is made on behalf of the Board.

GORDON R. MUNNOCH,

Chairman.

Dated at Toronto, Ontario,
2nd February, 1949.

CANADIAN TAX FOUNDATION

FINANCIAL STATEMENT

AS AT 31st DECEMBER, 1948

INCOME AND EXPENDITURE

For the Year Ended 31st December, 1948

INCOME

Subscriptions received.....	\$53,055.00
Interest received.....	537.21

\$53,592.21

EXPENDITURE

Salaries.....	\$27,011.54
Travelling and entertainment expense, general.....	1,166.00
Office rent.....	2,661.00
Stationery, office supplies.....	811.06
Telephone and telegraph.....	335.30
Postage and miscellaneous office and other expenses.....	1,283.06
Books and periodicals.....	1,008.07
Publications.....	3,693.85
Conference expenses (net).....	1,789.69
Office alterations, partitions, lighting, etc.....	2,435.32

\$42,194.89

Depreciation.....	250.24
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42,445.13

Excess of Income over Expenditure for the year ended 31st December, 1948.....	\$11,147.08
Balance brought forward from preceding years.....	34,116.87

Balance of unexpended income at 31st December, 1948 for continuation and extension of the Foundation's activities.....	<u>\$45,263.95</u>
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Represented by:	
Cash on hand and in banks.....	\$18,011.83
Investments—Crown Trust Co.—Guaranteed Investment Receipt 3%.....	25,000.00
Furniture and office equipment at cost.....	\$ 2,502.36
Less: Reserve for depreciation.....	250.24

2,252.12

\$45,263.95

AUDITOR'S REPORT TO THE MEMBERS

I have examined the accounts of the Canadian Tax Foundation for the year ended 31st December, 1948, and report that, in my opinion, the above Financial Statement has been drawn up so as to exhibit a true and correct view of the affairs of the Foundation as at 31st December, 1948, and of the result of its operations for the period ended on that date, according to the best of my information, the explanations given to me, and as shown by the books of the Foundation.

(Signed) G. Y. ORMSBY
Chartered Accountant.

Toronto, January 13, 1949.

Report of the Director

Following the Chairman's mention of two projects already approved for the year ahead, it is my responsibility to carry them out, and very little remains to be said now. As we have other work in hand which may require about a month to complete, we cannot undertake them immediately. But I think I should say something about our intentions in both respects so that you will know what we plan to do.

As regards the first subject, our aim will be to determine the character and effect of duplication arising from the present method of taxing corporate profits and personal incomes, and the best remedy as we may see it. Such a study should, in my opinion, cover theoretical as well as practical considerations, including some examination of the idea, which is at present applied with certain reservations, that an incorporated business should be treated for income tax purposes as a legal entity separate and distinct from its shareholders. The general intention of the law is at least as important as the question of its effects, and I do not think it is possible to discuss the second point adequately without reference to the first.

The conclusions to be reached in this study should take into account the equitable treatment of taxpayers as between those who receive dividends and those who do not, the maintenance of revenue and prevention of evasion, recognized principles of law, and other circumstances that may apply particularly to this country, such as the large investment of foreign capital in our industries. Finally, I think our report should indicate the alternative possibilities and what they may cost so that the balance of advantage can be judged properly.

Subject to any other decision that may be made later when we can see the prospective results, I believe that the Foundation can make its most useful contribution on this subject by publishing its findings for general circulation and submitting them to the test of public opinion so far as public opinion can be encouraged to wrestle with the question. If our own ideas can be improved on in this way, so much the better. In the unlikely event that they cannot, this would still be the best road towards improved legislation. The necessary first step is a wider and better understanding of what the whole question is all about.

This project will call for a certain amount of outside consultation to which I hope that some of our professional members will be

prepared to contribute, and we shall probably find it necessary to retain the temporary services of people qualified to collaborate on different parts of the study outside our own organization.

The second project already approved concerns the present provisions of the Income Tax Act affecting co-operative associations. Our object here is to review the operation of the amendments introduced in 1946 following the Report of the MacDougall Commission. In view of wide public interest in this question and its controversial character we think it is desirable that the factual evidence on both sides should be ascertained as far as possible and made public so far as it goes. We shall approach it without prior assumptions, and we hope that all who are interested will help us to get the information we need.

The scope of our investigation of this question will be limited to the objectives stated here. We do not propose to reopen all the arguments that were brought before the Royal Commission four years ago, partly because it is clear that the major study to be undertaken will require all the time we can give it, and partly because we are simply concerned with experience of the law as amended.

Moreover, it is clear that taxation of co-operative companies is part of the larger question of the taxation of corporations generally. Most of the arguments opposing the present status of co-operatives, in the United States as well as in Canada, appear to arise from the duplicate taxation of distributed corporation profits. If the larger question could be resolved the former would perhaps become less contentious.

I do not wish today to discuss plans going beyond projects already approved, which will keep us fully occupied for some time to come. We are, of course, aware that other matters also deserve the Foundation's early attention. To mention only one, we have received a recommendation from the Joint Taxation Committee of the parent Associations that the Foundation should make a study of the tax treatment of the various types of retirement benefits available under group plans and individual private contracts. This was one of the subjects listed in the Foundation's memorandum of recommendations on the Income Tax Bill last April, as requiring further study than could be given to it at that time. As regards this particular subject, it is recognized that we might reach the conclusion that the existing provisions cannot be materially improved, but it is felt that public interest in the whole question, and particularly the apparent differences of treatment under the law as it now stands, would give

the findings value regardless of the extent of any changes that they might suggest. But we cannot take this matter up just yet.

We have been glad to receive a number of other suggestions from members. Such suggestions are always welcome, particularly when they are supported by statements of opinion or evidence concerning the problems in question. Material of this kind on record with the Foundation ought to become an increasingly valuable part of our working capital, and all such communications will be carefully considered.

In this connection, you may remember that I suggested last year that a small standing committee should be appointed to work with the Director and to be available for consultation and advice on such questions, and on other aspects of our programme as well, before recommendations are submitted to the Board. I am glad to report that this suggestion has recently been approved and that the committee, probably to be known as the Director's Consulting Committee, will be constituted following the appointment of officers for the coming year. Our work during the past year which was largely concerned with matters arising out of the revision of the Income Tax Act, and the approval of two projects already decided, have made earlier action unnecessary, but the time has come when this arrangement will be advantageous. I also hope that it will encourage members to give us the benefit of their own ideas.

In my report last year I also mentioned the desirability of producing information concerning the incidence of taxation in Canada, with particular reference to indirect taxes. It continues to be my opinion that this work ought to be undertaken as an outside project in collaboration with graduate students in Canadian universities. Our plans in this regard await a stronger financial position which will allow us to make an appropriation for this purpose, as part of the wider object of encouraging more ample facilities for advanced studies in Canadian public finance.

Since we occupied our new quarters we have made progress in assembling a library which has the double object of providing material that we need for purposes of our own work and of enabling us to answer outside enquiries. It is an important part of the Foundation's function to provide an information service, not only for our own members but for anyone else who is looking for tax information of the type that does not involve professional advice. We have not yet advertised these facilities because they first had to be adequately developed, and the business of answering questions consumes more time than we have been ready to spare. So far, our principal object

has been to collect and classify documentary material, which includes pamphlets and press clippings of continuing value which would otherwise disappear, and to set up a reference filing system that can digest the large quantity of material of this type produced in other countries so far as it is useful for our purposes. To collect reference books is a simpler matter, which for the time being takes second place and is being done gradually and selectively.

I mention the Foundation's library particularly because it is beginning to represent a substantial investment and we would like our members to get the full benefit of it. We cannot circulate its contents, but we do invite members to make use of it themselves or to ask us to put it to work for them. The best way for it to grow is in response to the demands on it.

This year we shall also start a programme of publications which will take two forms. First, we are going to put out a bulletin for members in order to keep everyone in touch with our activities, and we intend to include in it items of news or comment concerning developments in Canada and elsewhere which may interest its readers but might not otherwise come to their attention. The latter feature will have to begin experimentally. I expect that most of our members already find that they have far too much to read. As this small publication will cost time and money, we wish to make it worth-while. At the same time, we do not wish to duplicate the very useful information that already appears in the publications of the two parent Associations. We have given this plan a good deal of thought, and here also we shall welcome the views of members when they see what they are getting.

The second type of publication will be intended for wider circulation and will consist of reports or information papers appearing at irregular intervals on particular topics, either resulting from studies by the Foundation itself or contributed for this purpose. In the course of time, it may be possible to combine both elements in the form of a regular periodical.

The work ahead of the Foundation will require additional staff which is not yet up to the strength that we have always planned for. In addition, we must be ready to engage the temporary services of tax students when we can find them available, which is not easy. If we are fortunate in both respects in 1949 our budget should be at least one-third higher than last year's expenditure and may exceed the originally projected estimate of \$60,000. The scope of our activities depends directly upon the availability of people possessing

the qualifications to carry them out, and in Canada today at any rate there is a strong competitive demand for services of this kind.

The fact that we have therefore been obliged to build up our staff slowly has often imposed extra and unexpected duties on my associates in the Foundation's office. I would like to take this opportunity of expressing my gratitude to them for their loyal and cheerful support at all times. I also wish to acknowledge gratefully the generous help and wise counsel that have been given to the Foundation and to myself personally by the Chairman and Vice-Chairman and by other members of the Executive Committee of the Board, as well as by other Governors individually who, living further away, have been none the less ready to help us. The interest of all members of the Board is a strong encouragement which we warmly appreciate.

This concludes the Director's Report, which I respectfully submit to this Meeting.

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With the Chairman's permission, perhaps I might now say something about one part of our field of work, as I see it. I have been the Director of the Foundation for two years, and on these occasions you may expect me to state any general views that I have reached, not because they claim authority but because you have a right to know what they are.

I have spent much of this time becoming acquainted with tax legislation by the process of immersion and wishing that I had learned to swim years ago at a law school. While I still enjoy some of the privileges of ignorance, charitably described by fellow workers as a fresh mind, I shall venture some comments about tax laws as they appear to a layman in such circumstances. I am now, of course, speaking only for myself.

The point of view taken here regards tax legislation as part of the machinery of democratic government, that is to say as an instrument of justice and the common good. This is a rather different aspect from the side of the law ordinarily encountered from the standpoint of compliance, enforcement or self-protection. It has regard to the question of underlying intentions as distinct from particular effects.

Everyone seems to agree that the intentions of tax laws are often confused. The hope is held out that precision can be developed gradually by refinements in draughtsmanship. To some extent and

in matters of detail this is obviously true. But I suspect that the real problem goes deeper and is perhaps less obvious, which is another reason for raising it here.

Tax legislation today requires a respectable level of intellectual as well as financial honesty in the whole community, because it is harnessed through the revenue to a heavy load of national policies. It therefore seems that the character of modern tax laws should be governed by reasonably clear objectives, recognized and understood by everyone. Ideally, these objectives would then be the test of the laws' operation. The fact that the devices of tax legislation often cover their objectives only approximately makes it all the more advisable to have a clear conception of the latter steadily in view. In short, we ought at least to know and agree on what we are trying to do and how we are going about it.

The fact is, however, that we do not always know what the more complicated tax laws are really meant to do, in the sense of an agreed understanding of the intended effects. I say "we" meaning, so far as my own observation goes, all English speaking countries. No one can read much of the recent discussion of possible taxation reform without feeling that it is balked by the complexity of ways and means and is prevented from getting further, even in the realm of discussion, by uncertainty and disagreement concerning the underlying purpose and rationale of the legislation as it stands.

Perhaps the following questions will illustrate what I mean. Are corporation income taxes intended to be levies on certain forms of business as such, or on certain classes of income; and in either case who is really supposed to be paying them? Are estate taxes supposedly aimed at dead men, on the questionable assumption that they can pay anything more in this world, or at their beneficiaries, and what is their relationship to gift taxes or to the personal income tax? Is the personal income tax to be understood correctly as a tax on certain forms of realized benefits, as the law itself might appear to suggest, or is it meant more broadly to be a tax on the majority of citizens measured periodically according to an objective standard of their ability to pay; and in the latter case is the current concept of taxable income adequate and fair?

In raising these questions I am not passing judgment on our present methods. I am simply suggesting that we do not have sufficient common grounds for judgment. If you put questions such as these to the ordinary intelligent voter, or even to the man he has elected, the chances are that you will get from some a variety of answers and from most, none at all. Some of the answers you get

will be coloured by ideological sympathies or class interest, others will be quick guesswork, and the best you can hope for is some rationalization of presumed effects.

Instead of clearly aiming at intended results that everyone understands and agrees to recognize, although there might be strong difference of opinion as to the wisdom of the policies involved, the reasoned basis of much tax legislation of the more sophisticated sort has to be inferred from the way it seems to work out in practice, by assimilating cases to principles. Here you get different opinions. As it is the business of the Courts to declare the meaning of the law on given points they cannot be expected to make this task any easier than they generally do. Most accountants wisely prefer to stay within the generally accepted principles of their profession. Economists are apt to give forth an uncertain sound. In trying to come to grips with the operation of a tax they are faced with three main difficulties: first, of identifying its effects; second, of isolating them; and third, of deciding what would have happened in their absence. So, as matters stand at present, when the experts have each said their say we are all equally in the position of seeking to attribute the law's intentions by working backwards.

These questions of intention are by no means academic. It is impossible to express an opinion on the merits of the existing arrangements without assuming answers to them in some sense, at least implicitly. The state of taxation at any time represents the best obtainable equation between what people collectively want their governments to do, what they are prepared to give for it, and how they are prepared to pay. Taxation is therefore always an exposed nerve in politics. It carries more reflexes than the text books ever suggest. It is the point in the whole business of government where law, economics, sociology and political science shed their academic formalities and meet in "realpolitik." Consequently, views as to the intended purposes of tax laws, and the policy of their application, generate considerable political force at all times and are affected by it in turn.

On the other hand, when we come to technical problems on points of detail in the particular provisions of the law, such as many of our members have had occasion to consider during the past year in connection with the rewriting of the Income Tax Act, it is generally no less necessary to attribute intentions in principle in order to arrive at acceptable solutions.

The subjects announced for study by the Foundation this year involve these considerations on both counts.

I think it is therefore fairly clear that tax legislation today, in most countries where continuity in such matters has been preserved, reflects the play of unformulated and often conflicting assumptions which do not provide a sufficient basis for the complicated apparatus erected upon them.

This would be an unsatisfactory state of affairs even if peace, prosperity and lower taxes were assured, for the following reason in particular. These questions do not much concern the older forms of taxation that have always been used according to the ancient rule of find the money but hide the tax. They concern the more recent taxes respecting incomes and estates which modern fiscal systems characteristically employ as a means of distributing the tax burden equitably and by visible design according to the principle of ability to pay. That is to say, they apply to tax measures where the intention is the essence of their operation and should be sanctioned by informed public opinion.

But the pressure of taxation at present levels supplies added reasons why we should be concerned with these questions. First, it induces growing complexity in the mechanics of tax legislation, and this increases the danger that rules of law will be manufactured piecemeal from considerations of expediency instead of being derived from agreed recognition of governing principles which should, so to speak, bind them together. This process once started may become cumulative. Second, at high rates of tax the combination of complexity in operation and ambiguity in principle puts a heavy strain on taxpayers' habits of compliance which make up an absolutely indispensable element in any tax system, and which do presuppose a more or less agreed and accepted view of the intention of tax laws and their method of operation. Third, the extension of government services coupled with heavy defence expenditures, past, present and future, makes it desirable that the overall effect of the arrangements required should be ascertainable and controllable in terms of real contributory costs as well as net benefits. Overriding all these considerations in the long run is the sheer impossibility of formulating any system of reasoned views that can be called a popular philosophy of taxation in the absence of clear working concepts in which to express it and carry it out. It is questionable how long a democracy can successfully tax itself a large proportion of its national income unless most people have a deliberate idea of what is being done. The state of the world today may postpone indefinitely the kind of comfortable tax reduction for which many people were hoping three or four years ago, when the idea of the Canadian Tax Foundation was first conceived.

If we need a clearer conception of what our tax laws are really meant to do, why have we not got it? It would be worth-while to consider the reasons for this state of affairs if there were time to do so here. I think it is partly due to the fact that in many countries the income tax, which is the centre of the picture, has been introduced in the first place as an emergency measure, or has been set up on some borrowed model that originated in this way. A second factor has probably been a persistent political bias in favour of putting taxes, so far as appearances go, on things (e.g. estates and corporations) which cannot vote instead of on people who do. Essentially, what seems to have happened is that methods of taxation which started in a relatively small way in special circumstances have been required in the course of time to serve large social objectives without serious reconsideration of the adequacy of the original structural design. There are doubtless other explanations, including the necessity of treating any important tax statute, once it is securely in operation, as a continuous affair, and the attitude of the public towards taxation at all times.

This is all that can be said on this subject today. If the questions and views that I have put before you here are valid I think that their implications for the Canadian Tax Foundation are clear, and I look forward to discussing them further and working them out with you in the course of our regular activities. We must recognize that these are not questions that can be cleared up in short order by any government or legislature, short of a highly enlightened dictatorship, because they mainly concern the public mind and the kind of legislation that people want or are prepared to accept. I believe that clearer definition of tax objectives will have to be developed mainly by the slow but dependable method of informed discussion among taxpayers themselves, which everyone associated with the Foundation has an opportunity to lead.

MONTEATH DOUGLAS,
Director.

