The Canadian Tax Foundation*

Objects of the Tax Foundation

Although the Canadian Tax Foundation was established four years ago by the joint action of the Dominion Association of Chartered Accountants and the Canadian Bar Association, and has grown with their sponsorship and support, many members of both associations are still unaware of the benefits the organization offers to its members and to the country at large. Today, when the Canadian economy is moving to a near-war footing with the prospect of increasing taxation, the Foundation’s objects have added point, and should be widely known.

The practical objectives of the Tax Foundation are two-fold:

(a) research in tax legislation, with a view to good order in the substantive provisions and coherence in the underlying policies of our tax laws; and

(b) review of the continuing process of tax amendment, coupled with representations as required in order to counterbalance the necessary initiative of the government’s experts in this technical and constantly changing field.

With these objectives there is the added purpose of contributing to a better informed public opinion. Bulletins and research studies are published on topical subjects, and their scope will increase with the growth of the Foundation’s facilities. The publication of authoritative books has also been undertaken, the first of which, The Canadian Tax System Today, is now in the printers’ hands. A specialized tax library is being built up, and is available for anyone who wishes to use it.

The Foundation has no political affiliations or partisan sympathies and is independent of any class or group of taxpayers. The private financial support on which it depends, most of which comes from the business community, carries no stipulations affecting any subscriber’s interest under the tax laws. This principle of

independence is constitutionally secured by the provision that the Foundation's affairs and policy are controlled by a Board of Governors elected from practising members of the two parent associations across the country on annual nomination by their respective presidents; and it is confirmed by the expressed attitude of the founding subscribers that they would be wasting their shareholders' money if the Foundation's standing in this respect were open to question. The tax authorities, to whom this feature had to be demonstrated, now recognize and respect it.

The successful accomplishment of the Foundation's objects is a direct interest and responsibility of the members of both professions. It is a unique example of professional collaboration between tax practitioners; it offers an opportunity for public service in a field where such service is needed and where no other members of the community have the same qualifications; it involves a responsibility in the use of funds subscribed for this purpose by clients; and participation in the Foundation's activities cannot fail to give its members a better grasp of the subject matter from the government's standpoint as well as the taxpayer's.

If this were taken as a complete statement of the Foundation's claim to the support of lawyers and accountants in Canada, it might simply be regarded as another call to the exercise of public duties. Readers may ask what benefits, more specifically, are derived by the Foundation's members, by their clients, and by the government itself.

**Benefits to the Professions**

The governors and members of the Foundation serve without remuneration. The paramount benefit that its creation has brought to the two professions is wider collaboration between them. Both the lawyer and the accountant are becoming aware that neither has an exclusive competence in advising clients on tax problems. Taxation today invades every sector of productive or gainful activity and neither the accountant nor the lawyer can give much guidance on the consequences without the help of the other. No item in a tax return is exclusively a matter of accounting principles and no provision of the Income Tax Act is susceptible of practical application by the lawyer alone.

Participation in joint study groups, in committees to review new legislation and, particularly, in the Foundation's tax conferences brings lawyers and accountants together in the study of questions in which each contributes and gains a better under-
standing of respective points of view and of the problems before them. The personal associations so developed between members from different cities and provinces cut across the limits of local and competitive practice, and make for a wider range of vision and exchange of experience, as well as for easier relations in individual cases of joint clients, than is possible between relative strangers.

The work of the Foundation's conferences and committees acquaints the participants with underlying concepts of taxation which are an advantageous background to the treatment of the particular problems that confront the individual practitioner from day to day. Most professional men are so occupied with the daily routine of office work that they have no opportunity to broaden their perspective. The Foundation's publications as well as its meetings help to correct this deficiency.

All these consequences will lead in turn to a greater degree of certainty and uniformity in the professional handling of clients' affairs and will, by the same token, contribute to more uniformity in the administrative practices of the Taxation Division of the Department of National Revenue throughout the country.

Benefits to Corporations and Individuals

Perhaps the principal beneficiaries of the Canadian Tax Foundation, whether they know anything about it or not, are all the people in the country who are aware of the pressure of taxation from every direction but have no means of viewing the system as a whole or of knowing whether it is working fairly and efficiently.

The Foundation's work has a cumulative influence towards coherence and co-ordination of the tax system on a long-term view of its development, so that corporate and individual taxpayers may look forward to a more consistent development of taxation principles rather than a succession of improvised expedients. Having regard to the way in which tax legislation comes into existence, the language in which much of it has to be written and the diffuse complexity of the results, the very existence of the Tax Foundation breaks the closed circle of delegated authority and administrative initiative which tax laws always tend to produce, and introduces an external influence directly reflecting the experience of taxpayers themselves. The practical results of the work of the Tax Foundation, young as it is, are already beginning to be felt. Since it started four years ago it has
made representations to the Minister of Finance on anomalies, hardships and inequities in current legislation, which have been well received and reasonably successful.

The Foundation's membership represents a wide cross-section of experience of taxpayers' problems. Its representations therefore have a solid claim to the consideration of the tax authorities, which the latter recognize. The Minister of Finance acknowledged this in Parliament last year, when he submitted the bill to amend the Income Tax Act for second reading and described the Foundation's suggestions in regard to it as "very helpful and constructive".

The following are some examples of what has been done in this way. In the spring of 1947, when the government's drafting committee began work on the revision of the Income War Tax Act, the Foundation, then newly established, offered to organize a representative committee of lawyers and accountants to consider questions of difficulty on which an outside opinion would be constructive. The government accepted this offer, and a list of questions referred to the Foundation was studied at a series of meetings by a joint Montreal-Toronto group. Recommendations were submitted to the drafting committee and taken into consideration at an early stage of its work. In December of the same year, the Foundation's first tax conference was organized to review the bill which embodied the draft revision of the act. The resulting report was forwarded to the government and was extensively used by business and professional organizations across the country in preparing the submissions the government had invited.

The legislation on "Private Companies", enacted last year under Part 1A and the related sections of the Income Tax Act, was to some extent anticipated at the Foundation's second tax conference, held in November 1948, when one of the sections dealt with this question. A review of the problems brought to light by the Ives Commission, but not disposed of by the resulting legislation under Part XVIII of the old act, produced several alternative proposals, one of which substantially expressed the principle of the legislation now enacted, being stated in the conference report as follows:

Introduction of a special provision which would permit closely-held companies to capitalize a stated proportion of earned surplus, going perhaps as high as 50 per cent, on payment of a special corporate tax on the amount of surplus so treated, such amount then becoming available for distribution free of tax to shareholders at any time thereafter.

Returning to the same question at the third tax conference in
1949, the staff of the Foundation submitted a plan of amendment directed to the problems of “double taxation” in general and of “private companies” in particular, which developed the idea of tax-paid capitalization in concrete terms.

Recognizing that the new legislation follows much careful study of this matter by the tax authorities, the Foundation does not suggest that it is entitled to take all the credit for it. But it can be said that the Foundation’s work, initiated from outside on the strength of the experience of its members, helped both to secure recognition of the post-war aspects of the problem and to develop the method of treatment adopted. To conclude this reference, it should be added that one of the six round table groups at the fourth tax conference, held last December, was set up to review the operation of this legislation to date. This investigation disclosed a consensus on several points of difficulty which are being brought to the government’s attention, and which were also observed by representatives of the government departments who attended the meeting.

A third instance of the Foundation’s attention to current legislation, applied in a different way, should also be mentioned. Complaints are often heard that after new tax legislation has been introduced in Parliament it does not receive sufficient critical examination before it is enacted. Part of the difficulty is due to the complexity and technical character of the legislation itself, which make it unsuitable material for parliamentary debate; part of it is due to the principle of ministerial responsibility for revenue measures which governs the procedure; and part of it is due to the short time usually remaining after the general debate on the budget resolutions is concluded. Recognizing these factors, the Foundation last year initiated the practice of convening an expert committee to meet in Ottawa on the day that the amending bill was delivered by the King’s Printer, in order to study its provisions and submit immediate recommendations to the Department of Finance before second reading. It was to this action that the Minister referred in his acknowledgment already quoted. The Foundation intends to carry on this practice, and hopes to make it a recognized procedure unless the government itself introduces a better one.

It was a coincidence that the Foundation was established just at the time when the government was ready to undertake revision of the income tax statute after the last war. Today the review and revision of all tax laws is recognized to be a continuing process in which the initiative of the government’s experts calls for
the participation of the taxpayer's experts at the same level of competence. Given the support it needs, the Foundation is now in a position to carry out this indispensable function on a full-time basis.

**Benefits to the Government**

The value to the government of an independent organization constituted and operating as described needs no emphasis. It is recognized by the government departments and is reflected in the Foundation's good relations with them.

Most civil servants who have responsibility in fields of administration directly affecting the personal interests of many people are aware of the limits of official wisdom and of the dangers of departmental isolation, even though their communications do not always show it. Tax administration and the determination of tax policy are particularly subject to these difficulties. The task of collecting revenue and of framing and enforcing complicated legislation for this purpose inevitably tends to develop a bias of attitude that is defensive as regards the revenue and sometimes aggressive as regards the taxpayer. The departments concerned cannot go out of their way to compensate this bias without prejudice to the performance of their duties. The compensating factor has to operate externally. This means that the actual existence of the Foundation is an advantage to the authorities regardless of agreement or disagreement on questions between them.

Much of the complexity of modern tax legislation is due to relieving provisions required in order to prevent inequitable results, but tax laws have to be intelligible as well as equitable. The difficulty of satisfying both requirements is well known. The tax authorities deserve help to succeed and encouragement to go on trying, as well as criticism when they fail. Although an agreed principle may be clear, its expression in the words of a tax statute is often defective and always empirical. Those who draw up the legislation and administer it afterwards cannot judge its effect from the taxpayer's point of view unless they hear from his side, preferably through an independent agency which also has in view the coherence of the whole system. The Foundation, acting impartially without reference to special interests or political considerations, has come to be recognized as an agency of this character, which can operate outside the machinery of government but in conjunction with it.

On the other hand, the Foundation is not dependent on the
government's good pleasure. It enjoys no special privileges with any department and does not look for any. It stands on the same footing in this respect as any other organization representing the taxpayer's interests, the differences being that it represents no special class or group whatever, that taxation is its whole business, and that its sponsorship and its membership are unique credentials. Its constructive relations with the authorities rest on recognition of these facts, coupled with either side's appreciation of what the other has to do. The Foundation's standing with the government will therefore continue to be determined by its performance. This depends in turn upon the support of the two sponsoring professions throughout the country.

The Nature of the Commonwealth

There can be no formal bonds to hold the Commonwealth together. Even the position of the Crown has changed, but not our respect for the Crown nor our devotion to the King. The Commonwealth has no formal constitution. Today it has become a free association of free nations which used to be linked together politically, and now are associated because of a common attachment to certain political ideals. All of us in the Commonwealth stand for the maintenance of a large measure of freedom for the individual within the community, for genuine control by the citizens over their governments and, underlying both these concepts, for the view that nations, large or small, have a right to order their own affairs in their own way, so long as in doing so they do not menace the existence or the freedom of their neighbours. There are still some people who feel that these ideals are so general that they can be and, in fact, are shared by most of the free nations which are not in the Commonwealth; and that therefore the Commonwealth as such has ceased to have any real meaning. With this conclusion I cannot agree, though I certainly agree with the premise. To me the greatest attraction of the Commonwealth is that it is not exclusive in its ideals: that it is founded upon conceptions that could, with advantage to the world, be extended to all other nations. (From an address by the Rt. Hon. L. S. St. Laurent, Prime Minister of Canada, to the Canada Club in London on January 8th, 1951)