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*Tax Policy for a Better Tomorrow: Intersectoral and  
Multidisciplinary Connections, a Workshop in Honour  
of Neil Brooks*

*Guest Editor: Tim Edgar, Thaddeus Hwong & Jinyan  
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Article 2

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# A Retrospective on the Contributions of Neil Brooks: So Far

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Introduction

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## A Retrospective on the Contributions of Neil Brooks: So Far

KIM BROOKS\*

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\* This introduction originated in opening remarks for a conference. See Kim Brooks, “Neil Brooks: A 30-, or Maybe 40-, Year Retrospective” (Lecture delivered at Tax Policy for a Better Tomorrow: Intersectoral and Multidisciplinary Connections, Blake, Cassels & Graydon LLP, Toronto, 10-11 May 2013).

Man's sole gesture of defiance  
 at a hostile or indifferent universe  
 is standing outside at night  
 after the requisite number of beers  
 and with a graceful enormous parabola  
 trying to piss on the stars  
 failing magnificently<sup>1</sup>

AL PURDY HAS BEEN DESCRIBED AS THE WORLD'S MOST CANADIAN POET,<sup>2</sup> and this short poem, titled "Attempt," offers a fitting introduction to a retrospective on the contributions of Neil Brooks. The poem is about the nobility of striving for the impossible, audaciously reaching for that which seems to be out of reach—practices Neil has never shied away from in his work.

Putting together a retrospective of Neil's work has not been an easy task. He does not keep a complete curriculum vitae. He does not meticulously catalogue his work. While some academics ensure their articles are published in leading, peer-reviewed, generalist law journals, readily and electronically available to all and sundry, Neil's tendency has been to produce work largely at the request of friends and colleagues, and to publish in edited collections, the *Osgoode Hall Law Journal*, *Canadian Taxation* (a somewhat short-lived journal that he produced and edited), and, for a period of time when he served as the editor, the *Canadian Tax Journal*. He has also written countless pieces over the years for social policy magazines, many of which are impossible to track down because the magazines have since folded. Not even his webpage at Osgoode is reliable. For a long time, it stated that he taught tax law at Osgoode for thirty years; however, given that he started teaching in 1973, he has actually taught for over forty years.

Retrospectives can be organized in a variety of ways, but two methods are most common: grouping the subject's work chronologically or grouping it thematically. I have chosen the latter and organized Neil's work within six broad themes. Each theme is organized (roughly) chronologically. Part I looks at Neil's work in the areas of evidence law, psychology, and tax compliance. Part II reviews his scholarship on the importance of a robust, comprehensive income tax. His analysis of judging and statutory interpretation is discussed in Part III. Neil's

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1. AW Purdy, "Attempt" in AW Purdy, *Wild Grape Wine* (Toronto: McClelland and Stewart, 1968) 34 at 34 [Purdy, *Wild*].
  2. George Bowering, *Al Purdy* (Toronto: Copp Clark, 1970) at 1.

additions to the literature on tax expenditures are reviewed in Part IV. Work on the pursuit of Canadians' collective aspirations is detailed in Part V. Neil's contribution to legal education, tax scholarship, and the joy of the study of tax law complete the themes in Part VI.

I find myself in the strange circumstance of writing a retrospective on the work of my father. I have not, therefore, fought valiantly for a neutral or impersonal voice. Instead, I have tried to review Neil's work in a modestly organized fashion, paying tribute to the thickness of his contributions without guaranteeing completeness in coverage. I hope this introductory review provides context for the excellent articles that follow in this issue of the *Osgoode Hall Law Journal*, a fitting publication given that it was one of Neil's favoured publication forums and one for which he served as editor-in-chief from 1988 to 1993.

## I. EVIDENCE LAW, PSYCHOLOGY, AND TAX COMPLIANCE

Neil's initial academic pursuits fell some way from tax law; indeed, they were inspired by his work with the Law Reform Commission of Canada (Commission) on evidence law. From 1972 to 1975, he served as special consultant to the Commission on a project on the Evidence Code. The Commission issued a dozen working papers on evidence law for which Neil was an author,<sup>3</sup> culminating in

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3. Law Reform Commission of Canada, Law of Evidence Project Study Paper No 1, *Competence and Compellability*, (Ottawa: Law Reform Commission, 1972); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 2, *Manner of Questioning Witnesses* (Ottawa: Law Reform Commission, 1972); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 3, *Credibility* (Ottawa: Law Reform Commission, 1972); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 4, *Character* (Ottawa: Law Reform Commission, 1972); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 5, *Compellability of the Accused and the Admissibility of His Statements* (Ottawa: Law Reform Commission, 1973); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 6, *Judicial Notice* (Ottawa: Law Reform Commission, 1973); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 7, *Opinion and Expert Evidence* (Ottawa: Law Reform Commission, 1973); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 8, *Burdens of Proof and Presumptions* (Ottawa: Law Reform Commission, 1973); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 9, *Hearsay* (Ottawa: Law Reform Commission, 1974); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 10, *The Exclusion of Illegally Obtained Evidence* (Ottawa: Law Reform Commission, 1974); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 11, *Corroboration* (Ottawa: Law Reform Commission, 1975); Law Reform Commission of Canada, Law of Evidence Project Study Paper No 12, *Professional Privileges Before the Courts* (Ottawa: Law Reform Commission, 1975).

a comprehensive Evidence Code and explications of it.<sup>4</sup> The Code would have essentially replaced the technical rules of evidence with a statement of the principles of judicial proof. The Evidence Code was never passed in Canada, although parts of it certainly have been influential over the years. This early foray into law reform clearly spurred Neil's interest in that process. Over the years he has engaged in myriad law reform activities, including perhaps most notably his work with the Department of Finance in advance of Finance Minister Allan MacEachen's 1981 budget proposals. On balance, the law reform work Neil has undertaken throughout his career has been thoughtful and principled, even if not warmly embraced by governments.

Neil's work in evidence law was the focus of his efforts between 1975 and 1978. In 1975, he wrote a short article on evidence and rape;<sup>5</sup> co-authored what appears to be his first article with long-time collaborator Anthony N. Doob, a criminology professor at the University of Toronto, on justice and the jury;<sup>6</sup> and published a long article in the *Ottawa Law Review* titled simply "Evidence."<sup>7</sup> The *Ottawa Law Review* work was forty-eight pages long and covered witness competence, credibility, corroboration, and questioning. In 1976, he drafted part of a text for the Department of Continuing Education of the Law Society of Upper Canada, *Psychology and the Litigation Process*,<sup>8</sup> and authored a book review on *Canadian Criminal Evidence* and *The Law of Evidence in Civil Cases*.<sup>9</sup> The short article in 1975 on evidence law in rape cases became a longer *Osgoode Hall Law Journal* article published in 1977 (co-authored with Valerie Hans from the University of Toronto).<sup>10</sup> In 1978, Neil published another lengthy article on evidence law, this time on the relationship between the common law and evidence

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4. Canadian Association for the Prevention of Crime, *An Evidence Code for Canada: Comments on the Proposed Evidence Code Set Out in the Report on Evidence Released by the Law Reform Commission of Canada* (Ottawa: Canadian Association for the Prevention of Crime, 1977).
  5. Neil Brooks, "Rape and the Laws of Evidence" (1975) 23:1 Chitty's LJ 1.
  6. W Neil Brooks & Anthony N Doob, "Justice and the Jury" (1975) 31:3 J Soc Issues 171.
  7. Neil Brooks, "Evidence" (1975) 7:3 Ottawa L Rev 600.
  8. Neil Brooks, "Psychology and the Litigation Process: Rapprochement?" [sic] in *Psychology and the Litigation Process; Edited text from the programme held in November, 1976* (Toronto: Law Society of Upper Canada, 1977) 1.
  9. Neil Brooks, Book Review of *Canadian Criminal Evidence* by PK McWilliams and *The Law of Evidence in Civil Cases* by John Sopinka & Sidney N Lederman, (1976) 54:1 Can Bar Rev 179.
  10. Valerie P Hans & Neil Brooks, "Effects of Corroboration Instructions in a Rape Case on Experimental Juries" (1977) 15:3 Osgoode Hall LJ 701.

codes,<sup>11</sup> as well as an eighty-page defence of the Law Reform Commission of Canada's Evidence Code in the *Osgoode Hall Law Journal*.<sup>12</sup> Except for one minor foray in 1985 into the search and seizure provisions under the *Income Tax Act*,<sup>13</sup> this extensive defence appears to have ended Neil's scholarly work in pursuit of the reform of evidence codes.

Neil's interest in evidence was perhaps the impetus for his continued work at the intersection of psychology and the law. In 1980, he served as special consultant to the Law Reform Commission of Canada on a project on *The Jury in Criminal Trials*.<sup>14</sup> The report included twenty-seven recommendations (some of which had sub-parts). In 1983, he published a monograph, *Police Guidelines: Pretrial Eyewitness Identification Procedures*,<sup>15</sup> clocking in at 177 pages, with an additional 427 footnotes (many of which are quite lengthy). In this piece he seems to have taken some guidance from his long-time friend and former colleague (at the Law Reform Commission and at Osgoode), Phil Anisman, who embraced the footnote as form.<sup>16</sup>

In the late 1980s and early 1990s, Neil's work moved to the study of tax compliance behaviour. Neil, again along with Doob, completed a study on "Tax Evasion: Searching for a Theory of Compliant Behaviour."<sup>17</sup> (I do not know if it was this particular study, or some other, that required our family to come into Osgoode on several weekends to address and stamp envelopes that were sent to subjects with questionnaires asking them about their tax compliance behaviour.) In 1988, Neil published a chapter, "The Challenge of Tax Compliance,"<sup>18</sup> for

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11. Neil Brooks, "The Common Law and the Evidence Code: Are They Compatible?" (1978) 27 UNBLJ 27.
  12. Neil Brooks, "The Law Reform Commission of Canada's Evidence Code" (1978) 16:2 Osgoode Hall LJ 241.
  13. Neil Brooks & Judy Fudge, "Search and Seizure Under the Income Tax Act: Summary of a Study Paper" (Ottawa: Law Reform Commission of Canada, 1985).
  14. Law Reform Commission of Canada, *The Jury in Criminal Trials* (Ottawa: Law Reform Commission of Canada, 1980).
  15. Neil Brooks, *Police Guidelines: Pretrial Eyewitness Identification Procedures* (Ottawa: Law Reform Commission of Canada, 1983).
  16. See e.g. Philip Anisman, *Takeover Bid Legislation in Canada: A Comparative Analysis* (Don Mills, Ont: CCH Canadian, 1974). This early work by Phil contains 1762 footnotes.
  17. Neil Brooks & Anthony N Doob, "Tax Evasion: Searching for a Theory of Compliant Behaviour" in ML Friedland, ed, *Securing Compliance: Seven Case Studies* (Toronto: University of Toronto Press, 1990) 120.
  18. Neil Brooks, "The Challenge of Tax Compliance: Globalization, Information Technology and Mobility" in Chris Evans & Abe Greenbaum, eds, *Tax Administration: Facing the Challenge of the Future* (St Leonards, NSW: Prospect Media, 1998) 7.

a collection edited by Chris Evans and Abe Greenbaum, at the time both tax professors in Australia. Neil opened his chapter by revealing his bias, stating:

I do not like people who steal from needy families, from helpless elderly citizens, from those who are especially vulnerable because of illness or disabilities, or from poor kids desperately in need of quality education. I also have no respect for those who would take advantage of the safe streets and liveable cities of Australia, and the relatively high levels of community cohesion and the enormous prosperity that social co-operation has brought to this country, but who refuse to pay the price of admission for living in its mixed economy. In short, of all the various forms of low-life, I dislike tax evaders most.<sup>19</sup>

Neil then took a hiatus from tax compliance work. In 2009, Neil returned in some ways to his interest in compliance and undertook some writing on the importance of international enforcement efforts. A review of Adrian J. Sawyer's book in the *Australian Tax Forum* is the first, and I think only, published manifestation of Neil's thinking on this topic.<sup>20</sup> It has, however, taken root in several lectures he has given. Neil's talks are lengthy, dense, rapidly delivered, and painstakingly organized—so one hopes that more of his work in this area will find its way into published form.

## II. THE IMPORTANCE OF A ROBUST, COMPREHENSIVE INCOME TAX

Tax scholars, at least those that follow in the footsteps of Kenneth Carter, often manifest a preoccupation with tax equity and fairness as a preliminary step on the way to advocating the importance of a robust, comprehensive income tax system. Neil's work has certainly unfolded in that vein. One of his earliest tax pieces, possibly his first, was on "Equity in the Tax Structure," published in 1978 in *Canadian Conference on Social Development*.<sup>21</sup> In 2007 and again in 2009, Neil authored two pieces that reflect his most developed thinking on the need for a comprehensive, progressive income tax. The 2007 chapter, "An Overview of the Role of the VAT, Fundamental Tax Reform, and the Defence of the Income Tax," was published in a collection edited by Richard Krever of Monash University and

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19. *Ibid.*

20. Neil Brooks, Book Review of *Developing a World Tax Organization: The Way Forward* by Adrian J Sawyer, (2009) 24:3 *Austl Tax F* 241.

21. Neil Brooks, "Equity in the Tax Structure" in *Canadian Conference on Social Development 1978: Proceedings* (Ottawa: Canadian Council on Social Development, 1978) 39.

David White of Victoria University of Wellington.<sup>22</sup> In that article, Neil contrasts the arguments for the value-added tax with the merits of the income tax, arguing strongly that taxing income over consumption yields a more equitable, practical, and efficient result overall. The 2009 chapter, “A Restatement of the Case for a Progressive Income Tax,” found its way into a collection by Krever and John G. Head, former professor of business and economics at Monash University.<sup>23</sup> In that article, Neil again champions the progressive income tax as the preferred vehicle for delivering an equal and just distribution of economic resources. The article is situated in the context of the contributions to progressivity in tax design made by public finance giant Richard Musgrave.

Neil has written separate articles on several aspects of a comprehensive income tax. His work might be categorized as discussing the tax unit, the tax base, the tax rate, the tax mix, and tax reform. I will consider each of these categories in turn.

#### A. TAX UNIT

Neil has been a rabid proponent of the notion that “individuals should be the unit of account under a progressive income tax.”<sup>24</sup> He has seized a number of opportunities to dispute the issue of the appropriate tax unit over the years, including with University of Western Ontario economist Jim Davies (in 1992),<sup>25</sup> with the late Wayne State law professor Mike McIntyre (in 1996),<sup>26</sup> and in a comment on an article by Queen’s economist Robin W. Boadway and Trent University’s Harry M. Kitchen in 1999.<sup>27</sup> The opening section of his 1996 article on conjugal relationships and tax liability is titled “Who is Behind this Silliness?”<sup>28</sup> which I think reflects not only Neil’s view of the arguments in favour of joint taxation

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22. Neil Brooks, “An Overview of the Role of the VAT, Fundamental Tax Reform, and a Defence of the Income Tax” in Richard Krever & David White, eds, *GST in Retrospect and Prospect* (Wellington, NZ: Thomson Brookers, 2007) 597.

23. Neil Brooks, “A Restatement of the Case for a Progressive Income Tax” in John G Head & Richard Krever, eds, *Tax Reform in the 21st Century: A Volume in Memory of Richard Musgrave* (Alphen aan den Rijn, The Netherlands: Kluwer Law International, 2009) 277.

24. Neil Brooks, “The Irrelevance of Conjugal Relationships in Assessing Tax Liability” in John G Head & Richard Krever, eds, *Tax Units and the Tax Rate Scale* (Sydney: Australian Tax Research Foundation, 1996) 35 at 35 [Brooks, “Irrelevance of Conjugal Relationships”].

25. Neil Brooks, “Comment” in Richard M Bird & Jack M Mintz, eds, *Taxation to 2000 and Beyond* (Toronto: Canadian Tax Foundation, 1992) 200.

26. Brooks, “Irrelevance of Conjugal Relationships,” *supra* note 24.

27. Neil Brooks, “Comments on the Paper by Robin W. Boadway and Harry M. Kitchen” (1999) 47:3 Can Tax J 608.

28. Brooks, “Irrelevance of Conjugal Relationships,” *supra* note 24 at 35.

but also his love of descriptive titles. Neil also tackled the presumed need for a conjugal unit in the background research he provided for the Law Commission of Canada during the early 2000s.<sup>29</sup>

## B. TAX BASE

In 1978, Neil published an article in what I think is the best collection of articles about Canadian tax law published by a group of academics, elegantly and simply titled *Essays on Canadian Taxation*.<sup>30</sup> His article looked at the principles underlying the deduction of business expenses. The article delineates seven principles for determining when and how business expenses should be deductible:

1. “Business expenses are expenses that are not incurred for a personal purpose”;<sup>31</sup>
2. “Business expenses are only deductible in the year they are incurred if they bring to the business a value that is consumed in the year”;<sup>32</sup>
3. “Business expenses that are capital costs should be deductible in the year to the extent that they are consumed”;<sup>33</sup>
4. “The deduction of business expenses is disallowed if they were incurred for a purpose not intended by the [A]ct and solely or principally to reduce taxes”;<sup>34</sup>
5. “The deduction of some business expenses, for example unreasonable expenses, is disallowed in order to encourage economically efficient activity”;<sup>35</sup>
6. “The deduction of some business expenses is disallowed or is accelerated in order to encourage or discourage certain social or economic activity”;<sup>36</sup> and
7. “The deduction of some business expenses is disallowed if a court finds that to permit it would frustrate public policy.”<sup>37</sup>

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29. Law Commission of Canada, *Beyond Conjuality: Recognizing and Supporting Close Personal Adult Relationships* (Ottawa: Law Commission of Canada, 2001). For another critical perspective on joint taxation, see Kathleen Lahey, “XX” (2015) 52:2 Osgoode Hall LJ XX.

30. Neil Brooks, “The Principles Underlying the Deduction of Business Expenses” in Brian G Hansen, Vern Krishna & James A Rendall, eds, *Essays on Canadian Taxation* (Toronto: Richard De Boo, 1978) 249.

31. *Ibid* at 252.

32. *Ibid* at 263.

33. *Ibid* at 279.

34. *Ibid* at 286.

35. *Ibid* at 288.

36. *Ibid* at 291.

37. *Ibid* at 297.

Though each of the principles in this list merits an article of its own, the list itself makes simple what judges in so many tax cases have made complicated. Drawing the line between deductible business expenses and personal expenses and working through the complex conceptual frameworks that enable a policymaker to make appropriate decisions about the timing of business expenses strikes me as hard work, and this article makes, in my view, an important contribution to the literature in this area. The broad theme of appropriate business deductions has appeared elsewhere in Neil's work, including in a paper for the Social Planning Council of Metropolitan Toronto on the *Tax Consequences of Work-Related Daycare Arrangements*, authored in 1983.<sup>38</sup>

A second theme in Neil's tax base work has been advocating for the full taxation of capital gains. His first article on this theme was co-authored with Arthur Peltomaa, now of Bennett Jones LLP, and published in 1979. The title leaves no mystery about the argument: "The Case for Full Taxation of Capital Gains."<sup>39</sup> In 1990, Neil and Krever worked on a report for the Institute of Policy Studies at Victoria University of Wellington, *A Capital Gains Tax for New Zealand*.<sup>40</sup> The report argues strongly that New Zealand should follow the United Kingdom, the United States, Canada, and Australia, and adopt a capital gains tax. It also argues that the first-best method for doing so would be taxing capital gains as they accrue. This assertion is based on two fundamental principles: "(1) that everyone should bear their fair share of the tax burden, and (2) that generally the tax system is an inappropriate policy instrument for achieving the government's social and economic goals."<sup>41</sup>

### C. TAX RATE

In 1998, Neil published "Flattening the Claims of the Flat Taxers" in the *Dalhousie Law Journal*.<sup>42</sup> It is unrelenting in its attack on those who argue that "individual greed [should be] liberated and democratic decision-making ... constrained"<sup>43</sup> by abandoning progressive tax rates. A shorter piece with a great title (Neil's titles seem to have become more direct and lengthy over time), "The Alliance's Flat Tax:

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38. Neil Brooks, *Tax Consequences of Work-Related Daycare Arrangements* (Toronto: Social Planning Council of Metropolitan Toronto, 1983).

39. Neil Brooks & Arthur Peltomaa, "The Case for Full Taxation of Capital Gains" (1979) 1:1 *Can Tax'n: J Tax Pol'y* 7.

40. Richard Krever & Neil Brooks, *A Capital Gains Tax for New Zealand* (Wellington, NZ: Victoria University Press, 1990).

41. *Ibid* at ii.

42. Neil Brooks, "Flattening the Claims of the Flat Taxers" (1998) 21:2 *Dalhousie LJ* 287.

43. *Ibid* at 291.

Are These Guys Serious?,” was published in *Policy Options* in 2000. In it, Neil lambastes the Canadian Alliance’s proposed flat tax as “regressive, incoherent, inefficient and inconsistent with widely shared Canadian values.”<sup>44</sup>

#### D. TAX MIX

Neil has had a changeable relationship with the goods and services tax (GST). At the outset, he was concerned that any sales or value-added tax might dilute tax progressivity. In fact, he described his campaign against the implementation of the GST in a talk given in New Zealand in 2006:

In the late 1980s, when the Progressive Conservative government proposed to introduce a goods and services tax in Canada, I criss-crossed the country speaking to trade unions and sympathetic left-leaning groups predicting that if it were implemented it would mean the end of civilization as we knew it in Canada.<sup>45</sup>

Ultimately, he was won over by the potential of the GST as a revenue raiser and by the GST rebate for low-income people. As with all taxes, Neil has been a fierce advocate of broad bases and generally would not exempt any expenditure from taxation, preferring instead to fix inequities with direct and explicit government grants.

From 1989 to 1993, the GST was something of a preoccupation for Neil. His first piece on the GST was for *This Magazine* titled “OK, Michael Wilson, Here’s the Alternative,” co-authored with prolific writer, journalist, and public intellectual Linda McQuaig.<sup>46</sup> This article was followed in 1990 by a report prepared for the Institute for Research on Public Policy, *Searching for an Alternative to the GST*.<sup>47</sup> Again, in 1990, Neil authored a chapter on “The Canadian Goods & Services Tax” for a Citizens for Tax Justice edited collection, *Growth & Equity: Tax Policy Challenges for the 1990s*,<sup>48</sup> and a chapter on the GST in *Materials on Canadian Income Tax* edited by Brian J. Arnold and Timothy W. Edgar (both

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44. Neil Brooks, “The Alliance’s Flat Tax: Are These Guys Serious?,” *Policy Options* 21:8 (October 2000) 16 at 16.

45. [On file with author].

46. Neil Brooks & Linda McQuaig, “OK, Michael Wilson, Here’s the Alternative,” *This Magazine* 23:5 (December 1989) 15.

47. Neil Brooks, *Searching for an Alternative to the GST* (Ottawa: Institute for Research on Public Policy, 1990).

48. Neil Brooks, “The Canadian Goods & Services Tax” in Bruce L Fisher & Robert S McIntyre, eds, *Growth & Equity: Tax Policy Challenges for the 1990s* (Washington: Citizens for Tax Justice, 1990) 109.

then at Western's Faculty of Law).<sup>49</sup> In 1992, Neil prepared a monograph for the Australian Tax Research Foundation, *The Canadian Goods and Services Tax: History, Policy and Politics*.<sup>50</sup> Finally, 1993 saw a chapter on sales tax reform and the tax mix in Head's edited collection, *Fightback! An Economic Assessment*.<sup>51</sup>

In contrast with his work on the GST, Neil has not devoted much of his scholarly attention to the design of the corporate tax. He wrote a detailed review of the taxation of closely held corporations for the *Australian Tax Forum* in 1986<sup>52</sup> and, more than ten years later, a book chapter on the subject in Krever and Head's *Company Tax Systems*.<sup>53</sup> The 1986 article surveys the developments of taxation of small business in the United Kingdom, the United States, Canada, and Australia. It rejects any form of tax concession for small businesses (and their often wealthy owners), since, as Neil argues, indirect subsidization through the tax system is not only misplaced but achieves undesired results.<sup>54</sup> The chapter in *Company Tax Systems* explores the elusive and often conflicting normative principles underlying the Canadian corporate tax system, how those principles have unfolded (or not) in light of the politics of successive Canadian governments, as well as the elements of the corporate tax, taxation of closely held corporations, and dividend tax credit.

## E. TAX REFORM

In 1988, Neil hosted a conference at Osgoode on tax reform, in honour of the Royal Commission on Taxation's famous Carter Report published in 1966.<sup>55</sup> The Carter Report has had many advocates around the world over the years, but Neil must surely be one of the most devoted. In a short article in which he was asked

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49. Neil Brooks, "Goods and Services Tax" in Brian J Arnold & Timothy W Edgar, eds, *Materials on Canadian Income Tax*, 9th ed (Don Mills, Ont: Richard De Boo, 1990) 805.
  50. Neil Brooks, *The Canadian Goods and Services Tax: History, Policy and Politics* (Sydney: Australian Tax Research Foundation, 1992).
  51. Neil Brooks, "Sales Tax Reform and Tax Mix Change: A Canadian Perspective" in John G Head, ed, *Fightback! An Economic Assessment* (Sydney: Australian Tax Research Foundation, 1993) 243.
  52. Neil Brooks, "Taxation of Closely-Held Corporations: The Partnership Option and the Lower Rate of Tax" (1986) 3:4 *Austl Tax F* 381 [Brooks, "Taxation of Closely-Held Corporations"].
  53. Neil Brooks, "Canadian Corporate Tax: Logic, Policies and Politics" in John G Head & Richard Krever, eds, *Company Tax Systems* (Sydney: Australian Tax Research Foundation, 1997) 115.
  54. Brooks, "Taxation of Closely-Held Corporations," *supra* note 52 at 508-509.
  55. *Report of the Royal Commission on Taxation* (Ottawa: Queen's Printer, 1966) [Carter Report]. The Chairman of the Commission was Kenneth Le Mesurier Carter.

to reflect upon the books that most influenced his views of taxation, he said, in referring to the Carter Report:

The tax policy junkie's canon is composed of books written by a succession of brilliant scholars and elegant stylists. Like all canons, it is a legacy of great geniuses... [But] likely unprecedented in the great literature of the other policy fields, a Royal Commission produced one of the most important documents in the tax policy canon.<sup>56</sup>

Subsequent to the 1988 conference, Neil edited *The Quest for Tax Reform*,<sup>57</sup> a compilation of papers from the conference. In the introduction, he notes that, despite the fact that the central tenets of the Carter Report were never translated into law, the Carter Report still “set the standard for intellectual rigour in tax analysis.”<sup>58</sup>

Having missed the chance to participate in the work of the Royal Commission on Taxation, Neil had an opportunity to participate first hand in the Ontario Fair Tax Commission as Co-Vice Chair. This commission issued its report in 1993.<sup>59</sup> At the time, I was at university and no longer living at home. I think it was the only time I have seen my father unhappy. The Ontario Fair Tax Commission had an elaborate process, and its members and staff worked hard to produce a lengthy and thoughtful report. Neil wrote a separate comment in the report, as did other commissioners, revealingly titled “Missed Opportunities.”<sup>60</sup> I remember him agonizing about whether or not to write a personal comment, but, once he decided to, he did not spare the report a thorough critique.

Neil's personal statement for the Ontario Fair Tax Commission reveals two features about his attitude toward taxation and tax reform. First, Neil remains ever optimistic about a person's ability to be persuaded by sound reasoning over partisan beliefs:

The primary role of commissions like the Fair Tax Commission should not be simply to discover what people or interest group leaders want for themselves or their constituents, and then attempt to determine the best means of implementing or compromising those wants. Instead, it should be to deepen our understanding of

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56. Neil Brooks in “The Book That Influenced Me Most,” *Policy Options* 23:1 (January-February 2002) at 28.

57. W Neil Brooks, ed, *The Quest for Tax Reform: The Royal Commission on Taxation Twenty Years Later* (Toronto: Carswell, 1988).

58. *Ibid* at 20.

59. Ontario Fair Tax Commission, *Fair Taxation in a Changing World: Report of the Ontario Fair Tax Commission* (Toronto: University of Toronto Press, 1993).

60. Neil Brooks, “Missed Opportunities,” Editorial Comment, in Ontario Fair Tax Commission, *supra* note 59 at 1008.

the issues it addresses, thereby creating an opportunity for more thoughtful public discussion, which, in turn, will enrich not only society's understanding of itself, and its needs and values, but also the choices it confronts.<sup>61</sup>

Second, Neil is ever mindful of concessions to business interests and the way those concessions creep so easily into tax law and policy discussions:

I also criticize the recommendations relating to the wealth tax, resource taxes, and the corporate tax for not going far enough. There are clearly limits on a provincial government's ability to use the tax system as an effective instrument for achieving social equality; however, in these and other areas the commission's analysis and recommendations concede too much to the power of owners of capital and multinationals.<sup>62</sup>

In 2007, Neil published a short piece in *Canadian Dimension* on a democratic tax reform agenda.<sup>63</sup> I am confident that he would spell out a much longer agenda if a strict word limit were not imposed (and enforced), but the five points he chose to emphasize seem like the items he would highlight no matter how many words were permitted:

1. "Increase taxes on the filthy rich by raising the top marginal tax rates and tying them to some measure of inequality";<sup>64</sup>
2. "Include gifts and inheritances over \$3 million in taxable income";<sup>65</sup>
3. "Enact an annual wealth tax";<sup>66</sup>
4. "Close the loopholes for the rich that now riddle the income-tax system";<sup>67</sup> and
5. "Extend the corporate income tax to all business enterprises and require them to publicly disclose their tax returns."<sup>68</sup>

Of course, Neil's work on tax reform goes beyond the articles he has written. He has advocated for and advised countless social policy and other groups on tax policy matters. As early as 1987, McQuaig, in the acknowledgements to her best-selling book about tax policy in Canada, *Behind Closed Doors: How The*

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61. *Ibid* at 1009.

62. *Ibid* at 1010.

63. Neil Brooks, "A Democratic Tax Reform for Canada," *Canadian Dimension* 41:2 (March/April 2007) 48.

64. *Ibid* at 49.

65. *Ibid*.

66. *Ibid*.

67. *Ibid* at 59.

68. *Ibid*.

*Rich Won Control of Canada's Tax System ... And Ended Up Richer*,<sup>69</sup> noted Neil's "strong commitment to a fairer tax system,"<sup>70</sup> and continued:

Over the years, he has taught thousands of law students the importance of approaching the tax system critically, of asking why the system is the way it is and who benefits from it. Neil Brooks is really the unsung hero of tax in Canada. He brings an intellectual rigour and a deep sense of justice to a subject too often approached in a purely technical manner. Like many who have been exposed to his ideas and his spirit, I have been deeply inspired. This book is a product of that inspiration.<sup>71</sup>

### III. JUDGING AND STATUTORY INTERPRETATION

Neil has enthusiastically approached the theory and practice of statutory interpretation and has appealed for a sensible approach to judicial decision-making for most of his career. In 1976, he authored an article on "The Judge and the Adversary System."<sup>72</sup> This early article does not go for the jugular in the same way as some of his later work, but it does set up Neil's view of the judge as deeply entrenched in his or her own ideologies and politics. The judge is framed as influenced by "the peculiarities of his or her own temperament and abilities, the significance of the particular case to the parties and to the public, the complexity of the factual and legal issues raised by the case, and the effectiveness of the parties or their counsel in presenting the case."<sup>73</sup>

In 1997, Neil prepared a general article titled "The Responsibility of Judges in Interpreting Tax Legislation,"<sup>74</sup> published in a collection edited by international tax expert Graeme Cooper. In it, Neil argues that judges should jettison plain meaning and purposive approaches to statutory interpretation and instead interpret tax laws in the same manner as a savvy tax analyst, with an eye to advancing coherent tax policy. He reiterated this position almost ten years later in an article on "[t]he appropriate role of courts in interpreting GST legislation"

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69. Linda McQuaig, *Behind Closed Doors: How The Rich Won Control of Canada's Tax System ... And Ended Up Richer* (Markham, Ont: Penguin Books, 1987).

70. *Ibid* at x.

71. *Ibid*.

72. Neil Brooks, "The Judge and the Adversary System" in Allen M Linden, ed, *The Canadian Judiciary* (Toronto: Osgoode Hall Law School, 1976) 89.

73. *Ibid* at 89-90.

74. Neil Brooks, "The Responsibility of Judges in Interpreting Tax Legislation" in Graeme S Cooper, ed, *Tax Avoidance and the Rule of Law* (Amsterdam: International Bureau of Fiscal Documentation, 1997) 93.

in the *Australian GST Journal*.<sup>75</sup> He argues that a consequentialist approach to statutory interpretation furthers democratic values and empowers judges to fulfil their role in the law-making process, providing certainty and predictability, as well as fairness, simplicity, and rationality to the tax system.

#### IV. THE POWER OF TAX EXPENDITURE ANALYSIS

Neil's earliest move into the tax expenditure literature was in 1976, when he acted as a consultant on a report for the National Council of Welfare on *The Hidden Welfare System*.<sup>76</sup> The report opens with the observation that there are two welfare systems in Canada—one for the poor and one for everyone else. In 1979, he wrote his first short article embracing explicitly and fully the tax expenditure concept, titled simply “The Tax Expenditure Concept.”<sup>77</sup> The article was published in *Canadian Taxation*, a wonderful journal that Neil started with his students at Osgoode. The journal ran for three years before they ran out of money and perhaps also enthusiasm for the sloggish work of publishing a quarterly journal containing progressive articles on taxation before the days of word processors. Incidentally, one of the law students who were most dedicated to the journal was Krever, who went on to found a similar journal in Australia called *Australian Tax Forum*.

This early work was chased with other short pieces, including a book review on tax expenditures for research and development (in 1984),<sup>78</sup> a book review of *Tax Expenditures* by Stanley S. Surrey and Paul R. McDaniel (in 1986),<sup>79</sup> and a *Perception* magazine article on confusing spending with tax reform (in 1989).<sup>80</sup>

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75. Neil Brooks, “The Appropriate Role of Courts in Interpreting GST Legislation: Reflections on the Canadian Experience” (2006) 6:1 *Austl GST J* 1.

76. National Council of Welfare, *The Hidden Welfare System: A Report by the National Council of Welfare on the Personal Income Tax System in Canada* (Ottawa: National Council of Welfare, 1976).

77. Neil Brooks, “The Tax Expenditure Concept” (1979) 1:1 *Can Tax'n: J Tax Pol'y* 31.

78. Neil Brooks, Book Review of *Canadian R & D Incentives: Their Adequacy and Impact* by Donald G McFetridge & Jacek P Warda, (1984) 10:2 *Can Pub Pol'y* 248.

79. Neil Brooks, Book Review of *Tax Expenditures* by Stanley S Surrey & Paul R McDaniel, (1986) 34:3 *Can Tax J* 681.

80. Neil Brooks, “Confusing Spending with Tax Reform,” *Perception* 11:2 (November/December 1989) 22.

In 2001, Neil produced a longer article on the tax credit for charitable contributions<sup>81</sup> and an article on the role of the voluntary sector in the modern welfare state.<sup>82</sup> But, Neil's fullest defence of the tax expenditure concept came in 2009 in a book chapter he prepared for Evans and Krever entitled "The Under-Appreciated Implications of the Tax Expenditure Concept."<sup>83</sup> In that chapter, Neil explains how governments substitute tax exemptions for subsidies through the tax system, making tax reform more a matter of spending than a matter of tax. He also provides recommendations for integrating tax expenditures into the budget process. To be clear, Neil makes these recommendations not because he endorses expanded use of tax expenditures, but because he anticipates that a clearer conceptual understanding would promote better social and economic policy more generally. He states that:

No country has constructed a coherent energy policy, a sensible and effective health care policy, an affordable early childhood development policy, an equitable and rigorous education system, or an innovative industrial policy based on tax expenditures. These facts would suggest that there is an urgent need to ensure that tax expenditures are properly conceptualised in the tax reform process so that the powerful political incentives explaining their use are neutralised.<sup>84</sup>

In order to strengthen tax systems, a proper understanding of tax expenditures is essential, and Neil's aim is to educate with the hope of fostering reform.

## V. PURSUING COLLECTIVE ASPIRATIONS

A focus on the tax system as an instrument of social and economic control has offered Neil a springboard to consider more broadly the question of government revenue-raising in pursuit of collective aspirations. In 1996, he gave the Josiah Wood Lecture at Mount Allison University entitled "Can Canadians Still

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81. Neil Brooks, "The Tax Credit for Charitable Contributions: Giving Credit where None Is Due" in Jim Phillips, Bruce Chapman & David Stevens, eds, *Between State and Market: Essays on Charities Law and Policy in Canada* (Montreal: McGill-Queen's University Press, 2001) 457.

82. Neil Brooks, "The Role of the Voluntary Sector in a Modern Welfare State" in Phillips, Chapman & Stevens, eds, *supra* note 81, 166.

83. Neil Brooks, "The Under-Appreciated Implications of the Tax Expenditure Concept" in Chris Evans & Richard Krever, eds, *Australian Business Tax Reform in Retrospect and Prospect* (Sydney: Thomson Reuters, 2009) 233.

84. *Ibid* at 257.

Afford to Pursue Their Aspirations Collectively?”<sup>85</sup> Naturally, his view was that we could—a view he held even in 1996 at the height of the frenzy over Canada’s mounting debt.

Neil’s work on pursuing collective aspirations takes seriously the connection between paying taxes and the fundamental engagement of citizens. In 1997, he wrote “The Rhetoric of Tax Politics: The Attack on Citizenship” in Krever’s *Tax Conversations*.<sup>86</sup> In that article, Neil redeems taxes from “the rhetoric of the tax-bashers”<sup>87</sup> by systematically dismantling tax misconceptions and showing that the collection and use of taxes are intrinsically connected to the democratic process.

In June 2005, Neil wrote a short piece for the Canadian Centre for Policy Alternatives, *Tax Freedom Day: A Flawed, Incoherent, and Pernicious Concept*.<sup>88</sup> In that paper he mercilessly goes after the Fraser Institute’s tax freedom day campaign. He also sets out his own list of why Canadians ought to love paying taxes: They allow us to buy high-quality public schools, public parks, and medical care, as well as other public goods; they allow us to distribute our incomes over the course of our lives; they allow us to exercise our moral obligations to our fellow citizens; and they leave us better insulated against threats of capital withdrawal by businesses.

Neil’s collaborative work over the last ten or so years with Thaddeus Hwong (a professor in tax law and social policy at York University, and one of Neil’s many graduate students who went on to academic careers) is the most recent iteration of Neil’s work on the theme of taxpaying as a means of pursuing collective aspirations. In 2006, they released their massively downloaded Canadian Centre for Policy Alternatives piece entitled *The Social Benefits and Economic Costs of Taxation: A Comparison of High- and Low-Tax Countries*,<sup>89</sup> and in 2010, they

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85. Neil Brooks, “Can Canadians Still Afford to Pursue Their Aspirations Collectively?” in Allison Brewer et al, eds, *Critical Thinking About Social Issues: The Josiah Wood Lectures 1996* (Sackville, NB: The Anchorage Press, 1996).

86. Neil Brooks, “The Rhetoric of Tax Politics: The Attack on Citizenship” in Richard Krever, ed, *Tax Conversations: A Guide to the Key Issues in the Tax Reform Debate* (London, UK: Kluwer Law International, 1997) 107.

87. *Ibid* at 112.

88. Neil Brooks, *Tax Freedom Day: A Flawed, Incoherent, and Pernicious Concept* (Ottawa: Canadian Centre for Policy Alternatives, 2005).

89. Neil Brooks & Thaddeus Hwong, *The Social Benefits and Economic Costs of Taxation: A Comparison of High- and Low-Tax Countries* (Ottawa: Canadian Centre for Policy Alternatives, 2006).

published “Tax Levels, Structures, and Reforms: Convergence or Persistence.”<sup>90</sup> The broad point of this work is to demonstrate, over and over again with feeling and as much emphasis as possible, that high-tax countries rank significantly above low-tax countries on all measures of social progress and that countries should coordinate their efforts to preserve their robust tax bases.

Reducing income inequality and making the rich pay are sub-themes within the broader theme of pursuing collective aspirations. The call to make the rich pay emerged early in Neil’s work, with a piece entitled “Making Rich People Richer” in *Saturday Night* magazine, published in 1981.<sup>91</sup> More than ten years later he returned explicitly to this theme and in 1993 wrote “The Changing Structure of the Canadian Tax System: Accommodating the Rich” in the *Osgoode Hall Law Journal*.<sup>92</sup> That lengthy article makes, as Neil would say, a modest contribution, namely, “to document how thorough going the rationalizations for [the changes through the 1980s to make the tax system less progressive] have been”<sup>93</sup> and to reveal how, “[u]nder the influence of neoconservative ideology every objective and evaluative criterion of the tax system has been reinterpreted to accommodate the rich.”<sup>94</sup>

Over time Neil has moved away from the broad rallying cry of “Make the rich pay!” towards a more focused preoccupation with documenting the ills created by growing income and wealth inequality, witnessed by his work with McQuaig in *The Trouble with Billionaires*.<sup>95</sup> In that work the authors expose as fallacious the common reasons given for billionaires’ success and point out the many social inequalities perpetuated by allowing the inordinately rich to dominate the mechanisms of our democracies. The book briefly made the best-seller list in Canada. In order to spread the gospel further about the evils and social costs of inequality, Linda and Neil have written versions of the book for

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90. Neil Brooks & Thaddeus Hwong, “Tax Levels, Structures, and Reforms: Convergence or Persistence” (2010) 11:2 *Theor Inq L* 791.

91. Neil Brooks, “Making Rich People Richer,” *Saturday Night* 96:7 (July 1981) 30.

92. Neil Brooks, “The Changing Structure of the Canadian Tax System: Accommodating the Rich” (1993) 31:1 *Osgoode Hall LJ* 137.

93. *Ibid* at 140.

94. *Ibid* [emphasis in original].

95. Linda McQuaig & Neil Brooks, *The Trouble with Billionaires* (Toronto: Viking Canada, 2010).

both the United States and the United Kingdom, both of which have received favourable reviews.<sup>96</sup>

A final subset of this theme appears in Neil's work commencing in the mid-2000s, which involves supporting lower-income countries in the development of robust tax regulation. Neil has worked with tax administrators in Lithuania, Vietnam, China, Mongolia, South Africa, Bangladesh, Ghana, Zimbabwe, Sri Lanka, and Botswana, among others. My sense is that Neil loves this kind of work: It fascinates him to look at a tax system as a whole and to agonize about how best to design its features. He and international tax consultant Kevin Holmes wrote a two hundred-page report on a suggested design for a personal income tax for China.<sup>97</sup> Neil's broad knowledge on advising tax reform does not appear to have any comprehensive home in his published work; however, to see one of his quintessential tax syllabi, there is none better than his and Hwong's syllabus for a course on tax and development. The syllabus is sixty-seven single-spaced pages.<sup>98</sup>

## VI. LEGAL EDUCATION, TAX SCHOLARSHIP, AND THE JOY OF TAX LAW

Neil revels in the task of advancing our thinking about legal education broadly conceived, and tax education and tax scholarship in particular. He has authored two introductions to the study of tax law—one in *Materials on Canadian Income Tax*<sup>99</sup> and the other in *Taxation of Corporations and Shareholders*.<sup>100</sup> Those chapters provide students with what Neil would consider an introduction to the fundamentals of the study of tax law. In them, he explains the joys of studying tax law, the various objectives of a tax law course, how the need arises for tax laws, and

96. For the version published in the United States, see Linda McQuaig & Neil Brooks, *Billionaires' Ball: Gluttony and Hubris in an Age of Epic Inequality* (Boston: Beacon, 2012). For the version published in the United Kingdom, see Linda McQuaig & Neil Brooks, *The Trouble with Billionaires: How the Super-Rich Hijacked the World (and How We Can Take it Back)* (London: Oneworld, 2013).

97. Neil Brooks & Kevin Holmes, "Individual Income Tax" in Karel Kooijman & Han Shaochu, eds, *China Tax Reform and WTO Accession Project* (Amsterdam: International Bureau of Fiscal Documentation, 2004) 39.

98. [On file with author]. See Neil Brooks & Thaddeus Hwong, *Tax Policy: Tax Law and Development*, Syllabus (Osgoode Hall Law School, York University, Fall 2011).

99. Neil Brooks, "The Logic, Policy and Politics of Tax Law" in Tim Edgar, Jinyan Li & Daniel Sandler, eds, *Materials on Canadian Income Tax*, 12th ed (Scarborough, Ont: Carswell, 2000) 1.

100. Neil Brooks, "Introduction" in Brian J Arnold, D Keith McNair & Claire FL Young, eds, *Taxation of Corporations and Shareholders* (Toronto: Carswell, 1986) 1.

the technical components of all taxes (base, rate, unit, period, and administration). He endorses the usefulness of the tax expenditure concept, offers a primer on statutory interpretation, emphasizes the politics of tax design and reform, explores concepts that help explain why tax law looks the way it does (the time value of money, the capitalization effect, and tax incidence), and underscores the importance of the tax system as a means of effecting redistributive goals.

Neil has always cared deeply about the academic project of scholarship. In 1985, he wrote an extended essay on “Future Directions in Canadian Tax Law Scholarship” in the *Osgoode Hall Law Journal*.<sup>101</sup> In that article he sets out a mandate for future tax scholarship: It should reflect serious introspection about what are the relevant and interesting questions for tax scholars; it should be problem-oriented, as in focused on the underlying social and economic problems; it should be interdisciplinary; and it should reflect the joy of exploring new ideas. This mandate seems to have become something of a mantra for Neil. His six-part series in honour of the fiftieth anniversary of the *Canadian Tax Journal*—an essay in each of the six issues released in the anniversary year—serves as a fifty-year intellectual history of tax law and policy in Canada.<sup>102</sup>

One of Neil’s most important pieces of work at Osgoode was with a curriculum review committee in the mid-1980s. That committee produced a comprehensive review of legal education and speculated about how legal education might be reformed in an unpublished report that was, aside perhaps from the Arthurs report, the single best piece of writing I have seen on Canadian legal education.<sup>103</sup> Neil was assisted in the report by his close colleagues, in particular Toni Williams and Harry Glasbeek, and, notably, by the insightful contributions of a student representative on the committee, the current Dean of Osgoode Hall Law School, Lorne Sossin. Neil also produced a short piece for a collection on *Lawyering and*

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101. Neil Brooks, “Future Directions in Canadian Tax Law Scholarship” (1985) 23:3 *Osgoode Hall LJ* 441.

102. Neil Brooks, “Canadian Tax Journal: The First Decade—1953-1962” (2002) 50:1 *Can Tax J* 261; Neil Brooks, “Canadian Tax Journal: The Second Decade—1963-1972” (2002) 50:2 *Can Tax J* 630; Neil Brooks, “Canadian Tax Journal: The Third Decade—1973-1982” (2002) 50:3 *Can Tax J* 1056; Neil Brooks, “Canadian Tax Journal: The Fourth Decade—1983-1992” (2002) 50:4 *Can Tax J* 1378; Neil Brooks, “Canadian Tax Journal: The Fifth Decade—1993-2002” (2002) 50:5 *Can Tax J* 1668; Neil Brooks, “Canadian Tax Journal: Fifty Years of Influence” (2002) 50:6 *Can Tax J* 2059.

103. [On file with author].

*Legal Education Into the 21st Century*, published in 1990, that describes some recommended changes to the first-year program.<sup>104</sup>

Neil has given countless speeches in church basements, universities, town halls, student leadership meetings, and union gatherings. There was a time while I was growing up when I think he was giving forty to fifty speeches a year to public policy groups, never for pay and certainly not for glory. He would head out of the house carrying his big briefcase and wearing his cowboy boots, determined to turn the tides on the business elite and to promote fair taxation.

Neil has two favourite jokes about himself: First, that he has spent his life doing two things, trying to make the rich pay and failing at it; and second, that he feels guilty about teaching tax law, knowing that some of his students would go on to make the rich pay even less tax but being grateful that at least he does not do a very good job of teaching them. Neil has taught countless students in his time as an academic, both in the undergraduate and graduate programs at Osgoode. As a rough guess, I would say that there are some six thousand or so people who took a class from him at some point. His academic work, on reflection, has not been terribly strategic: He published articles in venues that turn out to be hard to find; he does not have a page on the Social Science Research Network; he does not keep up his curriculum vitae; and he never designed a personal website. He has spent countless hours working with governments that are unlikely to enact his proposed changes (and condolences to MacEachen for trying in 1981). He devoted hundreds of hours to curricular reform proposals at Osgoode, only some of which ever saw implementation. In a series of articles celebrating the anniversary of the *Canadian Tax Journal*, for which he was the editor for three years, Neil attempted to translate his ideas about tax law, tax scholarship, and the nature of life as we know it for practitioners, and in the process created the journal's popular Policy Forum feature.

Neil does not seem to care much about the consequences of the amount of time he spends on this work, with one exception: He cares that people engage with ideas about tax, that they weigh the arguments fairly, and that ultimately they come to the sensible conclusion that the only good policy is a robust, comprehensive, progressive tax system that reduces income inequality. Neil is perhaps a little like Purdy. Maybe Neil should wear the moniker of the world's

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104. Neil Brooks, "Possible Developments in the First Year Curriculum" in Alvin Esau & Jonathan Penner, eds, *Lawyer and Legal Education Into the 21st Century: Seminars in Honour of the 75th Anniversary of the University of Manitoba Law School* (Winnipeg: Legal Research Institute of the University of Manitoba, 1990) 63.

most Canadian tax scholar. Like Purdy, he takes it all seriously and does so in the face of limited proof of success as traditionally measured.

It seems fitting to end this introduction, then, by returning to the words of Purdy, this time from “I Guess a Poem”:

And I walk home thru the night  
invisible to them now  
following damp furrows  
across someone's cornfield  
holding in my head  
a small bright area  
that speaks man  
along with a voice that says  
“so what?”  
while the dead underfoot whisper  
and the land stirs to life  
and nothing is impossible<sup>105</sup>

As Neil might say: There are several layers of meaning in that poem. You figure them out.

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105. “I Guess a Poem” in Purdy, *Wild*, *supra* note 1, 10 at 11.