

From the Editor

This issue begins with our 2000 Student Essay Award winner's article on "The Advancement of Religion in the Age of Fundamental Human Rights". Kathryn Bromley, who recently graduated from the Faculty of Law, University of Toronto, addressed the question through a reconsideration of the facts and issues in the leading Commonwealth authority on the definition of charity, *Pemsel v. Commissioners of Income Tax*. Ms Bromley offers a close and detailed analysis of the *Charter* implications of the third head of charity set out in *Pemsel*.

Our second article by Wolfe Goodman surveys a number of elements of the treatment of private foundations in the *Income Tax Act* and makes a strong case for the amendment of these provisions. As Dr. Goodman notes, the *Act* discriminates against private foundations in a number of ways. In particular, he cites the regime governing gifts of appreciated marketable securities which is not available for gifts to private foundations, the postponement of the tax credit where gifts of shares or private debt of a private company are donated to the donor's private foundation, and the problem that certain foundations have meeting the 4.5 per cent disbursement quota when income returns are low.

In "Dancing the Intricate Tango: Charities and Donors Take the Floor", Shamin Lalani uses the recent resolution of the long-time controversy surrounding the McMichael Canadian Collection to discuss the general challenges associated with donors retaining control over the destination and use of their gifts.

All United Ways and their supporters will want to give consideration to the simplified framework for evaluating the performance of United Ways offered by Professors James Cutt and Victor Murray of the University of Victoria in "An Approach to a Balanced Scorecard for United Way Organizations".

In "Recent Tax Developments" I discuss a recent issue that has arisen in the context of gifts from one foundation to another. The *Income Tax Act* was designed to facilitate such transfers on a tax-neutral basis but, unfortunately, the provisions that were designed to facilitate such transfers do not, when read closely, achieve this aim, or so says the CCRA. Their interpretation presents problems in a number of situations since such transfers are quite common. All practitioners have cause for concern.

This issue's "Bookshelf" offers a generally positive review of *Leaders Who Make a Difference: Textbook and Inspiration* by Burt Nanus and Stephen M. Dobbs. The reviewer is Susan Lawson, vice-chair of the "Broadbent Report's" Joint Table on Awareness, and Claudia Willetts MLS, our meticulous indexer, rounds out the issue with the Index to *The Philanthropist*, Volume 15.

Finally, with this issue we say a reluctant farewell to Professor James Phillips of the University of Toronto's Faculty of Law. Since joining our Editorial Board and his first appearance in Volume IX, Number 3, we have all benefitted from Jim's impressive legal talents and his admirable clarity of style. His valuable counsel will be much missed but we look forward to his continued, if less frequent, appearance in our pages.

A handwritten signature in black ink that reads "David Stevens". The script is cursive and fluid, with a horizontal line at the end of the name.

DAVID STEVENS
Editor