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Impact of The Retail Sales Tax on Ontario's School Boards

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In June, 1961 the Bureau of Municipal Research published a study of the new Ontario Retail Sales Tax Act. At the invitation of the editor of ARGUS, the Bureau staff have prepared the following analysis of the Act as it affects school boards.

The Bureau of Municipal Research is an independent, non-partisan, non-profit organization, founded in 1914, which aims at improving the performance of local government in Ontario by carrying out self-initiated research projects and publishing the results, thereby hoping to create an informed public. The research work is

carried out by a permanent staff under the Director, Michael D. Goldrick, M.A.

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collect a sales tax upon non-consumables (or durable goods), specifically prefabricated building materials used by a building contractor, was upheld.

In summary then, the principle has been upheld and the only problem is a technical one in phrasing legislation to fit the decisions handed down.

1) (1934) AC 45.

2) (1943) AC 550.

3) (1960) 24DLR 2nd 1.

HISTORICAL SURVEY

The first Canadian entry into the retail sales tax field was by a municipal government, the City of Montreal, which in 1935 imposed a tax at a rate of 2 percent. The Province of Quebec after allowing five years to pass during which time the state of the tax in Montreal was scrutinized carefully, i.e., as to public reception and productivity, imposed its own 2 percent tax. The method of collection is the same as that used for the provincial sales tax; the provincial machinery handles administrative detail to avoid costly duplication. The Province then remits to each municipality in the taxing area its share of the municipal sales tax on a population basis and for this service charges $1\frac{3}{4}$ percent of the tax collected.

Alberta imposed a 2 percent retail sales tax in 1936. Due to a strengthening of the province's finances, however, the tax was repealed the following year. Saskatchewan entered this tax area in 1937 with a 2 percent levy which in 1950 was increased to 3 percent. New Brunswick and Newfoundland both introduced a retail sales tax in 1950, the former imposing a rate of 4 percent which was reduced in 1954 to 3 percent; the latter's imposition was 5 percent. Nova Scotia's tax in 1959 was 3 percent but effective April 1st, 1961 it was raised to 5 percent: here the monies go to the provincial hospitalization programme. 1960 saw harmony in the Atlantic Provinces over a sales tax with Prince Edward Island entering the field with its "Revenue Tax" at 4 percent. The British Columbia tax of 5 percent is a provincial sales tax which has the shared tax feature, the partner being the B.C. municipalities.

The productivity of a Sales Tax is beyond question as Table 1 illustrates:

TABLE I

Proportion of General Retail Sales Tax Revenue To Total Provincial Revenue

(Fiscal Year Ended March 31st, 1959)

Nfld. %	N.B. %	P.Q. %	Sask. %	B.C. %
12.9	11.0	11.4	14.8	28.7

SOURCE:

Financial Statistics of Provincial Governments, Revenue and Expenditure. 2nd Analysis 1958 D.B.S.

ATTITUDE TOWARDS SALES TAX

The most common attitude expressed towards a sales tax is a negative one. Its antagonists say the highly regressive nature of the tax makes it most repugnant. Because the lower income groups in general must spend more of their incomes on taxable goods than persons in the higher income levels, the percentage of income that they pay in tax is likely to be greater than in the case of the wealthy and thus the tax burden is likely to be distributed in a regressive fashion. Also, in Canada, with the Federal government imposing a general 11% sales tax which is included in the retail price and the provinces imposing a retail sales tax calculated on the retail price *including* the federal imposition, we have a clear example of double taxation. This double taxation aspect was of course an argument the Province of Ontario sought to overcome in its attempts to secure a constitutional amendment to allow a provincial indirect tax which would allow for its application in a similar manner to the Federal government's. Finally, the matter of computation and its nuisance factor are areas of direct concern to a retailer who claims he encounters enough sales resistance now without added deterrents.

A favourable element of the tax is its built-in buoyancy of revenue in that when the economy expands the yield is automatically higher. No special legislation is required to increase the revenue as with a property tax. The tax attaches itself to all regardless of position or status in the community, and according to the way the argument is desired to be framed, this is either good or bad.

It is fair to say that with few exceptions the tax fields open to Federal and Provincial governments are characterized by buoyancy, while left to the municipality as its chief source of tax revenue is the property tax. The vital element of the property tax is that most citizens feel its impact more directly and believe that they can control its level more readily than any other form of taxation.

THE PRESENT PICTURE IN CANADA

Table 2 shows the present situation with respect to provincial sales tax. All Provinces but Alberta and Manitoba utilize this revenue source.

TABLE 2

	Title	Basis of Measurement	Rate	Exemptions
B.C.	Social Services Tax Act	retail price	5%	foodstuffs, motor and heating fuel, farm machinery and supplies, fishing apparatus, drugs, sales to the Federal Government, sales for consumption outside of Province, sales less than 15c., certain children's clothing and footwear, and meals priced at \$1.00 or less.
Nfld.	Social Security Assessment Act	retail price	5%	gasoline, certain boats and vessels, fishing apparatus and supplies, drugs, sales to Federal Government, sales for consumption outside of Province, food, meals priced at 17c. or less, and sales less than 17c.
N.B.	Social Services and Education Tax Act	retail price	3%	fuel, agricultural feeds and seeds, orthopaedic appliances, production machinery and apparatus, goods purchased for the purpose of being processed, fabricated or manufactured into or incorporated into goods for sale, purchases of foodstuffs, drugs, machinery and implements for fishing and farming, children's clothing, footwear, books, school supplies, tobacco, goods sold for consumption outside the province, all purchases of 14c. or less, and meals priced at \$1.00 or less.
N.S.	Hospital Tax Act		5% purchases over 15c.	foods, gasoline, fuel and electricity, motor vehicles, meals priced at \$1.00 or less, children's wear, and a number of other consumer goods, machinery, equipment and materials used in agriculture, fishing, mining, construction and manufacturing, tangible property purchased by a municipality or agency thereof.
P.E.I.	Revenue Tax Act	retail price	4%	foodstuffs, fuel, farm machinery and equipment, farm livestock, fishing boats and apparatus, orthopaedic appliances, hearing aids, dental and optical appliances, machinery and goods used in the production of articles for sale, agriculture feeds, fruit trees, fertilizers, goods for consumption outside of the Province, meals priced at 75c. or less, magazine and newspaper subscriptions, children's clothing and children's footwear, aircraft, cigarettes, tobacco, school supplies, and all purchases under 25 cents.
Que. ¹	Retail Sales Tax Act	retail price	4% ²	foodstuffs, children's clothing and footwear, farm implements and tools, fishing apparatus, drugs, beer, tobacco, sales to Federal and Provincial Government, sales for consumption outside the Province and all sales of 10c. or less.
Sask.	Education & Hospitalization Tax Act	retail price	3%	food and drink (non-spirituous), drugs, orthopaedic appliances, hearing aids, dentures, farm machinery, gasoline used for agricultural purposes, fishing nets and land. Meals are not taxed.

- 1) Provincial legislation until July 1st, 1961 permitted municipalities and school corporations to levy sales taxes which, by agreement, were collected by the province and remitted by it to the corporations.
- 2) Effective July 1st, 1961, under Bill 86 passed at the last session of the Quebec Legislature, school tax was made mandatory and consolidated with sales tax, making a total of 4% provincial and 2% municipal (where applicable).

SOURCE:

Principal Taxes and Rates — Federal, Provincial and Selected Municipal Governments 1960. Dominion Bureau of Statistics, August, 1960.

It is interesting to observe that in all cases foodstuffs are exempt while in most provinces such items as drugs (5 out of 7), children's clothing, footwear (5 out of 7) are in classes which are exempt. Tobacco, already subject to a heavy tax, is allowed a further exemption in 3 out of 7 provinces.

From an examination of the exemptions it is quite readily apparent that these are usually framed to protect occupational groups that suffer from depressed or fluctuating employment levels or who are politically important.

The Maritimes, British Columbia and Quebec, for example, exempt fishing and farming apparatus and machinery. Newfoundland, where farming assumes economic importance only in the Avalon Peninsula, does not provide exemption for farm machinery, whereas Saskatchewan, the only Prairie province with a retail sales tax, exempts "gasoline for agricultural purposes", a category which obviously reflects the majority economic interest of the province.

Effective September 1st, 1961, there will be a retail sales tax in Ontario imposed at the rate of 3%. The claim that the exemptions "will be the broadest and most generous of any province in Canada" as will be seen is not a matter open to dispute. Among the exemptions are:

- (1) Any purchase of less than 17 cents.
- (2) All food products with the exception of candy, confections and soft drinks will be exempt. Candy, confections and soft drinks will also be exempt where the purchase price is less than 17 cents.
- (3) All children's clothing will be exempt.
- (4) All drugs, medicines and dental and optical appliances sold on the prescription of a physician, dentist or optometrist, and artificial limbs, wheel chairs and hearing aids will be exempt.

- (5) All meals costing \$1.50 or less purchased in restaurants.
- (6) All machinery included in the production of goods or tangible personal property when such goods or personal property are subject to sale at retail will be exempt no matter where sold.
- (7) All products that are for sale outside the province or sold for shipment outside the province will be exempt.
- (8) Products used by the farmers in the business of farming will be substantially exempt from tax.

Argument will undoubtedly be heard on the possibility of the retail sales tax achieving the two main purposes claimed in the Budget Speech read in the Legislative Assembly on March 9th, 1961. These purposes are:

"(a) To be progressive in its incidence. By exempting necessities such as food and children's clothing, it will bear lightly upon persons of relatively low incomes and more heavily upon persons with high incomes in accordance with the principle of ability to pay;

(b) to maintain a high rate of economic development. By exempting from the tax, machinery used in the production of goods and tangible personal property whether sold inside or outside the Province, we best ensure the continuing expansion of our industry and our exports to other provinces and to other countries."

A curious sidelight is the announced decision of the Province to tax itself on the grounds that if it exempted its purchases the records of every company having dealings with the Province would be complicated and the job of checking on possible tax evasion by these firms would be made almost impossible. An anomaly is that

Ontario will pay firms to collect the tax for the Province on items taxed and charged to the Provincial Government's account.

MUNICIPAL IMPLICATIONS

One aspect of the productivity of the sales tax that is no doubt acutely interesting is the probable annual yield per person.

The record of the municipal sales tax in Montreal may be instructive. In view of the special pattern of exemptions in Ontario and variations in local personal income and expenditure, one would not go so far as to say that the productivity of the tax in, say, Toronto will be exactly the same as in a place like Montreal. For what it may be worth, however, the experience of the City of Montreal with its *municipal* sales tax of 2% percent for the five latest available years is:

TABLE 3
2% Sales Tax Revenues, Montreal

	Total Sales Tax Revenue	Population 000	Revenues Per Capita	Amount Per Capita Represented by 1%
1955-56	\$17,587,879	1,370	\$12.80	\$6.40
1956-57	18,165,406	1,380	13.20	6.60
1957-58	18,825,630	1,388	13.60	6.80
1958-59	19,350,615	1,394	13.90	6.95
1959-60	20,246,944	1,398	14.50	7.25

Given the rate of 3 percent it would appear not unreasonable to expect sales tax collections in Ontario to be at least of the order of \$21-\$22 for every man, woman and child in the coming year. This estimate is, if anything, conservative. This accords reasonably well with the expectations of the Provincial Treasury. The Ontario population is about 6,150,000 and the 3 percent tax is expected to yield about \$150,000,000. This works out to approximately \$24.50 per person, a shade higher than Montreal's experience.

TABLE 4
Educational Expenditures from Local Taxes and Provincial Grants to School Boards

	Expenditures from Local Taxation	(1950 = 100%)	Provincial Grants to School Boards	(1950 = 100%)
1950	— \$ 67,338,841	—	\$ 42,539,586	—
1954	— 125,776,873	186%	62,904,374	147%
1956	— 165,232,478	245%	79,061,993	185%
1958	— 199,844,674	296%	128,167,957	301%
1960	— 262,736,738	390%	158,740,934	373%

SOURCE:

Annual Municipal Statistics, Department of Municipal Affairs, Ontario; Report of Minister of the Department of Education, 1960.

TABLE 4A
Expenditures from Local Taxes and Provincial Grants, Metropolitan Toronto only

	Expenditures from Local Taxation	Provincial Grants	Grants as % of Total
1958	— \$69,815,741	\$19,524,381	21%
1960	— 93,670,683	27,000,000 (est.)	22%

TABLE 4B

Province other than Metropolitan Toronto

	Expenditures from Local Taxation	Provincial Grants	Grants as % of Total
1958 —	\$130,028,933	\$108,643,576	45 %
1960 —	169,066,055	131,740,934	43 %

SALES TAX AND SCHOOL BOARDS

As the figures in Table 4 show, provincial grants to education have increased in much the same proportion as expenditures from local taxation. Where, however, local expenditures have increased steadily over the years chosen, there was a sudden sharp increase in the grants from 1956 to 1958. It is safe to project another somewhat similar rise when the full impact of the revised per pupil grant structure is felt, as it will be by 1964. This expected rise will probably be matched by further demands on facilities as the impact of the school population swell becomes more apparent. The least that can be said is that the Provincial Treasury and the local school boards are inseparable and, outside the most heavily urban areas, nearly equal partners in the financing of education.

From the point of view of expenditures, the interest of school trustees will focus on the exemption provisions of the Retail Sales Tax Act and Regulations. Once school boards know which of their purchases will be exempt from the 3% tax, they can better judge how heavy will be the impact of the tax upon them.

It must be understood at the outset that all exemptions, like exceptions to any law, create problems. The sales tax is generally regarded as something of a nuisance to everybody, including the taxpayers; exemptions to the sales tax are generally a further nuisance to everybody, not always excepting the taxpayers. Says Professor John F. Due, the most prolific writer on the subject of the provincial sales taxes in Canada, ". . . it must be recognized that each additional exemption reduces revenue (and thus requires a higher tax rate on the goods subject to tax, for a given revenue), creates new administrative problems, results in some evasion and misapplication of the tax, and may create some discrimination among families according to their relative preferences for

exempted and taxed items." The most clearly defensible exemptions are those which apply to the necessities of life, items which may be presumed to make up a relatively large proportion of the purchases of the poor. Such exemptions reduce the regressivity of tax, that is to say, its tendency to fall most heavily upon those least able to pay.

Education may certainly be regarded as a necessity of life. The parents and guardians of children are virtually all compelled to be consumers, regardless of their preferences. If it can be contended that the school taxpayer is the consumer, or at any rate the beneficiary, of the service given by education, then it is appropriate that the price of education to the consumer be exempted from the sales tax as far as possible.

The reverse of the coin is that every exemption costs something. The easiest sales tax to administer, the least expensive sales tax to collect, would appear to be a sales tax with no exemptions at all. An article in the *Financial Post* of August 10th, 1961 dealt with the difficulties created for retailers and other merchants by exemptions to the Sales Tax Act. Much as retailers dislike sales taxes in general, the impression emerges that they would be better pleased by a tax at a lower rate with fewer or if possible no exemptions. The *Toronto Globe and Mail* of the same date related the gloomy forebodings of Hamilton's city treasurer on the complexities of sales tax rebate claims on municipal capital works. In short, an exemption can be an irritant.

If the relationship between the province and the school boards were such that they could be regarded as two separate entities dealing over the counter, as it were, the question of the exemption of school board purchases from sales tax might be discussed in a way that gave greater weight to fairness and even to genero-

sity of treatment, and less to administrative efficiency. But the school boards and the province do not really stand across the counter from each other; one has its hand pretty deep in the other's pocket. Since so much of the school boards' money comes directly from the province, the province is entitled to say, and is strongly impelled to say, "If we charge the school boards the sales tax, we will probably make it up to them in grants; if we put ourselves to a lot of trouble in granting exemptions to the school boards, we will, accordingly, not make it up to them in grants. As far as the taxpaying public is concerned, it is not a matter of principle; the only thing that makes any difference is the expense of collecting the tax. We shall not, therefore, give school boards any exemptions that will add to the cost of collection." The province, in short, has a choice between the swings and the roundabouts. It may be expected to choose whichever is more convenient.

If this correctly anticipates the province's policy, it will bring about one undesirable result. Paying the sales tax will increase the expenditures of school boards; expenditures are met out of local and provincial taxes; and therefore taxes will have to be levied in order to pay taxes. This verges on the absurd, but with the province now so deeply and irrevocably involved in school financing, it is an anomaly we must tolerate simply because it is less expensive than the more rational alternatives.

A further entanglement lies in the way of generous exemptions to school boards. No doubt there are some articles of which schools are virtually the only consumers. There are not many such, however. Let us admit school furniture, text books, some highly specialized teaching aids, special stationery for school records. Beyond this narrow range of goods, school boards may dominate the market for certain materials, but they are not the exclusive purchasers. And for many articles, including such distinctly academic items as chalk and blackboards, pointers, globes and even exercise books, school boards are far from being the only buyers. Exemptions from the sales tax of purchases of such articles by school boards, then, would have to be made on the basis of the identity of the purchaser rather than the nature of the product. This can be done, of course, but it will be seen that it would place the burden of deciding upon the vendor, who already feels unhappy enough in the role of tax-collector, and it would re-

quire some form of certification of good faith on the part of the purchasing board.

In actual fact, Ontario vendors are not going to be asked to sit in judgment on the taxability of their customers. In explaining the Retail Sales Tax Act at a meeting of the Canadian Tax Foundation early this year, the Ontario Comptroller of Revenue used as an example of an exempt customer the federal government, and said ". . . vendors are not being asked to decide whether the purchaser is a taxable or a non-taxable person. If the article being sold is taxable, the vendor should not be required to decide whether he should collect tax on it or not; he should collect it in every case and if the person who buys it is the federal government which is not liable for the taxation, the federal government can get a rebate." The same consideration will presumably apply to school boards, when purchasing materials that are, for them, exempt from sales tax.

Having talked about the provision of exemptions in this rather negative fashion, let us now turn our attention to the actual exemption clauses of the Ontario Retail Sales Tax Act and the Regulations made under its authority.

It will come as no consolation to the business administrators of school boards that exemptions under the Ontario Retail Sales Tax Act are not intended to and do not coincide with exemptions from the federal sales tax of 11%, especially with respect to goods imported into Canada.

The exempt classes of goods are listed in Section 5 of the Act. Among the exemptions are the following:

"45: school text-books, and classroom supplies, as defined by the Treasurer, when purchased by a school board;

46: books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes . . ."

Certain other exemptions will be of great benefit to school boards. Sales tax will not be paid on fuel oil, coal, coke, wood used for fuel, natural gas and manufactured gas, electricity, water.

In the Act, the Government is given authority to make regulations providing for the rebate of sales tax in whole or in part to "the governing body of any hospital, nurses' home, school or university in respect of tangible personal property purchased by such governing body that enters directly into and becomes part of the construction of a hospital, nurses' home, school or university building." The actual Regulation allowing the Provincial Treasurer to authorize this tax rebate is Regulation 20 of the *Rules and Regulations under The Retail Sales Tax Act*. Regulation 20 goes on to say "An application for rebate shall be made in writing setting forth such information as the Treasurer from time to time deems necessary and such application shall be sworn to by the applicant."

It would appear that the exemption of capital cost is intended to be broad. There may be some items about which reasonable men may differ as to whether or not they enter into and become part of a school, but it is unlikely that the cost of these questionable items bulks very large in relation to total capital expenditures. The exemption of "classroom supplies", however, does give rise to some questions that merit the attention of school trustees.

As we have seen, the Act exempts "classroom supplies, as defined by the Treasurer, when purchased by a school board". The Regulations spell things out a little more fully. According to the Regulations, "'classroom supplies' means tangible personal property that students or scholars use in exercising their functions as students or scholars and includes pencils, pens, blank paper books, book backs, rulers, drawing instruments, drawing books and classroom furniture such as desks, chairs, benches, tables and blackboards". The use of the word "includes" implies that the list is only illustrative and covers only the most common items. It is of some interest that purchases of such supplies are exempt only when made by a school board. In analyzing the Sales Tax Act at a meeting of the Canadian Tax Foundation early this year, Professor Due pointed out "The Province has avoided the exemption of classroom supplies sold over the counter, one of the very troublesome items elsewhere, and cleaning compounds, etc."

The key words in the interpretation of the Act and Regulations are "classroom supplies" and "that students and scholars use in exercising their functions as students or scholars".

In view of the aforementioned reservations about exemptions generally, it would be prudent for school boards to prepare themselves for relatively strict interpretation of the exemption of classroom supplies. We have been informed by the Retail Sales Tax Branch of the Ontario Treasury Department, for example, that supplies purchased for a teachers' common room or a board room would not be exempt from tax. A laboratory, a gymnasium, a kindergarten, a music room, a work shop may each perhaps be regarded as a special type of classroom. But can the four walls of the classroom be thought of as enclosing the football field, the hockey rink, the basketball floor? The 1961 estimates of the Toronto Board of Education include items under Physical Education for "Crests, ice rental, track club, stadium rent." Are the equipment and facilities required for competitive sports to be considered "classroom supplies"? A proportion of the Toronto Board's outlay for music in collegiate institutes in 1961 is intended to support music competitions. Granting music education a place alongside physical education as a classroom activity, is music competition to be regarded in the same light as athletic competition?

When being interviewed in the vocational guidance office, is a student exercising his function as a student or a scholar? Are the furnishings of the principal's office used by students in exercising their functions as students? The question is not whether the particular materials are necessary to the functioning of a school. It may be conceded that the school could not operate properly without a principal's office; the principals themselves will insist that this is so although the students might demur. But necessity or essentiality has not been made the deciding factor: wisely, perhaps, in view of the continuing argument over which educational facilities are "essentials" and which are "frills". The deciding factor is whether the students use the "tangible personal property" in exercising their functions as students. The intentions of the provincial government in this respect are made quite clear in one of the Rulings published along with the first Regulations. Ruling 2 (7), relating to educational, hospital and charitable institutions, reads as follows: "Tangible personal property purchased by any of the institutions referred to are (sic) taxable if *used or consumed by the institution* in the process of rendering service." To sum up, then, materials purchased by a school board to be used by the students in exercising their function as students are exempt from sales tax; property purchased by an educational institu-

tion to be used or consumed by the institution in providing its service is taxable.

School Boards will receive a "Card 43", permitting them to sell tax free, to pupils and to no one else, school supplies which they have bought tax free. The term "school supplies" is fully defined on Card 43; the definition is very narrow. To clear up any doubts, the furnishings of the principal's office are definitely not exempt from sales tax.

Equipment that is rented or leased is subject to much the same treatment as equipment that is purchased. Many school boards, for example, rent typewriters for their commercial classes rather than purchase them. Such property leased for use by students in exercising their function as students will be exempt from sales tax. If rented for other purposes, it will be taxed at a proportion of its "rental value"; the sales tax will be levied upon 80% of its rental value if the lease is for a long term, 90% if from 7 days to 1 month, 100% if for less than 7 days. It would appear extremely unlikely that sales tax on lease contracts will add appreciably to school board expenditures.

In public discussion of the Ontario Retail Sales Tax Act, much attention has naturally been paid to the procedure whereby a vendor frees himself of the obligation to pay sales tax on property that he is himself going to sell to somebody else. Schools often find themselves in the role of vendors *vis-a-vis* their students, to whom they sell a variety of articles. It is specifically set forth in the Regulations, however, that the word "vendor" is taken to exclude from its meaning school boards, and therefore school boards do not have to go through the retail merchants' procedure of obtaining a permit exempting their business purchases from sales tax. Since life refuses to be simple, some thorny questions are bound to arise. Secondary school students in Toronto are obliged, for very sound security reasons, to purchase from their schools combination padlocks of a certain type. The protection of one's possessions, however necessary, can hardly be regarded as the exercise by the student of his function as a student. We have already quoted Ruling 2 (7) on the status of "educational institutions". The Ruling goes on to say, "If . . . property is purchased for resale, the institution then becomes a vendor and must hold a vendor's permit, file returns and collect and remit taxes from the ultimate consumer at the time of sale." This apparent contradiction will

no doubt be reconciled by the Treasury Department. Of course, the amount of money involved in the sales tax on such marginal resale items as Toronto's padlocks is not very great; what the example illustrates best is the tendency for sales tax administration and collection to become as great a nuisance to the taxpayer as the actual payment of the tax.

HOW MUCH WILL A SCHOOL BOARD PAY?

The writers do not care to make guesses as to the amounts of sales tax school boards in Ontario will have to pay on their purchases of "tangible personal property". We can not anticipate the rulings of the Treasury Department as to the exemption of items that we consider debatable. Even if we knew precisely which items were to be exempt and which to be taxed, the time restrictions imposed on us by publication requirements preclude the detailed analysis that would be necessary to estimate the probable amount of sales tax to be paid in one year by even one school board.

Solely for the sake of acquiring some sense of proportion about the impact of the retail sales tax upon school board expenditure, we have examined the estimates for the year 1961 of one urban school board, the Toronto Board of Education. The expenditure pattern of the Toronto Board may and may not be typical. By comparison with the other school boards in the Metropolitan Toronto jurisdiction, the Toronto Board's proportion of expenditures upon instructional costs appears to be relatively low (60.5% in 1957), its proportion of expenditure upon plant maintenance (10.8% in 1957) and administration (9.9% in 1957) relatively high. The members and taxpayers of other school boards can determine for themselves the extent to which their spending practices parallel those of the Toronto Board.

Table 5 is an extract from the estimates for the year 1961 of the Toronto Board of Education. Of the total estimated expenditure, salaries, insurance, taxes etc., fuel and utility, new buildings (i.e. capital expenditures out of current budget), and direct debt charges account for 81.9%. None of this would appear to be taxable under the Retail Sales Tax Act. Few of the items classified as "general school supplies" will be taxable, since this category includes principally materials used up in normal instruction in the course of a year; some of it, however, will not be used by students

TABLE 5

**Estimates for the Year 1961, Toronto Board
of Education**

Summary	Percentage	1961 Estimates
Salaries	64.0 %	\$30,165,697
Insurance, Taxes, etc.	3.7	1,793,874
General School Supplies	3.6	1,713,957
Caretakers' Supplies, etc.8	374,255
Furniture and Equipment	2.4	1,141,117
Fuel and Utilities	2.5	1,196,450
New Buildings	5.5	2,630,130
Repairs to Buildings and Equipment	11.3	5,400,148
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	93.8 %	\$44,415,628
Debt Charges (Direct)	6.2	2,948,267
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	100.0 %	\$47,363,895

exercising their function as students, and may therefore be taxed. To be on the safe side, let us say that half of the "general school supplies" will be taxed. It is fairly definite that everything under the heading "caretakers' supplies, etc." will be taxable. "Furniture and equipment" creates a problem. Classroom furniture and equipment will presumably be exempt, but furniture and equipment for other purposes may be taxed. Again, let us allow that one half of the purchases under this heading will be subject to the retail sales tax. It is estimated by officials of the Toronto Board that 60 to 66 2/3% of the expenditure estimated for "Repairs to buildings and equipment" will be in the form of salaries to their own maintenance employees. These salaries are not included in

the first "salaries" heading. Pessimistically, let us accept only 60% as salary. Of the remaining 40% a large proportion will go to buy materials that will enter into and become part of school buildings. Sales taxes paid upon such materials at the time of purchase may be rebated to the school board upon application to the Provincial Treasury. But in order to leave a generous margin, let us say that out of the total expected cost of repairs to buildings and equipment, including salaries to maintenance employees, one quarter will be taxable. As shown in Table 5A, our cautiously qualified estimate is that the Toronto Board may pay sales tax on approximately 6 1/2% of its total expenditures, that is to say, on goods to the value of \$3,150,000.00.

TABLE 5A

**Presumed Taxable Components of 1961 Estimates
Toronto Board of Education**

		% of Total
General School Supplies	1/2 of \$1,713,957 : \$ 856,979	1.8
Caretakers' Supplies	374,255	.8
Furniture and Equipment	1/2 of 1,141,117 : 570,223	1.2
Repairs to Buildings and Equipment	1/4 of \$5,400,148 : 1,350,037	2.8
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	\$3,151,494	6.6
3% Sales Tax	x .03	
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Sales Tax Payable —	\$94,544.82	

The total sales tax payable would be of the order of \$95,000.00. This represents about 1/5 of 1% of the Board's total anticipated expenditure of \$47,364,000.00. For those who are sensitive to the effect of expenditures on mill rates, \$100,000 represents 1/17 of a mill of the 1959 *Public School* assessment of the City of Toronto.

The conclusion to be drawn from all this, surely, is that the most important consequence of the retail sales tax for Ontario's school boards is most emphatically *not* the amount of money they are going to have to pay in tax. Far more bothersome than the amount of tax involved will be the process of initiating the tax payments, the processing of applications for rebates, and the other administrative requirements.

BROADER CONSIDERATIONS

More important than the million dollars or so that Ontario school boards may pay in retail sales tax in any given year are the broader fiscal consequences, as one might call them, of the imposition of the sales tax. The sales tax is to be a source of general revenue to the province. It is in no way earmarked for education, in whole or in part, as are the provincial sales taxes in New Brunswick and Saskatchewan. It must be regarded as most unlikely that any local school boards will themselves be given access to the sales tax as a source of revenue, as are the school boards of the Province of Quebec. All in all, the only promising source of increased revenues for the school boards in future years is the Provincial Treasury. In the same budget speech in which he announced the imminent imposition of the sales tax, the Treasurer of Ontario announced special additional educational assistance grants on an increasing scale, computed on a per-pupil basis, to take effect in the next three years: \$5 per pupil in 1961-62, \$12 per pupil in 1962-63, \$20 per pupil for elementary schools and continuation schools, \$30 per pupil for academic secondary schools and \$40 per pupil for vocational schools for the year 1963-64. The limitation placed by the Treasurer on provincial assistance to any individual school board dramatically illustrates the extent to which Ontario has moved in making educational finance a provincial matter; in the words of the Treasurer, "No combined grant will therefore exceed 95% of the cost of operation in any school section." Needless to say, there are few school boards whose assistance from the government amounts to anything like 95% of their annual

budget. Without presuming to pass judgment as to whether this development is a good or a bad thing, the impression cannot be avoided that education, especially outside the larger urban centres, is becoming less exclusively a local enterprise financed primarily from local sources, more and more a shared enterprise with the burden slowly shifting toward the province.

It is fundamental to our conception of democracy that "taxation without representation is tyranny". In language a little less fervent, what this means is that whoever is taxed has a right to vote in the election of the persons who are responsible for the disposal of his taxes. Education grants are disbursed out of general provincial revenues, of which the largest components are:

- (1) revenues from the income tax rental agreement with the Government of Canada, to which every person who pays federal income tax contributes;
- (2) taxation from taxes on corporations, gasoline, diesel fuel, mines, lands, race tracks, amusements, etc.;
- (3) licenses and permits; and
- (4) profits from trading activities, such as the Liquor Control Board of Ontario.

Strictly from the point of view of political philosophy, one must at least ask whether any persons who contribute to provincial support to education by submitting to the aforementioned taxes, to which is now added the retail sales tax, ought properly to be excluded from the school board franchise. It is a partial answer that all provincial taxpayers, with only the rarest exceptions, may exercise the franchise in the elections whose outcome determines the government which shall set the educational policies of the province. Some may contend that this safeguard of the interests of the general taxpayer, combined with the property franchise as the safeguard of the interests of the local property owner-taxpayer, provides the most satisfactory combination of democratic representation with responsibility. We go no further than to suggest that the question is thrown into sharper relief by the increase in provincial assistance to education and by the imposition of the provincial sales tax.

APPENDIX

The following annotated list of documents will help readers who wish to inform themselves concerning the sales tax provisions that affect school boards:

1. THE RETAIL SALES TAX ACT, Statutes of Ontario, 1960-61, Chapter 91 (Queen's Printer). — See Section 5 (the exemption section), Nos. 5, 6, 7, 8, 9, 10, 11, 26, 45, 46; Section 18 (dealing with appeals); Section 39 (2) (e).
 2. RULES AND REGULATIONS UNDER THE RETAIL SALES TAX ACT (Queen's Printer).
Page 13, Regulation 1 (definitions), Nos. 6, 10, 12, 14, 22, 48.
Page 24, Regulation 7, Paragraph (1) and Paragraph (2).
Page 28, Regulation 15 (dealing with rentals).
Page 31, Regulation 20 (tax rebate on construction costs).
Page 34, Ruling 2 (7) (Educational Institutions).
Page 36, Ruling 3 (1) further explanation of construction contracts).
 3. CORPORATE MANAGEMENT CONFERENCE, Toronto, 1961. CANADIAN TAX PAPERS, No. 24, Canadian Tax Foundation, May, 1961. Pages 65 to 85; note the remarks of the Comptroller of Revenue, Pages 66 - 67.
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