the corporation by the man and spent. Of course this is his income, but in the eye of the law it is not income. So the man avoids all taxes on these amounts. There is a corporation tax to pay but this is much less than the income tax avoided.

I have confined myself to income tax experience in America. Doubtless other countries would make interesting subjects of study, as well; economic errors are likely to be international.

The British income tax administration seems to come nearer the true theory of income than the American in its treatment of capital gains. At present, however, both in England and in Continental Europe, the pressure for new sources of taxes is tempting legislators to call capital gain income in order to get it within the tax laws—a sort of camouflaged capital levy.

As in America, there has been across the water, an evident progress toward the true income concept. In regard to terminable annuities, for instance, it used to be thought necessary to reckon and deduct depreciation. But today the full annuity is reckoned as income. On this problem our own Supreme Court on April 27, 1925, in the case of Irwin *vs.* Gavit, stated:

> "We are of opinion that the quarterly payments, which it was hoped would last for fifteen years, from the income of an estate intended for the plaintiff's child, must be regarded as income within the meaning of the Constitution and the law."

This may seem inconsistent with other decisions and regulations regarding depreciation; but it is common sense and evidently follows the *presumption* that the annuity is to be used as income. As Mr. John M. Maguire said in 1920*:

> "If the recipient thus ignores or forgets the element of obsolescence with respect to the payments, why is not the tax collector entitled to do likewise? The perfect example is a life annuity."

The following extract from the Report of the Royal Commission on the Income Tax (London, 1920) indicates a very close approach to the true view of income:

> "There are cases where a person may deliberately set out to make a profit, may quite properly treat his profit as income and spend it as income, his taxable capacity may be undoubtedly greater because of the result of his venture; his gains may even be the reward of services rendered; but yet his profits may entirely escape Income Tax under the present law . . . . .
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> "Profits that arise from ordinary changes of investments should normally remain outside the scope of the tax, but they should nevertheless be charged if and when they constitute a regular source of profit.

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* *Harvard Law Review,* November, 1920, pp. 39-40.