No. 39 OF 1968

SUPREME COURT OF CEYLON,
No. 3 OF 1966.

INCOME TAX CASE STATED–
BRA. 333

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

Between

The Woodend (K. V. Ceylon) Rubber & Tea Company Limited,
P. O. Box No. 91, Colombo.

Assessee–Respondent
APPELLANT.

And

The Commissioner of Inland Revenue, Colombo.

RESPONDENT.

RECORD OF PROCEEDINGS

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RECORD OF PROCEEDINGS

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No. 1
Determination of the Commissioner of Inland Revenue in Appeal No. 403.

APPEAL No. 403.

File No. 6/381.

Appellant: The Woodend (K. V. Ceylon) Rubber & Tea Co. Ltd

Agents: Lewis Brown & Co. Ltd.

Years of Assessment: 1958/59, 1959/60, 1960/61, 1961/62.

Taxes in Dispute: 1958/59 – Rs. 7,077

1959/60 – Rs. 6,460

1960/61 – Rs. 22,298/- including surcharge of Rs. 2,908/-.

1961/62 – Rs. 58/- including surcharge of Rs. 7/-.

Appearances: **For the Appellant:**
Counsel, Mr. H. W. Jayarwardene, Q.C., with Mr. Mark Fernando instructed by Mr. M. B. de Silva and Mr. T. L. Peiris.

For the Department:
Mr. J. C. L. Fonseka, Assessor.

Dates of hearing: 19th and 26th June, 1965.

Grounds of Appeal: In terms of Article VI and Article XVIII of the Double Tax Relief Agreement, the income tax charged on the non-resident Company which is a resident of the United Kingdom should not include the amount calculated at 33 1/3% on the remittances made by the company which is imposed in terms of sub-paragraph 1 (a) of Section 53C of the Income Tax Ordinance.

Facts: An amount equal to 33 1/3% on the remittances made by the Company subject to the maximum of one-third of its assessable income has been imposed for the years 1958/59, 1959/60, 1960/61 and 1961/62. The amounts assessed and the amount of tax have been agreed as arithmetically correct

Argument for the appellant: This tax formed part of the Budget Proposals for 1958/59 and is set out at pages 35 and 36 of the printed copy of the Budget Speech, marked A2. This proposal is contrary to Article VI in that it imposes "any form of taxation chargeable in connection with or in lieu of the taxation of dividends". The Double Tax Relief Agreement with the United Kingdom No 9 of Treaty Series of 1950, marked A1, is part of the

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Determination of the Commissioner of Inland Revenue in Appeal No. 403-13. 7. 65
—*Continued*

Ceylon law by virtue of Section 2 (1) of Double Taxation (Relief) Act, No. 26 of 1950. In imposing a tax on a resident of the United Kingdom, the provisions of the Double Tax Relief Agreement have to be construed as if they are part of the Ceylon law on taxation. The tax imposed by Section 53C corresponds to the tax imposed under Section 53B on resident companies which is 33 1/3% of the dividends. A tax of 33 1/3 % of the remittances made from the permanent establishment in Ceylon to the Head Office is therefore a tax which is prohibited by the provisions of Article VI being "taxation chargeable in connection with or in lieu of the taxation of dividends or any tax in the nature of undistributed profits tax on undistributed profits of the company whether or not those dividends or undistributed profits represent in whole or in part profits or income so derived." The tax imposed under Section 53C is to give effect to a Scheme of taxation of dividends which would be distributed to the Company's shareholders. In this connection, a reference to the Budget Speech, pages 35 and 36 would show that resident companies were to be charged with 33 1/3% tax on the dividends distributed by them, and it goes on to state that the dividends paid by non-resident companies will also be subject of course to the dividend tax. Non-resident shareholders will not be entitled to the dividend refund from the Ceylon Treasury but they will normally obtain Double Taxation Relief from their own revenue authorities.

This shows that the tax on remittances is a tax either on the dividends or in lieu of a tax on dividends. In the alternative it is a tax on the profits of the non-resident company whether it be a tax in connection with or in lieu of dividends or on the undistributed profits of the Company. Though the legislation which gave effect to this Budget Proposal does not refer to "dividends", the purpose of the Budget Speech was to impose a tax on dividends or a tax in lieu of the tax on dividends. This has been given effect to, and the provisions of Section 53C in so far as they relate to such a tax are not applicable to a United Kingdom company by virtue of Article VI.

If the Government has not imposed a direct tax on dividends contrary to Article VI, then it has resorted to another form of taxation which is in fact a tax in lieu of the taxation of dividends. A further contention is that under paragraph 2 of Article XVIII, this tax at 33 1/3% is a tax which is "other, higher or more burdensome than the taxation to which enterprises of that other

territory are subject to." Resident companies do not pay any remittance tax. Therefore the imposition of a remittance tax on non-resident companies is a form of taxation which is other than the taxation imposed on resident companies.

Arguments for the Assessor: The taxation of resident and non-resident companies is set out each in a seperate section of the Income Ordinance and each section stands by itself. To draw a parallel between the details of the tax imposed for the purpose of ascertaining the nature of the tax imposed is not warranted as there is no ambiguity in the tax imposed by each section. In the case of non-resident companies, a tax is imposed on remittances which are specifically defined for the purposes of Section 53C, and there is neither reference to nor any connection with dividends. Therefore there is no taxation on dividends or taxation in lieu of the taxation on dividends. The provisions of Article VI therefore do not prohibit the imposition of the tax on remittances. Appellants have not shown that what has been taxed is akin to dividends or is of the same genus as devidend income.

The claim that Article XVIII prohibits such a tax is also not correct. The statement shown below which is agreed to by the appellant shows that the tax imposed is not higher or more burdensome than the tax imposed on resident companies:-

Statement of gross dlvidends distributed by the company as shown in each year's accounts.

1957	-	12%	£. 9,000	i.e.	Rs.	120,000
1958	-	10%	£. 7,500	i.e.	Rs.	100,000
1959	-	17½%	£. 13,125	i.e.	Rs.	175,000
1960	-	5%	£. 3,750	i.e.	Rs.	50,000

The comparison is illustrated thus:-

	Tax which would be payable by reference to dividends if company were resident.		*Tax already charged by reference to remittance i. e. the tax now in dispute.*
1958/59	Rs. 40,000		Rs. 7,077
1959/60	33.333		6,460
1960/61	58,333		19,390
+Surcharge	8.749	+Surcharge	2,908
1961/62	16,666		51
+Surcharge	2.499	+Surcharge	7
	159,580		35,893

No. 1 Determination of the Commissioner of Inland Revenue in Appeal No. 403-13. 7. 65 —*Continued*

The tax on remittances is also not a tax which is other than a tax imposed on a resident company. There is no requirement that the Income Tax payable by a non-resident company should not be calculated in a way which is different from the method of calculating the Income Tax payable by a resident company. The difference in the method of calculation is not a contravention of the Article.

Decision: The tax on remittances in Section 53C of the Income Tax Ordinance as amended by Amendment Act No. 13 of 1959 is part of the tax payable by a non-resident company, and this part is calculated at 33 1/3% of the amount of the remittance which is defined in sub-section (2) of Section 53C as follows:

(a) Sums remitted abroad out of the profits of that company,
(b) such part of the proceeds of the sale abroad of products exported by that company as is retained abroad, and
(c) in respect of any products exported by that Company and not sold in a wholesale market or not sold at all, such part of the profits deemed under section 38 to be derived from Ceylon as is retained abroad.

Further, the amount of the remittances for the purposes of this tax is restricted to a sum not exceeding one-third of the assessable income of the non-resident company. This is a tax which is imposed on the remittances when it is made and not on any amount which is set apart for the specific purpose of paying dividends in the account of the Company. The Company may or may not pay any dividends; the dividends paid may exceed one-third of the assessable income or may be less. It will be a very strange coincidence for the amount of the remittance to be even equal to the amount of the dividend. In these circumstances, the tax imposed by Section 53C cannot be considered a contravention of the provisions of Article VI which prohibits the imposition of a tax which is "any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the Company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived." In fact, this tax is chargeable on a remittance even if it is made before profits have been determined or the accounts made up. The amount taxed can neither be said to be distributed profits or undistributed profits.

As regards Article XVIII, the main contention is that the tax is other than a tax imposed on a resident company. The particulars set out by the assessor show that the tax is neither higher nor more burdensome than a tax imposed on a resident company. Both resident and non-resident companies are liable to Income Tax. No other tax is imposed on a non-resident company. The method of calculating the Income Tax in each case so as to maintain an equity in the taxation as between resident and non-resident companies cannot by itself mean that a tax which is other than a tax on resident companies has been imposed. "Taxation" is defined in Article XVIII (sub-paragraph 3) as "taxes of every kind and description levied on behalf of any authority whatsover." By virtue of Article 1, the taxes which are the subject of the Agreement are:

> *In Ceylon*: "The income tax and the profits tax (hereinafter referred to as "Ceylon Tax") as well as "any other taxes of a substantially similar character imposed in the United Kingdom subsequently to the date of signature of the present Agreement."

No other tax has been imposed on the non-resident company so that there is no contravention of Article XVIII.

The assessments are therefore confirmed

This determination was announced on the 26th June 1965, and the Appellant declared dissatisfaction immediately thereafter.

Sgd. .....
Commissioner of Inland Revenue.
Date: 13th July 1965.

Department of Inland Revenue,
Senate Square,
Colombo.

No. 2
Appeal to the Board of Review–
6. 8. 65

No. 2
Appeal to the Board of Review

THE WOODEND (K. V. CEYLON) RUBBER & TEA CO. LTD.

August 6th, 1965.

To the Board of Review,
Department of Inland Revenue,
Senate Square,
COLOMBO 1.

Dear Sir,

The Woodend (K. V. Ceylon) Rubber & Tea Co. Ltd. Income Tax Appeal No. 403 - Years of Assessment 1958/59, 1959/60, 1960/61 and 1961/62/

In terms of Section 75 (3) of the Income Tax Ordinance (Cap. 242 Legislative Enactments of Ceylon), the Woodend (K. V. Ceylon) Rubber & Tea Co. Ltd., being dissatisfied with the determination and reasons of the Commissioner of Inland Revenue dated 13th July 1965 and forwarded with his letter dated 14th July 1965, does hereby appeal therefrom to the Board of Review on the following among other grounds that may be urged at the hearing of the appeal:-

(1) The decision of the Commissioner of Inland Revenue is contrary to law and against the weight of the evidence adduced before him;

(2) The Appellant is not liable to pay the tax imposed by the provisions of Section 53C (1) (a) of the Income Tax Ordinance as amended by Act No. 13 of 1959 other than the tax of 51 per centum of the taxable income of the Appellant, by virtue of the provisions of the Double Taxation (Relief) Act No. 26 of 1950 (Cap. 244) and in particular section 2 (5) thereof which gives statutory force to the provisions of the Agreement between the Government of the United Kingdom and the Government of Ceylon dated 26th July 1950 (Treaty Series No. 9 of 1950). Section 53C (1) (a) does not apply to the Appellant in as much as the aforesaid tax imposed by the said section 53C (1) (a) is in contravention of Articles VI and XVIII of the said Agreement, and the Appellant is not liable to pay the taxes in dispute referred to in the determination and reasons of the Commissioner.

(3) The Commissioner of Inland Revenue has misconstrued and misapplied the provisions of Section 53C (1) (a) of the Income Tax Ordinance and the provisions of Article VI and XVIII of the said Agreement.

No. 2 Appeal to the Board of Review- 6. 8. 65 —*Continued*

(4) The Commissioner of Inland Revenue has misconstrued and misapplied the definitions of "tax" and "taxation" in Articles I, II and XVIII of the said Agreement.

A copy of the Commissioner's written determination and reasons is annexed hereto in compliance with Section 75 (3) of the Income Tax Ordinance.

The Woodend (K. V. Ceylon) Rubber & Tea Co. Ltd.
by its Agents & Secretaries,
MACKWOODS ESTATES & AGENCIES LTD
Sgd. ... .
Director.

No. 3
Order of the Board of Review

No. 3 Order of the Board of Review- 29. 5. 66.

No. BRA -- 333

Income Tax Appeal to the Board of Review
The Woodend (K.V.Ceylon) Rubber and Tea Co. Ltd.

File No.: 6/381
Members of the Board: Mr. S. F. Amerasinghe
Mr. S. Esmond Satarasinghe
Mr. T. Devarajan.
Dates of Hearing: 26th February and 26th April 1966.
Present for the Appellant: Mr. H. W. Jayawardena, Q. C., with Mr. Mark Fernando instructed by Mr. M. D. de Silva, Mr. T. L. Peries.
Supporting the Assessment: Mr. S. Pasupathy, Crown Counsel, Mr. J. C. L. Fonseka, Assessor.

ORDER OF THE BOARD.

The Woodend (K. V. Ceylon) Rubber and Tea Co. Ltd., the assessee in this case, has appealed against the assessments made under Section 53C (1) (a) of the Income Tax Ordinance in respect of the years of assessment 1958/59 to 1961/62. The assessee is a non-resident

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29. 5. 66.
—*Continued*

company and derives its income in Ceylon from agriculture. The amending Act No. 13 of 1959 added Chapter VIIIA under which tax is now recovered in respect of companies. Sections 53A to 53C of Chapter VIIIA replaced the earlier provisions of the Act in respect of tax on companies.

Under Section 53B the tax to which a resident company is liable in respect of an year of assessment commencing on or after April 1, 1958 consists of

"(a) a sum equal to 45 per centum of the taxable income of such company for such years of assessment, and

(b) a sum equal to 33 1/3 per centum of the aggregate of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such years of assessment."

Under Section 53C the tax to which a non-resident company is liable in respect of an year of assessment commencing on or after April 1, 1958 consists of–

"(a) where there are remittances of such company in the year preceding such year of assessment, a sum equal to 45 per centum and an additional 6 per centum of the taxable income of such company for such year of assessment, and a sum which shall if the aggregate amount of such remittances is less than one third of such taxable income, be equal to 33 1/3 per centum of such aggregate amount, and if such aggregate amount is not less than one third of such taxable income, be equal to 33 1/3 per centum of one third of such taxable income.

(b) where there are no such remittances, a sum equal to 45 per centum, and an additional 6 per centum, of such taxable income."

The grounds of appeal relied on by the appellant in the appeal to the Commissioner of Inland Revenue under Section 69 and in the appeal to this Board under Section 71 of the Income Tax Ordinance Chapter 188, are that the imposition of a tax of 33 1/3 per centum on remittances under Section 53 (c) is a contravention of Article VI and Article XVIII of Treaty Series No. 9 of 1950.

This Treaty is an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon for the avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

The Provisions of this agreement have been given the force of law by the Double Taxation (Relief) Act No. 26 of 1950. (Chapter 244). It is agreed by the parties to this appeal that if there is any conflict between the provisions of Section 53C of the Income Tax Ordinance, and the provisions of the Double Taxation (Relief) Agreement, then it is the provisions in the agreement that must be given effect.

The amounts assessed and the amount of tax have been agreed as arithmetically correct.

The matters for decision are whether the imposition of a 33 1/3 per centum tax on remittances under Section 53C contravenes the provisions of Article VI and/or Article XVIII of the Double Tax Agreement referred to earlier.

Article VI of this agreement (Treaty Series No. 9 of 1950) reads as follows:-

> "Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived."

Before interpreting the application of Article VI in relation to Section 53C of the Income Tax (Amendment) Act No. 13 of 1959, it is desirable to clarify the question of the taxation, if any, on dividends of a limited liability company prior to the enactment of the Income Tax (Amendment) Act No. 13 of 1959.

It is a question of fact, that prior to the above legislation, a company whether resident or non-resident, was liable to a non-refundable tax of 39%, was in effect, an advance payment to the Inland Revenue Authorities, of tax, on behalf of the company's shareholders.

On declaration of a dividend before the introduction of the Income Tax (Amendment) Act No. 13 of 1959, no dividend tax as such was payable. That is to say, no additional amount by way of tax was deducted from the dividend declared. The *de facto* position, being that there was a notional grossing up of the amount available for distribution by 39%; that is to say arriving at the amount before deduction of the tax at 39%.

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To illustrate, if 100 was the profits of the company, after payment of profits tax, with a refundable corporate tax of 39%, 61 would have been available for distribution. However, if the entirety of this sum was distributed, 61 would have been grossed up by 39% in the first instance to obtain the maxium gross distribution possible and the dividend warrant would have shown in consequence a gross dividend of 100 less a notional deduction in respect of tax at 39% giving the shareholder 61.

This establishes the fact that no additional amount was deducted from the shareholders' prospective dividend, at the time of distribution, which in turn confirms that there was no taxation on dividends, the only tax being a taxation at source at 39% on the profits of the Company.

It is relovant in studying the legislation which gave effect to the recommendations of Mr. Nicholas Kaldor, as set out in Sessional Paper IV of 1960, to refer to the observations of the Minister of Finance during the Budget Speech of 1958/59, with particular reference to certain distributions, which were deemed to be remittances and intended to attract a tax in addition to the tax on the profits of the Company.

"TAXATION OF RESIDENT COMPANIES.

Limited liability companies have been also subject to the same dual system of taxation. A company at present pays a non-refundable Profits Tax of 30 per cent. and on the remainder an Income Tax of 39 per cent. Such of its income as bears tax in its hands and is distributed to the shareholders is assessed in the hands of the Shareholders, credit being given for the tax paid by the Company. Since the whole of the profits of the Company are not distributed to the shareholders, a certain proportion of the Company's profits bears a non-refundable Income Tax at 39 per cent in the Company's hands. I propose to replace the present dual system of the non-refundable income Tax and the Profits Tax by a single non-refundable Tax on Companies at 45 per cent. on the whole of the profits of the year which imposes the same effective burden.

As regards distributed profits, I propose that the Company should deduct and pay 33 1/3 per cent. on the gross dividends distributed, and this tax will, of course be credited against the Income Tax liability of the shareholders.

TAXATION OF NON-RESIDENT COMPANIES

The same rate of 45 per cent. will apply to non-resident Companies plus the 6 per cent. now existing in lieu of Estate Duty. This is more than justified in the new tax structure, as non-resident Companies will not be liable to Wealth Tax and as the Gifts Tax cannot be made applicable to non-resident individuals in respect of gifts of property situated abroad.

In the case of non-resident Companies, one-third of the profits earned will be deemed to have been distributed as dividends, unless the amount actually remitted abroad is below this amount in which case the dividend deemed to have been distributed will be the amount so remitted.

The dividends paid by non-resident Companies will also be subject to course to the dividend tax. Non-resident shareholders will not be entitled to a refund from the Ceylon Treasury but they will normally obtain double taxation relief from their own revenue authorities".

The intention to introduce a form of taxation on dividends completely different to what obtained before the Income Tax (Amendment) Act No. 13 of 1959 is also outlined in "Suggestions for a Comprehensive Reform of Direct Taxation" by Nicholas Kaldor published as Sessional Paper IV of 1960.

"THE TAXATION OF COMPANIES

It is proposed to replace the existing system according to which companies are liable to a profits tax plus an income tax which is refundable on the dividends paid to the individual shareholder by a new system (anologous to the Amerioan system) according to which a single non-refundable tax is charged on the whole income of companies; and in addition a tax on the dividends declared which is credited to the account of the resident shareholder. It is proposed that both the company profits tax and the dividend tax should be levied on non-resident as well as resident companies, but in order to comply with existing provisions, the two taxes would appear in the legislation as part of a single tax on company income. It is estimated that in order to obtain the same revenue as the present profit and income taxes on companies, the rate of tax would have to be 45 per cent. on the whole profit of the year plus 33 1/3 per cent. on the gross dividends declared in the year."

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Therefore it is clear that it was the intention of the legislature to introduce a form of taxation on dividends and effect was given to this in Section 53B of the Income Tax (Amendment) Act No. 13 of 1959, which covered the declaration of dividends made by a resident Company.

Section 53C of the same Act sets out the basis for the computation of the tax liability of non-resident companies. In addition to the payment of a non-refundable tax of 45 per cent. the Act sought to impose an additional tax of 33 1/3 per cent on remittances subject to a maximum of 1/9th of the taxable income where the remittances were greater than 1/3 of the taxable income.

To re-quote from the Budget Speech of 1958/59 "in the case of non-resident companies 1/3 of the profits earned will be deemed to have been distributed as dividends unless the amount actually remitted abroad is below this amount in which case the dividend deemed to have been distributed will be the amount so remitted."

It is clear that as far as the companies covered by the Double Tax Agreement between the United Kingdom and Ceylon are concerned, the legislation has not met with the requirement that "there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits of income so derived."

The logical conclusion is that Section 53C of the Income Tax (Amendment) Act No. 13 of 1959 imposes a form of taxation in lieu of taxation on dividends which is contrary to Article VI of the Double Tax Agreement between the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon (Treaty Series No. 9 of 1950).

Next comes a consideration of Article XVIII (2) which reads as follows:-

> "The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other higher or more burdensome than the taxation to which the enterprises of that other territory, and, in the case of companies, to which enterprises of that other territory incorporated in that other territory, are or may be subjected in respect of the like profits."

This Article in effect, precludes any one of the contracting Governments from imposing any discriminatory form of taxation. "Taxation" is defined in Clause (3) of Article XVIII as meaning to be "Taxes of every kind and description levied on behalf of any authority whatsoever."

With the exception of the additional tax of 6 per cent. payable by a non-resident, as provided for in Article IX of the Double Tax Agreement, a company resident in Ceylon and a company resident in the United Kingdom but trading in Ceylon, must for purposes of taxation be treated alike.

Therefore, the point at issue is whether the tax on profit remittances, which a company resident in the United Kingdom but trading in Ceylon is subjected to under Section 53C of the Income Tax(Amendment) Act No. 13 of 1959, is a form of taxation, other than that a resident company is liable to under the provisions of the Income Tax (Amendment) Act No. 13 of 1959.

If a resident company chose to remit its profits to one of its branches in the United Kingdom, for whatever the purpose, it is not deemed to be a remittance liable to tax. However, if a company resident in the U. K. and trading in Ceylon, had a profit remittance made from its Ceylon Office to its Head Office in the U. K., such remittance would attract tax as detailed in Section 53C.

Even though the liability to pay tax on profit remittances comes under the genus of income tax, to which both resident and non-resident companies are subjected to, it is a form of taxation or a kind of tax which is other than that imposed on a resident company.

The imposition of a tax on profit remittances made by a company, which is resident in the United Kingdom but trading in Ceylon, in terms of Section 53C, is therefore in contravention of Article XVIII of the Double Tax Agreement between the Government of the United Kingdom of Great Britain and the Government of Ceylon (Treaty Series No. 9 of 1950).

For the reasons given in this order we are of the opinion that the assessee is not liable to a tax on profit remittances as set out in Section 53C of the Income Tax (Amendment) Act No. 13 of 1959.

We remit the case to the Commissioner of Inland Revenue, so that the assessments may be revised in accordance with this opinion.

The above is the order of the other two members of the Board.

Sgd: S. F. Amerasinghe
Chairman of the Board

29 May, 1966.
Colombo.

No. 4
Application by the Commissionner of Inland Revenue requiring the Board of Review to state a case for the opinion of the Supreme Court-28. 6. 66.

No. 4

Application by the Commissioner of Inland Revenue requiring the Board of Review to state a case for the opinion of the Supreme Court.

BRA - 333

The Clerk to the Board of Review,
INLAND REVENUE.

Application for a Stated Case - Appeal of The Woodend (K. V. Ceylon) Rubber & Tea Co. Ltd.

In terms of Section 74(1) of the Income Tax Ordinance (Cap. 188) I heroby require the Board of Review to state a case for the opinion of the Supreme Court on the question of law arising in the above appeal. 10

I give below the question of law on which the case should be stated to the Supreme Court.

I enclose a cheque for Rs. 200/-.

Question of Law.

Whether the Woodend (K.V. Ceylon) Rubber and Tea Co. Ltd., being a company resident in the United Kingdom, is not liable to pay tax on remittances under section 53C of the Income Tax Ordinance, in view of the provisions of Article VI and/or Article XVIII of the Double Tax Agreement (Treaty Series No. 9 of 1950) read with Double Taxation (Relief) Act No. 26 of 1950. 20

Sgd: S. Sittampalam.
Commissioner of Inland Revenue.

Dept. of Inland Revenue,
Colombo 1,
28th June, 1966.

No. 5

Case stated for the opinion of the Supreme Court under the provisions of Section 74 of the Income Tax Ordinance upon the application of the Commissioner of Inland Revenue.

No. 5
Case Stated for the opinion of the Supreme Court under the Provisions of Section 74 of the Income Tax Ordinance Upon the Application of the Commissioner of Inland Revenue- 8. 9. 66.

CASE STATED FOR THE OPINION OF THE HONOURABLE THE SUPREME COURT UNDER THE PROVISIONS OF SECTION 74 OF THE INCOME TAX ORDINANCE UPON THE APPLICATION OF COMMISSIONER OF INLAND REVENUE

1. At a meeting of the Board of Review held on 26th February 1966 and on adjournment on 26th April 1966 the appeals of the Woodend (K. V. Ceylon) Rubber and Tea Co. Ltd. hereinafter called the assessee, against the assessments to income tax for the years of assessment 1958/59, 1959/60, 1960/61 and 1961/62 were heard. The assessee appealed against the assessments on the ground that the imposition of a tax under Section 53(e) of 33 1/3 per centum on remittances was a contravention of Article VI and Article XVIII of the Double Taxation Agreement, (Treaty Series No. 9 of 1950), between the Government of the United Kingdom and the Government of Ceylon.

2. The assessee is a non-resident company and carries on an agricultural undertaking in Ceylon. Only the income derived by the assessee from its agricultural undertaking in Ceylon is included in these assessments.

3. The profits derived by the assessee from its agricultural undertaking in Ceylon are liable to be assessed as if it were an independent enterprise and dealing at arms length with the trade or business carried on by the assessee in the United Kingdom - vide paragraph 3 of Article III of the Treaty Series No. 9 of 1950.

4. Article VI and Article XVIII of Treaty Series No. 9 of 1950 are as follows:-

Article VI:

Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on

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undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

Article XVIII(2):

The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher, or more burdensome than the taxation to which the enterprises of that other territory, and, in the case of companies, to which enterprises of that other territory incorporated in that other territory are or may be subjected in respect of the like profits.

5. Income tax for the years of assessment 1958-59 to 1961-62 is recovered on the profits of resident and non-resident companies under the provisions of Section 53(B) and Section 53(C) of the Income Tax Ordinance which are as follows:

Section 53(B).

In respect of any year of assessment commencing on or after April 1, 1958 the Tax to which a company resident in Ceylon in the year preceding such year of assessment shall be liable shall consist of –

(a) a sum equal to 45 per centum of the taxable income of such company for such year of assessment and

(b) a sum equal to 33 1/3 per centum of the aggregate amount of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such year of assessment.

Section 53(C).

"In respect of any year of assessment commencing on or after April 1, 1958 the tax to which a non-resident company shall be liable –

(a) shall where there are remittances of such company in the year preceding such year of assessment, consist of a sum equal to 45 per centum and an additional 6 per centum of the taxable income of such company for such year of assessment and a sum which shall, if the aggregate amount of such remittance is less than one third of such taxable income, be equal to 33 1/3 per centum of such aggregate amount and, if such

aggregate amount is not less than one third of such taxable income, be equal to 33 1/3 per centum of one third of such taxable income.

(b) shall where there are no such remittances, consist of a sum equal to 45 per centum, and an additional 6 per centum of such taxable income."

The additional 6 per centum of the taxable income charged on a non-resident company is in accordance with the provisions of Article IX of Treaty Series No. 9 of 1950.

6. Remittances with reference to a non-resident company is defined in Section 53(C) (2) of the Income Tax Ordinance. The definition includes profits from a source in Ceylon which have been received in Ceylon and remitted abroad and also proceeds from the same source which have been received abroad and retained there.

7. The assessor made the following assessments on the assessee

Year	*Profits*	*Tax*
1958-59	63,698	39,562
1959-60	58,140	36,111
1960-61	174,516	123,081
1961-62	465	327

The remittances made by the assessee consist of sums remitted abroad out of the profits derived in Ceylon.

8. The assessee appealed to the Commissioner of Inland Revenue against the assessments made on the ground that a tax of 33 1/3 per centum of remittances made out of profits derived from Ceylon imposed on a non-resident company was a contravention of Articles VI and XVIII of Treaty Series No. 9 and therefore void in law.

9. The Commissioner of Inland Revenue who heard the appeal under Section 69 of the Income Tax Ordinance confirmed the assessments. A copy of the order made by the Commissioner of Inland Revenue is annexed hereto marked X1.

10. The assessee appealed to the Board of Review against the determination of the Commissioner of Inland Revenue. At the hearing of the appeal before the Board of Review it was submitted on behalf of the assessee that

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(a) the tax of 33 1/3 per centum of the remittances imposed on a non-resident company under Section 53(C) was a tax on dividends or a tax in lieu of taxation of dividends and therefore contravened the provisions of Article VI of the Treaty Series No. 9 of 1950.

(b) the tax of 33 1/3 per centum of the remittances imposed on a non-resident company under Section 53(C) was a tax other, higher, or more burdensome than the tax imposed on a local company and therefore contravened Article XVIII of Treaty Series No. 9 of 1950.

11. Crown Counsel who supported the assessment on behalf of the Commissioner of Inland Revenue contended

(a) Article VI of Treaty Series No. 9 of 1950 excludes taxation on dividends paid by a non-resident company to non-resident persons although the profits of the non-resident company may be derived from a source in Ceylon.

(b) Article VI of Treaty Series No 9 of 1950 grants exemption from taxation to the recipient of a dividend paid by a non-resident company provided the recipient is a non-resident.

(c) The assessee in this case has not been taxed on any dividends received by the assessee.

(d) It is not a ground of appeal that the assessee has been taxed on any dividends received in contravention of Article VI of Treaty Series No. 9 of 1950.

(e) The tax of 33 1/3 per centum of the aggregate amount of the gross dividends distributed imposed on a resident company under Section 53(B) is not a tax on dividends, and the tax of 33 1/3 per centum of the aggregate amount of remittances imposed on a non-resident company under Section 53(C) is not a tax on remittances.

(f) The tax of 33 1/3 per centum of dividends imposed under Section 53(B) and the tax of 33 1/3 per centum of remittances imposed under Section 53(C) are both a tax on the company, in respect of the profits of the company and payable out of the profits of the company.

(g) The tax of 33 1/3 per centum of dividends imposed under Section 53(B) and the tax of 33 1/3 per centum of remittances imposed under Section 53(C) are both imposed on the amount of profits distributed.

(h) The tax of 33 1/3 per centum of profits imposed under Section 53(C) is not higher or more burdensome than the tax of 33 1/3 per centum of profits under Section 53(B) as

(i) if the distributed profit is one third or less than one third of the taxable income, a resident company and a non-resident company pay the same amount of tax on the same amount of profit.

(ii) if the distributed profit is more than one third of the taxable income a non-resident company pays less tax than a resident company on the same amount of profit.

12. The Board of Review held by its order dated 29th May 1966 that the tax of 33 1/3 per centum of the profits remitted imposed on a non-resident company contravened the provisions of Article VI and Article XVIII of the Treaty Series No. 9 of 195

A copy of the order made by the Board is annexed hereto marked X2.

13. The decision of the Board was communicated to the assessee and the Commissioner of Inland Revenue by letter dated 30.5.66. Dissatisfied with the decision of the Board the Commissioner of Inland Revenue by his communication on 28th June 1966, copy of which is attached hereto marked X3, appealed to the Board to have a case stated for the opinion of the Honourable the Supreme Court on the questions of law arising on this case.

14. The questions of law on which the opinion of the Supreme Court is sought are

(a) Is the imposition of a tax of 33 1/3 per centum of the aggregate amount of the profits remitted a contravention of Article VI of Treaty Series No. 9 of 1950 ?

(b) Is the imposition of a tax of 33 1/3 per centum of the aggregate amount of the profits remitted a contravention of Article XVIII of Treaty Series No. 9 of 1950.

15. The amount of tax in dispute is as follows:

Year of assessment	1958–59	- Rs. 7,077/-
	1959–60	- Rs. 6,460/-
	1960–61	- Rs. 22,298/-
	1961–62	- Rs. 58/-

Sgd. S. F. Amerasinghe
Chairman of the Board

Colombo, 8th September, 1966.

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No. 6
Judgment of the Supreme Court

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

S. C. 3/'66 *Income Tax Case Stated BRA 333*

The Commissioner of Inland Revenue, Colombo. ..... *Appellant*

v.

The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., Colombo . . .. *Respondent.*

Present: Tambiah J. and Siva Supramaniam J. 10

Counsel: Walter Jayawardena, Q. C., Solicitor-General, with Shiva Pasupathy for appellant;
H. W. Jayewardena, Q. C., with B. Eliyathamby and T L. D. Fernando for Respondent.

Argued on: 28th and 29th of September and 6th, 7th, 8th and 9th of October, 1967.

Dicided on: 18th December, 1967.

Tambiah J.

This matter comes before this Court for its opinion on a case stated by the Board of Review under the provisions of section 20 78 of the Income Tax Ordinance (Cap. 242). Although the sum involved is comparatively small, this case raises matters of importance and the opinion sought for will have far reaching effects since the tax recovered for the four years in review will amount to a considerable sum.

It is a matter of common knowledge that the bulk of the non-resident companies which are affected by the agreement entered into between the United Kingdom and Ceylon in the Treaty Series No. 9 of 1950 are "Sterling Companies", that is to say, companies which have their registered office in the United Kingdom. Some 30 of them own large tea estates and others have entered into commercial ventures in this Island. The respondent is one of such non-resident companies.

The respondent appealed to the Board of Review against the assessment for the income tax years 1958/'59, 1959/'60, 1960/'61 and 1961/'62 on the ground that the imposition of a tax under section 53(e) of the Income Tax Ordinance (Cap. 242) as amended by Act No. 13 of 1959, of 33 1/3 per cent on remittances was in contravention of Articles VI and XVIII of the Double Taxation Agreement

(Treaty Series No. 9 of 1950, which will hereinafter be referred to as the Treaty), between the Government of the United Kingdom and the Government of Ceylon. The provisions of this agreement have been given the force of law by the Double Taxation (Relief) Act No. 26 of 1950 (Cap. 244). The relevant articles of this Treaty are as follows:

"*Article VI*

Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company whether or not those dividends or undistributed profits represent in whole or in part, profits or income so derived."

" *Article XVIII* –

(1) The residents of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is other higher or more burdensome than the taxation and connected requirements to which the residents of the latter territory are or may be subjected.

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprise of that other territory, and, in the case of companies to which the enterprises of that other territory incorporated in that other territory are or may be subjected in respect of the like profits."

" (3) In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

(4) Nothing in this Article shall be construed as -

(a) obliging either of the Contracting Governments to grant to persons not resident in its territory, those personal allowances, reliefs and reductions for tax purposes which are, by law, available only to persons who are so resident;

(b) affecting the additional rate of tax with which Article IX is concerned."

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– *Continued*

After the Kaldor Report was adopted with modifications in Ceylon, the basis of taxation underwent radical changes. Profits tax was abolished and the simple provisions governing income tax, applicable both to persons and companies, gave way to a more sophisticated method of taxation and the Income Tax Ordinance (Cap. 242) was accordingly amended by Act No. 13 of 1959. So far as persons are concerned, the computation of taxation is based on family units The husband, the wife, and four children are given certain units and the income tax is based on slabs ranging according to the units. So far as companies are concerned, the profits tax and all the provisions of the Income Tax Ordinance under which companies were taxed earlier, were repealed and Chapter VIII A of the Income Tax Ordinance was introduced by the amending Act of 1959.

The basis of taxation on resident companies is found in section 53(B) which enacts as follows:

"In respect of any year of assessment commencing on or after April 1, 1958 the tax to which a company resident in Ceylon in the year preceding such year of assessment shall be liable, shall consist of –

(a) a sum equal to 45 per centum of the taxable income of such company for such year of assessment and

(b) a sum equal to 33 1/3 per centum of the aggregate amount of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such year of assessment."

The basis of taxation of non-resident companies is found in section 53(C) of the Income Tax Ordinance which enacts as follows:

"In respect of any year of assessment commencing on or after April 1,1958 the tax to which a non-resident company shall be liable–

(a) shall where there are remittances of such company in the year preceding such year of assessment, consist of a sum equal to 45 per centum and an additional 6 per centum of the taxable income of such company for such year of assessment and a sum which shall, if the aggregate amount of such remittance is less than one third of such taxable income, be equal to 33 1/3 per centum of such aggregate amount and, if such aggregate amount is not less than one third of such taxable income, be equal to 33 1/3 per centum of one third of such taxable income; and

(b) shall where there are no such remittances, consist of a sum equal to 45 per centum, and an additional 6 per centum of such taxable income."

The imposition of a sum computable at the rate of 45 per centum of the taxable income of resident companies and the sum at the rate of 51 per centum of the income on non-resident companies, set out in section 53 (B) (1) (a) and section 53 (C) (1) (a) of the Income Tax (Amendment) Act No. 13 of 1959, respectively, is not the subject matter of controversy as it is common ground that such taxes are within the terms of the Treaty. The only dispute is over the imposition on non-resident companies of 33 1/3 per centum on the remittances as set out in section 53 (C) (1) (a) of the Income Tax (Amendment) Act No. 13 of 1959.

When this matter was argued before the Board of Review the appellant agreed that if there is any conflict between the provisions of section 53 (C) of the Income Tax Ordinance and the provisions of the Double Taxation (Relief) Agreement, then it is the provisions in the agreement that must be given effect to. The appellant, however, strenuously maintained that there was no conflict between these provisions. The Board of Review has held that there is conflict and has sought the opinion of this Court on the point of law stated earlier.

The learned Solicitor-General who appeared for the appellant before this Court presented his arguments in a different vein. He stated that he is not bound by the concession of the appellant before the Board and urged that even if there is a conflict between the Double Taxation (Relief) Act No. 26 of 1950 and Section 53 (C) (1) (a) of the Income Tax (Amendment) Act No. 13 of 1959, the provisions of the latter should prevail, not only because it is a later enactment but also because it was the clear intention of Parliament to do away with the existing tax measure affecting companies, both resident as well as non-resident, and to provide for a new and complete scheme of taxation of the aforesaid companies, by the amending Act of 1959. Therefore, he submitted that by necessary implication the Double Taxation (Relief) Act No. 26 of 1950 had been repealed.

Counsel for the respondent was not taken by surprise by the enunciation of this principle of law since he was given ample notice by the learned Solicitor-General. Although Counsel for the respondent formally objected to this matter being argued, he did not pursue it further.

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It is a well known proposition that an admission of a pure question of law in a lessor tribunal does not bind the Counsel who appears for the same party in a higher tribunal (vide Attorney-General v. A. D. Silva (1953) 54 N. L R. 529). *A fortiori* in tax matters where the opinion of this Court is sought, the Court is not precluded from reconsidering a question of law which was not before the Board of Review. In *Fernando v Commissioner of Income Tax* (1959) 61 N. L. R. 296 at 319, it was held that subsection 6 of section 78 of the Income Tax Ordinance empowers the Court to hear and determine any question of law arising on the case stated (vide *M. P Silva v. Commissioner of Income Tax* (1947) 1 Ceylon Tax Cases p. 336).

The learned Solicitor-General also contended that there is no conflict between the provisions of section 53(C) of the Income Tax (Amendment) Act and article VI and XVIII of the Treaty Series, the terms of which were embodied in the Double Taxation (Relief) Act of 1950. Alternatively, he argued that should there be a conflict, the provisions of the Income Tax (Amendment) Act 13 of 1959 should prevail.

Mr. Jayewardena, Counsel for the respondent, urged that there was a conflict between section 53 (C) of the Income Tax (Amendment) Act of 1959 and articles VI and XVIII of the Treaty Series, which were embodied in the Double Taxation (Relief) Act of 1950, in so far as section 53 (C) of the Amending Act seeks to impose a tax on a non-resident Company governed by the agreement on its remittances which is in fact a form of taxation in lieu of taxation on its dividends In any event, he said that this tax was a tax on undistributed profits of the company.

He also contended that Section 53(C) of the amending Act No. 13 of 1959 is in conflict with Article XVIII (2) of the Treaty, since this tax is either higher or more than the tax to which the resident companies are subjected to; and in any event, it is a tax other than the tax which has been imposed on the resident companies of Ceylon.

Mr. Jayawardena further urged that the canon of construction enshrined in the maxim *generalia specialibus non derogant* should apply and the Treaty which was embodied in the Double Taxation (Relief) Act of 1950, being a special law, which is applicable to particular types of non-resident companies, caught up by the agreement, has not been impliedly repealed by section 53(C) of the Income Tax (Amendment) Act of 1959 which is a general law applicable to taxation of other

non- resident companies. He elaborated his contention and said that since the earlier Act gave effect to a bilateral Treaty, the Parliament could not have intended to abrogate it unilaterally by enacting section 53(C) of the Income Tax (Amendment) Act No. 13 of 1959.

Fristly, it is convenient to consider the question whether the provisions set out in section 53(C) of the amending Act of 1959 are in conflict with Articles VI and XVIII of the Treaty, which is embodied in the Double Taxation (Relief) Act of 1950. The learned Solicitor-General contended that the term "dividend" as used in Company law, is a term well known to Company lawyers and signifies the amount payable to a shareholder out of the net profits of the company, as resolved by the Company. On the other hand, the remittances sent by a non-resident company from a branch office in Ceylon to its head office has no relation to the dividends that would ultimately be payable to the shareholders. A non-resident company may have business ventures throughout the world and may reap a good harvest from its investments abroad although from its properties or business in Ceylon nothing may be sent by remittances or only a small sum may be remitted to the head office Conversely, the Ceylon office may send from their undertakings large profits whereas the non-resident company may suffer severe lossess from its ventures abroad and, ultimately, no dividends may be payable to its shareholders.

The Board of Directors of a non-resident company may instruct the Ceylon office to invest the profits earned in Ceylon for a particular year or for a number of years in buying more estates, if it is an agricultural undertaking or to enter into other businesses if it is an industrial undertaking. Therefore no remittances may be made for that particular year or years to the head office, although dividends may be distributed to its shareholdors from other ventures outside Ceylon. It is more profitable for a non-resident company if it accumulates its profits for a period of years and then remits them during an year succeeding a lean year. The tax payable cannot exceed the ceiling of one ninth of the taxable income of the non-resident company for the previous year if the remittances are more than 33 1/3 per centum of the taxable income for that previous year. In this matter it may be legitimate for non-resident companies to wait till the taxable income for a particular year is low and obtain a tax relief of great magnitude, which the resident companies cannot avail themselves of in view of the specific provisions of the income Tax(Amendment) Ordinance of 1959. Therefore, the remittances of a non-resident company are not the same as dividends nor is there any computable basis on which the relation between the two can be established.

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Therefore the provisions governing the tax on remittances by non-resident companies, imposed by section 53 (C) of the Income Tax (Amendment) Act No. 13 of 1959, are not in conflict with Article VI of the Treaty.

In this context Mr. Jayawardena asked us to look into the budget speech made by the then Finance Minister who introduced this tax measure. The learned Solicitor-General stated that the proposals in a budget speech cannot be looked into by this Court in interpreting the provisions of a Parliamentary Statute. But he conceded that this Court could look into the facts set out in the budget speech by a Minister in order to find out the intention of the Legislature in enacting a measure subsequently. In this context it may be useful to refer to the dictum of Lord Wright in *Assam Railways and Trading Co. v. Commissioner of Inlannd Revenue* (*1935*) A. C. p. 445 at 458. In dealing with the question whether the report of a Royal Commission on Income Tax of 1920 could be looked into to interpret the provisions of the Finance Act of 1920, he said:

> "But on principle no such evidence for the purpose of showing the intention, that is the purpose or object, of an Act is admissible; the intention of the Legislature must be ascertained from the words of the statute with such extraneous assitance as is legitimate; as to this I agree with Farwell L. J. in *Rex v. West Riding of Yorkshire County Council* (1906 2 K. B. 676, 717) where he says: "I think that the rule is expressed with accuracy by Lord Langdale in giving the judgment of the Privy Council in the *Gorham Case* in Moore 1852 edition, p 462, 'We must endeavour to attain for ourselves the true meaning of the language employed' – in the articles and Liturgy – 'assisted only by the consideration of such external or historical facts as we may find necessary to enable us to understand the subject matter to which the instruments relate, and the meaning of the words employed". In this House where the judgment of the Court of Appeal was reversed (*Attorney-General v. West Riding of Yorkshire County Council* (1907) A. C. 29), no reference was made to this point. *It is clear that the language of a Minister of the Crown in proposing in Parliament a measure which eventually becomes law is inadmissible and the Report of Commissioners is even more removed from value as evidence of intention, because it does not follow that their recommendations were accepted.*"

With respect, I would adopt the dictum of Lord Wright and hold that the proposals of the Minister in his Budget Speech, in which he said that regarding non-resident companies, he proposes to impose 33 1/3 per cent. tax on remittances and which will be

deemed to be a tax on dividends, is not admissible because we do not know whether his proposals were adopted ultimately. Indeed, the learned Solicitor-General cited to us certain passages from the objects and reasons for the passing of this amending Act in which it is stated that the proposals of the then Minister of Finance were amended by the Cabinet.

On the other hand, there are several passages in the Minister's speech where he says that the finances of the State are in a parlous condition and therefore these tax proposals were brought in order to increase the revenue of the country. If these were the facts where prompted the Parliament to pass the amending Act of 1959, could it be said that they wanted to treat a non-resident company, caught up in the agreement, and the resident companies differently and imposed a tax of 33 1/3 per centum of the gross dividends distributed by the resident companies in addition to the tax of 45 per cent on the taxable income, but intended to exempt such non-resident companies from paying any tax on its profits and remittances sent out and granted them a concession of paying only 51 per cent. tax on their taxable income. It is common knowledge that a good part of our revenue comes from tea and rubber, the main cash products of this Island and is it likely that the Parliament wanted to exempt these "Sterling Companies" and other non-resident companies which are caught up by the agreement from paying any tax other than a tax of 51 per cent. on the taxable income.

In support of the argument that 33 1/3 per cent. tax imposed by section 53 (C) of the amending Act of 1959, on remittances of non-resident companies is a tax in lieu of dividends, Mr. Jayawardena submitted that the same percentage of 33 1/3 per cent. is imposed on the dividends of resident companies as well as on the remittances of profits of non-resident companies. Therefore he argued that although the word 'remittances' was used in section 53 (C) it was in fact a tax in lieu of dividends.

Mr. Jayewardena also contended that the dividends payable by the non-resident companies to its shareholders abroad is naturally affected by its remittances sent from Ceylon. No doubt the dividend payable would be affected by the profits that are sent from Ceylon but in that event no income tax can be imposed on profits since the imposition of income tax on profits will naturally affect the dividends ultimately payable. Income tax is inherently a tax on profits and it is perfectely legitimate for any government to tax the profits of a non-resident company and, therefore, when a tax is imposed

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—*Continued*

on remittances which are sent by way of profits, it is only a method of computation of the income tax on profits and is not an attempt to tax the dividends.

Mr. Jayawardena's contention that the tax on remittances of non-resident companies imposed by section 53 (C) of the amending Act is, in any event, in the nature of an undistributed profits tax on undistributed profits of the company and therefore was in conflict with Article VI of the Treaty, is not tenable. When one refers to undistributed profits of a company, what is meant is the balance of the profits left over after paying dividends. The undistributed profits of a non-resident company can only be computed by first looking at the net profits of that company derived from all its ventures and thereafter deducting from that amount the dividends already paid to the shareholders. It has, therefore, no direct connection with the dividends declared by a non-resident company and if remittances of profits sent by a branch office to the head office of a non-resident company do not have any computable relation to the dividends payable by a non-resident company to its shareholders abroad, it follows that the remittances sent from Ceylon to its head office have again no computable relationship with the undistributed profits of the company. Therefore a tax on profits remitted, as envisaged in section 53(C) of the amending Act, is not a tax on the undistributed profits of a non-resident company.

The learned Solicitor-General also submitted that the provisions of section 53(C) of the amending Act of 1959 are not in conflict with Article XVIII of the Treaty. He said that it has not been shown by the respondent on whom the burden lies to show that the taxation was wrong, that the tax imposed on non-resident companies under section 53(C) of the amending Act, is higher or more burdensome than the taxation on the resident Companies of Ceylon. By a comparison of section 53(B) with section 53(C) of the amending Act it is clear that the resident companies in Ceylon have to pay 33 1/3 per cent. of the gross profits whereas no such tax is imposed on the non-resident companies. As stated earlier, the non-resident companies have a greater advantage over the resident companies since they could wait for a lean year and send the profits, which have accumulated for a number of years and gain an advantage by paying 1/9th of the taxable income from that previous year. This advantage alone would outweigh all other disadvantages, if any, which a non-resident company may have in comparison with a resident company. This is a big concession given to foreign investors

in Ceylon. The actual figures worked out by the Income Tax Department, which was not disputed before the Board of Review, is set out in page 2 of document XI. The computations are in respect of the income tax years 1958/59 to 1961/62. A comparison has been made between the figures of the tax payable if it were a resident company. It will be seen from these figures, which are not disputed by the respondent, that if the respondent had been resident in Ceylon it would have paid a sum of Rs 159,580/- by way of a tax on dividends whereas it paid only a tax of Rs. 35,893/- for these years as tax on remittances. Therefore, by the imposition of 33 1/3 per cent. on the remittances as tax on non-resident companies by section 53(C) of the amending Act, it has not been shown that this tax is more burdensome than the tax imposed on resident companies or that it is higher within the meaning of article XVIII of the Treaty.

For the purposes of Article XVIII, one must take a comparable situation. Assuming that a resident company in Ceylon gets Rs.10,000/- as nett profits and a non-resident company also has the same profits, it has to be shown that as a result of the imposition of the remittance tax by section 53(C) of the amending Act, the taxation is more burdensome or higher. The respondent has failed to discharge the burden on this point.

The next question is whether the tax imposed by section 53(C) of the amending Act is another tax other than tax which is imposed on a resident company. The learned Solicitor-General submitted that the tax imposed by section 53(C) of the amending Act is Income Tax, computed and calculated in the same way as any other component of income tax and therefore is not any other tax but income tax. He submitted that Income Tax is one *tax*, although its components and the method of calculation may be different. Mr. Jayawardena, on the other hand, urged that there is no taxation on remittances of profits of resident companies whereas there is a taxation on remittances of profits of non-resident companies and, therefore, the tax imposed by section 53(C) of the Income Tax (Amendment) Act is a tax other than a tax imposed on a resident company. I am unable to appreciate the argument of the Counsel for the respondent. In the first place I find it difficult to visualize a resident company sending profits by way of remittances abroad. It may have branch offices in the various parts of the world. If remittances are sent they are not remittances of profits. Remittances may be sent in order to purchase articles for the purpose of the business or to defray the expenses of its offices abroad. The tax imposed on the remittances

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sent as profits of a non-residential company is only a component of the income tax payable by such company. Therefore, I hold that it is not a tax other than income tax, and that section 53(C) of the amending Act of 1959 does not contravene article XVIII of the Treaty.

For these reasons I am of the view that section 53(C) of the amending Act is not in conflict with either Article VI or Article XVIII of the Treaty. This view alone should dispose of this matter but in view of the fact that the matter has been fully argued, it is necessary also to consider the proposition put forward by the learned Solicitor-General, namely, that even if there is a conflict, the rule of construction enshrined in the maxim *generalia specialibus non derogant* has no application in this matter.

It is necessary for this purpose to construe the provisions of section 53(A) of Cap. VIII (A) which was brought in by the Income Tax (Amendment) Act No. 13 of 1959. It enacts as follows:

"53A. (1) In respect of any year of assessment commencing on or after April 1, 1958-

(a) the rate or rates of the tax referred to in section 5, and

(b) the provisions of Chapter VII and the provisions of section 43 other than sub-section (1A) and sub-section 3 of that section,

shall not apply to *any resident or non-resident company.*

(2) The provisions of sub-section (1A) of section 43 shall not apply *to any resident company* after April 30,1959, and the provisions of sub-section (3) of that section shall not apply to any person after March 31,1960".

The repealing of the provisions of the "rate or rates of the tax" referred to in section 5 of the principal Act and the words "*any resident or non-resident companies*" are of significance. It shows that any type of non-resident company is caught up by these provisions and the legislature did not intend to make a distinction between non-resident companies caught up by the agreement contained in the Treaty and other types of non-resident companies. This disposes of Mr. Jayawardena's arguments that the intention of the Legislature was not to repeal the Double Taxation (Relief) Act which gave effect to the provisions of the Treaty and the Income Tax (Amendment) Act No. 13 of 1959 was only applicable to those non-resident companies which are not governed by the Treaty.

Relying on the case of *Ostime v. Australian Provident Society* (1959) 3 All E. R. 245, Mr. Jayawardena urged that we should hold that the Double Taxation (Relief) Act of 1950 is still in force and should be applied to the non-resident companies governed by the treaty and that the general Act only applies to non-resident companies, which were not contemplated by the Treaty entered into between the United Kingdom and Ceylon. In *Ostime's Case*, the Australian Mutual Insurance Company, resident in Australia carried on business in Australia through a branch office in London, in the United Kingdom. This company was assessed to pay the United Kingdom income tax for the years of assessment 1947/48 to 1953/54 inclusive, on the notional amount of its profits in the United Kingdom, computed by reference to the appropriate part of the investment income of its life assurance fund under rule 3 of Case III of Schedule D to the Income Tax Act, 1918, or (in the later years), section 430 of the Income Tax Act, 1952. It was the contention of the company that it was assessable only under the Double Taxation Relief (Taxes on Income) Australia Order, 1947, which gave effect to the Australian Double Taxation Relief Agreement that was set out in the schedule to the order.

The House of Lords (Lord Denning dissenting) held that the company should not be taxed under rule 3 of Case III of Schedule D to the Income Tax Act, 1918 (or section 430 of the Income Tax Act, 1952), because the hypothesis on which such an assessment was based (namely, that the world income from the investments of the life fund formed the first stage in the rule 3 calculation of profits) was inconsistent with the basis of taxation under article III(3) of the Double Taxation Relief Agreement (which proceeded on the hypothesis that the branch in England was an independent enterprise) and the latter prevailed.

As stated in the Editorial Note of the All England Reports in Ostime's Case (at page 246), *the Double Taxation Relief (Taxes on Income) (Australia) Order, 1947, which was made under the repealed Finance Act No. 2, 1945, section 51 (1) was kept in force by virtue of section 528(2) of the Income Tax Act, 1952, as if made under section 347 of that Act*

Therefore the Double Taxation Relief (Taxes on Income) (Australia) Order, 1947, although repealed by the Finance Act No. 2 of 1945, was kept in force by virtue of section 528(2) of the Income Tax Act, 1952. It is clear, therefore, that the provisions of the Double Taxation Relief Act were specially preserved and the only question that the Court had to decide was whether the taxing

No. 6
Judgment of the Supreme Court-18. 12. 67.
—*Continued*

authorities were justified in ignoring the provisions of the Double Taxation Relief Act *which were expressly kept in force.*

In *Ostime's case* it was never contended that the later Act repealed the earlier Act by implication. Lord Radcliffe who delivered the majority judgment said (vide 1959 3 A. E. R. at 250):

> "The question we have to determine is how this method of attributing a profit to a life assurance company, whose head office is outside the United Kingdom, stands up against the provisions of the Double Taxation Relief Agreement. I should find nothing surprising in the conclusion that it had been superseded. Rule 3 was an attempt at a unilateral solution of this particular aspect of double taxation in which the Australian taxing authorities were certainly no less interested than the authorities of the United Kingdom. Bilateral agreements for regulating some of the problems of double taxation began, at any rate so far as the United Kingdom was concerned, in 1946. The form employed which is for obvious reasons, employs similar forms and similar language in all agreements, is derived, I believe, from a set of model clauses proposed by the financial commission of the League of Nations. The aim is to provide by treaty for the tax claims of two governments both legitimately interested in taxing a particular source of income either by resigning to one of the two, the whole claim or else by prescribing the basis on which the tax claim is to be shared between them. For our purpose it is convenient to note that the language employed in this agreement is what may be called international tax language, and that such categories as "enterprise," "commercial or industrial profits" and "permanent establishment" have no exact counterpart in the taxing code of the United Kingdom."

As stated earlier, in that case the Double Taxation Relief Agreement, which was entered into between the Commonwealth of Australia and the United Kingdom was kept in force by section 347 of the Income Tax Act of 1952. It sets out a special mode of computation of income tax on Australian Companies which were not resident in the United Kingdom but which carried on business in the United Kingdom. They could only be taxed on the investments in England, as if they were carrying on a separate business and not on their world income basis. Therefore this case is not an authority supporting an implied repeal by the application of the canon of construction set out in the maxim *generalia specialibus non derogant.*

The rule *generalia specialibus non derogant*, is only a presumption and cannot be elevated to a rule of law, because no Parliament of Ceylon can bind a future Parliament. In view of the clear provisions of the amending Act of 1959, set out earlier, which repeals all previous legislation governing the basis of taxation of companies and in view of the provisions of the earlier legislation governing the taxation of *any company, both resident and non-resident,* having no application after April 1958, it is my view that this canon of construction cannot be applied in construing this Act and the amending Act of 1959 has repealed, by necessary implication, any previous Acts dealing with the taxation of companies both resident and non-resident.

The taxing authorities can only look into the provisions of Chapter VIIIA and other provisions of the amending Act of 1959 for the taxation of both resident and non-resident companies after the amending Act of 1959 came into force. Unlike the provisions in the Income Tax Act of 1952 of the United Kingdom, there is no provision in the Income Tax (Amendment) Act No. 13 of 1959 which keeps alive the provisions of the Double Taxation (Relief) Act of 1950. On the other hand, the amending Act of 1959 has swept away all provisions governing the taxation of *any company, resident or non-resident*, and the Legislature has also repealed the Profits Tax Act and has enacted comprehensive provisions in the Amending Act of 1959 for the taxation of all companies.

Mr. Jayawardena also urged that section 2 of the Double Taxation (Relief) Act of 1950 enacts that "notwithstanding anything in any other written law" the agreement in the Treaty will have the force of law. He therefore contended that the Double Taxation (Relief) Act of 1950 should have priority over all subsequent Acts. By the use of these words the Parliament did not intend to tie the hands of future Parliaments. It only dealt with legislation in *pari materia* and therefore gave priority to this Act over all other Acts governing taxation which existed at the time this Act was passed. If Mr. Jayewardena's contention is to be accepted then serious inroads would be made into the supremacy of the Parliament of Ceylon, because a Parliament can then bind a future Parliament.

It is an elementary rule of construction that the earlier Act must give place to the later, if the two cannot be reconciled, *lex posterior derogant priori.* An Act can repeal another Act either by express words or by necessary implication. However a repeal by implication should not be favoured and must not be imputed to a legislature without necessity or strong reason (vide Broom's Legal Maxims, 5th Ed. page 348). The maxim *generalia specialibus non derogant* only creates a presumption. But in this case the presumption is greatly weakned in view of the fact that the agreement entered into between the United Kingdom and Ceylon, which was embodied in the Treaty, could be resiled from by either government after a period of four years and the amending Act was enacted after the

No. 6
Judgment of the Supreme Court- 18. 12. 67.
—*Continued*

expiration of this period. But if a statute is unambiguous, its provisions should be followed, even if they are contrary to International Law (vide Maxwell's Interpretation of Statutes, 11th Edition, p. 142). Only where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, the maxim *generalia specialibus non derogant* would apply (vide Maxwell's Interpretation of Statutes, 11th Edition p. 168, 169). It cannot be said, in the instant case, that these considerations exist for the application of this rule of construction. As Maxwell states "In the absence of these conditions, the general statute is read as silently excluding from its operation the cases which have been provided for the special one." (ibid, p. 169).

To sum up, in view of the clear provisions of the Income Tax (Amendment) Act No 13 of 1959, which repeal the very basis of taxation contained in section 5 of the Income Tax Act and which introduce new provisions which apply to *any* resident or non-resident company, without making any distinction between a resident company and a non-resident company caught up by the agreement in the Treaty and other non-resident companies, I am of the view that the provisions of the Income Tax (Amendment) Act of 1959 should prevail over all earlier provisions governing tax payable by companies. The fact that the Double Taxation (Relief) Act was formally repealed by Act No. 4 of 1964 makes no difference to the question whether the Income Tax (Amendment) Act of 1959 has impliedly repealed it earlier. The Legislature, through an abundance of caution, repealed the relevant provisions of the Double Taxation (Relief) Act which were already repealed by implication when the Income Tax (Amendment) Act of 1959 came into force.

For these reasons I am of opinion that the provisions of section 53(C) of the income Tax (Amendment) Act. No. 13 of 1959 are not in conflict with Articles VI and XVIII of the Treaty entered into between Ceylon and the United Kingdom and found in Treaty Series No. 9 of 1950. Even if they are in conflict I am of opinion that the Income Tax (Amendment) Act No. 13 of 1959 has impliedly repealed the provisions of the Double Taxation (Relief) Act of 1950 on this matter and the amending Act of 1959 should prevail. The case is remitted for the tax to be assessed on this basis.

The appellant is entitled to costs of appeal.

Sgd. H. W. Tambiah
Puisne Justice

SIVA SUPRAMANIAM J.

I agree.

Sgd: V. Siva Supramaniam
Puisne Justice

No. 7
Application for Conditional Leave to Appeal to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Conditional Leave to Appeal to the Privy Council in S. C. No. 3/1966 Income Tax case stated - BRA 333
The Commissiner of Inland Revenue, Colombo ... ... *Appellant*

10 S. C. No. 3/66
S.C.Application No. 14/68

vs

The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P.O. Box No. 91. Colombo *Assessee–Respondent*

The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P. O. Box No. 91, Colombo..... .... *Assessee–Respondent-Petitioner.*

and

The Commissioner of Inland Revenue, Colombo .... *Appellant–Respondent.*

TO: The Honourable the Chief Justice and the other Judges
20 of the Honourable the Supreme Court of the Island of Ceylon.
On this 12th day of January 1968.

The Petition of the Woodend (K. V. Ceylon) Rubber & Tea Company Limited the Assessee-Respondent-Petitioner abovenamed appearing by Maduwage Diananda De Silva, its Proctor sheweth as follows:-

1. That feeling aggrieved by the judgment and decree of Your Lordship's Honourable Court pronounced on the 18th day of December 1967, the Assessee–Respondent-Petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council.

2. Due notice of the Petitioner's intention to apply to this
30 Honourable Court for Conditional Leave to Appeal to Her Majesty in Council has been given to the Appellant - Respondent within 14 days of the Judgment of Your Lordships' Court abovenamed, the said notice having been sent to the Appellant–Respondent by Registered Post on the 22nd day of December 1967.

3. The said judgment of Your Lordships' Honourable Court is a final judgment and the matter in dispute in Appeal exceeds the value of Rs. 5,000/- and is also one that involves directly or indirectly a claim or a question to or respecting property or a civil right amounting to or of the value of Rs. 35,893/-.

No. 7
Application for Conditional Leave to Appeal to the Privy Council–
12. 1. 68
—Continued

4. The questions involved in the present appeal are of great general or public importance or otherwise, and it is a fit and proper case for Your Lordships' Court to exercise its discretion as preferred to in Section 1(b) of the Scheduled Rules to the Appeals (Privy Council) Ordinance, Chapter 100, and to grant the Petitioner leave to appeal to Her Majesty the Queen in Council.

WHEREFORE the Assesssee-Respondent-Petitioner prays on the grounds aforesaid for Conditional Leave to Appeal against the said judgment of this Court, dated the 18th day of December 1967, to Her Majesty the Queen in Council. 10

Sgd: M. D. de Silva
Proctor for Assessee-Respondent-Petitioner

No. 8
Minute of Order granting Conditional Leave to Appeal to the Privy Council–
11. 3. 68–

No. 8
Minute of Order granting Conditional Leave to Appeal to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Conditional Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance 20

S.C. Application No. 14/68. (Conditional Leave)–

The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P. O. Box No. 91, Colombo. ... . *Assessee-Respondent-Petitioner.*

vs

S. C. No. 3/66 - Income Tax case stated-BRA 333–

The Commissioner of Inland Revenue, Colombo. .... *Appellant-Respondent.*

The application of The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P. O. Box No. 91, Colombo, for Conditional Leave 30 to Appeal to Her Majesty the Queen in Council from the Judgment and Decree of the Supreme Court of the Island of Ceylon pronounced on the 18th day of December 1967 in S. C. No. 3/66 - Income Tax case stated - BRA 333, having been listed for hearing and determination before the Honourable Asoka Windra Hemantha

Abeyesundere, Q. C., Puisne Justice, and the Honourable George Terrence Samerawickrame, Q.C., Puisne Justice, in the presence of Ben Eliyatamby Esquire, Advocate for the Assessee-Respondent-Petitioner and Shiva Pasupati, Esquire, Crown Counsel, for the Appellant-Respondent, Order has been made by Their Lordships on the Eleventh day of March, 1968 allowing the aforementioned application for Conditional Leave to Appeal to Her Majesty the Queen in Council.

No. 8 Minute of Order granting Conditional Leave to Appeal to the Privy Council- 11. 3. 68- —*Continued*

Sgd. N. Navaratnam
Registrar of the Supreme Court.

10

No. 9
Application for Final Leave to Appeal to the Privy Council

No. 9 Application for Final Leave to Appeal to the Privy Council- 1. 4. 68

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

In the matter of an application for Final Leave to appeal to Her Majesty the Queen in Council in S. C. No. 3/1966 - Income Tax Case stated - BRA 333 under the provisions of the Privy Council (Appeals) Ordinance.

20 The Commissioner of Inland Revenue, Colombo
Application No. 14/68. S C. No. 3/66- BRA 333. ..... *Appellant.*

vs

The Woodend (K. V. Ceylon) Rubber & Tea Company Limited, P. O. Box No. 91, Colombo.
..... *Assessee-Respondent*

The Woodend (K. V. Ceylon) Rubber & Tea Company Limited, P. O. Box No. 91, Colombo.... .....
..... *Assessee-Respondent-Petitioner*

30 *And*

The Commissioner of Inland Revenue, Colombo.
..... *Appellant-Respondent.*

To: The Honourable the Chief Justice and the other Judges of the Honourable the Supreme Court of the Island of Ceylon.
On this 1st day of April 1968.

The Petition of the Woodend (K. V. Ceylon) Rubber & Tea Company Limited - the Assessee-Respondent-Petitioner - abovenamed appearing by Maduwage Diananda de Silva, its Proctor sheweth as follows:-

No. 9
Application for Final Leave to Appeal to the Privy Council-1. 4. 68
—*Continued*

1. That the Assessee-Respondent-Petitioner on the 11th day of March 1968 obtained Conditional Leave from this Honourable Court to appeal to Her Majesty the Queen in Council against the judgment of this Court pronounced on the 18th day of December 1967.

2. That the Assessee - Respondent - Petitioner in compliance with the conditions on which such leave was granted -

(a) has deposited with the Registrar of this Honourable Court a sum of Rs 3,000/ as security for the due prosecution of the said appeal and the payment of all such costs as may become payable to the Appellant-Respondent in the event of the Assessee-Respondent-Petitioner not obtaining an order granting Final Leave to appeal or of the Appeal being dismissed for non prosecution, or of her Majesty the Queen in Council ordering the Assessee-Respondent-Petitioner to pay the Appellant-Respondent's costs of appeal (as the case may be);

(b) has duly hypothecated the said sum of Rs. 3,000/- by the Bond bearing the 30th day of March 1968, to and in favour of the said Registrar; and

(c) has deposited with the said Registrar a sum of Rs. 300/- in respect of the amount and fees mentioned in Section 4(2) (b) and (c) of Ordinance No. 31 of 1909 (Cap. 85).

3. That the Assessee-Respondent-Petitioner has given written notice of this application for Final Leave to Appeal to Her Majesty the Queen in Council by delivering same to the Appellant Respondent on the 31st day of March 1968 and by sending same on the 31st day of March 1968 to the Appellant Respondent by Registered Post.

WHEREFORE the Assessee-Respondent-Petitioner prays that the Assessee-Respondent Petitioner be granted Final Leave to appeal against the said judgment of this Court dated the 18th day of December 1967 to Her Majesty the Queen in Council.

Sgd. M. D. de Silva
Proctor for Assessee-Respondent-Petitioner.

Settled by:
Mr. Ben Eliatamby,
Advocate.

No. 10
Minute of Order Granting Final Leave to Appeal to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) ordinance.

S.C. Application No. 14/68 (Conditional Leave)
S.C. No. 3/66–Income Tax case stated–BRA 333.

The Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P. O. Box No. 91, Colombo
Assessee–Respondent–Petitioner

vs

S.C. Application No. 157/68. (Final Leave)

The Commissioner of Inland Revenue, Colombo.
Appellant–Respondent.

The application of the Woodend (K. V. Ceylon) Rubber & Tea Company Ltd., P. O. Box No. 91, Colombo for Final Leave to Appeal to Her Majesty the Queen in Council from the Judgment and Decree of the Supreme Court of the Island of Ceylon pronounced on the 18th day of December 1967 in S. C. No. 3/66- Income Tax case stated-BRA 333, having been listed for hearing and determination before the Honourable Veeravagu Siva Supramaniam, Puisne Justice and the Honourable Victor Tennekoon, Q. C., Puisne Justice, in the presence of Ben Eliyatamby Esquire, Advocate for the Assessee-Respondent–Petitioner, and H. L. de Silva Esquire, Crown Counsel for the Appellant-Respondent, Order has been made by Their Lordships on the Eighth day of May, 1968 allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen in Council.

Sgd. N. Navaratnam
Registrar of the Supreme Court

PART II
EXHIBITS

A 1
(Assessee's Document)
The Double Tax Relief Agreement with The United Kingdom
Treaty Series No. 9 (1950)

UNITED KINGDOM

TREATY SERIES NO. 9 (1950)

AGREEMENT

Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

Presented to Parliament
by
The Minister of External Affairs.

PRINTED AT THE GOVERNMENT PRESS, CEYLON
TO BE PURCHSED AT THE GOVERNMENT PUBLICATIONS BURUEAU. COLOMBO.
REPRINT June, 1954

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CEYLON FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

ARTICLE I

(1) The taxes which are the subject of the present Agreement are:

(a) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including sur-tax and the profits tax (hereinafter referred to as "United Kingdom Tax").

(b) In Ceylon:

The income tax and the profits tax (hereinafter referred to as "Ceylon Tax").

A 1
The Double Tax Relief Agreement with the United Kingdom–Treaty Series No. 9 (1950)
—*Continued*

2. The present Agreement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Ceylon subsequently to the date of signature of the present Agreement.

ARTICLE II

(1) In the present Agreement, unless the context otherwise requires:

(a) The term "United Kingdom" means Great Britain and Northern Ireland excluding the Channel Islands and the Isle of Man;

(b) The terms "one of the territories" and "the other territory" mean the United Kingdom or Ceylon, as the context requires;

(c) The term "tax" means United Kingdom tax or Ceylon tax, as the context requires;

(d) The term "person" includes any body of persons, corporate or not corporate;

(e) The term "company" means any body corporate wherever constituted;

(f) The terms "resident of the United Kingdom" and "resident of Ceylon" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Ceylon for the purposes of Ceylon tax, and any person who is resident in Ceylon for the purposes of Ceylon tax and not resident in the United Kingdom for the purposes of United Kingdom tax: a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Ceylon if its business is managed and controlled in Ceylon;

(g) The terms "resident of one of the territories" and "resident of the other territory" means a person who is a resident of the United Kingdom or a person who is a resident of Ceylon, as the context requires;

(h) The terms "United Kingdom enterprise" and "Ceylon enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Ceylon, and

the terms " enterprise of one of the territories " and "enterprise of the other territory" mean a United Kingdom enterprise or a Ceylon enterprise, as the context requires;

(i) The term "industrial or commercial profits" includes, in particular, profits from the business of agriculture, mining, banking, insurance, life insurance or dealing in investments, and profits from rents or royalties in respect of cinematograph films, but does not include income in the form of dividends, interest, rents, royalties (other than rents or royalties in respect of cinematograph films), management charges, or remuneration for personal services.

(j) The term "permanent establishment" when used with respect to an enterprise in one of the territories means a branch, management, factory, agricultural or farming estate, mine, or fixed place of business, and includes an agent through whom an enterprise habitually enters into business transactions in that other territory. In this connection–

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker acting in the ordinary course of his business as such:

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise:

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

A 1
The Double Tax Relief Agreement with the United Kingdom-Treaty Series No. 9 (1950)
—*Continued*

(2) Where under this Agreement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Agreement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of the present Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Contracting Government relating to the taxes which are the subject of the present Agreement.

ARTICLE III

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Ceylon Tax unless the enterprise carries on a trade or business in Ceylon through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Ceylon but only on so much of them as is attributable to that permanent establishment; provided that nothing in this paragraph shall affect the taxation of income from the business of insurance under the provisions of the law of Ceylon at the date of signature of this Agreement.

(2) The industrial or commercial profits of a Ceylon enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

Provided that nothing in this paragraph shall affect the computation of the profits received by a United Kingdom enterprise from the production of tea in Ceylon in accordance with the provisions of the law of Ceylon at the date of signature of this Agreement.

(4) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for these conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI

Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

A 1
The Double Tax Relief Agreement with the United Kingdom-Treaty Series No. 9 (1950)
—*Continued*

ARTICLE VII

Any royalty or other amount which is payable as consideration for the use of, or for the privilege of using any copyright and which is derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first mentioned territory.

ARTICLE VIII

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt from tax in that other territory on gains from the sale, transfer or exchange of capital assets.

ARTICLE IX

The additional rate of tax chargeable under Section 20 (7) of the Ceylon Income Tax Ordinance on companies whose shares are not movable property situate in Ceylon for the purposes of the law relating to estate duty shall not, in the case of companies which are residents of the United Kingdom, exceed 6 per cent.

ARTICLE X

(1) Remuneration, including pensions, paid by one of the contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, if the individual is not ordinarily resident in such territory or (where the remuneration is not a pension) is ordinarily resident in that territory solely for the purposes of rendering those services.

(2) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

ARTICLE XI

(1) An individual who is a resident of the United Kingdom shall be exempt from Ceylon tax on profits or remuneration in respect of personal (including professional) services performed within Ceylon in any year of assessment, if

(a) he is present within Ceylon for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Ceylon shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Ceylon, and

(c) the profits or remuneration are subject to Ceylon tax

(3) The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artists, musicians and athletes.

ARTICLE XII

(1) Any pension (other than a pension to which Article X applies) or annuity derived from sources within one of the territories by an individual who is a resident of the other territory and subject to tax in that other territory in respect thereof shall be exempt from tax in the first-mentioned territory.

(2) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XIII

A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a University, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XIV

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

A 1
The Double Tax Relief Agreement with the United Kingdom-Treaty Series No. 9 (1950)
—*Continued*

ARTICLE XV

(1) Nothing in this Agreement shall be construed as affecting relief from United Kingdom income tax under the provisions of Section 24 of the United Kingdom Finance Act, 1920.

(2) Nothing in this Agreement shall be construed as affecting relief from Ceylon income tax under the provisions of Section 45(2) of the Ceylon Income Tax Ordinance.

ARTICLE XVI

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kindom tax of tax payable in a territory outside the United Kingdom, Ceylon tax payable, whether directly or by deduction in respect of Income from sources within Ceylon shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company which is a resident of Ceylon, the credit shall take into account (in addition to any Ceylon tax appropriate to the dividend) the Ceylon tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Ceylon tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(2) Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Ceylon United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a credit against any Ceylon tax payable in respect of that income.

Where such income is an ordinary dividend, paid by a company which is a resident of the United Kingdom, the credit shall take into account (in addition to any United Kingdom income tax appropriate to the dividend) the United Kingdom profits tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the United Kingdom profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) Where tax is imposed by both Contracting Governments on income derived from sources outside both Ceylon and the United Kingdom by a person who is resident in Ceylon for the purposes of Ceylon tax and is also resident in the United Kingdom for the purposes of United Kingdom tax, there shall be allowed against the tax imposed by each Contracting Government a credit which bears the same proportion to the amount of that tax (as reduced by any credit allowed in respect of tax payable in the territory from which the income is derived) or to the amount of tax imposed by the other Contracting Government (reduced as aforesaid), whichever is the less, as the former amount (before any such reduction) bears to the sum of both amounts (before any such reduction).

(4) For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

(5) Where Ceylon income tax is payable for a year for which this Agreement has effect in respect of any income in respect of which United Kingdom income tax is payable for a year prior to the year beginning on the 6th April, 1950, then –

(a) in the case of a person resident in Ceylon, the Ceylon income tax shall, for the purposes of paragraph (2) of this Article, be deemed to be reduced by the amount of any relief allowable in respect thereof under the provisions of Section 27 of the United Kingdom Finance Act, 1920; and

(b) in the case of a person resident in the United Kingdom the provisions of Section 45(1) of the Ceylon Income Tax Ordinance shall apply for the purposes of the allowance of relief from Ceylon income tax.

ARTICLE XVII

(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the

provisions of the present Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative: in the case of Ceylon, the Commissioner of Income Tax or his authorised representative; and, in the case of any territory to which the present Agreement is extended under Article XIX, the competent authority for the administration in such territory of the taxes to which the present Agreement applies.

ARTICLE XVIII

(1) The residents of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the residents of the latter territory are or may be subjected.

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory, and, in the case of companies, to which enterprises of that other territory incorporated in that other territory, are or may be subjected in respect of the like profits.

(3) In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

(4) Nothing in this Article shall be construed as –

(a) obliging either of the Contracting Governments to grant to persons not resident in its territory, those personal allowances, reliefs and reductions for tax purposes which are, by law, available only to persons, who are so resident.

(b) affecting the additional rate of tax with which Article IX is concerned.

ARTICLE XIX

(1) The present Agreement may be extended, either in its entirety or with modifications, to any territory to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Agreement and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Governments in notes to be exchanged for this purpose.

(2) The termination in respect of Ceylon or the United Kingdom of the present Agreement under Article XXI shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of the present Agreement to any territory to which the Agreement has been extended under this Article.

(3) The territories to which this Article applies are -

(a) in relation to the United Kingdom:
Any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(b) in relation to Ceylon:
Any territory other than Ceylon for whose international relations Ceylon is responsible.

ARTICLE XX

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Ceylon as are necessary to give the Agreement the force of law in the United Kingdom and Ceylon respectively, and shall thereupon have effect-

(a) In the United Kingdom:
as respects income tax, for any year of assessment begenning on or after the 6th April, 1950:
as respects sur-tax for any year of assessment beginning on or after the 6th April 1949;
and
as respects profits tax in respect of the following profits-

(i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1950;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Agreement would be chargeable for any year of assessment beginning on or after 6th April, 1950;

(b) In Ceylon:

as respects income tax, for any year of assessment beginning on or after the 1st April 1950:
as respects profits tax. in respect of the following profits-

(i) profits arising in any accounting period beginning on or after the 1st April 1950:

(ii) profits attributable to so much of any accounting period falling partly before and partly after that date as falls after that date:

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Agreement would be, chargeable for any year of assessment beginning on or after the 1st Appril, 1950.

ARTICLE XXI

The Present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the 30th June in any calendar year not earlier than the year 1954, give to the other Contracting Government written notice of termination and, in such event, the present Agreement shall cease to be effective-

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given:

as respect sur-tax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given: and as respects profits tax in respect of the following profits–

(i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date:

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in that next following calendar year:

(b) In Ceylon:
as respects income tax for any year of assessment beginning on or after the 1st April in the calendar year next following that in which the notice is given;

as respects profits tax, in respect of the following profits–

(i) profits arising in any accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 1st April in that next following calendar year.

In witness whereof the undersigned, duly authorised thereto have signed the present Agreement and have affixed thereto their seals.

Done at London in duplicate, on the twenty sixth day of July, one thousand nine hundred and fifty.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

(Sgd.) STAFFORD CRIPPS.

For the Government of Ceylon:

(Sgd.) O. E. GOONETTILLEKE

A2
Budget Speech of the Honourable the Minister of Finance for the Year 1958/59.

A 2
(Assessee's Document)
Budget Speech of the Honourable the Minister of Finance for the Year 1958/59.

BUDGET SPEECH
1958–1959

BY THE HON. STANLEY DE ZOYSA, M. P.
MINISTER OF FINANCE.

Mr. Speaker,

Much water has flowed under the bridges of Lanka since the Government presented its last Budget. Much too has flowed over them. The last year saw one of the most disastrous floods in our history. The havoc wrought was unprecedented. The shock to the country's economy was severe. Nor has this been our sole misfortune in the last twelve months. Repeated and long drawn out labour disputes seriously dislocated production and trade. Even this afternoon we meet under conditions of National Emergency occasioned by widespread violence and disorder. It is against this dismal background that we must assess the past year. The events of these dark months must determine too the course we shall set for the future. We have seen interruptions in normal business activity: we have seen flood and destruction, violence and civil commotion. We have seen what we have striven through the years to build destroyed in a few hours. Happily we are seeing too a rapid return to normalcy. With some sense of disappointment it may be, with many regrets no doubt, yet withal with hope unabated and determination renewed we address ourselves to the task of rebuilding.

Let us first take stock. Let us examine the economic trends, both at home and abroad, and assess the resources that would be available to us for the work ahead.

The State of the Economy

You are aware, Sir, that our economy is particulary subject to world influences. We feel the impact not only of cyclical changes, but also of unexpected short-term fluctuations in world prosperity. When I addressed this House on the Budget last year, I drew attention to the fact that this Government did not begin its term of office on a rising tide of prosperity. The near boom

conditions in foreign trade which this country enjoyed in 1954 and 1955, together with good paddy harvests, did not continue in the subsequent years. The year 1956 saw the waning of this good fortune. Both weather conditions and world trade turned unfavourable. Ceylon's balance of payments in 1956 was still in surplus, but showed a considerable decline in comparison with the surplus of 1955. The year 1957 has seen a further deterioration. The term of trade declined by 9.3 per cent. Although the quantity of tea produced rose, the output on some domestic products fell. Export earnings were hampered by strikes, and the year ended with devastating floods. The small surplus in the balance of payments of 1956. disappeared and, at the end of 1957, there emerged a large deficit. The external assets fell by Rs. 236 million.

The first six months of 1958 have shown no improvement in this situation.

The Government is not insensitive to the implications of these trends and, as I shall point out later, appropriate measures are being taken. There is, however, no cause for alarm. Cyclical fluctuations in the level of external assets, even to this degree, are not abnormal in an export–import economy such as ours. Moreover, the decline in our external assets does not reflect a dangerous trend in our pattern of expenditure. It has rather been occasioned by a considerable increase in the expenditure on capital goods. Prophets of gloom would do well to ponder the following figures. In the calendar year 1957, imports of capital goods increased in value by over 28 per cent. and, what is far more significant, in volume by 22.2 per cent; whereas, notwithstanding two successive years of deficit financing, the actual volume of consumer goods imported increased only by 0.7 per cent. although their value rose by only about 6 per cent.

Our economy remains fundamentally sound.

Export and Imports.

In a review of the economic conditions prevailing in the country, the first and most important factor is the state of trade. Honourable Members will note that about one-third of our gross national products as well as about one-third of our gross national expenditure depend on trade. Tea plays a special role in our economy, contributing about twenty per cent of the gross national product. The fact that trade is the source of our wealth and well-being is an indication of the measure of our inter-dependence

upon other nations of the world. In the case of Ceylon, domestic exports constitute about 34 per cent. of our gross national product, whereas in the case of other important trading nations such as the United Kingdom, Canada, Australia and Germany, exports in recent years have constituted only around 16 per cent. of the gross national product. It is, therefore, vital to our very being, not merely that we should extend our markets beyond their present frontiers, but also that we should build and preserve the goodwill of our present trading Partners.

I shall now examine the trading conditions in 1957 and the early part of this year. For the calendar year 1957 the value of total exports was Rs. 1,682 million which is Rs. 53 million lower than for 1956. The value of total imports, however, rose in the same period by Rs. 174 million to Rs. 1,804 million. The resulting deficit in the balance of trade was Rs. 122 million. The average export price had fallen by 3.4 per cent. and the average import price had risen by 5 7 per cent.

The quantity of tea exported in 1957 reached a record figure of 368 million pounds or 20 million pounds higher than in the previous year. But the value of tea exports, amounting to Rs. 1,022 million, was Rs. 22 million less than in 1956 because of a fall of 7.3 per cent in the average f.o.b. price of tea. However, the share of tea in the aggregate value of all exports was 60.8 per cent. As compared with 60.2 per cent. in 1956.

207 million pounds of rubber were exported in 1957, which is 19 million pounds higher than in the previous year. But this increase in exports was largely from stocks held over at the end of the previous year. The increase in production itself was small. Over the year 1957 the average f.o.b. price per pound of all grades of rubber (excluding latex) declined by 7 cents per pound to Rs. 1.43.

The value of rubber exports in 1957, amounting to Rs. 300 million, was Rs.7 million higher than in the previous year.

The depressing feature in our export products in 1957 was in regard to the coconut industry. The Central Bank index of the volume of exports of the three major coconut products-copra, coconut oil and dessiccated coconut-fell by 32. 3 per cent. as compared with the previous year, to the lowest level recorded since 1949. The misfortunes of this industry were due to the drought in 1956 and 1957. The one compensating feature was the increase in the average f. o. b. price; for all three coconut products together, it rose by 8. 2 per cent. However, the

decline in the volume of exports adversely affected our export earnings from these products to an extent of almost Rs. 57 million. The value of the exports of the three major coconut products amounted to Rs. 156 million.

Domestic exports other than tea, rubber and the three major coconut products were of a value of Rs. 110 million which is Rs. 8 million higher than the year before.

Regarding imports, in the calendar year 1957 there was an increase of over 28 per cent. in the value of imports of all capital goods taken together. The value of imports of consumer goods as a group rose only by about 6 per cent.

The Central Bank index for the volume of imports of capital goods rose from 144 in 1956 to 176 in 1957, a rise of 22.2 per cent The increase in the volume of consumer goods imported was negligible, being only 0.7 per cent.

What then are the conclusions we can draw from the trading results of 1957? The physical output of tea in particular, and rubber increased. But circumstances beyond our control prevented a better trading turn out. Drought affected the coconut industry. The price changes both of exports and imports generally turned adverse. However, when we come to imports we see two aspects which are significant. First, we find that imports were sustained although export returns showed a decline. The budgetary policy of the Government has helped to sustain incomes over a relatively bad trading period. Secondly, the character of the imports has shown a marked and favourable change. As a developing economy this country is importing more and more capital goods in spite of an increase in the price of these goods.

In the first four monts of 1958, the total value of exports was Rs. 560.5 million and of imports Rs. 543.0 million, resulting in a favourable trade balance of Rs. 17.5 million as compared with a surplus of Rs. 23.7 million in the same period last year. However, a comparison of the trade figures for these months with the corresponding months of last year will not be very significant because, during the early months of 1957, both export and import values were exceptionally high and distorted on account of the clearance of a backlog of exports arising from the Suez crisis.

In regard to the rest of this financial year and the early part of the next, the present indications are that trading conditions will be similar to those now prevailing.

Money Supply

The state of the money supply in the recent past has been as follows. The rise in money supply which began in early 1954 reached the peak of Rs. 1,130.8 million in January, 1957, and declined to Rs 1,040.1 million by the end of that calendar year, which is a drop of Rs. 86.7 million from the figure at the end of December, 1956

Over the current financial year, the money supply which stood at Rs. 1.046 million at the end of September, 1957, fluctuated a little and fell by Rs. 23 million in the first half of the year. Although it increased by Rs. 18 million in April, 1958, it decreased by Rs. 35 millon in May to Rs. 1,007 million.

The adverse trade conditions during this financial year led to a decline in external banking assets by Rs. 142 million up to the end of May. This would have led to a considerable contraction in the money supply. However, the intention of the government was to prevent the full impact of this and to sustain incomes. The Government's financial operations, particulary the running down of Government cash balances by Rs. 89 million, prevented such a decline in money supply. Thus, in the first eight months of this financial year, the money supply fell only by Rs. 38 million or 3. 6 per cent.

Prices and Wages.

Over this financial year, in spite of events which hampered production and notwithstanding the fluctuations in the cost of living, the real wages of the workers have generally risen.

The Colombo Town Cost of Living Index (1952 as the base year) rose to peak of 106.3 in January this year, and declined thereafter. The rise was due to several factors including adverse weather conditions difficulties experienced in the Port of Colombo, and the rise in certain money incomes. The minimum wage rate index of unskilled government workers rose from 107. 2 in October 1957 to 126. 7 in November. The minimum wage rate index of workers in agriculture and trades other than agriculture combined, rose from 107. 4 in October 1957 to over 110 from January this year.

When we examine the changes in real wages, we see that during this financial year although the rise in the index of real wages of agricultural workers was negligible, the index of real wages of workers in trades other than agriculture was 100. 3 in October 1957 but rose to 108. 4 (provisional) after April this year. The most striking change in the index of real wages was in the case of unskilled government workers. The index was 103. 0 in October 1957, but from November it has been in the region of 120.

All this goes to show that although there were changes in the cost of living, money wages generally have kept abreast with, or risen faster than, the cost of living.

We must not lose sight of the fact that increased wages mean an increase in costs of production unless there is a corresponding increase in productivity. A rise in the costs of production will adversely affect our economy both externally and internally. Our competitive position in the world market can be jeopardised. Whilst in the short run higher production costs may be financed by a reduction of profits, the scope for such action is limited in a period of low and falling export prices. Higher wages have to be matched by higher productivity. Wage increase in any one sector tend to bring about wage increases elsewhere in the economy. These changes, together with rising money incomes due to other factors, would tend to support excessive levels of consumption vis-a-vis our production. In our economy such consumption means increased expenditure on imports. We might note that even in the Cost of Living Index (which does not reflect the expenditure pattern of the more well-to-do citizens) 44 per cent. of the weights are in regard to imported goods. In so far as imports increase, there will be a further strain on the country's foreign exchange position.

The Government's efforts to sustain incomes over an adverse period can be effectivelly carried out only with the active co-operation of all concerned in production. It calls for an added effort on the part of each citizen at his job and a greater output of goods and services. It calls for greater prudence in the expenditure of incomes so sustained that is, a restraint on consumption expenditures and a deliberate expansion in saving and productive investment.

In times of stringency such as these, we have to have as our prime objective the interests of the community as a whole. Employers and employees alike must look upon trade dispute as a matter of national concern. Likewise, in the enterests of social peace.

without which there can be no economic progress, it calls for restraint in the manner in which we resolve the social and political, conflicts that are bound to arise in any country going through a period of rapid social change.

There has been a great deal of public agitation on what has been described as the soaring cost of living. It is easy to work up such an agitation because everybody likes to live better and have more. Nevertheless, one should make a realistic approach to this problem. It was said that the Cost of Living Index was fictitious. A Committee was appointed to investigate this and we await their report While I do not wish to anticipate their findings, I would like to make the following observations.

The real position would appear to be that there has been such a marked improvement in the wages of labour that their own standard of living has tended to approximate to that of the white-collar worker. In the result, the consumer demand for goods at the whit-collar worker level has expanded enormously with a consequent temporary increase in the price of domestically produced consumer commodities generally used by those of that level. While the Government is anxious to go as far as it could to resolve the cost of living problems of the white-collar workers, it feels sure that they themselves, as true socialists, will appreciate the fact that their present situation is a necessary concomitant of the socialist aim of elevating working class standards of living. In these circumstances, the real answer to the problem is not a continued increase of money wages in a sector, but an increase in production. This cannot be achieved if there are to be continued labour disputes and stoppage of work. I would ask workers of all categories to ask themselves the question whether they are not defeating their own purpose by succumbing to politically inspired demands for unreasonable wage increases leading inevitably to strikes. If it is their wish to establish a truly socialist state in this country, I would advise them to endeavour to better their conditions by increasng the national wealth which they can then increasingly share, rather than by mere politcal agitation.

While the wages that the nation can afford must be in proportion to its own productivity, the wages which any particular industry can afford to pay must also bear some relation to the prosperity of that industry All this refers to organised industrial

and agricultural labour. But we must not ignore the position of the peasant and the self-employed worker. These are perhaps not as articulate a section of the community as those I have referred to but their needs are not the less real. The function of Government is to deal evenly with all sections, not neglecting the silent many for the clamouring few. We are a Government of and for the whole people–not a section of them.

The Balance of Payments and External Assets.

Apart from the trade figures for the calendar year 1957 seen from the angle of the Customs house, another picture emerges from figures for the balance of payments. Ceylon had a current account deficit of Rs. 195. 3 million in the balance of payments on current account for 1957, in contrast with the surplus of Rs. 81. 7 million in the previous year. The deterioration was largely due to the decline of Rs. 260.9 million in the merchandise surplus from Rs. 313.6 million for 1956 to Rs. 52.7 million for 1957, and a slight increase in the deficit on current invisibles.

On private capital account, the nett outflow of Rs. 38.4 million in 1957 was inclusive of a reduction in short-term liabilities by Rs. 12. 5 million in contrast to an increase in such liabilities during 1956 by Rs. 17.7 million. In the sphere of long-term investments, repatriation of foreign private capital arising from the sale of non-resident shares and liquidation of foreign-owned estates was less by Rs. 8. 2 million than in the previous year. The inflow of foreign private capital for investment in Ceylon was Rs. 3. 4 million as compared with Rs. 5. 4 million in 1956. Sterling Companies operating in Ceylon drew down their balances held in London by Rs. 16.4 million during the year. The year 1958 has, however, shown a lively re-awakening of interest on the part of foreign capital in the investment opportunities in Ceylon.

The sharp deterioration in the balance of payments in 1957 had its impact on the external assets which fell by Rs. 236.2 million during that year.

In 1957 certain measures were taken to prevent a continued heavy loss of foreign exchange. Further restrictions were applied on expenditure on foreign travel while transfers of capital were subjected to more stringent control. The commercial banks too were advised against the extension of credit for the import of non-essential commodities.

The early months of 1958 have shown no improvement in the payments position. Export receipts have declined while import expenditures have shown no appreciable reduction. The terms of trade continued to be unfavourable and the provisional balance of payments estimates for the first quarter of 1958 indicated a current account deficit of Rs. 16.5 million as against a surplus of Rs. 7 1 million in the first quarter of 1957. In consequence external assets have continued to decline and, at the end of May this year, stood at Rs. 847. 4 million. However, the aggregate loss of external assets over the first five months of 1958 amounted to only Rs. 95. 7 million as against a decline of Rs. 162. 2 million for the comparable period last year.

The prospects for the months ahead show no marked change in our economic position and on present indications it is difficult to expect an early or substantial improvement in our overall balance of payments. But with the easing of the internal situation and a return to normal conditions, part of the difficulties that have hindered progress would in due course be removed. Nevertheless, as I have already pointed out, there is no cause for despondency as our economy continues to be fundamentally sound.

The Current State of Government Finance

I shall now review briefly the current state of Government's finances.

Public Debt

The gross domestic debt which was at Rs. 1,132.2 million at the end of the last financial year increased by Rs. 56.6 million during the first 8 months of the current financial year and stood at Rs. 1,188.8 million at the ond of May, 1958. This increase was the result of floating two loans totalling Rs. 45 million and a rise of Rs. 11.6 million in the floating debt.

The volume of outstanding Treasury Bills and Tax Reserve Certificates increased by Rs. 35.0 million and Rs. 5.1 million respectively, while the Government reduced its obligation to the Central Bank to the extent of Rs. 28.5 million.

The total nett domestic debt (exclusive of sinking funds created for the redemption of the debt) amounted to Rs. 999.9 million at the end of May, 1958, as against Rs. 964.4 million at the beginning of the financial year.

Government's foreign borrowing operations during the 8 months were confined to the withdrawal of Rs. 15.2 million out of the 19.1 million loan obtained from the World Bank for financing Stage IIA of the Hydro Electric Scheme. The gross foreign debt stood at Rs 246.9 million at the end of May, 1958, as compared with Rs. 231.7 million at the end of September, 1957.

Ceylon's total gross public debt, both domestic and foreign, which stood at Rs. 1,363.9 million at the end of the last financial year increased to Rs. 1,435.7 million at the end of May, 1958. The corresponding nett debt figures are Rs. 1,123.3 million and Rs. 1,167.8 million respectively.

The Deficit for 1957-58.

According to the estimates originally passed by Parliament, the expenditure for the year 1957-58 was to be Rs. 1,466.6 million. The revenue expected was Rs. 1,307.7 million. This put the budget deficit at Rs. 158.9 million.

In the course of the financial year modifications became necessary, and considerable expenditure is being incurred on items not anticipated and budgeted for. The revised estimates of expenditure stand at Rs. 1,528.1 million. No significant change is expected in the estimated revenue. This makes the deficit amount to Rs. 220.4 million.

Not all this deficit is to be financed from domestic sources. Thanks to the goodwill of friendly nations, some of the expenditure on account of the floods, amounting to almost Rs. 40 million, is being met by special foreign aid.

The deficit that will be actually realised and financed from domestic sources is likely to be considerably less than what is apparent now, once we take into account certain accounting adjustments and under expenditures on certain items due to the recent disturbances.

Government's Cash Balances and Nett Cash Operating Position.

The provisional estimate of the Government's cash balances at the end of May this year was Rs. 71.0 million as against Rs. 37.2 million at the end of May, 1957, and Rs. 92.7 million at the end of the last financial year.

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Budget Speech of the Honourable the Minister of Finance for the Year 1958/59.
—*Continued*

At the end of May, 1958, the nett cash operating position revealed a provisional deficit of Rs. 75 million. The corresponding figure at the end of May, 1957, was a deficit of Rs. 157 million.

This is the economic and financial background against which I would wish the House to assess the work we have done and our plans for the future

RETROSPECT

Looking back on the past year it will be quite apparent that the Government has not had the advantage of the most favourable conditions in which to carry out the tasks that devolved on it. The trends of trade have not been particularly favourable. The elements have been most hostile, but far more serious than this has been the part that sections of the people themselves have played in hindering the work of the Government. This is equally true to the first year of our term of office. Notwithstanding the havoc caused by flood and drought and the wanton loss caused by frequent stoppage of work, this Government has done a great deal in its programme for the building up of a stronger economy and a more contended community. Those who did all in their power to hinder us in our work and rejoiced when nature itself intervened as their ally, will be interested to hear a survey of what this Government has in fact achieved in the last two years.

With its socialist outlook, the Government addressed itself first and foremost to the task of getting the maximum co-operation from the working classes. The prosperity of a nation can be built up only by them and through them. They in turn will give of their best only if they feel that they are getting in return the best that their employers can afford. The pressure of demands for wage increases was mounting rapidly from the time we took office. The overall revision of salaries of public servants was neither practicable nor possible at the outset. A Commission to report on existing anomalies in the Public Service was appointed at the end of 1956 and reported in 1957. The implementation of its recommendations involve an additional expenditure of almost Rs. 15 million. In addition to this, the monthly cost of living allowances of those drawing a basic salary of under Rs. 300 per mensem was increased by Rs. 17.50, and now an overall Salaries Commission has been appointed.

Government's policy of sympathetic responsiveness to the legitimate aspirations of the working class had a strange political reaction. For the last several years the struggle of the working class had also been a struggle against the Government. Consequently, trade union leaders had got accustomed to involving trade unionism in politics. The emergence of a Government which was the friend, and not the enemy, of trade unionism and the worker, created in their minds a fear that their own leadership of the working class may be replaced by the Government itself. In a desperate attempt to retain their political power, they sought to create labour unrest on the least possible pretext. We have had a spate of strikes resulting in considerable dislocation of the country's economy. In the private sector alone in 1957, there were as many as 304 strikes. The number of workers involved in these strikes was 367,300. The number of man-days lost totalled 808,493 while the approximate amount of wages lost came to Rs. 2 million.

But the Government takes pride in saying that the vast mass of the working classes display a proper realisation of the meaning of trade union activity and their duty by the people at large. As Minister in charge of the Public Services, I take special pride in the record of the Public Services themselves. Two attempts to launch general strikes among the public servants by trade Unions under two different leaderships proved completely abortive. What is far more significant is that there are signs of a complete change of trade union leadership in the Public Service. I wish the Public Service Trade Unions continued strength and a career of real usefulness to their membership in the legitimate sphere of their trade union activities. The Government has almost a paternal interest in their vigour because it was this Government that gave trade unions in Ceylon an impetus which had hitherto been denied them.

In the private sector too, the general response of the working class has been exceptionally good. While adverse markets have resulted in the gloomy trade picture which I referred to earlier, I wish to draw pointed attention to a very significant indication of the response of workers to the call that they should toil for the people. Perhaps the only major industry of ours where productivity has not been seriously affected by the vagaries of weather is the tea industry. The workers on our tea estates can reflect with pride on the fact that in the last year the overall production of tea reached the record figure of 397 million pounds, showing an increase of over 22 million pounds above the previous year's figure. I would say in passing too that those critics of this Government who say that its policies have resulted in an indifference on the part of managerial and investor elements, can ponder this fact because the efforts of labour alone would not have produced these results.

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Having set up a contented work force, the next task of the Government was to plan the national economy. I would like to inform those critics who have blamed it for not having put out an overall national plan yet, that such a comprehensive plan cannot be prepared over-night if one learns to differentiate between a plan and a patch-work of projects. We do not want to delude the public or ourselves by presenting a mere patch-work collection of projects. Also, national planning requires that the Government should be able to address itself to that task undistracted by periodic harassment by politically manipulated strikes and such other annoyances Notwithstanding all the attempts of our opponents to distract and to obstruct us, the Government has gone far in the preparation of an overall national development plan. The first step towards a real planned economy is the planning of our financial resources, and, over the last year, a detailed examination has been made of our fiscal arrangements, and a comprehensive and integrated scheme of taxation will be presented by me to this House this afternoon.

In the Budget for this year, we followed the priorities set out by the Planning Council in its Interim Report. We propose to follow the same pattern in the next year too so that the development undertakings of the Government will find their proper place in the plan. The framework of such a plan will be made public within a few months.

One of the chief aims we set ourselves was the diversification of our economy. While hitherto we had mainly been an agricultural country, it was our endeavour since we took up office to place more and more emphasis on industrial development, while, of course, not neglecting agriculture. Taking a realistic view of our industrial potential we aimed, in the first instance, at stimulating such industries as would provide substitues for necessary imported consumer goods. By this means we also aim at conserving a considerable amount of foreign exchange in order that we could import much needed capital goods. Of the Government's achievements in the field of industry, there is one feature in the matter of consumer goods, to which I wish to make special reference. One of the largest import bills has been for textiles. The Government has over the last two years made a determined drive to stimulate the production of home-made textiles. The result has been most gratifying. Over the two years 1955-56 and 1956-57 the Government spent both on capital and current expenditure a sum approaching Rs. 5 million on developing the textile industry. Production

of textiles by power looms, which was only 44,200 square yards per annum in 1956, increased fivefold to 237,000 square yards in 1957, while hand loom textile production rose from 3 million square yards in 1956 to over 4.4 million square yards in 1957. For 1958 the estimated power loom production is 9 million square yards and handloom production 14 million square yards. The result of this expansion in the local textile production is reflected in a drop of 12 8 per cent. in the volume of imported cotton piece goods between the years 1956 and 1957.

While improving and expanding the few industries started by previous Governments, we have ourselves set up a large number of new industries. State-owned Corporations have been formed for the exploitation of our mineral and salt resources and for initiating the manufacture of sugar, power alcohol, chemicals, paper and harbdoard. A Corporation is also being set up for the manufacture of textiles and the turning out of spun cotton. In the private sector, the Government has been able to assist both by way of direct capital participation and by technical advice, and aid the setting up of a number of industries such as those for the manufacture of dry cell batteries, asbestos cement sheets, electric blubs, glassware, confectionary, boat building, razor blades and crown corks, gas mantles and the assembling of bicycles and the manufacture of bicycle tyres and tubes as well as tooth brushes, drawn wire for the electrical industry, and surgical gauze, bandages and lint. Indirect assistance by the Government has also enabled the expansion of the garment industry and the standardisation of the production of citronella oil, cinnamon, building timber, coal tar creosote, soaps, building bricks, roofing tiles and safety matches.

The fishing industry which has been in the doldrums for a very long period of time has now been revitalised and essential improvements in techniques introduced through the grant of assistance for, and the establishment of training centres in, mechanised fishing methods

In the field of agriculture, the results of our activities have not been so manifest because of adverse weather conditions. Drought and flood have severely handicapped production. Nevertheless, considerable headway has been made. I have already referred to the record production of tea. The Rubber Replanting Scheme has proceeded with greater momentum and the original target of 65,000 acres of replanted rubber for the period 1953–57 has been exceeded. In fact, the revised target of 90,000 acres for the same period has also been exceeded. The Government is extending this scheme for a further period of 5 years in order to replant an additional 110,000 acres between now and 1962.

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The annual costs of this scheme is in the region Rs. 20 million.

The significant increase in tea production has not, however, made the Government oblivious to the need for revitalising the industry and of replacing worn out plantations with better and highyielding strains of tea. The Tea Subsidy Act of 1958 was enacted with a view to ensuring that the industry will be maintained at the highest level of efficiency.

In regard to coconut, the Government's efforts have not been small. Over 31,000 tons of fertilisers under the Fertiliser Subsidy Scheme were distributed in 1957. This figure was three times the amount of fertilisers used on coconut plantations before the subsidy scheme came came into operation. It is expected that over 40,000 tons of fertilisers will be distributed this year Approximately 1,050,000 seedlings, sufficient to plant 17,000 acres, were distributed in 1957 alone Although adverse weather conditions have resulted in no marked increase in actual production, the results of the programme of manuring will, no doubt, become visible as weather conditions improve.

Consonant with its policies, the Governmemt has addressed its mind to the problems of the peasant farmer no less than to those of the agricultural and industrial worker. The Government takes pride in the epoch-making piece of legislation which it introduced in the year under review in the form of the Paddy Lands Act. This is truly a Peasant's Charter, and has already created a new enthusiasm in paddy cultivation. This new spirit of enthusiasm on the part of the peasant farmer has found expression in his evincing a keener interest in improved cultivation methods which are being eagerly studied by him and, in many areas, are being widely adopted.

While giving every impetus to developing paddy production, the Government has also been able to forge ahead with the diversification of the country's agriculture. The sugar cultivation project at Kantalai, which was commenced last year, is making headway. The first planting of 1,600 acres has commenced. In the Gal Oya Valley too the cultivation of sugar cane has been expanded. While the necessary attention is being paid to major agricultural projects, the Government has not lost sight of other items where home production can replace imports. A carefully received potato-growing project at Rangalla has given encouraging results. The success achieved here engenders a hope that potato cultivation could be extended with a view to producing all our requirements of this commodity. We are also extending the cultivation of onions in the Northern Province. With regard to the cultivation of tobacco; much progress has been made, and about 5,000 acres are under tobacco at present;

and if this extent is increased by another 2,000 acres, Ceylon will be able to achieve self-sufficiency in the matter of her tobacco needs.

The opening up of new land and its development has been vigorously pursued, and the rate of land development has more than doubled. Prior to this Government coming into office, on the average about 3,000 families were annually settled on approximately 15,000 acres of newly opened land in major colonisation schemes. We have been able to step this up over the last two years to a present 7,500 families and 35,000 acres per year.

The pace of alienation of land in the Wet Zone for the cultivation of commercial crops in highland colonisation schemes has also been maintained, and over 1,500 acres have been alienated for the cultivation of tea, over 2000 acres for the cultivation of coconut and some 270 acres for the cultivation of rubber. Steps have also been taken to open up 10,600 acres of Crown Jungle in the Wet Zone districts of Kalutara, Galle, Matara and Ratnapura for the plantation of rubber.

8,400 acres of land were alienated to 839 middle class Ceylonese during 1956-57. An extent of 37.600 acres has been alienated in 1956-57 alone to 28,500 peasant families, this representing an increase of over 7,000 acres compared with the previous year. Work on 5,191 subsidised allottees' houses is going on apace.

In order to prevent the deterioration of our tea and rubber lands as a result of fragmentation, the Fragmentation Control Act was passed and came into operation in February. This has resulted in the practical elimination of uneconomic fragmentation.

In spite of the serious havoc caused to irrigation works in the floods of December 1957, as a result of which 35 major irrigation schemes and 103 minor ones suffered serious damage, construction has been commenced on 9 new major works. Detailed development studies of the Mahaweli Ganga, the Walawe Ganga and of the Malwatu Oya Basins will be commenced this year. The first stage of an aerial survey of the country has been completed. An Air Survey Branch with a considerable amount of new equipment and aircraft has been established, the buildings to house which have been completed. A Resources Survey Centre has been functioning for the last two years, and a soil study of the Kirindi Oya Basin has been undertaken. Similar studies of the Walawe Ganga and the Mahaweli Ganga Basins are under way. Forestry studies of the Singharaja area and geological studies of the whole Island are nearing completion.

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These are some of the outstanding material and manifest beneifits which this Government has brought to the people during its term of office. Apart from this, I would wish to refer to other important progressive measures that have been taken during the year under review. The nationalisation of road transport, for which there had been a long and persistent demand by the public and which had been equally strongly resisted by a government which had its own vested interests in omnibus transport, has been given effect to from the beginning of this year by the People's Government. We inherited what was almost a derelict service. I cannot be too strong in my condemnation of those omnibus operators who deliberately allowed their transport services to deteriorate in anticipation of Government taking them over. This conduct of theirs is perhaps one of the strongest justifications of our action in nationalising road passenger transport. It shows clearly that they regarded transport as a source of private income rather than as a public service. Inheriting, as I said, this derelict service, Government has had to incur enormous expenditure in its efforts to build up an efficient system of road passenger transport. The Government has already advanced, by way of loan, to the Ceylon Transport Board a sum of Rs. 35 million. A further Rs. 8 million will be released in the next fiscal year. I urge the public to co-operate with the Government in its task of building up this service. Both our political critics and those who actually suffer the inconveniences of an imperfect service must not be too impatient to see the transition from a thoroughly bad service which we took over, to a perfectly good service which is expected of us.

The Government has also, this year, nationalised the port cargo handling operations in Colombo, and set up the Port Corporation. There has been much ado about what is described as unprecedented congestion in the Colombo Harbour. It is not sufficiently realised that traffic has increased enormously since the end of the war, while cargo handling facilities have not improved commensurately. Critics also overlook the fact that there is seasonal congestion when monsoon weather interfere with cargo handling operations. I wish to draw attention, however, to the fact that the general labour policies of the Government and its policy in regard to port cargo handling have resulted in such an improvement in the morale of the worker, and the greater efficiency of organization, that we have always been able to clear any temporary backlog in minimum time, and we have set up an all time record for the clearing of cargo in the Port of Colombo by unloading over 12,500 tons, per day

recently. We have also commenced greater utilization of Galle and Trincomalee, and we propose to develop these harbours. A start has already been made with the Port of Galle.

There has also been a great deal of progressive labour and social legislation. The Employees' Provident Fund has been set up, and during the first year of operation alone almost a million workers, chiefly employed in labour coming within the purview of the Wages Boards, would become beneficiaries under the Fund. Important amendments have been made in the Industrial Disputes Act which will go a long way in affording security to labour. Legislation was also passed for the regulation of fee-charging Employment Agencies and the the employment of women, young persons and children.

In the field of health too, progress has been maintained. The anti-malaria campaign of which my Prime Minister was one of the chief architects, when he was Minister of Health, has now reached such a stage of advancement that it has now become a scheme not of malaria control but of malaria eradication.

One of the first acts of this Government when it took office was to introduce the mid-day meal for school children. The scheme has already cost the Government nearly Rs. 20 5 million. The beneficial results of this measure are seen in the fact that the annual increase in the school-going population has more than doubled itself from 4 per cent. in the years prior to 1956 to 9 per cent this year.

Another outstanding problem to which the Government had to address its mind on assuming office was the increasing cost of living, and the decreasing opportunity for earning the wherewithal to live. Within a few days of taking up office, we reduced the price of rationed rice from 50 cents to 40 cents per measure. A few weeks ago we reduced it further by another 5 cents a measure. In addition to these price reductions, the Government has also increased the amount of the ration by two measures per person at the unsubsidized price.

The programme we have followed over the last two years both in the matter of development activities and of social services has resulted in the absorption into employment in the public sector alone of over 12,000 persons. Nearly 100,000 people have been settled on the land. In the private sector, full figures are not available to hand. But according to information available, over 30,000 persons have found employment in trades coming under the Wages Boards.

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Looking back with satisfaction on our record of achievments in the past, I shall be wanting in my duty if I did not make special mention of the assistance that we have received in this work from our friends abroad.

International Economic Co-operation.

During the current year a Technical and Economic Co-operation Agreement was signed between Ceylon and the U.S.S.R. in terms of which the U.S.S.R. has opened a line of credit to the value of Rs. 142.8 million to be utilized within 5 years for financing goods and services from the U.S.S.R. for selected development projects. An economic aid agreement has also been entered into during the current year with the People's Republic of China under which China has agreed to grant goods and equipment of Chinese manufacture to the value of Rs. 15 million annually for a period of 5 years. The savings in Government's own expenditure as resulting from this gift are to be utilized for rubber rehabilitation

During the current financial year economic aid has been made available from the U.S.A to the value of Rs. 78 million. This includes aid from CARE for the school children's free mid-day meal programme.

Economic aid made available from Canada during the year totalled Rs. 26.7 million.

In the field of technical assistance, Ceylon during the current year received 60 experts under the Colombo Plan, and training facilities abroad were provided for 80 Ceylonese. Under the Technical Assistance Programme of the United Nations and its Specialised Agencies, Ceylon has received 22 experts and training facilities for 52 Ceylonese. The United States Aid Programme provided 29 technicians and also training facilities for 25 Ceylonese during this period.

Ceylon too has played a modest role in providing technical assistance to other countries. Under the Colombo Plan, Ceylon provided training facilities for 16 persons from South-East Asia in the field of Co-operation, Anti-Tuberculosis Nursing, and so on Ceylon has also provided study facilities for 23 trainees from abroad sponsored by the United Nations and its Specialised Agencies and the United States Operations Mission in Ceylon. These training facilities were supplied in the field of Co-operation, Social Welfare, Statistics, Rural Development, etc.

On behalf of the Government and the people of this country I thank again all our friendly sister nations who have evinced such an interest in our progress and who have contributed so generously towards our development. Apart from those from whom we have

customarily received aid under the Colombo Plan, the calamity of the floods brought to our assistance a large number of other friendly nations. I have made a full statement of the assistance we have received on the floor of this House before this, but I take this opportunity of thanking those nations once again on behalf of the people and the Government of Ceylon for their spontaneous sympathy and assistance.

While I thank our friends for their assistance in the work we have done in the past, I express also the Government's deep appreciation of all those at home who co-operated with us in this work. We would not have been able to make this proud recital of achievement if it had not been for the loyality and devoted work of all, whether highly placed or otherwise, concerned in this work. The people of this country have responded to the call of the Government they themselves set up, and we face the future with the confidence that the same co-operation will be ours.

PLANS FOR THE NEXT YEAR

The Government's determination to give a greater impetus to development than had been given in past years resulted, in the last year, in certain economies in expenditure on social services. This was in accordance with the priorities laid down. Nevertheless, the resulting position is that the standard of social services, while being maintained, has not been developed to as high a level as both the Government and the public would have wished. While the results of development undertakings are slow in manifesting themselves, the effect of economies in social services becomes immediately evident. There is consequently a natural irritation and impatience in the public mind. People who have been long accustomed to certain social amenities find it difficult to understand why there should have been this restraint. The state of our hospitals and our schools, for instance, have caused certain adverse comments. The Government recognises that improvements in both these services are urgently necessary. But the Government wants the public to realise that far more important than this is a full scale programme of directly productive economic development.

The problem that faces us this year is as to the balance that should be struck with regard to expenditure on social services on the one hand, and expenditure on economic development on the other. After the most anxious consideration, the Government has planned, for the next year, a full scale programme of essential improvements

in the social welfare services and necessary investments in economic development. We have not been deterred by the magnitude of the overall expenditure involved.

Ceylon, due to favourable trade conditions in former years, has been able to build up a stable economy and a credit-worthiness, the value of which has not been fully exploited. In these times of deteriorating trade conditions, it would be unimaginative for the Government to restrain its investment programme without taking advantage of the country's credit-worthiness. Notwithstanding the high expenditure budgeted for next year, having explored the available sources of finance, I am confident that we shall be able to secure what we need. In this confidence I present this budget, and I would like to refer to a few of the outstanding features of the expenditure planned.

Health

Although the standards of our health services are among the highest in Asia, the Government still feels that these standards are not high enough. There is still the need for more nurses and doctors, quite apart from necessary hospital facilities. In order to meet the shortage of nurses, provision has been made for the construction of three more Nurses' Training Schools and three more schools for Nurse Aides. Five Nurses' Training Schools and one Nurse Aides School are already functioning. When these efforts begin to bear fruit, we expect a reasonably high standard of nursing to be achieved in our hospitals in the near future. We are also taking concrete measures to meet the serious shortage of trained doctors. The construction of the second Medical School will be commenced during the course of the year, and a firm of Consulting Architects have been entrusted with the task of proceeding with this project without delay. The provision for improving rural health facilities has been increased by nearly Rs. 7 million. To meet the shortage of accommodation in our hospitals Rs. 2 million has been provided for expansion of and improvements to hospitals, and a further Rs. 2. 25 million for the construction of more wards and other medical buildings out of pre-fabricated building material. Provision has also been made for the early construction of new hospitals at Deltota, Madampe and Avissawella and for large extensions to over ten other hospitals. Work is to begin on further extensions to the General Hospital, Colombo, and on a Central Laundry. Extensions are also being made to the De Soysa and the Castle Street Maternity Hospitals.

In keeping with our declared policy of supporting indigenous medicine, increased provision is being made for the Department of Indigenous Medicine. A complete reorganisation of the indigenous medical service of the Government will also be given effect to.

One of the depressing features in the field of health has been the prevalence of a high rate of morbidity due to lack of proper environmental sanitation. We are, therefore, reorganising the Public Health Engineering Division of the Department of Health in order to provide better environmental sanitation both in urban and in rural areas. Provision in a sum of Rs. 15 million is being made for both urban and rural water supply schemes, under the votes of the Ministry of Local Government, while provision is being made in the Estimates of the Health Ministry for better sanitation in our hospitals. More peripheral health units are being established in the rural areas and increased provision is being made for public health work in order to tackle the major health problems facing the country, namely, malnutrition and preventable morbidity.

Education.

The Government notes with regret that the enormous expenditure on education during the last several years under previous administrations has not been in the background of a proper assessment of the country's educational needs. The Colonial administration naturally directed its educational policy towards producing an adequate clerical staff for its official and commercial activities. The gradual expansion of this system produced vast numbers with a secondry academic education and no prospect of employment. The need for technical and scientific education was not adequatcly realised or adequately felt under a system which neglected major development and industry. Their successors were content to blunder on along the beaten track.

This Government is acutely alive to the urgent necessity for more and more technical personnel to meet the demands of development. We have, therefore, in the next year's Estimates, provided for increased development of scientific and technical education. 800 new posts of science teachers have been provided for. We have increased the number of science bursaries in our schools to 400. An increase of over Rs. 1.25 million has been provided for equipment for schools, and a sum of Rs. 4 million has been provided under the Loan Fund Expenditure estimates for the construction of school laboratories. We have started a scheme of training more science teachers and will be establishing a second Faculty of Science at the University of Ceylon. Funds have been provided for the construction of three more Junior Technical Schools and increased provision has been made for the early completion of the construction of the Faculty of Engineering at the University so that we could increase the output of Engineering

graduates. More technical training courses are to be started at the Ceylon Technical College, and increased provision has been made for this purpose.

While we are making every effort to eliminate the imbalance in our education system, we have not overlooked the need for providing the best standards in purely academic education. In the past, difficult financial circumstances prevented the Government from making adequate provision to meet the shortage of teachers and of accommodation in schools. We propose to take steps to remedy this defect and the number of teachers in Government schools is being increased by over 5,500 for next year. Hostel accommodation at Central and Senior Schools is being expanded. More scholarships and bursaries are being provided in order to enable a larger number of the needy students to get the education they deserve. Provision in a sum of over Rs. 3 million has been made for furniture and hostel equipment to schools as well as for other amenities, such as water service, latrines, wells and playgrounds. Over Rs. 18 million is being provided for additional accommodation for schools and for their maintenance and repairs.

In order to meet the shortage of trained teachers, the training colleges are being expanded. Their intake will be almost doubled. We have also not forgotten that a balanced curriculum is a prime need in our schools. Increased provision has, therefore, been made for more Physical Training Instructors and for over 500 teachers of music and dancing as well as for equipment for this purpose.

In the field of University education, the Government has recognised the need for the immediate expansion of the University of Ceylon. For this purpose provision is being made for increasing the accommodation at the University from that for the present 2,600 under-graduates to 5,000. In accordance with the policy of extending the national languages as the media of instruction progressively to the highest levels, increased provision in a sum of Rs. 8 1/2 lakhs has been made in the grant of the University of Ceylon for the next year, so that the staff necessary for the purpose can be recruited, and the change-over effected without delay.

Social Services.

This Government is deeply concerned about the plight of those whom disease and other physical handicaps have rendered unfit for their normal place in society and particularly deprived them of the

opportunity of earning their own livelihood. I have, therefore, increased the provision for Public Assistance by over a million rupees, and for assistance to Tuberculosis patients by Rs. 1 1/2 million. Increased provision has been made for sheltered workshops and for rehabilitation centres for the deaf, the blind and the lame, and several new such centres are to be set up. A beginning is being made with the setting up of cottage homes for the aged, and an increase of over Rs. 2 1/2 million has been provided for the expenses of the Department of Probation and Child Care Services. During the next year it is hoped to establish four reception homes for delinquent children in the Colombo, Kandy, Galle and Jaffna Districts and a Certified School as well as Remand Homes for girls elsewhere.

In the Government's endeavour to provide the social services that the country expects of it, and in keeping with its avowed policy of democracy at the broadest level, every attempt is being made to associate Local Government authorities in the activities of the Government. We have, therefore, made increased budgetary provision for Local Bodies. The provision for grants-in-aid has been increased by over Rs.7 1/2 million and over Rs. 10 million has been provided for the Local Loans and Development Fund, while the provision for grants to Local Authorities for housing, slum clearance, wells, drainage and sewerage schemes, roads and other village works, is over Rs. 11 million.

The people who have so long chafed under the effects of our economies in social services and wondered whether they were going to be worse off under a Socialist State will, I am sure, receive these measures with deep satisfaction.

In these ways we propose to make the maximum utilisation of our manpower. Doctrinaire economists will, no doubt, be critical of the comparatively heavy expenditure on social services. They will, however, have enough matter for contemplation if they examine carefully the provisions for agricultural and industrial development.

Agriculture

Following the scheme of agricultural development inaugurated by the Government, we are proceeding to expand the Government's agricultural activities. Increased provision in a sum of Rs. 2.3 million is being made for extension services while provision in more than Rs. 7 1/2 lakhs over the current year's provision is being made

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for agricultural education and training. Provision for the maintenance and development of the Government's agricultural stations, which are the nuclei of our agricultural programme is being trebled. In keeping with our policy of introducing mechanised methods of cultivation wherever possible, provision for agricultural machinery and equipment is being increased from Rs. 850,000 in the current year to Rs. 3,200,000 for next year. We are also proceeding to expand the country's animal husbandry and the provision for the maintenance and development of animal husbandry stations has been almost doubled. Pursuant to our policy of diversifying our agriculture, we are making provision in a sum of nine lakhs of rupees for a Cocoa Planting Subsidy Scheme. In regard to improving the local production of some of our essential foodstuffs, we have made provision for a Food Research Institute and increased the grant to the Milk Board by over Rs. 2 1/2 lakhs. In accordance with our policy of affording maximum security to the peasant farmer, we have embarked upon a Crop Insurance Scheme and provision has been made in a sum of Rs. 500,000 to inaugurate the Crop Insurance Fund. We have also provided for an increase of nearly Rs. 2 million for Miscellaneous Agrarian Services and the issue of seed material.

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While it is the intention of the Government to aim at the maximum production of the land already under cultivation, it will also push forward with the greatest vigour the programme for bringing under cultivation the vast acres of this fertile land which have for so long remained neglected.

The provision in next year's Estimates for land development and irrigation is approxmately Rs. 37 million above that provided for in the current year's Estimates. Rs. 36.25 million have been provided for major irrigation works while the provision for minor irrigation works has been increased by over Rs. 1.5 million. The provision for land development is Rs. 37 million, an increase of Rs. 10 million over the provision for the current year. Rs. 9 million has been provided for assistance to allottees for the construction of houses, and so on, and Rs. 3.4 million for acquisition of land for residential settlements. Rs. 1 million has been provided for the construction of houses, latrines, wells and water supply schemes, and Rs. 1.9 million for highland colonisation schemes. Rs. 1.7 million has been provided for the establishment of a Government-owned tea plantation.

In spite of the valuable timber resources of the country, very little has been done in the past towards developing a forestry industry. With a view to further diversifying our economy, we propose to address ourselves to the building up of a Forestry Industry in the next year. Provision in a sum of over Rs. 1 million has been made in the next year's estimates for commencing a five-year forest development plan. 7,400 acres of new forest land will be planted each year with such popular species of timber as mahogany and teak. The total cost of this scheme is estimated at over Rs. 10 million, and the scheme will provide employment to over 2,000 people in the rural areas. We also hope to expand the Forest Department's saw mill capacity, and provision in a sum of over Rs. 750, 000 has been made for the establishment of three saw mills.

While we are proceeding with this development programme with regard to land, we are also, with the assistance of a number of foreign governments, carrying out a comprehensive survey of our riparian resources, particularly of the major river valleys. As I have said before, we have already commenced the investigation of the Mahaweli Ganga, the Walawe Ganga and Malwatu Oya valleys.

Power.

Nor will we be content with developing merely the agricultural resources of the country. We cannot be satisfied, as I said before, with a purely agricultural economy. It is our intention to establish as fast as we can suitable new industries and to develop nascent ones. For all these, of course, the prime need is power. The construction of Stage IIB of the Hydro Electric Scheme is to be expedited and provision in a sum of Rs. 7 million has been made for domestic expenditure. Negotiations have been commenced with the World Bank for a loan of about 17 million dollars to meet the foreign exchange costs of this scheme. It is expected that the loan agreement will be signed in time to permit work to be started in the coming financial year. A new thermal power plant is also to be installed and negotiations were recently concluded with the World Bank for a loan of 7.4 million dollars to meet the foreign exchange costs of this. A sum of Rs. 1 million is also being provided for the extension of power lines to Puttalam to supply power to the proposed second Cement Factory. This will ultimately cost Rs. 2.5 million.

These schemes will necessarily take a little time to yield results. There is, however, a ready power potential in Inginiyagala. With the installation of an additional set of generators, the existing

plant will be capable of developing 10,000 kilowatts of power, of which 7,500 kilowatts will be available for use outside the Gal Oya area. We propose to harness this. Provision in a sum of over Rs. 5 million for next year alone has, therefore, been made for a power link-up between Gal Oya and the Island Grid. The total cost of this work will be Rs. 13. 1 million. Preliminary investigations have also begun in connection with the harnessing of other hydrel power resources, particularly the Seven Virgins Project.

Industries.

In the coming year we propose to commence work in connection with the establishment of no less than 8 new major industrial undertakings. These will be a second Cement Factory, a Cotton Spinning and Weaving Factory, a Kaolin Refinery, an Iron and Steel Factory, a Fertiliser Factory, a Tile and Brick Factory, a Rubber Tyre and Tube Factory and an Industrial Estate. Provision has been made in a sum of almost Rs. 22 million for next year's expenditure in connection with these projects alone. The total cost of the projects enumerated will be approximately Rs. 100 million.

We are also proposing to expand a number of other existing industrial ventures of the Government. The Kankesan Cement Factory will be expanding its output to 200,000 tons by the installation of a second kiln, while the Ceramic Factory is to double its present output of 400 tons per annum. The Leather Factory will increase its production from 35,000 pairs of shoes per annum to 72,000 pairs, and the Plywood Factory will increase its present output of 400,000 chests per year to 700,000.

The work of the Mineralogical Department is also being expanded. The Monazite Separating Plant is being improved to enable it to recover the rutile and zircon available in the raw monazite. Mineral exploration work is to be intensified and the provision in the next year's estimates is double that for the current year.

Communications

We must not overlook the fact that, in any programme of development it is necessary that communications between one part of the country and another should be established and maintained. The increase in provision for the development of our telecommunication services amounts to over Rs. 5 million.

With regard to roads, Rs. 6.5 million have been provided for the improvement of minor roads, and for the construction of river crossings, culverts, and bridges. Rs. 2.5 million has been provided for

the construction of roads recommended by the Kandyan Peasantry Commission, and Rs. 2 million for the Aluthnuwara-Padiyatalawa model road construction project. A Road and Building Research Institute is being set up under the Public Works Department in order to improve the existing standards of workmanship.

With a view to improving our railway communications provisions for renewal and capital works has been increased by over Rs. 2.5 million from the current year's Rs. 16.2 million to Rs. 18.8 million next year. Rs. 3.3 million has been provided for new works, this being an increase of over Rs. 2.5 million in comparison with the current year's provision, while other general works will cost the Government almost Rs. 6.4 million more next year than in the current year.

In order to meet the needs of the Government's industrial development programme, we have decided, to re-lay the railway line from Bangadeniya to Puttlam at a cost of Rs. 13 million. Provision in a sum of Rs. 3 million is being made in next year's estimates to commence the work.

The development of our harbours is also being expedited. Work on the Galle Harbour is to be stepped up and provision in a sum of Rs. 2 million has been made for the purpose, while more mechanical handling equipment and other machinery for the Port of Colombo has also been provided for.

These are the outstanding features of our proposals for the ensuing year. If my recital of our achievements in the past have surprised those who preferred to persuade themselves that this Government has accomplished nothing, our proposals for the future would probably come to them as a greater surprise. I can well imagine them saying that is all very well to plan ambitiously, but they will ask whether the Government has the resources to implement such a plan.

THE BUDGETARY POSITION FOR 1958–59.

The total estimated expenditure under the General Estimates amounts to Rs. 1,363.03 million and under Loan Fund Expenditure Rs. 432.29 million. The figure in the General Estimates before the House includes provision for a number of capital items of considerable magnitude. Among them are the loans to the Transport Board, the Tea Research Institute and the Local Loans and Development Fund. These items are really loans and not recurrent expenditure. There is

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also a grant to the Ceylon Institute of Scientific and Industrial Research. I propose to meet general expenditure out of current revenue. For this purpose, I shall be increasing revenue by additional taxation.

The total anticipated revenue under the existing fiscal arrangements amounts to Rs. 1,310.7 million. This leaves a deficit of Rs. 484.6 million. The Government faces the task of finding ways and means of bridging this gap. Naturally, we should first explore the possibilities of fresh taxation.

DIRECT TAXATION

The system of taxation now prevailing in Ceylon has been substantially taken over from tax systems which had grown in the climate of capitalist societies. The high marginal rates of tax which characterize these systems do not in fact mean that the tax burden falls so heavily on the wealthiest classes as at first sight it would appear to do. This is largely due to the gradual erosion of the tax base during its long period of growth.

The Government is fully conscious that an efficient and equitable system of personal taxation is fundamental to a fair and just society. This Government has, therefore, for some time felt the need to have the existing structure of direct taxes examined and, if necessary, over-hauled, with a view to ensuring a more equitable distribution of the tax burden among the different classes of society and the different members of the community: and of so modifying the existing structure of taxation as would bring it into line with this Government's policy of democratic socialism.

An examination of the tax structure has revealed that–

(i) The direct taxes, as they exist at present, fall on too narrow a base as the capacity to pay is measured by a restricted definition of "income", which is further narrowed down by an over-generous treatment of expenses which are allowed as a deduction from profits:

(ii) the burden of taxation falls more heavily on work than on property, as many classes of gains, which arise not from effort and work, but are a direct result of the economic advantage a property-owner has over a fellow-taxpayer without property, now go untaxed under the existing system of taxation.

It has been our experience during the last several years that the Revenue has not, in fact, been getting as much as it should have from taxing income; there have been too many exemptions and

allowances, deductions and other opportunities such as the artificial division of property or business income between members of a single family, for illegitimate evasion and legal avoidance. This is most unsatisfactory, for it benefits those least entitled to benefit; and deprives the Government of legitimate sources of revenue which should be made available for the common benefit.

It is the intention of this Government, therefore, to take measures to harness every legitimate source and to bring into Revenue the maximum tax that may equitably be levied. It is a mistake to think that this could be achieved merely by increasing marginal rates of taxation. As I have indicated earlier, the high marginal rate becomes fictitious and inoperative on account of the various avenues of escape. As an illustration it is interesting to observe that if the marginal rate is reduced from 85 per cent. to (say) 70 per cent. the loss to revenue will only be approximately Rs. 3 million.

On the other hand, the closing of various avenues of escape and the removal of exemptions would result in the realisation of a far greater sum. My aim, therefore, is to cast the tax net more effectively, more realistically and more equitably by bringing the taxes levied on individuals into a far closer relationship with capacity to pay.

Capacity to pay cannot be adequately measured by taking into consideration only income. Mere income as the only basis of taxation has long ceased to be regarded as the most efficient or equitable method; so that a proper system of taxation must not be concerned solely with a tax on income, as this word is defined at present, but has to take into account the various other ways which money accrues to persons or wealth increases.

Obviously, this cannot be achieved by merely amending the existing taxes on income. It will be evident, therefore, that our existing system of direct taxation needs revision in certain well-defined aspects.

In the first place, it is necessary to close up all possible avenues of tax avoidance. Secondly, it becomes necessary to re-adjust the very structure of taxation in order that the burden of tax may be distributed more equitably between work and property, as it should be in a properly constituted socialist society.

With these objectives in view, I propose certain changes in taxation which will result in the creation of an integrated, equitable and efficient machinery of direct taxation. I, therefore, propose to

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broaden the tax base by the inclusion of capital gains in income and by the disallowance of certain kinds of expenses and also through the introduction of new taxes on net wealth, personal consumption expenditure and gifts. In addition, the income wealth, or expenditure of a family (parents as well as children) will be aggregated and the tax liability, for purpose of income and expenditure tax determined in accordance with what may be described as the "quotient" system.

In the field of business taxation, it is proposed, in the case of companies to replace the present dual system of income tax and profits tax by a uniform tax on company profits. With the introduction of the new taxes and the other measures referred to above, there must necessarily be an adjustment of the income tax rates to fit in with the pattern of the new tax structure. In view of this, marginal rate of income tax of 85 per cent will have to be brought down. This will not mean that the individuals who are liable to income tax at the high marginal rates will pay less tax, since the new taxes will apply to these very persons to whom the high marginal rates apply at present and, largely, it is this class of taxpayer who will become liable to the new taxes; so that the total gain to Revenue, when the taxes are fully operative, will, in the main be collected from persons who are now in the high income tax brackets.

I should like to mention here certain of the most salient features in the proposed change in the new tax structure. Today a taxpayer can manipulate his affairs in such a manner so as to avoid his income tax by converting some of his income-profits to capital gains. With the inclusion of capital gains in income, this can no longer be done. Again in the proposed system the operation of the taxes interlock in such a manner so as to bring about the result of increasing one tax if manipulation is resorted to in order to avoid another. For example, if in order to escape the wealth tax, a taxpayer under values his property, then, either at his death or when the property is sold or gifted, the gain on realisation will be higher; so that he will have to pay more capital gains tax than he would have paid if the property has been correctly valued for wealth tax. On the other hand, if he avoids capital gains tax, property is over-valued, he will lay himself open to the charge of a higher wealth tax year by year.

I will now explain my proposals.

INCOME TAX

Capital Gains

Since capital gains are available to the recipient to spend or save in the same way as income, as it is now defined, thereby increasing his taxable capacity, and since these gains accrue to property owners only, as distinct from those whose income springs from work, the exemption of capital gains constitutes a serious discrimination in favour of the property owner.

I propose, therefore, that realised capital gains hitherto exempt from tax be now made taxable as income with the restriction that the maximum rate of income tax payable on capital gains will not exceed 45 per cent. "Realization" will be defined as a change in the ownership of property as a result of sale, transfer under deed of gift, liquidation of a business, transmission on death, or transfer to a trust.

If it is proposed to tax realized capital gains, it will be agreed that corresponding relief should be given in respect of realized capital losses. Provision will be made, therefore, for the set-off of realized capital losses against capital gains, these losses being carried forward for an indefinite period until exhausted or until the death of the assessee, whichever is earlier. If a person's estate show unabsorbed losses at death, the taxes which would have been reclaimable as losses will be credited against estate duty.

It is necessary to appoint a date from which this tax will take effect: I propose that the appointed date be 1st April, 1957. Only that proportion of the capital gains attributable to the period between the appointed date and the date of realization will be taxed. Unrealized capital gains at death will be added to the income of the deceased for the last assessment year.

In the case of taxpayers who had no taxable income in the three previous year, capital gains up to Rs. 5,000 will be exempt. Capital gains on movable property other than stocks and shares will only be charged if the gains exceed Rs. 2,000 in any one year.

Since capital gains are to be taxed only after realization, the full effect of this tax on revenue will not be felt immediately. After the full effect is felt, on a rough estimate, I expect an average gain to revenue of Rs. 25,000,000 per annum normally

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Disallowable Deductions for Expenses.

Certain classes of expenses have come to be treated as legitimate deductions in our Income tax system, even though they contain an element of personal benefit and the scale of the expenditure is under the control of the taxpayer; or even though they are not "incurred in the production" of the year's income or profits, but serve, in part at least, the purpose of maintaining or improving earning capacity in the future. The benefit of these exemptions would appear to accrue only to a particular class of taxpayer.

In order to secure equality of treatment between various taxpayers, I propose that the deduction of the following classes of expenditure be disallowed:

(i) Entertainment expenses of all kinds.

(ii) Expense allowances given by a business to its executive staff.

(iii) Travelling expenses of all kinds incurred in respect of the owner, partner, director or higher-grade executive of a business; excepting the cost of passages abroad for the personal benefit of a director or an employee, and his family.

(iv) One half of the expenditure incurred on advertising.

Entertainment expenses, expense allowances and travelling expenses mentioned above will not be allowed as deductions to the business concerned but will not be treated as income in the hands of the recipient. The cost of passages abroad paid for the personal benefit of a person and his family will be treated as income in the recipient's hands except the value of such passages paid in respect of a non-national director or employee and his family to visit his home abroad.

The effect of this will be that if a business concern desires to send its Directors and their families abroad, the business itself may deduct the cost as an allowable expense, but the Director so benefited will have to pay income tax on the amount released to to him for this purpose by the business. This will not apply to non-national Directors or employees whose conditions of service include periodic passages home for themselves and their families.

As a complementary measure, it will be laid down that no deduction for expenses (on account of entertainment, travelling &c.), will be allowed from employment income.

As regards travelling expenses, all expenses connected with the use of motor cars, and other expenses such as drivers' wages at present allowed will be disallowed unless such cars are for the exclusive use of subordinate staff in the performance of their duties.

Certain classes of persons whose work necessarily involves travelling will, however, be allowed the expenses of such travelling outside their home town.

Legislation will be introduced to make it a statutory requirement to separate clearly, in the accounts submitted, all entertainment, travelling passage and advertising expenses incurred by a business.

The Aggregation of the Income of a Family and Rules concerning Allowances.

Resident individuals. I propose that in view of the prevailing practice of making gifts of properties to minors, setting up trusts with minors as beneficiaries, allotting shares to minors in private limited liability companies, or providing annuities to minors with a view to tax avoidance, the income of children should be aggregated with that of their parents (in the same manner as that of husband and wife).

Aggregation of income will continue ordinary until the child reaches the age of 25 years. Before he reaches 25, aggregation can cease only in the following circumstances:-

(i) If the child married, aggregation will cease immediately on marriage.

(ii) If the child sets up a separate home, aggregation will cease on his reaching 21 years.

While it is the purpose of Government to ensure that the existence of a family is not merely the means of tax avoidance, it is still our intention that the burden of tax should be so distributed that the man with a family will receive a certain measure of relief. Because of the proposed aggregation of family incomes, it becomes necessary to replace the existing system of allowances (personal, wife and child allowances) granted to resident individuals by what may be described as the "quotient method". In adjusting the exemptions under this method, we have borne in mind the necessity, as I earlier pointed out, of giving certain relief to the family unit.

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On this method, the aggregated income of the taxpaying family units is divided into a number of parts, dependent on the number of persons in the family and the tax is computed separately for each, and, of course assessed on the "husband" as at present. Husband and wife would each be considered as one unit and each child as half a unit. It is also proposed to grant an optional extension of aggregation of the income of a dependent relative in which case a dependent relative will count as half a unit. It is necessary, as in the present system, to place an upper limit to the number of units in a family for the purpose of granting the allowance; and I propose that this limit be fixed at 4 adult units which would be a married man, his wife and 4 children.

Each adult unit will be given a tax-free allowance of Rs.2,000 a year with the qualification that a single person will be given an extra allowance of Rs. 1,000 a year and a single person and child or dependent an extra allowance of Rs. 500 a year. The balance of the income of each unit will be charged on a slab system. The exemption limit for a single person would be brought down to Rs. 3,000 and for married couple to Rs. 4,000. The existing minimum liability rates of 1 per cent. and 2 per cent. will be abolished. It will be realised that under this system a married man with wife but no children is exempt up to Rs. 4,000 a married man with one child upto Rs. 5,000, a married man with two children up to Rs. 6,000, a married man with three children up to Rs. 7,000, and a married man with four children up to Rs. 8,000.

The resulting position is that under the present system a man of moderate means who had, say, four children and found that his income did not come up to the aggregate allowances in respect of his wife and four children, still had to pay at least one per cent on his income, whereas under the proposed system the same man with a wife and four children will pay no tax whatsoever up to the first Rs. 8,000 of income per year.

It will be noted that earned income relief is not incorporated in this system of allowances since the necessity for differentiation between earned income and unearned income disappears with the new tax structure I propose in which a wealth tax is a necessary part. The slabs and rates applicable to each unit which I have decided to impose are as follows:

On the first	R.s 1,500	income after tax free allowance	5%
On the next	Rs. 1,500	- do -	10%
- do -	Rs. 1,500	- do -	15%
- do -	Rs. 1,500	- do -	20%
- do -	Rs. 1,500	- do -	25%
- do -	Rs. 1,500	- do -	30%
- do -	Rs. 1,500	- do -	35%
- do -	Rs. 1,500	- do -	40%
- do -	Rs. 3,000	- do -	45%
- do -	Rs. 3,000	- do -	50%
- do -	Rs. 3,000	- do -	55%
	balance	- do -	60%

It will be noted that the highest marginal rate in income tax is set at 60 per cent. As I have stated earlier the higher rates of tax which are at present imposed will be replaced by the other tax measures I have proposed.

Non-resident individuals. Non resident individuals will not be subject to expenditure tax or to the wealth tax in respect of their wealth outside Ceylon. There is, therefore, no valid reason for revising the existing rates-schedule in their case. I have accordingly decided that the existing rates schedule for non-residents, with its highest marginal rate at 85 per cent, will continue to apply.

TAXATION OF BUSINESS AND PROFESSIONAL INCOME

Abolition of the Profits Tax.

Under the existing system two separate taxes, viz., a profits tax and an income tax are levied on business income. There was justification for the differentiation between the taxation of business and non-business incomes as long as the effective burden of tax was smaller on business incomes owing to the non-taxable perquisites associated with business income and not with employment income, such as capital gains and allowances for expenses. There is no justification, however, for the retention of the dual system of taxation of business and professions once this disparity of treatment is removed and especially in view of the introduction of a Wealth Tax. In addition, the abolition of the Profits Tax will remove a source of unnecessary complication to the administration.

I, therefore, propose, to abolish the Profits Tax from 1st April, 1958.

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Taxation of Resident Companies.

Limited liability companies have been also subject to the same dual system of taxation. A company at present pays a non-refundable Profits Tax of 30 per cent. and on the remainder an Income Tax of 39 per cent. Such of its income as bears tax in its hands and is distributed to the shareholders is assessed in the hands of the shareholders, credit being given for the tax paid by the Company. Since the whole of the profits of the Company are not distributed to the shareholders, a certain proportion of the Company's profits bears a non-refundable Income Tax at 39 per cent. in the Company's hands. I propose to replace the present dual system of the non-refundable Income Tax and the Profits Tax by a single non-refundable Tax on Companies at 45 per cent. on the whole of the profits of the year which imposes the same effective burden.

As regards distributed profits, I propose that the Company should deduct and pay 33 1/3 per cent. on the gross dividends distributed, and this tax will, of course, be credited against the Income Tax liability of the shareholders.

Taxation of Non-Resident Companies.

The same rate of 45 per cent. will apply to non-resident Companies plus the 6 per cent. now existing in lieu of Estate Duty This is more than justified in the new tax structure, as non-resident Companies will not be liable to Wealth Tax and as the Gifts Tax cannot be made applicable to non-resident individuals in respect of gifts of property situated abroad.

In the case of non-resident Companies, one third of the profits earned will be deemed to have been distributed as dividends, unless the amount actually remitted abroad is below this amount in which case the dividend deemed to have been distributed will be the amount so remitted.

The dividends paid by non-resident Companies will also be subject of course to the dividend tax. Non-resident shareholders will not be entitled to a refund from the Ceylon Treasury but they will normally obtain double taxation relief from their own revenue authorities.

The tax on both resident and non-resident Companies will extend to capital gains made by companies in the same way as with individual income tax.

Abolition of Commencement and Cessation Provisions.

I propose to abolish these provisions. Apart from creating complexities in administration, they provide a means of tax avoidance through the liquidation of existing businesses in years of exceptionally high profit and re-commencement in years of low profit. From the Tax Year 1958/59 onwards the assessment would normally be based on the profits of the previous year.

Depreciation.

With the object of providing a more powerful incentive for the re-investment of profits for the purpose of expansion and development, I propose to replace the existing system of granting initial allowance and depreciation by granting a once-and-for-all capital allowance. For example, an asset which now carried a depreciation allowance of 7½ per cent. per annum will carry a once-and-for-all capital allowance based on the discounted value of the depreciation allowable over the years under the present system which works out (reckoning an interest rate of 5 per cent) at 66 2/3 per cent. In order to simplify, for administrative purposes, the existing separation of machinery and equipment into a large number of classes, the classes of assets on which depreciation will be due will be reduced to four types:

(i) Industrial buildings.
(ii) Durable plant and machinery.
(iii) Normal machinery, etc.
(iv) Short-lived equipment.

The rates for the once-and-for-all capital allowance in respect of the above categories will be 33 1/3 per cent., 50 per cent., 66 2/3 per cent., and 80 per cent. respectively. Unabsorbed capital allowance can be carried forward to future years augmented by an annual 5 per cent allowance on the outstanding balance in order to compensate for not getting the full benefit of the allowance at the time the expenditure is incurred.

A Development Subsidy.

I propose to grant, in addition to the above capital allowance, a development subsidy of 20 per cent. of capital expenditure incurred on new business assets. This subsidy will not be granted in the case of the purchase of an existing asset and it will not be taken into account in calculating the written-down value of assets for the purpose of any subsequent charge of income tax on the sale of these assets.

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TAX ON NET WEALTH

The basic reason for the imposition of a tax on net wealth is that the present system of taxation discriminates between the property-owner and the man who derives income from work and effort. The unfairness of measuring taxable capacity by the yardstick of income alone can easily be seen when it is considered that under the present system a man who derives an income of, say Rs. 50,000 by dint of hard work and another who derives the same income from property pays the same tax. If you carry the example a little further and consider the economic position, after their death of the dependents of these two persons, the unfairness of the present system becomes absolutely clear. I should also mention here another advantage of a tax on net wealth from the point of view of administrative efficiency. Income has a relationship to wealth and when the taxes both on income and wealth are assessed by the same taxing authority, the administrative efficiency of the system is bound to be improved as these two taxes, administered together, provide a better check on evasion and concealment than a tax on either.

The tax proposed to be imposed on net wealth takes into account the taxes on income and capital gains and the rates proposed are well within the total yield from the property, whether in the form of money income or expected appreciation. This rates are –

On the first Rs. 100,000	No tax
On the next Rs. 400,000	At 1/2% per annum
On the next Rs. 500,000	At 1% per annum
On the remainder	At 2% per annum

The property owned by husband and wife and children will be aggregated for Wealth Tax in the same way as for Income Tax. In view of the high exemption limit suggested for Wealth Tax, the quotient system adopted for Income Tax on individuals will not be applied.

The net wealth of a person for the purpose of this tax will include property held in trust with respect to which the taxpayer or members of his family are beneficiaries. The tax in respect of trust property would primarily be collected from the beneficiaries, but provision would be made to have recourse to the trustee if necessary.

The responsibility for the initial valuation of all property will rest with the taxpayer. The initially declared value of property will stand for 5 years, subsequent revision being undertaken at 5-year intervals. Assets purchased subsequent to the introduction of the tax but before a revaluation takes place will be valued on the basis of actual cost.

The administration will be given the power to value shares in private limited liability companies on the basis of the value of the net assets of the Company.

It is necessary, just as in the case of Capital Gains Tax, to fix an appointed date for the original valuation. I propose that the appointed date for the valuation of assets for purposes of the Wealth Tax be the same as for the tax on Capital Gains, viz., 1st April, 1957. The tax will take effect from the year of assessment 1959/60.

The arguments in equity which favour the imposition of a Wealth Tax on individuals together with taxes on income do not apply to Companies. Furthermore, it must be pointed out that the wealth of a Company in effect becomes liable to wealth tax in the hands of its shareholders. The value of their shareholding is liable to this tax. Where the separate parts have been taxed separately, it would be inequitable to tax the aggregate again. The question arises with regard to a non-resident shareholder in a non-resident company. It is true that he is not liable to the wealth tax in respect of his holding in such a Company just in the same way as he would not be liable to expenditure tax in Ceylon. His immunity from these taxes is offset by the fact that his income tax remains unaltered and renders him liable to the higher rates of tax now prevailing.

EXPENDITURE TAX

Not only because the tax on income only is inequitable and unreal but also with a view to curbing extravagant expenditure and stimulating capital formation, I propose that the levy now made merely by way of income tax be distributed on income and expenditure and by the other taxes I have proposed. I propose, therefore, to levy a heavy expenditure tax to replace the high marginal rates of income tax.

The possession of wealth and income by an individual imposes a burden on the rest of the community to the extent that its owner uses his wealth or income for his own ends that is to say,

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he uses the community's scarce resources for satisfying his own personal needs. There is a strong case, therefore, for taxing personal wealth and income far more heavily if it is spent by the owner than if it is saved, and for giving encouragement to those who are willing to contribute to the economic development of the community through the productive and non-personal use of their spending power.

What is sought to be assessed is "personal consumption expenditure" and this is to be defined for the purposes of this tax as including not only items financed by the taxpayer's own outlays, but also money value of benefits and gifts received in kind, expenses met by the employer, friend or relative, subject to an annual exemption for such benefits in kind up to a limit of Rs. 2,000 a year.

Personal consumption expenditure will not include the following:

(a) Business expenses,

(b) Investment outlays,

(c) Capital investment for personal use, such as the purchase of a dwelling house for owner occupation, and purchases of works of art, jewellery and ornaments. The annual value of a dwelling house will, however, be added to expenditure in the same way as is now added to income,

(d) Gifts made to other persons in excess of an aggregate of Rs. 2,000 a year.

Outlays not falling in categories (a) to (d) will be defined as gross personal expenditure, but not all such expenditure would be charged to tax. The following categories of necessitous expenditure will be exempt:-

(e) All direct taxes paid by the taxpayer during the year of assessment.

(f) Fines imposed in criminal proceedings and the expenditure incurred in both criminal and civil proceedings,

(g) Funeral and birth expenses up to a maximum of Rs. 2,000 in each instance,

(h) Marriage expenditure up to Rs. 3,000 in each instance,

(i) Medical expenses up to a maximum of Rs. 3,000 a year,

(j) Education of children abroad up to a maximum of Rs. 8,000 a year.

In addition, I propose that the taxpayer has the option of spreading, over a period of five years, non-recurrent expenditure of any kind (such as expenditure on a journey abroad, purchase of furniture, motor cars, etc.) which are not in themselves exempt.

The method of assessment of the Expenditure Tax will be on the quotient method as for Income Tax. Each unit will be granted a tax-free allowance of Rs. 8,000 in addition to a basic allowance of Rs. 3,000 for each family, irrespective of the number of units so that the tax-free allowances will be as follows:-

Single person	1 unit	..	Rs. 11,000
	1½ units	.	Rs. 15,000
	2 units	.	Rs. 19,000
	2½ units	.	Rs. 23,000
	3 units		Rs. 27,000
	3½ units	..	Rs. 31,000
	4 units	.	Rs. 35,000 (maximum possible allowance)

The rates-schedule for each unit will be as follows:-

On the first	Rs. 5,000 of expenditure after tax-free allowance		20%
On the next	Rs. 5,000	...	40%
,,	Rs. 5,000	..	80%
,,	Rs. 5,000		160%
balance			240%

I propose that the tax takes effect from the assessment year 1959-60 and be based on the expenditure incurred in the preceding year, viz., in the year from 1st April, 1958, to 31st March, 1959.

GIFT TAX

While examining the whole structure of taxation, it will be agreed that Estate Duty, which is a tax on property through bequest and inheritance, should also be reconsidered. Estate Duty is a tax on ownership of property passing on death. This being so, there is no reason in equity for differentiating between the right to pass on property through gifts and the right to pass on property by bequest There is, therefore, a case for supplementing estate duties with a tax on gifts made inter vivos. An additional reason for taxing gifts inter vivos is that, with a view to avoiding estate duty, owners of property are encouraged to transfer their properties during their life-time. The scope of avoidance through gifts inter vivos has been limited up to a point by providing that gifts made within a period of five years prior to death are liable to Estate Duty. This provision does not meet the situation fully as it makes the taxability of gifts entirely dependent on the arbitrary circumstances of the donor surviving the five years.

A2 Budget Speech of the Honourable the Minister of Finance for the Year 1958/59. —*Continued*

I, therefore, propose the levy of a gift tax on the donor, successive gifts by a single donor will be aggregated and the rate of tax on any particular gift would depend on the cumulative total of all previous gifts by him, cumulation starting from 1st April, 1957 and extending over the taxpayer's life-time. To ensure this, it is necessary to re-cast the schedule for estate duty on the slab system. The proposed rates schedule for gifts tax and estate duty will be as follows:-

RATES-SCHEDULE FOR GIFTS TAX AND ESTATE DUTY

Rates-Schedule for Gifts Tax.				**Rates-Schedule for Estate Duty.**			
				First Rs. 20,000			Exempt.
Gifts aggregating to Rs. 2000 in a year ..			Exempt.				
First Rs. 50,000 of Taxable gifts		at ...	5%	Next Rs. 30,000		at	5%
Next	Rs. 25,000	at	8%	,,	Rs. 30,000	at	7½%
,,	Rs. 25,000	at	10%	,,	Rs. 30,000	at	10%
,,	Rs. 40,000	at	12%	,,	Rs. 40,000	at	11%
,,	Rs. 40,000	at	13%	,,	Rs. 50,000	at	12%
,,	Rs. 80,000	at	18%	,,	Rs. 100,000	at	13%
,,	Rs. 80,000	at	20%	,,	Rs. 100,000	at	15%
,,	Rs. 80,000	at	25%	,,	Rs. 100,000	at	20%
,,	Rs. 80,000	at	30%	,,	Rs. 100,000	at	25%
,,	Rs. 80,000	at	35%	,,	Rs. 100,000	at	27%
,,	Rs. 80,000	at	45%	,,	Rs. 100,000	at	30%
,,	Rs. 80,000	at	50%	,,	Rs. 100,000	at	35%
,,	Rs. 250,000	at	60%	,,	Rs. 350,000	at	40%
,,	Rs 450,000	at	80%	,,	Rs. 750,000	at	45%
Balance		at	100%	Balance		at	50%

The two schedules of rates come broadly to the same when it is taken into account that the gift tax is levied on the gifts actually made, whereas the estate duty is levied on the whole estate, including the part out of which the duty is paid.

In order to secure a certain administrative simplicity, gifts up to Rs. 2,000 a year made by any one donor would be exempt from gift tax though they will attract expenditure tax. Apart from this limitation all gifts will be included for purposes of gift tax. In computing gift tax, credit will be given for stamp duty paid on the deed of gift.

In the calculation of Estate Duty, the estate duty on the whole estate (as if the gift had not been made) will be computed and credit given for amount of gift tax paid. The present practice of not making a refund in a case where stamp duty to be credited against the estate duty exceeds the latter will apply in the case of gifts where stamp duty exceeds the gift tax and in the case of an estate where the gift tax to be credited against estate duty will result in a negative liability. I propose the gift tax come into effect from the year 1959-60 and be applicable to gifts made after 1.4.58.

ADMINISTRATION OF THE TAXES

Responsibilities of the Public.

It will be appreciated that the administration of the taxes I have proposed will involve considerable changes in procedures and practices not to mention the necessary extensive changes in the tax laws - now familiar to the taxpaying public. The administration of these taxes will, therefore, call for co-operation from the public in the matter of making themselves familiar with new requirements, filling up the new forms of return that will have to be introduced, and supplying such other information as will be required for the assessment and collection of the taxes. Legislation will be introduced shortly in order to secure the necessary authority to ensure that all essential information required by the tax administration is made available to it. For example, it may become necessary to cast certain legal duties in the matter of completion of forms and vouchers in connection with property transactions in order that an automatic reporting system in respect of these transactions is established. I need hardly say that very careful consideration will be given to the question of limiting to the very minimum any inconvenience that may be caused to the public in this matter of making returns and providing the necessary information for the efficient and proper administration of the taxes.

Reorganisation and Reconstruction of the Tax Administration

It will also be appreciated that the existing tax administration responsible for direct taxes will have to be strengthened considerably. It will have to be reorganised and reconstituted into a Board of Inland Revenue with appropriate status, powers and personnel to carry on the administration effectively. It is well known that no tax at all is better than a tax badly administered, since the tax that is badly administered, by providing innumerable loopholes for evasion, tends only to corrupt and undermine the civic responsibility of a community.

Action has already been taken in order to strengthen the Tax Department and consideration is being given to suggested methods of reorganising the Department. I expect that this will involve additional expenditure which, I have no doubt, will be more than worth while when it is realised that a tax administration of appropriate status and strength is an absolute necessity for the efficient administration of the tax system proposed by me.

ESTIMATED REVENUE EFFECT OF THE PROPOSALS

As a result of the proposed scheme of direct taxation, I do not expect an overall change in revenue, this year. There is the apparent loss by reason of the reduction of the marginal rates of income tax from 85 to 60 per cent. This by itself would only result in a loss of about Rs. 5 million, but it will be offset by the additional tax accruing from the disallowance of so many existing deductions and by the capital gains tax which comes into operation immediately. I anticipate that in a year or two there will be quite an appreciable increase in revenue and that in about three years, when all these taxes are in full operation, the net increase in revenue from these sources will be Rs. 66 million made up as follows:-

Estimated Revenue from-			
(1)	Capital Gains Tax ...	Rs. 25 mil.	
(2)	Wealth Tax ...	Rs. 20 mil.	
(3)	Expenditure Tax ..	Rs. 13 mil.	
(4)	Gift Tax ...	Rs. 4 mil.	
(5)	Disallowance of certain expenses	Rs. 6 mil.	
(6)	Aggregation of minors' income with parents' ...	Rs. 4 mil.	
			Rs. 72 mil.
LESS:	Loss to Revenue on exemption of some minimum liability cases and loss in reducing the maximum rate to 60% ...		Rs. 6 mil.
	Nett gain to revenue ...		Rs. 66 mil.

INDIRECT TAXATION

Import and Excise Duties

I have so far dealt with direct taxation. I now come to indirect taxation. As you are aware, indirect taxation is imposed through export duties on the one hand and through import duties and excise duties on the other.

As regards export duties, Hon. Members are, no doubt, aware that the export duties on tea and rubber form one of our principal sources of revenue. Both these industries have been in a state, however, where they could not have been expected to yield more revenue. In fact Government has recently adopted measures to give relief to these industries. I do not propose, therefore, to alter the existing duties on these two commodities. I wish to state, nevertheless, that the recent measures which were introduced to assist these industries are purely temporary and that detailed proposals will be placed before this House shortly. I would say in passing that in the short space of time between the reduction of the duty on rubber and today, the rubber prices are moving up.

Import duties are intended to serve three main purposes, namely,

(a) the protection of domestic industries:

(b) the conservation of foreign exchange by making the importation of certain classes of goods prohibitive: and the discouragement of extravagant spending: and

(c) the raising of revenue.

As regards (a), since this Government took office, it has consistently endeavoured to foster new and nascent industries These new industries need protection during their initial stages of development by a reduction in the import duties on raw materials, and by an increase in the import duties on the competing imported products.

As regards (b), there is unfortunately still an avoidable outflow of money on the importation of luxuries. The Customs Returns reveal that the actual imports of luxury items are so small that increased taxation of these items will, however, yield little revenue. Moreover, expenditure on luxuries may in future be restrained as a result of the proposed expenditure Tax. Nevertheless, there is one item of luxury goods whose importation I propose to restrict further by the imposition of a higher duty.

As a check on unnecessary luxury spending, I propose to increase the duties on luxury cars whose landed cost is above Rs. 10,000 to a prohibitive level. Hon. Members will recall that in my last Budget, I increased the duties on several luxury items for the prime purpose of conserving foreign exchange. I am glad to be able to state that in the case of most of these items the increased duties had the desired effect. In the case of luxury cars, however, the annual imports of these cars last year amounted to as much as Rs. 560,000. I am, therefore, increasing substantially the duty on these cars in the expectation that their importation will cease altogether.

I would like to say that quite apart from the money spent on this particular item, there is spirit of extravagance in our living which must be checked in order that the habit of saving may develop in this country and that the domestic resources available for development should be expanded. There are a great many items on which we spend our money out of an acquired taste. Many of these are replaceable by local products and many others are merely unnecessary extravagance. I propose to impose duties which will make the waste of money on such items prohibitive although I do not anticipate that there will be any very great addition to revenue by these measures. I do hope, however, that these measures will serve as a corrective to our present way of life. There is no use or purpose in a Government planning for development or sustaining incomes during adverse trading periods if the people at large do not have a sufficient awareness of their duty to refrain from extravagance and to save for posterity.

These are times of national stringency and I expect the entire community to be prepared to make its own sacrifices for the national good.

There are also certain anomalies in the existing Customs Traffic which have been brought to my notice, and I propose to remove these anomalies.

With a view to protecting new and nascent industries, I propose to reduce to the special concessionary rate of 2½ per cent. with the customary margin where necessary, the import duties on all the raw materials required by the following new industries:-

(a) Dry cell battery industry;
(b) Accumulator industry;
(c) Electric Bulb industry: and
(d) Crown Cork Industry.

To assist the following nascent industries which have been recently established, I propose to reduce substantially the import duties on certain specific items of raw materials which are required by them:-

(a) Paper Industry
(b) Envelope Industry;
(c) Plywood Industry;
(d) Brush Industry; and
(e) Leather Footwear Industry.

The duties on certain items of equipment required for the following industries are also being reduced:-

(a) Fishing industry;
(b) Packing industry; and
(c) Sugar cane industry.

As a measure of protection to the Foundry industry which has established itself and is able to produce Rice Hullers and Tea machinery of high quality, the duties on imported Rice Hullers and Tea machinery are being raised. For the same reasons, the duty on semi-finished leather shoes is being raised to protect the local leather footwear industry.

There are many classes of goods which come within the scope of what I have described as extravagant expenditure. In this class of goods I would mention, for instance, imported fruit products. It seems scandalous that in a country so rich in fruit, our own fruit-growing should be neglected because those who can afford to buy, prefer the imported article. In fact, it was not so long ago that many middle-class families supplemented their income by putting out for sale home-made fruit produce and pickles. Our tastes appear to have changed. There would appear to be a certain snob value in serving the imported strawberry rather than the home-grown rambuttan! I propose to impose duties which should serve to redirect our tastes in this sphere to the home product rather than the imported article.

There is also an inordinate waste of money on cheap and worthless imported finery. In olden times, a woman's jewellery represented the family savings in gold, silver and precious stones. Today, there is a preference for imported tinsel whose real value is nothing and which need to be replaced frequently because of change of fashions. This is all the more deplorable in the land of gems. I propose to impose a prohibitive duty on imitation jewellery.

There are various other items which come within this category, such as luxury foods including imported sweets, imported poultry and game, nuts, and so on. I propose to raise substantially the duties on such articles.

A great deal of money is still spent on the importation of dogs and horses. It is interesting to note that fancy dogs are flown to Ceylon at considerable cost in air freight and pay a duty of only Rs. 12.50. I propose to raise this duty to Rs. 50. If the Turf Club was to have served any purpose in this country, it

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Budget Speech of the Honourable the Minister of Finance for the Year 1958/59.
—*Continued*

should have aimed at encouraging the breeding of local horses and not the importation of thoroughbreds at fancy prices. I, therefore, propose to raise the duty on imported horses to Rs. 5,000 per horse.

I recall the days when the best in our land were content to cover their floors with coir or rattan matting. Today, even homes with modest incomes must have a heavy carpet really meant for other climes. I propose, therefore, to increase the duty on carpets from 40 per cent. Preferential and 50 per cent. General, to 100 per cent. Preferential and 110 per cent. General.

There are many more such items which I do not need to enumerate now, but which are being appropriately dealt with.

With a view to removing certain anomalies in the existing Customs Tariff, the duties in respect of certain items are being revised. For example, the duty on sodium sulphite is being reduced so that sodium sulphite and sodium Bisulphite, which are both used for bleaching rubber, are taxed at the same rate.

There remain the items on which I propose to increase the duty to raise revenue. Two commodities which can bring in a fair amount of revenue by an increase in duty without causing detriment or inconvenience to any section of the community, are Petrol and Tobacco. I propose to raise the duty on Petrol by 10 cents a gallon. This will hardly cause any increase in the cost of public transportation. I also propose to increase the duty on manufactured tobacco, and cigarettes by Rs. 4 per pound, and to effect a corresponding increase in the local excise duties on these commodities.

These two items will bring in an increased revenue of approximately Rs. 18 million and the other items Rs. 2 million, making a total revenue by increased duties of Rs. 20 million.

It will be seen, therefore, that by these taxation proposals I bring in to revenue only an additional sum of Rs. 20 million. This would still leave a deficit of Rs. 464.6 million.

Customary foreign aid from Colombo Plan countries and the U.S.A. is expected to amount to about Rs. 50 million. Under our recent Economic Aid Agreements with the U.S.S.R. and China, I expect aid to the value of about Rs. 50 million, making a total of Rs. 100 million from these sources. This still leaves a balance of Rs. 360

million. The figure in itself is large, but what is significant to the economy of the country is the extent to which I intend to meet this deficit by domestic borrowings. This I propose to keep in the order of Rs. 160 million. This still leaves a margin of Rs. 200 million. I have budgeted for expenditure of the level I have indicated because I have already commenced negotiations for finance from certain other sources, as certain arrangements have already been arrived at. As further negotiations are still proceeding, I do not propose to disclose any other information with regard to them. Novertheless, I am satisfied that I shall be able to meet my requirements.

CONCLUSION

You have heard the record of our achievements in the past and our plans for the future. I have said that we have not had the most favourable conditions under which to work. A great deal of our difficulties, as I have pointed out, were created for us by the opponents of this Government who thought that if they could not replace it, they would, at least, hinder it in its work in order that they may be able at the next elections to point to a barren record or to one of failure. I do not wish to enter into the question of whether this is in harmony with the spirit of democratic government. We were chosen by the people to discharge the difficult duties of guiding their destinies. One would have expected that those who were beaten at the polls would have left us to carry on with the work which the people had entrusted to us. They have not done so. But I do not regard this as a matter for complaint. I regard it rather as a challenge to us. It is a challenge the manhood of those who form this Government. It is a challenge to our capacity to face up to difficulties, and work in the face of opposition, to rebuild what is torn down, and to go determinedly ahead with our plans for the country. The People's Government accepts this challenge from the people's enemies. When the people elected us to office and rejoiced at our victory, those who were our opponents in the struggle for that very confidence and victory dared not denounce us or openly declare their opposition to us. We heard soft cooing about co-operation with us. We have experienced the true nature of this co-operation. Let us be done, once and for all, with these polite insincereties. Now is the hour of our Nation's need. Those who are not with us today are against us, and those who are against us we shall fight. With all the weapons legitimately available to us, we shall fight the forces ranged against us. We look round and see much that has been done, destroyed. We see class, racial and religious hatred being sedulously fostered. We see chaos and disorder deliberately created. Through it all, we shall work We shall work and we shall discharge the sacred trust that has been placed in us. I am confident that we shall succeed.

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R 1
Statement of Gross Dividends distributed by the Woodend (K. V. Ceylon) Rubber and Tea Co. Ltd. (in respect of the years 1957, 1958 1959 & 1960)

R 1

(Document of the Commissioner of Inland Revenue) Statement of Gross Dividends distributed by the Woodend (K. V. Ceylon) Rubber and Tea Co. Ltd. (in respect of the years 1957, 1958, 1959 & 1960.)

COPY

File No. 6/381 (JCLF)

THE WOODEND (K. V. CEYLON) RUBBER AND TEA CO. LTD.

Income Tax Appeal–Years of Assessment 1958/59, 1959/60, 1960/61 and 1961/1962

Statements of gross dividends distributed by the above-named Company as shown in each year's accounts–

1957	12 %	£. 9000	i. e.	Rs. 120,000/-
1958	10 %	£. 7500	i. e.	Rs. 100,000/-
1959	17½%	£. 13125	i. e.	Rs. 175,000/-
1960	5 %	£. 3750	i. e.	Rs. 50,000/-

Appropriation A/c for 1957:

Taxation including Profits Tax	£. 3415	Balance brought down from the 1957 Profit & Loss A/c.	£. 9364
Transfer to replanting reserve	£. 3068	Balance from previous year	£. 3533
Dividends paid and proposed after deduction for income Tax	£. 5175	Provision for taxation no longer required	£. 2738
Balance carried forward	£. 3977		
	£. 15635		£. 15635

The above mentioned statements are agreed.

Sgd

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For Woodend (K.V. Ceylon) Rubber & Tea Co. Ltd.

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