

7N6.9.1

14, 1949

No. 29 of 1947.

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF BRITISH HONDURAS.

BETWEEN

THE COMMISSIONERS OF INCOME TAX - - *Appellants*

AND

HENRY IGNATIUS MELHADO - - - - - *Respondent.*

RECORD OF PROCEEDINGS

BURCHELLS,

9 BISHOPSGATE, E.C.2,

Solicitors for the Appellants.

WITHALL & WITHALL,

49-51 BEDFORD ROW, W.C.1,

Solicitors for the Respondent.

GN6.9.1

14, 1949

UNIVERSITY OF LONDON
W.C.1.
No. 29 of 1956
INSTITUTE OF ADVANCED
LEGAL STUDIES

In the Privy Council.

ON APPEAL

44426

FROM THE SUPREME COURT OF BRITISH HONDURAS.

BETWEEN

THE COMMISSIONERS OF INCOME TAX - - - - *Appellants*

AND

HENRY IGNATIUS MELHADO - - - - *Respondent.*

RECORD OF PROCEEDINGS

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In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT OF BRITISH HONDURAS.

BETWEEN

THE COMMISSIONERS OF INCOME TAX - *Appellants*

AND

HENRY IGNATIUS MELHADO - - - - *Respondent.*

RECORD OF PROCEEDINGS

10

No. 1

NOTICE OF APPEAL.

No. 1.
Notice of
Appeal,
28th
November
1945.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1945.

IN THE MATTER of the Income Tax Ordinance, Chapter 23 of
the Consolidated Laws, 1924

and

IN THE MATTER of the assessment of Henry Ignatius Melhado
of Regent Street, West, Belize, Merchant.

No. 6/1945.

TAKE NOTICE that Henry Ignatius Melhado is aggrieved by the
20 assessment which the Income Tax Commissioners have made against him
in respect of the year 1945 and now appeals to the Chief Justice in Chambers
against such assessment on the following grounds :

1. That the Commissioners have arbitrarily refused to allow the
following deductions claimed by Appellant :

(A) Estimated Capital expenditure on plantations \$2500.00

(B) \$3391.02 being a portion of the total charged in property
loss to depreciation.

(This amount was agreed to by the Commissioners in 1939, and
further it was discussed with Mr. Marchand, Income Tax
Collector, in 1945 before a final account was submitted. This
ratio has always been allowed since 1939.)

30

No. 1.
Notice of
Appeal,
28th
November
1945,
continued.

2. That the Commissioners have refused to allow the following deduction claimed by Appellant and the same is a legitimate deduction.

(A) Bad Debts Suspense Account \$8000.00

3. That the Commissioners have assessed the Appellant in respect of the sum of \$21,925.74 as part of his income received in Belize from foreign parts when in fact no part of the said sum has been received in Belize by the Appellant as income but as capital transferred from England to Belize.

4. That there are no grounds for the revision made by the Commissioners of Income Tax. 10

Dated the 28th day of November 1945.

(Sgd.) HY. MELHADO,
Appellant.

To Hon. A. N. Wolffsohn,
S. A. Stone, Esq., and
F. C. P. Bowen, Esq.,
Commissioners of Income Tax.

No. 2.
Letter
from
Registrar-
General,
27th
December
1945.

No. 2.
LETTER from Registrar-General.

GENERAL REGISTRY,
Belize, 27th December, 1945. 20

BRITISH HONDURAS.

No.

Gentlemen,

Sir,

I am directed to draw your attention to the Supreme Court (Income Tax Appeals) Rules issued with the Gazette dated 22nd December, 1945, and especially to Rule 14 thereof which will apply to appeal No. 6/1945 Henry Ignatius Melhado *vs.* Income Tax Commissioners.

I am, 30

Your obedient servant,

(Sgd.) A. O. LONGSWORTH,
Registrar.

Commissioners of Income Tax,
Belize.
Hon. H. I. Melhado, O.B.E.,
Belize.

No. 3.
SUMMONS IN CHAMBERS.

No. 3.
Summons
in
Chambers,
22nd
January
1946.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.
IN THE MATTER of an appeal against assessment to Income
Tax under Chapter 23 of the Consolidated Laws, 1924.

No. 6/1945.

LET all parties attend the Chief Justice in Chambers on Friday the
25th day of January 1946 at 10 o'clock in the forenoon on the hearing of an
10 a Summons under rule 5 of the Rules of the Supreme Court (Income
Tax Appeals) 1945 be extended to the 9th day of February 1946 or such
other date as may be fixed by the Chief Justice.

Dated the 22nd day of January, 1946.

(Sgd.) DRAGTEN, WOODS & CO.,

Solicitors for Henry Ignatius Melhado.

To The Commissioners of Income Tax.

This Summons was taken out by DRAGTEN, WOODS & Co., of North
Front Street, Belize, Solicitors for Henry Ignatius Melhado.

No. 4.
ORDER.

No. 4.
Order,
1st
February
1946.

20

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.

IN THE MATTER of an appeal against assessment to Income
Tax under Chapter 23 of the Consolidated Laws, 1924.

No. 6/1945.

25th January, 1946.

ON READING the Summons herein dated the 22nd day of January
1946 AND HEARING Mr. Dragten of Counsel for the appellant Henry
Ignatius Melhado and The Honourable The Attorney General of Counsel
for the Commissioners of Income Tax IT IS ORDERED that the time
30 for issuing the Summons under rule 5 of the Rules of the Supreme Court
(Income Tax Appeals) 1945 be extended to the 12th day of February
1946 and that the costs of this application be costs in the cause.

Dated the 1st day of February 1946.

(Sgd.) A. O. LONGSWORTH,

Registrar General.

No. 5.
Summons
in
Chambers,
11th
February
1946.

No. 5.

SUMMONS IN CHAMBERS.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1945.

IN THE MATTER of the Income Tax Ordinance, Chapter 23
of the Consolidated Laws, 1924.

No. 6/1945.

(L.S.)

Between HENRY IGNATIUS MELHADO - - - Appellant

and

THE COMMISSIONERS OF INCOME TAX Respondents. 10

LET all parties attend the Chief Justice in Chambers on Tuesday the 19th day of March 1946 at 10 o'clock in the forenoon on the hearing of an application by way of appeal on the part of the above-mentioned Henry Ignatius Melhado of Market Square, Belize, Merchant that the assessment under the above Ordinance of the tax on his income made by the Commissioners of Income Tax in respect of the year 1944 be revised on the following grounds :—

1. That the Commissioners assessed the appellant in a sum of \$2,500.00 estimated to be capital expenditure expended on the appellant's farm. Such expenditure was not incurred. 20

2. That the Commissioners struck out the sum of \$3,391.02 being a portion of the depreciation on buildings, boats, etc., employed by the appellant in his business. The depreciation claimed by the appellant is at the rate usually claimed by the appellant and allowed by the Commissioners.

3. That the Commissioners have assessed the appellant in respect of the sum of \$21,925.74 as part of his income received in Belize from foreign parts when in fact no part of the said sum has been received in Belize by the appellant as income but as capital transferred from England to Belize. 30

4. That there are no grounds for the revision adverse to the appellant made by the Commissioners of Income Tax.

Dated the 11th day of February 1946.

By Order.

(Sgd.) A. O. LONGSWORTH,

Registrar.

To

The Commissioners of Income Tax.

This Summons was taken out by DRAGTEN, WOODS & Co., of North Front Street, Belize, Solicitors for the appellant whose address for service is at the office of Dragten, Woods & Co., aforesaid. 40

No. 6.

NOTICE OF DOCUMENTS FILED BY COMMISSIONERS OF INCOME TAX.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1945.

IN THE MATTER of the Income Tax Ordinance, Chapter 23
of the Consolidated Laws, 1924.

Between HENRY IGNATIUS MELHADO - - - Appellant

and

THE COMMISSIONERS OF INCOME TAX Respondents.

No. 6.
Notice of
Documents
filed by
Commis-
sioners of
Income
Tax,
25th
February
1946.

Pursuant to Rule 7 of the Rules of the Supreme Court (Income Tax
10 Appeals) 1945 (S.R. & O. No. 75 of 1945), the following documents are
hereby filed :—

1. Copy of relevant Income Tax Assessment Form, marked " A " ;
2. Statement of reasons in support of assessment, marked " B. "

Dated the 25th day of February 1946.

(Sgd.) F. C. P. BOWEN

,, S. A. STONE

,, R. K. MASSON

Commissioners of Income Tax.

To

20 Messrs. Dragten, Woods & Co.,
North Front Street,
Belize, B.H.,
Solicitors for the above-named Appellant.

No. 7.

Document "A" filed by Commissioners of Income Tax on 5 February 1946.

"A."

No. 7.
 Computa-
 tion of
 Income
 Tax
 Liability
 marked
 "A" in
 documents
 filed by
 Commis-
 sioners of
 Income
 Tax.

COMPUTATION OF INCOME TAX LIABILITY—YEAR OF
 ASSESSMENT, 1945.

(Revised.)

Residence		\$ 550.00	
Wife's Income		1,436.65	
Director's Fees		220.00	
Interest—Corozal Sugar Factory		990.00	10
Polo Club		14.00	
C. Melhado & Sons (As returned)	\$20,755.06		
Add :			
Depreciation	3,391.02		
Bad Debt Reserve	8,000.00		
Investments W/O	200.00		
Partner's Suspense ($\frac{1}{2}$ of \$574)	287.00		
Estimated Capital Expenditure passed through Plantations Account and adjustment of Live Stock Account	2,500.00		20
Foreign Income received through Martin's Bank, London	21,925.74		
Charges disallowed	238.46		
		<u>\$57,297.28</u>	
		<u>\$60,507.93</u>	
Less Wear & Tear		727.42	
		<u>\$59,780.51</u>	
Relief :			
Abatement	\$500.00		
Wife	250.00		30
Earned Income Relief	500.00		
		<u>1,250.00</u>	
		<u><u>\$58,530.51</u></u>	

No. 8.

Document " B " filed by Commissioners of Income Tax on 25th February 1946.

" B. "

REASONS IN SUPPORT OF ASSESSMENT.

No. 8.
Reasons in
support of
Assessment
marked
" B " in
documents
filed by
Commis-
sioners of
Income
Tax.*Paragraph 1 of Summons dated 11th February, 1946.*

The amount shown in the Trading Account dated 22nd February, 1945, for upkeep, pasturing and purchases is \$20,781.05. Information as to the details comprising this expenditure, though requested by the Commissioners, was not furnished by the Appellant nor were particulars given of the actual valuation of the live stock. It was considered that a portion of the said expenditure was of a capital nature and, in view of the absence of particulars regarding live stock, it was necessary to estimate the sum of \$2,500.00 for purposes of taxation.

Paragraph 2 of Summons dated 11th February, 1946.

A statement, marked " C, " showing the several items and particulars relating thereto, is attached.

The rates allowed are those regarded by the Commissioners as reasonable and it is contended that the Commissioners are in no way bound by rates which may have been allowed in the past.

20 Paragraph 3 of Summons dated 11th February, 1946.

Goods to the value of \$21,925.74 imported into the Colony by the Appellant were paid for from funds of the Appellant held by Martins Bank in London, England.

The Appellant stated to the Commissioners that such funds consisted partly of Capital and partly of income but, as the Appellant, though requested so to do, has not furnished particulars in this connexion (or in respect of other matters relating to the items which go to make up the said total of \$21,925.74), it is contended that the whole of the said amount is liable to income tax. A copy of a statement, marked " D, " furnished to the Commissioners by the Appellant is attached hereto.

30

No. 9.
Wear and
Tear
Allowances
for 1945
marked
"C" in
documents
filed by
Commis-
sioners of
Income
Tax.

No. 9.

Document "C" filed by Commissioners of Income Tax on 25th February 1946.

"C."

HON. HENRY I. MELHADO.

WEAR AND TEAR ALLOWANCE ALLOWED 1945 WITH WRITTEN DOWN
VALUES FOR 1946.

	Written down value 1945	Rate	Deprecia- tion	Written down value 1946	
BOATS					
Appollo	\$ 1,280.00	5%	\$ 64.00	\$ 1,216.00	10
Minerva	614.40	5%	30.72	583.68	
Handybilly	384.00	5%	19.20	364.80	
Tramp	110.40	5%	5.52	104.88	
Penta	25.60	5%	1.28	24.32	
Atlas	204.80	5%	10.24	194.56	
Helper	122.88	5%	6.14	116.74	
Jubilee	81.92	5%	4.10	77.82	
Pitpans	20.50	5%	1.02	19.48	
Relief	350.72	5%	17.54	333.18	20
Reliance	276.48	5%	13.82	262.66	
Surprise	81.92	5%	4.10	77.82	
BUILDINGS					
Binney's Property	10,497.60	3%	314.93	10,182.67	
Leslie's Barquedier	459.27	5%	22.96	436.31	
Machine Shop	1,468.13	5%	73.41	1,394.72	
Riverside Property	1,468.30	3%	44.05	1,424.25	
FURNITURE & FITTINGS					
Octagon	803.52	10%	80.35	723.17	
Office	140.41	10%	14.04	126.37	30
	\$ 18,390.85		\$ 727.42		

No. 10.
Document "D" filed by Commissioners of Income Tax on 25th February 1946.

"D."

MARTINS BANK LTD.

ACCOUNT C. MELHADO & SONS.

No. 10.
Bank
Account of
C. Melhado
& Sons
marked
"D" in
documents
filed by
Commis-
sioners of
Income
Tax.

					Dr.			Cr.		
1944					£	s.	d.	£	s.	d.
Feb.	1	To Balance	..	..	1,382	9	11			
	29	„ Sundries	..	..	198	10	8			
10	29	By R. Perkins	..	..				137	8	5
	28	„ H. I. Melhado	..	..				2	10	0
	28	„ Sundries	..	..				428	8	2
	28	„ Central Agents	..	..				147	0	0
Apr.	30	„ Rootes	..	..				4	15	0
	30	„ H. I. Melhado	..	..				1	0	0
May	30	„ Sundries	..	..				126	4	7
Jun.	30	„ Hubbuck	..	..				477	1	6
	30	„ „	..	..				20	0	0
	30	To Interest	..	..	1	16	0			
20	30	By McKintosh	..	..				66	0	4
	30	„ Commission	..	..				2	10	8
July	30	To Cash	..	..	61	9	2			
Aug.	30	„ Interest	..	..	1	1	4			
	30	„ H. Melhado	..	..	3,000	0	0			
	30	„ „	..	..	3,000	0	0			
	30	By Commission	..	..					10	5
	30	„ Commission	..	..				2	10	6
	30	„ Sundries	..	..				1,447	17	9
	30	„ „	..	..				150	0	0
30	Sept. 30	To Mdse	..	..	8	9	0			
	30	„ „	..	..	45	6	3			
	30	By J. I. T.	..	..				3	12	6
Oct.	30	To Mdse	..	..	9	11	3			
	30	By Sundries	..	..				248	14	7
	30	„ „	..	..				59	11	3
	30	„ Gilbeys	..	..				30	11	0
	30	„ Exchange	..	..				2	4	
Nov.	30	To Mdse	..	..	22	2	6			
	30	By Sundries	..	..				1,337	9	3
40	Dec. 30	To Stephens	..	..	10	0				
	30	„ Mdse	..	..	8	9	0			
	30	„ Interest	..	..	4	19	0			
	30	„ Contra	..	..	30	11	0			
	30	„ Gilbeys	..	..	30	11	0			
	30	By Sundries	..	..				261	2	3
	30	„ Stavely	..	..				100	0	0
	30	„ Commission 30/9/44	..	..				8	14	2

No. 10.						Dr.			Cr.		
Bank		1945				£	s.	d.	£	s.	d.
Account of	Jan. 30	To	Low & Bonar	..	..	12	19	0			
& Sons	30	By	Hubbucks	..	..				89	1	6
marked	30	„	Stavely	..	..				200	0	0
“D” in	30	„	Sundries	..	..				87	0	4
documents	30	„	Rootes	..	..					16	1
filed by	30	„	Balance	..	..				2,378	2	6
Commissioners of											
Income											
Tax,						£7,818	15	1	7,818	15	1
<i>continued.</i>	Feb. 1	To	Balance	..	..	£2,378	2	6			10
									40	12	7

No. 11.
Notice by
Henry
Ignatius
Melhado,
12th
March
1946.

No. 11.

NOTICE by Henry Ignatius Melhado.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1945.

IN THE MATTER of the Income Tax Ordinance, Chapter 23 of
the Consolidated Laws, 1924.

Suit No. 6.

Between HENRY IGNATIUS MELHADO - - - Appellant
and

THE COMMISSIONERS OF INCOME TAX - Respondents. 20

TAKE NOTICE that the Appellant proposes to tender oral evidence at the hearing of the appeal. The nature of the proposed evidence is:—

1. That the Commissioners received the fullest information of the sum written off for upkeep, pasturage and purchase of cattle and that they had through Mr. Watkis, access to the Appellant's books. The Commissioners were at the meeting between the Appellant and them unable to show how they arrived at the sum of \$2,500.00.

2. The rates of depreciation were calculated on the basis agreed upon by the Commissioners and the Appellant and allowed over a period of years. The present calculation is unreasonable. 30

3. The Appellant will show by the figures submitted to the Commissioners that the amount of \$21,925.74 written back as being income received in the Colony is wrong and that this amount should be allowed as capital and not income.

Dated the 12th day of March 1946.

(Sgd.) DRAGTEN, WOODS & CO.,
Appellant's Solicitors.

To

The Commissioners of Income Tax,
Belize.

40

This notice is served on behalf of the Appellant whose address for service is at the office of Dragten, Woods & Co., Solicitors of North Front Street, Belize.

JUDGE'S NOTES OF EVIDENCE.

1.

28th March, 1946.

In the matter of the Income Tax Ord. Chap. 23. Laws of British Honduras, 1924

and

In the matter of additional assessment of Henry Ignatius Melhado, Belize.

10 Dragten, K.C. App.
A.G. Res.

Mr. Dragten

There was an assessment made 3rd Aug. 1945. Income year 1944. which was withdrawn by the Com. and a revised assessment was made under section 43 after an objection of the taxpayer.

The Com. filed statement A.

	\$ 2500
Capital	21926
Depreciation	3391.02

20 Meeting held between taxpayer and Com. confirmed revised assessment.

Depreciation \$3391.02.

Produce. Notice of Assessment

Ex. 1.

Revised Notice revised assessment

Ex. 2.

Tax paid on undisputed amounts

Receipt given. Sec. 50. 33.2. proviso

Ex. 3.

In statute "depreciation" not used. "wear & tear." Allow. \$692.

30 The taxpayer was supplied with information contained on 4 when notice of assessment was originally supplied but did not receive information on the figures on Statement now filed.

In 1939. Com. by Marchand agreed with App. agreed sale depreciation on boats etc. set out on Statement "C." Amount claimed is in accordance with those rates. Rate already in existence prior present income year.

A partnership had existed and that was dissolved that year. This year the Com. revised the rate. Statement now shows rates allowed.

1st submission.

These rates in "C" were discussed with Marchand before taxpayers return made and agreed upon.

2nd submission.

40 Com. discussed these rates of wear and tear before return submitted. Altered the rates without notice to the taxpayer after return submitted without stating the grounds.

No. 12.
Judge's
Notes of
Evidence,
28th March
1946,
continued.

3rd

Rates allowed unreasonable.

Estimated Capital Ex. \$2500

At no time were the Com. able to furnish any figures how this figure \$2500 was arrived at. It was an arbitrary figure.

Foreign Income. 21925.74

App. had private a/c with Martin's Bank. The Com. took the drawing from the a/c £5440.12.7—\$4.03 = 21875.74. That is the amount you brought into the Colony.

Moneys received on behalf of persons resident in the Colony and paid 10 out to them there.

1st Wit.

Thompson. J.C. bds.

I am accountant of C. Melhado Sons since 1937. Depreciation claimed :

	\$3391.02
Com. allowed	727.42
	<hr/>
Difference	<u>2663.60</u>

Claimed year by year as stated by me.

Boats	20 % of written down value	
Barges	20 % " " " "	20
Buildings	10 % " " " "	
Non residence		
Furniture	10 % " " " "	

The rates applied to depreciated values.

Never written off :	10 %	Take	65 years
	5 %	85	"
	3 %	132	"

All leaving a balance.

In 1939 partnership dissolved.

I had a meeting with Mr. Marchand. Question of depreciation 30 discussed. Agreement arrived at. The above rates agreed upon depreciated values. On that returns were filed. We depreciate on original value of boats each year. Commissioners assessed on that basis. Our depreciation on original value is from book-keeping point of view. I produce return for year ended Jan. 31st 1944. I made the return. Pencil figures by Mr. Marchand in my presence.

I wanted to confirm exact written down value he had written on his books value boat buildings.

They were the figures for return 1943 depreciated value to that date. They were basis for 1944 figures. Agreed with Mr. Marchand 40 before return submitted. That was the total claimed. From my experience 20% is reasonable on the value of boats. 5% not reasonable far too little. I see bulk of repairs. I have an accountant's experience.

Buildings.

10% is reasonable. 3% is absurd wooden buildings except galvanized Binney Bldg. Not as long as wooden building.

Difference.	\$3391.02
	727.42
	<hr/>
	2668.60
	<hr/>
	<hr/>

No. 12.
Judge's
Notes of
Evidence,
28th March
1946,
continued.

Capital Expenditure

I met the Com. on this question. Mr. Watkis was present. They could not furnish any information up to date. Without this information.
10 I produce statement I have prepared from the Books of the Company.

Ex.

Stock.

Standard value \$6 in books. When cattle sold at more increase is credited cattle a/c. Only capital expenditure in this a/c is purchase of cattle. No other item should be here. No new pasture or plantation made during the year of income.

I am unable to state how they arrived at \$2500.

Mr. Watkis & Heustis came to my office. I showed them the stock sheets. They were given access to the books of a/cs. I invited them
20 to come along.

23rd Oct. 1945 letter to Com. I produce letter. I produce Stock sheets which were shown to Mr. Watkis and Com. I produce trading a/c. \$20781.05 is the item. Information was given. I cannot give any information about this \$2500 whatsoever.

Ex. 6.
Ex. 7.
Ex. 8.

*Foreign Income**Statement D.*

\$198 collected on behalf of Sugar Factory. That makes 3000 paid into this a/c from Mr. H. Melhado a/c in Canada. transferred from Mr. H. Melhado a/c private a/c to the business. Transferred to the
30 H. Melhado private a/c in Belize. No income of the C. Melhado & Sons. C. Melhado purchased goods in London and paid in sterling in London to take advantage of discounts therefor when the goods arrived the firm in question credited Martin Bank. The items shown as debts in Martin's a/c apart from interest (30.11.0) and £3000. £3000. All these items are payments for goods purchased in London for delivery in Belize.

£200 is still in England having been transferred to Staveley Taylor in Liverpool.

£150. 30th Aug. 37.10.8 still in England with Mortons London.

Assessed £5440.12.7.

40 At the most 3383. 6.8.
according to Com. figures.

The two items were loans to the firm by Mr. Henry Melhado and not income at all.

Court adjourns.

Henry Melhado Appeal resumed.

No. 12.
Judge's
Notes of
Evidence,
28th March
1946,
continued.

A.G.

Depreciation.

Same percentages from 1939-1944.

Com. altogether inadequate rates. My experience not limited to service with other countries. I have seen other tropical rates but cannot remember them. I cannot say whether rate in "C2" are comparable with rate in other tropical Colonies.

I base my statement on the assumption that the rate should write off the item at the end of its estimated life. It should represent the actual 10 wear and tear. I do not estimate the life of a new boat at 5 years. For depreciation of the boats which were not new, I estimated at 5 years for income tax purposes. The first 4 boats on the list were in use in 1939, and still are. They are motor boats. The remainder are barges and pitpans. The pitpans are out of use and the Penta. Other than those mentioned the boats are still in use. I cannot say how long they had been in use before 1939. The agreement of 1939 was renewed each year. Mr. Marchand did not give his decision at once. I do not know if he consulted the Com.

Estimated Capital Ex.

20

Separate a/cs. kept for each plantation mentioned with wages paid.

Witness produces Ledger—not put in.

The monthly stock sheets show the number of cattle. Each animal value \$6 irrespective of sex or size. An average valuation from book-keeping purposes. I could not tell you what would be the price of bull or a calf. It might prove a truer picture if you took calves, bulls, cows. I don't agree it would give a truer price and classify or that it would be a stage nearer.

No capital expenditure. I have the 1943 a/cs. (year before Stock 31st Jan. 1944 \$7200).

30

\$13933. Upkeep pasture etc.

1945. 20781.05 (next year).

Sales. 1943. 8128.33. 1944 18647.34. Stock at end \$11354.00.

Considerable expansion of business during 1944 as compared with 1943.

\$3065.76 bananas.

\$9770.75.

Increase cattle a/c. \$400.

1945 \$745.

\$4638.26 Bananas etc.

40

Increase chiefly due to sales of bananas etc.

I see letter from the Com. 15th June 1945. I have no recollection of the receipt of this letter. I see letter from the Com. 25th Aug. 1945.

Ex. 9.

I see this letter was received para. 6 & 7.

I attended 3 or 4 (times) and told them there was a vast amount of detail.

I said it would be available at my office.

This is the first time I have supplied in writing these details. I have discussed the items with them in my office.

Item 21925.74.

Cash transferred H. Melhado from Canada Martins Bank. From Martin Bank to C. Melhado Trading a/c in London. When we were notified it was transferred to Capital a/c Melhado & Sons.

First credited in his private a/c in Belize to C. Melhado & Sons.

I was present when this matter was discussed by the Com. I don't remember it being stated that these particular funds (were) of capital and partly income. There was a discussion of what these funds consisted of.

I see 25th Aug.
Para. 2 also 3.

Information asked for of these two items. The information was furnished through my ledger. The original Bank vouchers have been seen by Mr. Watkis.

Certified a/c Martin Bank. That was furnished in the statement. In fact they saw the Ledger a/c and it was from the statement of Martins Bank they extracted the £6000. I furnished after they attended at my office.

Some of funds used for purchasing goods excepting . . .

£6000 was used £3383.6.8 for purchase of goods. Summary. "A." That amount came to Belize in form of goods.

Not liable to tax because it was money transferred to Martin Bank on Capital a/c to increase the purchasing power of the business. The business needed extra working capital. I agree that the bringing of goods is tantamount to bringing that value in cash.

None of these accounts are audited. It is not limited company.

Court :

30 I have no authority for allowing depreciation on buildings.

The A.G. says that owing to some of the information being submitted for the first time there should be time to analyze that evidence and therefore he does not desire to cross-examine Mr. Thompson on the items which formed the basis for the Com. estimate of \$2500.

29th March 1946.

Dragten.

Penta is scrap. Not repairable and the pitpans.

The original cost of Appollo \$5000 or \$6000. Thornycroft engines. Taking over value \$2500.

40 I produce Bank documents supporting the transfer from Mr. H. Melhado private a/c to the a/c C. Melhado Sons of two items of £3000.

The sums mentioned as converted are those coming from Canada.

I do not know of what they were the proceeds.

Henry Ignatius Melhado, bds.

Carry on business C. Melhado Sons. I have 40 years experience of river boats & barges. Wear & tear terrific. 72 falls and runs between Belize & Cayo. Sometimes 5 to 6 hours to be warped over a big fall.

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Ex. 9.

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Sea going boats would not be subjected to the same strain.

There was an investment Co. in Canada in which I and my brother B. Melhado was interested. Private Company. Limited but we owned the shares. I had the items shown in my bank a/c transferred to London to provide capital for my business here. When the money was transferred in London the entry of the creditors made in the capital a/c here.

A.G.

I am sole owner C. Melhado. Matter within my sole discretion transfer of funds between private & business a/cs. I am unable . . . Proceeds of sales & profits of the Company. The money had been 10 accumulating for years. The two items. I had transferred some before. The balance of £3,523 had been there since before the 31st Jan.

I have given Bank instructions. They are to remit to a sterling area. I wanted it for . . .

The transactions of sales of stocks were considerable.

It would represent buying selling stocks. They may have written. I tried to find out. Most of the profit was capital accretion on the security transaction. Practically all of it. Some of the stocks may have been sold dividend.

We were dealing largely in mahogany—chicle. I should have 20 transferred it any case.

Dragten.

I am unable to say. The bulk of it was the result of profit from the sales of securities. Capital accretion.

A.G.

I tried to find out.

In my opinion they provided sufficient information. I told my accountant here are all the papers. I did not know precisely what you wanted to get.

I see 25th Aug. 1945.

30

Dragten.

I remember meeting the Com. 6th Sept. 45. Agreed. At that time all there. Documents were before the Commissioners. Com. Wolffsohn, Bowen, Stone. Took no part in the discussion. Mr. Watkis did the discussing. Mr. Watkis said that all monies brought into the Colony were *capital* unless they were capital monies accumulated over a period. I was not convinced.

? (income).

Allan Alexander Heustis, bds.

Assessor. Income Tax. Concerned with the affairs of this taxpayer up to a certain point.

40

Wear & tear. 3192.02.

I am aware of the documents "C." These are the rates allowed throughout 1945 to everybody. I am aware of Caribbean area rates. Jamaica Boats. 4% or 5%. Sea boats. From my own knowledge I have never seen the rate as high as 20% anywhere. The English rates are not as high as 20%. In new vessels sometimes machinery

treated differently from hull. When I left Jamaica concrete 2½% on written down value. Wooden 3%. Wooden & concrete bldgs. with machinery 2½%. 3%. Furniture 10%. In my opinion rates reasonable.
\$2,500.

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continued.

I find from our records that return delivered 11th June 1945. On 15th June 1945 a letter sent to App. In that letter certain information was asked.

10 Note. Letter not received by App. I don't think letter was delivered. Copy sent. 15.6.45. Shortly after Mr. Watkis was invited to come to Mr. Thompson office and inspect book. He and I went. We were met by Mr. Thompson. I did a portion of the inspection not regarding these. I dealt with the general charges items not the plantation a/cs. I made a note of certain items to be disallowed. When I was through they were going through the books. One resembled the ledger. ? (read)

(Mr. Thompson said all a/cs. were in it.)

We stayed until after closing time. In leaving the office I asked Mr. Watkis if he had finished. (He worked some more.) I find a copy of a letter written on the 13th July, 1945. 12th instant. Martin's Bank. Asked for.

Ex. 13.

20 Copy of the Martin Bank a/c was supplied (D).

After that Mr. Melhado was assessed. Up to the time assessment was made we had only the Martin Bank a/c.

Included were two items estimated capital expenditure. \$2,500 passed through plantation a/c and adjustment of livestock a/c.

Also another item 21925.74. I was not present when the Com. considered this original assessment. The information contained in the Summary was not before the Com. when they considered the assessment. In Jamaica I saw classification of cattle for inventories.

\$21,925.74.

30 I remember that matter was brought up. During the discussion 6th Sept. 1945 between 3 Com. Mr. Melhado Mr. Dragten. Watkis there. Two items came. Sterling items. The transfer of two sums £3,000 cash from Canada to London. And certain amounts paid by Martin's Bank on behalf of C. Melhado for goods.

As far as I remember App. was asked to give some explanation of the transfer. Certain questions were asked by Mr. Watkis. Mr. Wolffsohn asked what made up the sums of £6,000. App. replied it was a mixture of capital & income. Another letter was sent on the 25th Aug. Paras. 2 and 3 for certain information regarding Martin Bank a/c and £6,000 from Canada to London.

Ex. 9.

8th Sept. 1945.

Ex. 14.

Two days after hearing of the objection. Item 6 refers to Livestock.

20th Oct.

Reminder of two previous letters up to the 20th Oct. 1945. That information was not supplied. The item \$2,500. Foreign income item to which objection was raised and assessment was confirmed.

Dragten.

I see letter 23rd Oct. 1945. I know of no reply to that letter. Mr. Watkis was in charge of the office. Ex. 6.

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Depreciation.

I do not know the rate on Steamers is 5%. I know nothing about river boats. Mr. Watkis advised the Com. on the rates. In one case Watkis fixed 4% Com. over-ruled and allowed 5%.

Capital Ex. \$2,500.

Assuming figures are correct I am satisfied that no item of capital is included. I remember you saying that sum put on wiring or maintaining farm would be maintenance.

Ex. 16. If stock plus purchases less rates and stock at end gives gross profit. To-day I cannot point to any figures in the Summary 16 which would 10 justify the \$2,500.

12 noon.
1.30 p.m.

Court adjourns.

No further witness for respondent.

A.G.

Depreciation.

Sec. 11. Wear. Tear.

Reasonable wear and tear.

Rule 4. 5th March 1924. Written down value. Calculated by the Com. If there is nothing to show that the rates of the Com. are unreasonable the Court should not disturb. Unless the Applt. shows 20 rates are unreasonable the rates must stand. Reference wear & tear going up river. At time of dissolution boats then second hand. This shows wear & tear not so severe as one might imagine.

\$2,500. Capital Expenditure. Adjustment of livestock a/c.

Apparent from evidence Com. not in possession of information which has been furnished at this appeal. It was therefore necessary to make an estimate of amount for purposes of taxation in the absence of information furnished by the taxpayer.

Represent in part profits derived from the stock of what is regarded by the Com. if the a/cs had been kept as the Com. think they should be. 30

\$21925.74 Foreign a/c.

So much of the amount which was transferred from Canada to Martin's Bank in London in the Company a/c. So much of the amount as was transferred to firm a/c and utilized for purchase merchandise sent to this Colony as is represented by income is liable to taxation. It is for appellant to separate the total amount so used into capital and income. If he fails to do the whole amount is liable to taxation.

I rather think your Honour does not accept my submission, Counsel asked the Court when he saw a smile.

Court informed the A.G. that he was wondering whether he understood 40 what the word "just" meant.

I don't understand what your Honour means. Have I used the word "just" in my submission? No.

I wonder whether the Court was inferring I could not differentiate between justice and injustice.

I said Yes.

A.G. then said he would proceed no more.

Depreciation.

Dragten.

Within discretion of Commissioners to allow depreciation.

That's too wide.

Accepted standards of wear and tear in commercial transactions.

Konst. p. 166.

Penta and pitpans have disappeared. Material before the Court rate not reasonable if taxpayers shows certain facts.

Hull & Humber Steam Co. *vs.* Baum 1897. 3 Tax Cases 560.

10 This not applicable here but provides as guide what should be allowed with wooden vessels where wear and tear greater.

Standard rate allowed over a number of years changed to this. Cannot be said Com. exercise discretion reasonably when allowed standard rate from 20% to 5% conditions not having changed.

Submits rate claimed fair and reasonable.

Buildings.

Standard rate 3%. Gal. 5% other buildings. Reinforced concrete 2½%.
\$2,500

20 We believe some amount of this expenditure of Com. has been capital expenditure. We estimate some portion from exp. is capital. (They say)

On the analysis here. Com. unable to show any particular item of the \$2500 is capital.

Mr. Heustis admitted items of expenditure shown are proper. Books were available to provide detail. One month's pay roll.

\$21925.74

Com. had before them Statement D. They deducted the balance at the 30th Jan. from the total of the debits.

Some of the items. £200 not received in Belize was in Liverpool.

30 £150. Of that £50 paid to Morton a/c in London—Of the £50, 12.9.4 came to Belize leaving £37 10. 8 in London.

On debit.

£40 6. 5. 2 Commissions which have been brought to a/c already in profit & loss a/c. At the highest figure which the Com. could have said returned to Belize £3383 6. 8.

Taking into a/c £1382 9. 11 in hand on the 1st Feb. 1944. Giving them the benefit all that would be liable was £1382 9. 11. Where Com. have gone wrong and saying that amount was put in C. Melhado and therefore it was income.

40 Although £6000 originated in Canada was in private a/c of H. Melhado in London and he loaned this amount to C. Melhado this amount as working capital.

A/c begun with £3523 3. 6 is an amount in the private a/c of the Appt. in London before the tax year of a/c.

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Moneys brought.
Forbes *v.* Scottish Provident Trust
" *vs.* " Widows Fund. Life Assn.
Vol. 3 Tax Cases
p. 443
Head note.
Retained abroad in Australia.
Gresham Life So. *vs.* Bishop
4 Tax Cases p. 464.

The investment Co. carried on purchase of securities is a re-investment. Once re-converted in capital there it remains capital. When transferred 10 to England still capital.

Being capital remains capital.

The Court will take time.

(Sgd.) C. G. LANGLEY, C.J.

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No. 13.
JUDGMENT.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946

IN THE MATTER of Chapter 23 of the Consolidated Laws, 1924
and

IN THE MATTER of the Assessment of HENRY IGNATIUS 20
MELHADO of Belize, Merchant.

Action No. 6/1945.

JUDGMENT.

1. I am dealing with the appeal of the Honourable H. I. Melhado first because several aspects arise therein which, if dealt with fully, need not be repeated in detail in the other appeals before me.

2. The Att. Gen. is a Com. ; one of those responsible for all these assessments, so the Court feels that all that could be said has been said on behalf of the Com. who did not give evidence.

3. Several submissions of a most unusual nature were made which 30 proved conclusively that the law and procedure governing Income Tax assessments were not understood by the Com. Their general attitude, as regards policy in dealing with taxpayers has been shown to be deplorable. It is obvious that the scope of this Court over Income Tax Assessments has not been grasped by the Com. Otherwise these submissions could not have been made. For example, it was submitted, more than once, that any decision based on the exercise of the discretion of the Com. on review, could not be disturbed by this Court, except on the strongest possible grounds. This confusion of thought has arisen through ignorance of the law. 40

4. The decision of a trial judge, or jury, based on their opinions of the trustworthiness of witnesses they have seen, and the appeal tribunal has not seen, naturally is given great weight. To cite—in effect—the judgment of Wright, L.J. (in the case of *Powell vs. Streatham Manor Nursing Home* (1935) A.C. p. 243), in such cases an appeal tribunal should not merely entertain doubts whether the decision below is right, but be convinced that it is wrong. Further he said that an appeal tribunal has no right to ignore those facts the Judge had found on his impression of the credibility of witnesses. In both these rulings the essential factor is that
10 the appeal tribunal had no opportunity of seeing and valuing for themselves the credibility of the witnesses who gave the evidence reviewed by them.

5. The exercise of the discretion of the Court is not accomplished under similar circumstances and it must decide for itself on the credibility of the Appellant and his witnesses and the documents which are all before it.

Further, this Court is in a different position to the Law Courts dealing with Income Tax Appeals in Great Britain: they deal primarily with questions of law arising and only interfere with questions of fact where the Appellant submits that the record of evidence shows that the
20 assessment was made without any facts upon which to base it.

6. Appeals from assessments are first dealt with by bodies of unofficial persons who review all questions of law and fact which may arise between the taxpayer and the assessing official. This Court has an unfettered discretion to review law and facts by virtue of the provisions of subsection 44 (5) of the Income Tax Ordinance, Chapter 23, British Honduras Laws 1924 (hereinafter called "the law").

7. If the Court is empowered to vary an assessment, obviously it must review and find its own facts.

8. (1) How dangerous it would be to bind this Court to accept facts
30 found by the Com. has been clearly shown by the astonishing submission of the Att. Gen.—which will be dealt with in detail later—that although the Appellant had proved the revised assessment to be partly wrong, as he had not proved it wholly inaccurate—the burden of proof being on him—the original assessment of the Com. must stand.

(2) In those circumstances this Court must not disturb the decision of the Com., as it was a matter within their discretion.

(3) Fortunately, the Legislature made it quite clear that such a gross injustice was not contemplated.

(4) Section 34 of the law requires the taxpayer to furnish his return
40 each year before the 31st March. This forms the basis upon which the Com. may assess his income.

(5) Section 239 of the law gives the Com. a discretion to accept or refuse this data or in its absence to assess his income to the best of their judgment, either on actual or estimated figures. The Com. must not invent estimated assessments. There must be some reasonable basis, some suspected source of income upon which they make their estimates.

(6) It should seldom be necessary to exercise that drastic power, if the Com. adopt a reasonable attitude with taxpayers and consequently win their co-operation.

50 (7) When an estimate is made, should the taxpayer object and ask for information, the Com. must explain to him the basis of their estimate, and do so fully. As an example, they might say we have reason to believe

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you received more merchandise from than your accounts disclosed, because—(give the circumstances)—and we estimate that that trading should produce the additional income we have assessed.

(8) When the explanation is given, the taxpayer knows what he has to meet and what he has to prove to the Com. they were mistaken in believing.

(9) This assessment is a personal duty on each Com. The majority opinion should prevail. This standard of their best judgment must be used whether the taxpayer co-operates or not.

(10) Section 43 of the law makes notice to the taxpayer of the assessment essential. The present statutory notice of assessment is undesirable because it provides insufficient detail of the items upon which the assessment was based. The taxpayer may furnish a truthful return of say \$2,812 total income. The Com. may wrongly raise it to an estimated total of \$6,000, but the notice of assessment would give no indication of the cause of increase of over 100 per cent. 10

(11) The proviso contained in section 45 of the law makes this point beyond dispute. It is—"provided that in cases of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made." 20

That is the law and it is no answer to say that the statutory form (No. 12 Income Tax Rules made 5th March 1924. Gazette Supplement 22nd March 1924 page 53) embodied in the Rules made by the Governor in Council do not fulfil this requirement.

(12) This defect has been remedied in other Colonies where In. Tax is in force. It was stressed by me, apparently without effect, in my judgment in the *British Honduras Citrus Association vs. In. Tax Commissioners* dated the 23rd July 1942.

(13) Subsection 43 (2) of the law provides that on receipt of this notice of assessment any person may dispute it by serving notice of objection in writing on the Com. applying for its revision. 30

9. The word "review" in the law should be given its ordinary meaning. That is "to look over something again with a view to correction and improvement" (Shorter Oxford Dictionary). The law says nothing about the burden of proof at this review, although obviously the duty of supporting his objection rests on the objector. Neither does it make the original assessment of the Com. sacrosanct.

10. (1) The law means what it says, that the taxpayer shall have an opportunity of meeting the Com. and of having his objections considered, and his assessment looked at again by the Com. 40

(2) The law says he must produce all information and particulars available to him which the Com. may reasonably ask for in the circumstances of each case.

It should be a meeting where goodwill and an honest desire to arrive at a correct assessment should prevail on both sides. I have the unpleasant feeling that too often the Com. have been moved by offended dignity that such an unimportant person as a taxpayer should have dared to question their decision.

(3) At this review all the facts relevant to the assessment should be looked at again, and the Com., taking the extra information they accept into account or any new aspect of the facts already before them, must assess 50

again to the best of their judgment. If they are not impressed with taxpayer's arguments they should confirm the original assessment. Their best judgment must be exercised afresh both on the taxpayer's new data or on their own discoveries at the review. As an example, supposing the taxpayer claims a 50% deduction, when the Com. have allowed only 25% and facts reviewed justify 40%, they should revise the assessment accordingly.

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11. It is deplorable that the Court should have to explain to the Com. that the Legislature, when it gave the taxpayer the right to have his
10 assessment reviewed, by very obvious inference—having regard to the scanty information contained in the notice of assessment, and expressed in the above-mentioned proviso—placed a statutory duty on the Com. to furnish him with full particulars in detail, of the basis upon which his assessment was made. A taxpayer may have many sources of income, all subject to varying lawful allowances and deductions affecting the total assessment. The total on the notice may mean nothing to him unless the taxpayer can obtain this information from the Com.

12. No one who understood the meaning of the word "justice" would believe that a taxpayer, given a statutory right to have his assess-
20 ment reviewed, could be deprived of this explanation from the Com. Yet this the Com. refused to do, more than once.

13. (1) The basis of increase may well be information only within the knowledge of the Com. In this case even they did not know, in one instance.

(2) Very definitely the Com. must not say we have not accepted all your objections so our original assessment must stand although facts show that it is partially wrong.

14. This injustice is precisely what the Att. Gen. has submitted to the Court in this Appeal. To this incongruity was added the further
30 absurdity that the assessment being one of those things upon which the Com. had exercised their discretion, this Court must not disturb that decision except on the strongest possible grounds.

The Att. Gen. has provided those strongest possible grounds for dismissing that decision of the Com.

15. Another aspect arises over the confusion of thought of the Com. on the effect of subsection 44 (4) of the Law which places the burden of proving an assessment to be excessive on an Appellant.

16. (1) At the hearing of the British Honduras Citrus Association Appeal in 1942, and the Isaac Wischenka Appeal in 1945. Counsel for
40 the Com. attempted to take up the position that the Com. had only to sit back and do nothing except cross-examine the Appellant and his witnesses. They were to allow the Appellant to struggle as best he could with such evidence as he might have. He might be wholly uninformed of the detail of assessment against which he was appealing but might well know from his accounts that it was excessive. In the British Honduras Citrus Association judgement I pointed out that it was impossible for the Appellant to arrive with any certainty at the basis of that assessment which was erroneous in fact and law. The Court was equally in the dark.

(2) Finally taking the unusual but legal course (see Section 5,
50 Evidence Ordinance Chapter 161) of calling the Com. clerk to explain and produce the essential document showing the basis of assessment, the position was made clear.

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17. (1) Having raised this issue in the earlier case, I was surprised to find the Att. Gen. adopting the same attitude in the Wischenka case. My very drastic comment of this further direct evasion of their duty to provide relevant evidence in their custody was again effective but much resented.

(2) At one point the Att. Gen. submitted that there was no need for the Com. case to be supported by witnesses because it was based on the cross-examination of the Appellant and his witnesses. In other words, the Appellant was to be subject to cross-examination but the Com's case was not to be so tested. Presumably the Att. Gen. would just tell the Court what he thought sufficient. Another contravention of the most elementary standards of justice. This is so elementary that it seems incredible that in a British Colony it should be necessary for the Court to have to explain to a Government Department twice that justice requires that they should not hold back essential facts in issue. That in a British Court both sides of all issues must be heard by the Court and tested by cross-examination—except in very unusual circumstances where documentary evidence makes it unnecessary—before a just balance can be made. In other words to explain what justice means. 10

(3) How necessary it was to force the Com. into Court was clearly demonstrated by the \$2,500 item in this appeal. 20

18. The Appellant asked for information of this item. A vague explanation was filed in compliance with the Rules of Court. When Mr. Thompson, the Appellant's Accountant, was under cross-examination with the books and accounts before him, no clear attempt was made to identify any sums which could justify or support this item of \$2,500, even if it was estimated. When Mr. Heustis—a most helpful witness—was under examination, no attempt was made to justify it.

19. The Att. Gen. submitted that more information was provided in Court than was available to the Com. before they inserted this item. It was not said what this new information was or what effect it had for or against this item. I do not accept this submission. The evidence which I accept is that all the books and documents in Court were available to the Staff of the Com. I accept the evidence of the Appellant and Mr. Thompson that every offer of assistance to show and make the accounts understandable was made by them. 30

20. The essential purpose of cross-examination is to establish the parties own case by means of his opponent's witnesses. By rejecting the return of the Appellant—declared to be true by him—the Com. infer that he has not made a true return. It has been clearly laid down that he must be cross-examined to give him an opportunity of explaining the critical issue between the parties. (*Brown vs. Dunn* 6 R. 67 p. 76-7 H.L.) An exception was made where the story itself is of an incredible or romancing nature. Perhaps the abstention of the Att. Gen. was motivated because these adjectives might be thought applicable to this \$2,500 item. 40

21. There is one other aspect of cross-examination upon which I feel compelled to comment. It should be conducted with restraint and courtesy. To ask a respectable educated witness who had sworn that he had no recollection of receiving a certain letter, whether he has that letter is to infer a trickery evasion on his part which could only be based on indirect falsehood. Counsel should not attempt to prove his own smartness by questions inferring chicanery on the part of the witness which had failed to deceive Counsel. 50

22. I have no illusions as to the existence of weeds amongst the flowers which adorn the pathway of truth in His Majesty's Courts but I would commend to the Att. Gen. the study of sufficient botany to be able to distinguish the rose from noxious weed. I am not prepared to allow Counsel to try and score at a witness's expense, any more than I should allow witnesses to treat Counsel rudely.

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10 All these appeals have been hampered by the absence of a Mr. Watkiss. This official was loaned by the Jamaica Government apparently to "brace up" the Income Tax Department of this Colony. The evidence has proved conclusively that the Com. were strongly influenced by his Jamaican precedents and experiences. They apparently did not realize that his presence did not relieve them of the duty to use the best of their own judgments on the circumstances which exist in this Colony, not Jamaica. Consequently they have been misled into causing the gravest injustice to these taxpayers. I know all the Com. personally and I am convinced that they would not have acted so of their own volition.

20 I make this comment in the hope that the Com. will realize that in the past, and certainly whilst this undesirable official was employed in the Income Tax Department, the whole attitude of the Department towards the taxpayer has been dictatorial and unfortunate, to say the least of it. Taxpayers should not be treated as potential swindlers. The Com. should endeavour to understand their points of view and then try to convince them that all the Com. wish is to assess the amount due by law.

23. The silly arrogance exposed in the British Honduras Citrus Association Appeal has been repeated now in the Wischenka and other Appeals.

30 24. When asked for details of how a hundred per cent. increase was made up the Com. replied (letter 6th August 1945) that the Department does not furnish details of the computation of assessments.

That may have been a statement of truth of the Departmental procedure. It was extremely rude and against the law.

25. I will read you a paragraph from the Law Times of May 1946 which clearly indicates the attitude adopted by the Income Tax Department in England. (Sched.) The Department here has been fortunate in having had Mr. Marchand and now having Mr. Heustis who both have shown in Court that they are by nature endowed with a just and courteous attitude of mind which fits them to run the department as it should be run.

40 In these circumstances it is singularly unfortunate that this imported official should have been allowed to damage the reputation of the department by the negative attitude taken by the Com. in these cases.

26. Whatever may have been Mr. Watkiss's experience elsewhere, the advice he gave to the Com. on the treatment of taxpayers, law and procedure was wrong and reprehensible.

27. I regret to have to make these severe criticisms of this official's conduct, especially in his absence when he could not offer his explanations. The documentary and other evidence made the grounds irrefutable so that he has been spared the making of excuses on what could not be justified.

50 Now the Com. are in the unfortunate position of having to accept responsibility for his decisions foisted on them, on matters which were within their discretion alone.

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Had Mr. Watkiss been an expert, the Com. should still have used the best of their own judgment in considering the courses of action he suggested to them. Their local knowledge should have convinced them that much of his advice was wrong, had they really considered his arguments.

28. The duty of assessing always remained with them, as so did their attitude to taxpayers.

29. (1) Turning from these extraneous aspects to the several items in issue.

(2) The Appellant is a merchant in a large way of business. He employs a fully qualified accountant who supervises a large staff keeping an efficient accounting system which fully discloses the business transactions in accordance with the best commercial usage. 10

(3) The accounts are closed on the 31st January in each year and the Com. accepted that accounting period (Section 7 of the law).

(4) The returns show his personal financial transactions and separate statements of account have been produced showing the Appellant's trading as "C. Melhado & Sons."

This is a trade name; not a Company as defined by Section 2 of the law.

30. This appeal is against a revised assessment made in respect of the year of assessment 1945. (31st December.) The basis of income period—that is the year preceding the year of assessment—was the year ending 31st January 1945. 20

This appeal was filed in this Court following an objection taken by the Appellant, under subsection 43 (2) of the law.

31. The evidence before this Court has satisfied me that the Appellant produced all available information for which the Com. had any right to ask, in accordance with that subsection.

32. The issues which have fallen to be settled by me are based on facts disclosed by the evidence of witnesses, and the exhibits they have produced. The correspondence, in addition, also provides proof of the incompetence and offensive attitude of Mr. Watkiss towards several taxpayers. 30

33. I am reviewing this evidence in considerable detail in the hope that the severe criticism, which I dislike having to record, will lead to an official investigation and reform of the Income Tax Department which had the misfortune to come under the influence of Mr. Watkiss.

34. Both Mr. Marchand and Mr. Heustis have impressed me most favourably as courteous and efficient officials who know their work and whose attitude is best calculated to secure a happy co-operation between themselves and the taxpayers; even on the thorny subject of income tax. 40

35. (1) The first item is described in the pleadings filed by the Com. as :—

Estimated capital expenditure passed through Planta-	
tions account and an adjustment of the stock	
account	\$2,500

(2) Presumably the capital expenditure was the \$2,500 and the adjustment of the stock account referred to the balance of the \$20,781.05 after its deduction.

36. Upon what this estimated capital expenditure was based no one has been able to tell me. 50

The Appellant does not know.

37. I quote my note of the Att. Gen.'s final submission word for word, as to me it is so incomprehensible that such a submission could have been tendered seriously to the Court.

No. 13.
Judgment,
16th July
1946,
continued.

“(It is) apparent from the evidence Com. (were) not in possession of information which has been furnished at this appeal. It was therefor necessary to make an estimate of the amount for the purpose of taxation in the absence of information furnished by the taxpayer. It represents, in part, profits derived from the Stock, of what is regarded by the Com. (?) if the accounts had been kept as the Com. think they should be.”

10

If any meaning can be given to this submission—which is doubtful—it would seem that the Com. felt the valuation of the cattle at the extremities of the basis period should have been treated differently.

38. (1) Considerable herds of cattle were kept in open pasture etc. totalling over a thousand head and also other cattle and stock.

(2) The cattle account was debited with price of all purchases and credited with the actual receipts from sales.

20

(3) The sex and age was not considered in valuing stock in hand in the ledgers but an all round valuation of \$6 a head was taken. Detailed inventories were kept and available to the Com. Mr. Watkiss persuaded the Com. to enter this item, because he had seen accounts in Jamaica where bulls, cows and calves were valued separately Mr. Heustis said.

(4) Apparently this item was put in with a view of trying to compel the Appellant to adopt this procedure.

39. The item was purely fictitious and its insertion disreputable.

30

40. I am satisfied that the cattle accounts were kept by the Appellant and made available to the Income Tax Staff who had every opportunity of inspecting and obtaining any reasonable explanation. I am satisfied that providing it is used regularly, the average costing is equitable and usual.

41. The suggestion that absence of information necessitated the insertion of an estimated figure, or indeed any figure is not borne out by the evidence of the Appellant, Mr. Thomson, Mr. Heustis nor the correspondence produced.

42. The Com. can produce nothing to justify this \$2,500 or the basis for it.

43. It must be struck out and the assessment reduced accordingly.

40

44. The next item of \$3,391.02 is in connection with a claim for wear and tear if property allowed under section 11 of the Law arising out of its use and employment during the basis year.

45. The Appellant was in partnership with his brother until 1939. Mr. Thompson asked Mr. Marchand—an admirable Income Tax Collector, since retired—for the written down value of certain boats, barges, buildings, furniture and fittings which had passed under the dissolution of partnership.

46. As regards “plant and machinery” the law here was intended to follow the practice in the United Kingdom (Rep. Inter-departmental Committee (Com. 1788) Dec. 1922, para. 18, p. 7).

47. At that time the Com. accepted the following rates for wear and tear—

50

Boats and barges	.. ..	20% annually
Buildings and furniture	.. ..	10% annually

and those rates were continued until the advent of Mr. Watkiss and the basis period under review.

No. 13.
Judgment,
16th July
1946,
continued.

48. Furniture and fittings at 10% have not been altered now.

49. The action of Mr. Watkiss in persuading and of the Com. in allowing themselves to be persuaded to adopt the Jamaican standard proves that these officials failed to understand the law they were administering.

50. They are not required to follow standards which may or may not be applicable elsewhere, but to judge the facts of each case under review here. If Mr. Watkiss felt it his duty to cite Jamaican precedents he should have explained conditions there.

51. The Com., whose knowledge of local river conditions—certainly 10 in the case of Mr. Wolffsohn—was extensive, should have considered the circumstances of each class, to the best of their individual judgment, taking into account the allowances for repairs under subsection 10 (1) (e) of the law. Thus they could arrive at an equitable percentage for wear and tear during the basis period.

52. (1) It was admitted in evidence that the Jamaican rates, applicable to small and medium-sized seacraft, were in fact accepted by the Com. as applicable to these craft employed chiefly on the Belize River. Their decision can be dismissed as wrongly grounded. Therefor the Court must start again. 20

(2) This allowance represents the diminished value of the property as a means of earning the income during the basis period.

(3) The valuation is not based on the saleable value of the article.

53. Property varies so much in its character, its use and the conditions in which it is employed that it would be quite impossible to fix a constant standard over a period of years. The Com. are quite right in submitting that they are not bound by rates which have been allowed in the past, because conditions in any basis period may vary from year to year.

54. The Income Tax Rules (5th March 1924) which apply to sub- 30 section 10 (1) (e) and section 11 of the law, provide that the percentage allowed shall be from the written down value of the article from its purchase price. Discretionary powers are given to the Com. to deal with special circumstances on aspects which do not arise in this case.

55. (1) The Appellant has told us that there are 72 falls and runs on the river between Belize and Cayo : that sometimes it takes 5 or 6 hours to warp a boat over a big fall. Cayo is approximately 350 feet higher than Belize. The rise and fall of levels in the river are very heavy and often very sudden.

(2) A boat hauled over the stony river bed, sometimes against swift current, must strike and scrape and thus incur abnormal strain in wear and tear in a way which no sea-boat, under normal marine conditions, 40 would have to suffer. Another strain would arise where heavy or clumsy cargo is landed without proper wharves, often none ; but with steep river banks to surmount.

(3) My own experience on the Belize River has been useful in confirming this evidence. Mr. Thompson said that if the percentages of 10% and 5% were deducted annually from the written down value of these boats and barges, it would spread the depreciation of this plant over 65 and 85 years 50 respectively. To suggest these craft could exist for such periods under Belize River conditions is unreasonable.

56. The Att.-Gen. submitted that most of this plant was second-hand at the time of the transfer in 1939. I find that unhelpful.

57. (1) I thought it would be helpful to know what was spent on one of the boats during the basis period and chose one at random. By consent, this data was filed in respect of the barge "Atlas."

(2) The written down value of this barge is shown at \$500. Repairs during the basis period cost \$160.33 or about 33%. It is unthinkable that employment necessitating such repair expenditure would permit a life of 85 years, or 65 years.

58. The question which the Com. should have considered and I now have to decide is what percentage would be fair and reasonable for the
10 diminution of value of these craft during the basis period.

59. Taking the rigorous conditions prevailing on the Belize River, in my opinion, the rate fixed by the Com. on Mr. Marchand's advice in 1939, and adopted until the advent of Mr. Watkiss, is the correct rate. Moreover, in my opinion, until there is evidence of drastic change in the circumstances under which these craft are employed, those rates should remain.

60. The Com. reduced this deduction from \$1,405 to \$888.40. The \$576.60 must be restored.

61. Whether buildings come within the meaning of the word
20 "property" is not made clear by section 11 of the law.

62. The phrase "property owned by him" is expanded by the phrase "including plant and machinery" in this section. The word "plant" has been given a liberal interpretation by the English Courts.

Obviously the Legislature here must have intended the word "property" to include more than plant and machinery. In England wear and tear allowance on buildings is allowed. (Read Schedule.)

In subsection 10 (e) of the law, the word "premises" is used with plant and machinery repaired.

63. This aspect was not fully argued at the hearing and I felt it
30 desirable that Counsel for both parties should be given an opportunity of addressing the Court on this item. On the 22nd May 1946, after due notice, they did so. They were unable to cite any ruling of the Courts on the subject. The Acting Att.-Gen. informed the Court that it had been customary to allow the deduction in respect of buildings in some cases where a property was used for the purposes of a trade.

64. It is a well-settled rule of law that all charges upon the subject must be imposed by clear and unambiguous language, because in some degree they operate as penalties (*Bayley J. Derm vs. Diamond* 4 B.C. 243).
40 Deductions, in effect, have the same result as charges on tax payable and in my opinion, are subject to the same rule.

Conversely it is equally well established law that where reasonable doubt arises on the construction of the law, the most beneficial to the subject is to be adopted.

65. These buildings were mostly of wood, the Binney Building and another being of galvanized iron and wood. Previously the Com. had allowed 10% on the depreciated value of these buildings which would give a life of 65 years for depreciation purposes.

66. The Com.—with Mr. Watkiss to advise—reduced this percentage to 3% on wooden buildings and 5% on galvanized buildings. These figures
50 gave the wooden buildings a life of 132 years and the iron 85 years.

67. Had they used their judgment the Com. must have known that these percentages under local conditions, climatic and otherwise, were not

No. 13.
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1946,
continued.

just and fair. In my opinion, the rate hitherto in force was correct and it is allowed.

68. The figures for furniture and fittings have not been altered.

69. The item for depreciation, \$3,391.02, which was added to the assessment in Statement A, must be struck out.

70. (1) The last item of \$21,925.74 alleged foreign income received through Martin's Bank London is the most complicated issue raised in this appeal. Confusion of thought on fundamental principles has led the Com. astray.

(2) Firstly, for the purposes of income taxation, "income" means 10 earnings and profits which "come in" to the taxpayer during the basis year. There are exceptions based on averaging, which are irrelevant to the case before me.

(3) If money had been received prior to the basis year, it is excluded and cannot be taxed here in another subsequent period. Such items may be the subject of re-assessment for previous basis years. That is just: it ensures that the final assessment is made on the full income for each year.

(4) Secondly, the Att. Gen. cited (by filing after the hearing) the case of the *Scottish Provident Institution vs. Allan* (*Surveyor of Taxes*) Tax Cases Volume 4 p. 409. 20

(5) That authority does not assist us because Income Tax Law in England and this Colony differ on the time when the income attracts the tax, but does help on another aspect with which I will deal later.

(6) In Great Britain Schedule D., subpara. 1 (a) Income Tax Act 1918 (8 & 9 Geo. V 40) the residence of the person in receipt of the income is all important whilst the physical situation of the property from which the income arises or accrues is immaterial.

71. In Section 5 of the law the physical situation of the property from which the income arises is most material. In other words, whilst in Great Britain the income of a resident attracts income tax at once, wherever 30 it arises; although the tax may not be payable until the income is received in Great Britain. In the Colony income derived or accruing to a resident from extra Colonial sources must be actually received in the Colony before it can attract income tax here.

72. The law here recognises that an income tax-payer may have two incomes; one taxable in this Colony, the other outside the Colony and not taxable. Should the outside income of any basis period be brought into the Colony during that same basis period, it may be taxable here.

73. With this dual legal position, in my opinion, as the outside income does not attract this Colonial income tax until it reaches this 40 Colony, an important factor is the date upon which it reaches the taxpayer.

74. Outside income received by a taxpayer outside and inside this Colony within the basis period will be taxable here whatever use may be made of it here. It was genuine income when he received it outside the Colony and must remain so when he transfers it here. (*Scottish Provident Institution vs. Allen* 1903 4 Tax Cases 593; *Stevens vs. Hudson Bay Co.* 1909 101 L.T. 96, Farwell, L.J.).

75. But outside, income received prior to the basis period, which constitutes a balance of cash in hand outside the Colony at the commencement of the basis period, if transferred by the taxpayer into the Colony, 50 in any basis period must be treated in accordance with the use he makes of it. He may buy capital assets and import those assets into the Colony where they will be treated as capital assets for income tax purposes.

76. On the other hand, if such a balance is brought here either as cash or its equivalent and used for the taxpayer's own personal use as ordinary income or its equivalent, then the value of it would attract income tax here during the periods in which it was received. (*Corke vs. Fry*, 1895, Tax Cases 341).

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Judgment,
16th July
1946,
continued.

In each case, the position is governed by the surrounding facts, which are for the taxpayer to prove.

77. If a trader purchased goods with income from outside and imported them for sale here, his profits would be increased by the full sale price. If he fraudulently suppressed the transaction by omitting the record of sales from his accounts and pocketed the receipts, the price of these goods would be taxable, because he would be receiving the outside income indirectly.

78. On the other hand if this outside income is converted into stocks, shares or permanent capital assets, such as machinery used for the purposes of his trade, clearly entered in his accounts as capital, then the value of such assets do not attract income tax if imported here.

79. A taxpayer is entitled to use his outside income as he desires either as capital or revenue and its taxability in this Colony rests on this question of fact. He must disclose and bring into his return for a basis period all monies, or their equivalent, which he receives in the Colony.

80. The essential factor in defining what is and what is not capital is the permanent use of the asset. It is impossible to create a precise definition which would govern all circumstances because of their variety. The consideration of any particular case usually results in a clear indication of what is capital and what is not capital, but, taxable income of some basis period.

81. The evidence has shown that the Appellant was a shareholder in a private company incorporated in Canada for the purpose of dealing in shares and securities there. During the past War year capital appreciation was considerable and the Company accumulated considerable profits on its trading.

This Company's profits would attract Canadian Income Tax although consisting partly of capital accretions. (*Californian Cooper Syndicate vs. Inland Revenue* (1904) 41 Sc. L.R. 691; 5 Tax Cases 159).

82. The Appellant said that his profits from this Company had accumulated during several years in his own Bank Account in Montreal. The Canadian drafts now in issue were drawn from that account and I find that they were composed of outside income received by the Appellant prior to the basis period 1945.

83. The Appellant said that owing to expanding trading in mahogany and chicle, he required additional working capital and he transferred \$37,920.31 (Canadian) to a private account he owned at Martin's Bank, London, in two drafts, one 11th May and the other 1st June, 1944, in the basis period.

84. Since the 1st February 1944 he said that he had had a balance on that London private account of £3,523 3. 6. The Canadian drafts realized £8,852 3. 9. The Appellant transferred £3,000 on the 17th June 1944 and £3,000 on the 28th July 1944 to a second account he owned at the same bank in the name of "C. Melhado & Sons." This second account is embodied in the Belize accounts of C. Melhado & Sons and is used in recording the Company's dealings in London.

No. 13.
Judgment,
16th July
1946,
continued.

85. At the same time the items of £3,000 were entered in the capital account of the company in Belize as capital brought into the business by the Appellant. All these transactions were shewn in documents produced to the Income Tax Departmental Staff at or before the revision by the Com. From their actions it is at once apparent that Mr. Watkiss and the Com. did not understand the position. They assumed, apparently, that it was necessary for them to know precisely how much of the Canadian money was income and how much capital. For that purpose, presumably, they demanded to see the Canadian Bank Accounts of the Appellant and asked him to produce details of the monies received by him from the Company. It would be possible to arrive at the precise proportion of the profits accruing in capital accretion and dividend additions of a Company. 10

86. Against these gross receipts would be put the trading expenses in these dealings: but to carry the division of capital accretions and dividend receipts correctly to show how much of each was contained in the dividends paid to the shareholder would be impossible. It would not be reasonable to call on a taxpayer to try and get this information from any Company. Neither was there any necessity to do so. Further, the Com. ignored the balances held by the Appellant on the two accounts in England, amounting to £4,905.15.5, on the 1st February, 1944 which would reduce the amount alleged to have been transmitted to Belize from Canadian sources. Here again this need not be gone into for the purposes of this review. 20

87. Finally the method by which the Com. arrived at the alleged amount of cash brought in was wrong and they knew that at the time they made the alleged revision.

88. This item of \$21,926.00 was calculated by the Com. by adding the moneys received during the basis year in the Company account at Martin's Bank to the balance in hand on that account at the 1st February 1944 and from that total deducting the balance in hand on that account at the 31st January 1945. 30

That is: 1st Feb. 1944.	Balance in hand	..	£1,382	9	11
	Misc. receipts ..	..	6,436	5	2
					<hr/>
					7,818 15 1
31st Jan. 1945.	Balance in hand	..	2,378	2	6
					<hr/>
					£5,440 12 7
					<hr/> <hr/>

89. The allegations that the Canadian cash was income only applies to a small proportion of the £5,440 12. 7 because it has been held in Clayton's Case (1 Merivale 572 at p. 608 English Rep. 35 p. 781) that in the absence of appropriations, express or implied, the earlier drawings on an unbroken current account are attributed to the earlier payments in, in order of date. That means that the balance of £3,523.3.6 on the private account must be deducted from the £6,000, leaving only £2,476.16.6 of the Canadian drafts to reach the Company account at Martin's Bank if the Com. had been right in earmarking those funds as income. Deducted from the erroneous figure of £5,440.12.7 the nett figure would have been £1,917.9.1. 40

90. The Com. however should have been aware that it was less than that because they were informed that the receipts shewn on the Company's

account at the Martin's Bank included items which did not leave England amounting to £673 15. 10. This would reduce the true nett figure to £1,243 13. 3 had the calculations been based correctly on the Com.'s own arguments.

No. 13.
Judgment,
16th July
1946,
continued.

91. The whole of the Com.'s assessment was wrong even if the principle on which they based it had been right.

92. The Appellant was the owner of funds, which did not attract income tax from this Colony and which had accumulated outside the Colony outside the basis period. He has clearly established that the two receipts of £3,000 each shewn in his English Company account were in fact shewn in his accounts as capital and were in fact used for capital purposes.

93. A working balance is, in accordance with commercial usage, a capital asset. This cash would be of the same capital nature as a permanent capital asset. If those funds had been used to purchase machinery and that machinery had been brought to this Colony for operation in the Appellant's trade, the position would have been the same.

Those items were so shewn in the capital account in the Appellant's Ledger produced in Court, but not retained as exhibits.

94. In my opinion, this item of \$21,925.74 is wrong and must be struck out. The £6,000 constitutes a capital receipt which does not attract income tax in this Colony.

95. Another item of \$8,000 was included in the Notice of Appeal (Para 2A) as a Bad Debts Suspense Account disallowed by the Com. This item was not raised in issue at the hearing, having been excluded from the grounds of appeal filed by the Appellant in the Summons on the 11th February 1946.

96. The final effect of this judgment is that the following items must be struck out from the revised assessment set out in Statement A filed by the Com.

30 They are—

1. Depreciation	\$ 3,391.02
2. Estimated capital exp.	\$ 2,500.00
3. Foreign income	\$21,925.74
	<hr/>
	\$27,816.76
	<hr/> <hr/>

Statement A shows the gross chargeable income
(ignoring the item for wear and tear allowed)
of

\$60,507.93

From this must be deducted—

40 1. Abatement for wife, etc.	\$ 1,250.00
2. Court reductions	\$27,816.76
	<hr/>
	\$29,066.76
	<hr/> <hr/>
	\$31,441.17
	<hr/> <hr/>

97. I notice from the explanatory statement attached to Exhibit 3 (Receipt No. 3127) that the \$8,000 is shown as still in issue on the 5th December 1945. That is a matter which the Com. will adjust.

98. The Court rules that the Income Tax Surtax and Additional Surtax shall be assessed on a chargeable income of thirty-one thousand

No. 14.
Judgment,
16th July
1946,
continued.

four hundred and forty-one dollars and seventeen cents and directs the Com. to assess the Appellant on that sum and file a copy of the revised notice of assessment in accordance with this order within twenty-one days of the date of this Judgment. Also to serve notice of this assessment on the Appellant in accordance with the provisions of subsection 44 (6) of the law.

99. As these figures have been calculated by me without the assistance of Counsel, I will grant liberty to apply within seven days in Chambers should any factor affecting the total have escaped my notice and require adjustment of the total. 10

100. In my opinion, as a question of policy creating confidence of the Public in the Income Tax Department, when the Com. alleged that the £6,000 was derived from Canadian income, they should have drawn the attention of the Appellant to the provisions of section 48 of the law. It does not appear that they did so.

Had their decision been correct they must have assumed that the taxpayer had paid Canadian Income Tax on this £6,000. If so, he was entitled to some relief both here and in Canada on producing evidence of double taxation and such a gesture would have shown the Appellant that the Com. were looking after his interests and trying to assess only 20 on what was just.

101. Instructions \$125 and other costs to be taxed.

(Sgd.) C. G. LANGLEY,

16th July, 1946.

Chief Justice.

SCHEDULE referred to in preceding Judgment.

P. 214—Volume 201.

Extract from The Law Times 4th May, 1946.

INCOME TAX : EXPLANATORY LEAFLETS.

(p. 6) Apart from the high rate at which income tax is levied, the taxpayer frequently finds himself in a state of bewilderment owing to the extremely complicated nature of the provisions of the various Income Tax 30 and Finance Acts under which it is levied. Difficulties of the kind are in practice mitigated to a great extent by the courtesy and helpfulness generally displayed by the Inspectors of Taxes throughout the country and by explanatory leaflets which are issued from time to time to make clear to the taxpayer the precise nature of the exactions and of various allowances to which he is by law entitled. (p. 10) Three pamphlets recently issued by the Board of Inland Revenue provide excellent examples of this kind of assistance. They contain valuable notes on allowances for industrial buildings, allowances for machinery and plant, and on the subject of patents. In the first-mentioned (No. 410) it is pointed out 40 that the new system of allowances introduced by Part 1 of the Income Tax Act, 1945, is primarily designed to grant relief from income tax within a period of 50 years in respect of capital expenditure incurred after 5th April, 1946, by a trader or his landlord on the construction of industrial buildings or structures. It is recalled that provision is made for an initial allowance equal to 10 per cent. of such expenditure, when it is incurred, and for subsequent annual allowances during the continued industrial use of the buildings. These latter allowances are normally equal to 2 per cent. of the expenditure, but may be at a different rate

when the ownership of the building is changed. These annual allowances cease when the capital expenditure has been wholly written off, and are not in any case given after the fiftieth year of assessment following that in which the building was first used. On scrapping of the building, or its sale or destruction, within a fifty-year period after the year of assessment in which it was first used, provision is made for a balancing allowance or a balancing charge in accordance with whether the proceeds of sale, compensation or the like fall short of or exceed the residue of the expenditure that has not been written off for tax purposes. The scheme
 10 applies to capital expenditure on the construction of parts of buildings by way of alterations or additions as though such parts were separate buildings. Moreover, from 6th April, 1946, the system above outlined applies with restrictions and modifications to similar capital expenditure incurred less than fifty years before that date, though no initial allowance is given in respect of expenditure incurred before 6th April, 1944.

No. 13.
 Judgment,
 16th July
 1946,
continued.

No. 14.

PETITION by Commissioners of Income Tax.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.

No. 6/1946.

20 IN THE MATTER of an intended Application by the Commissioners of Income Tax requesting the Court that a case be stated under Section 44 (10) of the Income Tax Ordinance—Chapter 23 of the Consolidated Laws, 1924

and

IN THE MATTER of Section 61 of Chapter 153 of the Consolidated Laws, 1924, as repealed and replaced by Section 5 of the Supreme Court Ordinance, 1926, No. 24 of 1926.

Between HENRY IGNATIUS MELHADO - - - Appellant

30 and

THE COMMISSIONERS OF INCOME TAX Respondents.

To His Honour Sir CARLETON GEORGE LANGLEY, *Knt.* K.C. Chief Justice.

THE PETITION of the above-named The Income Tax Commissioners

HUMBLY SHEWETH :—

1. Judgment was given in the above appeal by His Honour Sir Carleton George Langley, *Knt.*, K.C., the Chief Justice of the Supreme Court of British Honduras against your Petitioners on the 16th day of July, 1946.

No. 14.
 Petition by
 Commis-
 sioners of
 Income
 Tax,
 23rd July
 1946.

No. 14.
Petition by
Commissioners of
Income
Tax,
23rd July
1946,
continued.

2. The time limited by the Rules of the Supreme Court (Income Tax Appeals) 1945 for making application requesting the Court to state a case will expire on the 23rd day of July, 1946.

3. A copy of the Judgment was obtained late on the 17th day of July, 1946.

4. On account of the length of the Judgment, the Notes of Evidence and Exhibits in the case not having yet been perused and generally the very limited time available to consider the sections of law upon which the Court will be requested that a case be stated.

YOUR PETITIONERS therefore humbly pray that the 10
time for making application requesting the Court to
state a case under Section 44 (10) of the said Ordinance
be extended for 14 days from the time of hearing of this
petition and

Your Petitioners will ever pray, etc., etc., etc.

Dated the 23rd day of July, 1946.

(Sgd.) S. A. HASSOCK,
Acting Attorney General for
The Commissioners of Income Tax.

No. 15.
Affidavit
in
Support of
Petition,
23rd July
1946.

No. 15.

20

AFFIDAVIT in support of Petition.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.
No. 6/1946.

IN THE MATTER of an intended Application by the Commis-
sioners of Income Tax requesting the Court that a case
be stated under Section 44 (10) of the Income Tax Ordinance
—Chapter 23 of the Consolidated Laws, 1924

and

IN THE MATTER of Section 61 of Chapter 153 of the
Consolidated Laws, 1924, as repealed and replaced by 30
Section 5 of the Supreme Court Ordinance, 1926, No. 24
of 1926.

Between HENRY IGNATIUS MELHADO - - - Appellant

and

THE COMMISSIONERS OF INCOME TAX Respondents.

To HIS HONOUR SIR CARLETON GEORGE LANGLEY, Knt., K.C.,
Chief Justice.

I, SIMEON AGAPITO HASSOCK, Acting Attorney General make
oath and say that the statements contained in the annexed Petition are
just and true to the best of my knowledge, information and belief. 40

Sworn at Belize this 23rd day of July, } (Sgd.) S. A. HASSOCK.
1946

Before me,
(Sgd.) A. O. LONGSWORTH,
Registrar General.

SUMMONS IN CHAMBERS.

No. 16.
Summons
in
Chambers,
7th August
1946.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.
No. 6/1946.

IN THE MATTER of the Income Tax Ordinance—Chapter 23
of the Consolidated Laws, 1924

(L.S.) and

IN THE MATTER of Chapter 155 of the Consolidated Laws,
1924.

10 Between HENRY IGNATIUS MELHADO - - - Appellant
and
THE COMMISSIONERS OF INCOME TAX Respondents.

LET all parties concerned attend the Chief Justice in Chambers on Friday the 16th day of August, 1946, at 10 o'clock in the forenoon or so soon thereafter as Counsel can be heard on the hearing of an application on the part of the above-named Respondents that the Chief Justice shall state a case raising the following questions of law for the decision of His Majesty in Council, that is to say :

1. Whether on the facts found by the Chief Justice there was any
20 evidence to justify his holdings as following, and whether such holdings were correct in point of law :

(A) *Estimated capital expenditure passed through Plantations account and adjustment of the stock account* \$2,500.00

(1) That the disbursements relating to the plantations of the appellant were wholly and exclusively laid out or expended for the purpose of acquiring the income and therefore properly allowable as a deduction from the profits of the appellant in ascertaining his chargeable income. (Section 12 of Chapter 23 of the Consolidated Laws, 1924.)

30 (2) That the average costing of cattle in stock and on hand at the end of the year immediately preceding the year of assessment at the price of \$6.00 a head is equitable and usual.

(3) That the onus of proving that the assessment was excessive had shifted and that the Commissioners should therefore justify this \$2,500 on the basis for it. (Section 44 (4).)

(4) That the Commissioners were wrong to include in the appellant's assessment an estimate of additional income accruing to the appellant of \$2,500.00, and that the item " must be struck out and the assessment reduced accordingly."

40 (B) *Depreciation* \$3,391.02

(1) That the rates allowed by the Commissioners were not a reasonable amount for the exhaustion, wear and tear of the boats and barges and buildings owned by the appellant. (Section 11.)

No. 16.
Summons
in
Chambers,
7th August
1946,
continued.

(2) That "the item for depreciation of \$3,391.02 which was added to the assessment must be struck out."

(c) *Foreign Income* \$21,925.74

(1) That this amount "constitutes a capital receipt which does not attract income tax in this Colony."

(2) That "this item of \$21,925.74 is wrong and must be struck out."

2. Whether in point of law the Chief Justice was correct in holding that the item foreign income, \$21,925.74, in order to be taxable in the Colony under the provisions of the Income Tax Ordinance, Chapter 23 of the Consolidated Laws, 1924, must be income earned or accruing in a foreign country during the year immediately preceding the year of assessment and received in the Colony during the said year. (Section 5.) 10

3. Whether in point of law the Chief Justice was correct in holding that upon the failure of the appellant to furnish information respecting his accounts to the satisfaction of the Commissioners, the Commissioners were bound to inspect, and accept as conclusive, the unaudited books of account of the appellant. (Section 34.)

AND that all other proceedings in this matter may be stayed until after the determination of such questions. 20

Dated the 7th day of August, 1946.

(Sgd.) S. A. HASSOCK,

Acting Attorney General for
The Commissioners of Income Tax.

To

Henry Ignatius Melhado

and

Messrs. Dragten, Woods & Co.,
North Front Street,
Belize,

Solicitors for the above-named Appellant. 30

The place of business and address for service of the Acting Attorney-General of British Honduras is at the Attorney-General's Chambers, Court House, Belize, British Honduras.

This Summons was taken out by SIMEON AGAPITO HASSOCK, Acting Attorney-General, Attorney-General's Chambers, Court House, Belize, British Honduras, Counsel for the Respondents.

No. 17.

AFFIDAVIT of Service of Summons on Frans R. Dragten of Messrs. Dragten Woods & Co.,
Solicitors for Henry Ignatius Melhado, by Arturo Burleigh Balderamos.

[Not printed.]

No. 17.
Affidavit
of Service,
10th
August
1946.

No. 18.

LETTER from W. H. Courtenay.

Belize,
British Honduras,
20th August, 1946.

No. 18.
Letter from
W. H.
Courtenay,
20th
August
1946.

10 272.

The Registrar of the Supreme Court,
General Registry,
Belize.

Dear Sir :

H. I. Melhado *v.* Commissioners of Income Tax
Income Tax Appeal—No. 6/1946.

On the hearing of the Summons in the above this morning, I had intended, in my reply to Mr. Dragten's submissions, to cite another case to His Honour the Chief Justice. Unfortunately, in the circumstances
20 which occurred, I completely overlooked the note which I had made of the case.

The case is that of *Kodak Ltd. v. Robert Clark*, 4 Tax Cases 549, and the point which I intended to bring to His Honour's notice is the statement of the question of law on page 570 of the report, which reads as follows :—

“The question . . . is whether on the facts there was any evidence to justify our holdings . . .”

It will be noted that the wording of paragraph 1 of the Summons herein dated 7th August 1946 follows precisely the wording as quoted above.

30 I am sending a copy of this letter to Mr. Dragten.

Yours faithfully,

(Sgd.) W. H. COURTENAY.

Co. to Dragten, Woods & Co.

No. 19.
Letter from
F. R.
Dragten,
23rd
August
1946.

No. 19.
LETTER from F. R. Dragten.

Belize,
British Honduras,
23rd August, 1946.

The Registrar General,
Belize.

Sir,

H. I. Melhado *v.* Commissioners of Income
Tax—Income Tax Appeal No. 6/1946.

10

Mr. Courtenay has supplied me with a copy of his letter of the 20th inst., written to you. I may perhaps be permitted to make the following comments :—

1. The wording quoted is applicable only when the Court has found the facts and a point of law arises from the facts found.

2. In the case cited the point of law appears clearly from the facts found viz., whether Kodak Limited controlled Eastman Kodak Company and therefore the income of the latter was the income of the former.

3. If there was no evidence before the Court to justify the decision of the Commissioners of Income Tax no point of law can arise.

20

4. Reference should be made to the original appeal before Phillimore J. in 1902 2 K.B. 450. The facts on which the case was stated are fully set out.

A copy of this letter is being sent to Mr. Courtenay.

I am, Sir,

Your obedient servant,

(Sgd.) FRANS R. DRAGTEN.

FRD:EA.

Action No. 6/1945.

No. 20.
Judgment,
30th
September
1946.

No. 20.
JUDGMENT.

30

30th September, 1946.

IN THE MATTER of the Income Ord. Ch. 23.

IN THE MATTER of assessment H. I. MELHADO.

Courtenay for Commissioners.

Dragten, K.C., for Appellant.

JUDGMENT.

1. Counsel for the Respondents have applied to the Court for a case to be stated, under subsection 44 (10) of the Income Tax Ordinance

Chap. 23 Consolidated Laws British Honduras 1924 (hereinafter called the "Law"), upon certain alleged points of law for the decision of His Majesty in Council.

No. 20.
Judgment,
30th
September
1946,
continued.

2. The first point is that the facts found by me in my judgment of the 16th July, 1946, with reference to the estimated capital expenditure item of \$2,500 would not justify the finding that this item was wrong in law, and should not have been assessed.

3. This item was dealt with elsewhere in my judgment, but chiefly in paragraphs 17, 18, 19 and 29-43.

10 4. (1) Subparagraph 1 (A) (1) (read).

This is merely a statement which does not appear to raise any issue. Its relevancy is not easy to understand.

(2) The Com. estimated or invented this item of \$2,500 for the purpose of trying to force the taxpayer to obey the orders of Mr. Watkis to adopt a certain system for the valuation of his stock or cattle. The Com. were foolish enough to give the ruling of Mr. Watkis their authority.

(3) The evidence proved conclusively that the Appellant, with the aid of Mr. Thomson—a properly qualified accountant, produced for the inspection of the Com. staff, the Com. and the Court full and detailed
20 accounts and stock sheets of his plantations.

(4) The Com. were unable to find any fault with any specific figures, but Mr. Watkis objected to the system employed in the valuation of the cattle and other stock. I found as a question of fact that the Appellant had produced this evidence. (See para. 31.) No question of law can arise on that aspect.

5. (1) Subparagraph 1 (A) (2) (read).

The question of deciding whether there was evidence to show that the average costing of cattle was equitable or usual was based on a conclusion of fact arrived at by the court after seeing the accounts and stock sheets
30 and hearing the oral explanations offered by the Appellant and his witness Mr. Thomson. No point of law arises on that finding and therefor no question of law has to be determined.

6. (1) Subparagraph 1 (A) (3) (read).

The evidence was that the Com., on the bad advice of Mr. Watkis, invented this item of \$2,500 without having any proper basis or justification for it. It was never explained in detail. Neither the Appellant nor Mr. Thomson ever knew of what it was made up, although they made enquiries about it. It is just an imaginary figure which the Com. or one of their Staff thought of as an alleged estimate.

40 (2) Mr. Hassock has the audacity to suggest that this British Court of Justice should have held that by the law involved in this case the taxpayer, who has had no opportunity of knowing of what it was made up should lose his appeal because he could not prove it to be wrong. Added to this is the fact that it was not until the Court insisted, that any witness was called by the Com.

(3) I have already cited the decision of the English Courts settling the issue of the onus of proof in paragraph 12, of my judgment in the Maestre Estephan Appeals dated the 20th September 1946. I am forwarding to the Registrar of the Privy Council these five judgments for the
50 information of their Lordships, so that it can be realized what an unfortunate position the income taxpayers are in.

No. 20.
Judgment,
30th
September
1946,
continued.

(4) Sir John Nicholl in his judgment in *Pasks vs. Ollat* (1815), 2 Phill., p. 323) held that the strict meaning of the term "Onus probandi" was that if no evidence was given by the party on whom the burden was cast, the issue must be found against him. Lord Dunedin in his judgment in *Robins vs. National Trust Co.* (1927) A.C., pp. 515-520, held that onus as a determining factor of the whole case can only arise if the Tribunal finds the evidence for and against so evenly balanced that it can come to no such conclusion. Then the onus will determine the matter. But if the Tribunal after hearing the evidence comes to a determinate conclusion, the onus has nothing to do with it and need not be further considered. 10

(5) Section 44 of the Law lays the onus of proof on an appellant. The Com. refused information about figures the basis for which was a matter peculiarly within the knowledge of the Com. or should have been. There is no doubt in my mind that it would have been a travesty of justice for me to have held that any one else but the Com. should prove to the Court what this \$2,500 was meant to represent. That proof they failed to provide. As Lord Dunedin held, the question of the onus of proof is a question of fact, and I hold that no question of unsettled law arises on that question. (See para. 31 Judgment.)

7. (1) Paragraph 2 (read). 20

This paragraph incorrectly sets out the only real point of law arising on the judgment of the Court, and has the additional virtue of involving a principle of law the settlement of which would be of use to many taxpayers in this Colony, and possibly elsewhere in the West Indies.

(2) I am prepared to state a case, in due course, on the position of an income taxpayer having income outside the Colony which he introduces into the Colony as income or capital. That case I shall prepare as expeditiously as possible and before despatching it to the Registrar of the Privy Council, I shall submit it to the parties and ask that they will make any comment on it they may think desirable. 30

(3) Mr. Courtenay expressed the opinion, at the last hearing of this application, that the case should be prepared by the legal advisers of the Com. submitted to the appellants for their comments and finally, presumably, I should be allowed to see it prior to despatch to the Registrar of the Privy Council.

The wording of subsection 44 (10) of the Law leaves the matter in no doubt that the Legislature intended the Chief Justice to state the legal points for which decision was to be sought.

8. Paragraph 3 (read).

(1) The question of whether, or not, a taxpayer appealing has failed 40 to furnish the necessary and relevant information of his accounts in support of his income tax return is a question of fact. He may fail to satisfy the Com. and later satisfy the Court, as in this case. Where this happens the decision of the Court is final.

(2) To suggest that it was held in my judgment that the Com. were bound to inspect and accept as conclusive the books submitted by the appellant is irrelevant nonsense. When reference was made to section 34 of the Law, apparently it was overlooked that the return and such particulars as may be required by the Com. are limited to the purposes of the Ordinance. 50

(3) The Law provides that a taxpayer may have an income outside the Colony which is not assessable to income tax under the Law here,

unless brought into the Colony. The Com. have no power to compel the taxpayer to disclose the accounts of that income, unless in support of an item so brought into the Colony. They are certainly not empowered to assess him on an imaginary amount, because he does not produce unobtainable detail of the sources of his income outside the Colony, not connected with the basis year which it is their duty to assess.

(4) The issue raised in this sub-paragraph is another aspect of the issue which I have assumed it was intended to raise in the last paragraph; I shall embody it in the case stated.

10 9. I shall deal with the position relating to the costs of this application when stating the case to their Lordships of the Privy Council, and leave that aspect entirely open.

(Sgd.) C. G. LANGLEY,

Chief Justice.

30th September, 1946.

No. 21.

CASE STATED.

IN THE SUPREME COURT OF BRITISH HONDURAS, A.D. 1946.

No. 6/1946.

No. 21.
Case
Stated,
30th
December
1946.

20 IN THE MATTER of the Income Tax Ordinance, Chapter 23 of
the Consolidated Laws, 1924

and

IN THE MATTER of Chapter 155 of the Consolidated Laws,
1924.

Between HENRY IGNATIUS MELHADO - - - Appellant

and

THE COMMISSIONERS OF INCOME TAX - Respondents.

1. This is a case stated by me, under the provisions of sub-
section 44 (10) of the Income Tax Ordinance, Chapter 23 of the Laws of
30 British Honduras 1924 (hereinafter called the "Law").

2. This application arose from an appeal dated the 28th November
1945 (No. 6—1945) made by the Honourable Henry Melhado, O.B.E.,
J.P. (hereinafter called the "Appellant"), Merchant of Belize under the
provisions of subsection 43 (2) of the Law—against several items contained
in a revised assessment made by the Income Tax Commissioners of this
Colony (hereinafter called the "Respondents") on his income for the year
of assessment 1945 (hereinafter called the "year of assessment"). This
said income was measured retrospectively by his income received during a
basis, or financial, year ending the 31st January 1945 (hereinafter called
40 the "Basis year").

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continued.

3. The Basis year is a special period allowed under the provision of section 7 of the Law because the Appellant's accounts are made up on a financial year ending on the 31st January.

4. The Appellant trades under the name of "C. Melhado & Sons" (hereinafter called the "Belize Company"). This is a trade name, and not a company within the definition of section 2 of the Law.

5. (1) Judgment was given by me in respect of this appeal, in favour of the Appellant on the 16th July 1946. On the 16th August 1946 application was made by the Respondents to me to state a case upon what they alleged were three matters involving points of law arising in my said 10 judgment.

(2) Two of those matters consisted of questions of fact which I had found upon ample evidence before me. I held that no point of law arose on them as alleged and refused to state a case because subsection 44 (10) of the Law makes my decision on questions of fact final.

6. These grounds of application are set out in the Summons dated the 7th August 1946 (p. 37).

7. (1) This third point (subpara. 1 (c), p. 38) was described as foreign income \$21,925.74.

(2) The first subhead alleges that there were no facts upon which I 20 could find that this item constituted a capital receipt which did not attract income tax (in the Basis year) nor to support my finding that this item was wrong and should be struck out.

(3) The second subhead (para. 2, p. 38) alleges that the point of law was whether I was correct in holding that this item, in order to be taxable in British Honduras (hereinafter called the "Colony") under section 5 of the Law would have had to be income earned and accruing outside and received in this Colony during the Basis Year.

(4) The third subhead (para. 3, p. 38) alleges that the point of law was that I held that upon the failure of the Appellant to furnish information 30 respecting his accounts to the satisfaction of the Respondents they were bound to inspect and accept as conclusive his books of accounts, under the provisions of section 5 of the Law.

8. I did not hold that the Respondents were bound to accept such accounts as the Appellant might produce, but as the question of what accounts should be produced is one aspect of the case to be stated, I have included this matter.

9. The position is complicated in this case by the fact that this amount of \$21,925.74 struck out by me is wrong on the facts accepted by the Respondents themselves. That is to say that the English Bank 40 Statements (Ex's. 10 and 11), upon which the Respondents based this assessment, proved that it was inaccurate; even were the Respondents held to be right in law, the assessment is wrong arithmetically.

10. Therefor it will be necessary, in stating this case, firstly, to set out the facts upon which the Respondents inaccurately based their assessment; secondly, to set out the legal position which caused me to hold that this assessment was bad in law; and, thirdly, to set out the facts found by me on the evidence adduced at the hearing of the appeal: and which was before the Respondents when they knowingly made the inaccurate assessment against which their appeal is now made. 50

11. (1) I accepted the accounts as a whole, produced in evidence, as correct in detail. The Respondents also accepted the accounts produced as correct.

(2) All differences which have arisen between the parties in this appeal were based on questions of the rates of deductions to be allowed, or the chargeability of certain items to tax.

12. The Appellant employs a whole time and fully qualified Accountant—Mr. Thomson—to supervise a modern accounting system of bookkeeping. He owns a large estate carrying herds of cattle and other livestock, plantations, a fleet of river transport craft, carried on a considerable Insurance and agency business and deals largely in mahogany, chicle and other produce.

10 13. The Appellant is a wealthy man, who has performed a great deal of Public Service in and for this Colony, and I accepted the evidence in this appeal of the Appellant and Mr. Thomson.

14. (1) The Appellant is a shareholder in a private company, incorporated in Canada, which carries on business in the purchase and sale of stocks, shares and other securities in Canada, and during the last war this company made considerable profits on capital accretions.

20 (2) The Appellant said that he had a private Bank Account in Montreal, Canada, and that his dividends from this company were paid in and accumulated therein over a period of years. I accepted this evidence, and as the receipt of drafts from this account was proved, in my opinion, it was quite unnecessary for the Montreal Bank Statements to be produced in evidence, for the reasons I will give later. The income from this Canadian company would not attract Colonial Income Tax here, unless brought to this Colony in cash or its equivalent. It would be subject to Canadian Tax.

15. The Appellant had a private account with Martins Bank, London, England ("C. Melhado") and also a second Belize Company account there (C. Melhado & Sons.) (See Exhibits 10 and 11.)

30 16. I accepted the evidence of the Appellant that his profits in Canada had accumulated in his Montreal Bank account during several years; and that, on account of expanding trading in mahogany and chicle, he required additional working capital for the Belize Company in British Honduras and London. Some money being required in Belize and some to pay accounts in England for goods sent to or received from Belize, or elsewhere.

17. The Appellant transferred \$37,920.31 (Canadian) to his personal account at Martins Bank in two drafts. (See Ex. 10.)

	1944.			Sterling
40	11th May	.. \$22,165.42	which realized in London	£4,952 10 2
	1st June	.. \$15,754.89	Do. do. ..	£3,899 13 7
		\$37,920.21		£8,852 3 9

18. Two points arise here. I am satisfied that this cash was transferred from the Appellant's Montreal private account, and not from the Canadian Company direct, that this cash could not have attracted British Honduras Colonial Income Tax whilst in Canada, nor in England.

50 19. (1) The Appellant's Martins Bank (private account) statement (Ex. 10) showed a credit balance on the 1st April 1944 of £3,523 3s. 6d., and I accepted the Appellant's evidence—supported by the Belize Company Ledger Account—that that balance had been there from 1st February 1944. This cash, and the proceeds of the Canadian Drafts paid into this

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account subsequently, could not be regarded as income of the Appellant during the Basis Year.

(2) By the 17th June 1944 the Appellant had £12,375 7s. 3d. standing to his credit in that personal account. He transferred two sums of £3,000 each to the Belize Company account there on the 17th June and 28th July 1944 respectively. (Ex. 10 & 11.)

(3) All these documents were before the Respondents when they made this revised assessment.

20. (1) It was upon these Bank Statements that the Respondents based their revised assessment of \$21,925.74, and they arrived at that total 10 in this way.

1944.				
1st February	..	Balance in hand	.. .. .	£1,382 9 11
		Miscellaneous cash receipts during		
		the year	.. .. .	£6,436 5 2
				<hr/>
				£7,818 15 1
1945.				
31st January	..	Less cash balance in hand	.. .. .	£2,378 2 6
				<hr/>
				£5,440 12 7

£5,440 12s. 7d. calculated at \$4.03 to £ = \$21,975.74. 20

(2) At the time this revised assessment was made by the Respondents they were aware that the balance in hand at the commencement of the account was not chargeable to tax; they were aware that several of the items appearing in the Bank Account were transactions not connected with the Appellants trading at all, and that other items were not brought to this Colony and never became chargeable to tax.

(3) It is unnecessary to investigate this position for the purposes of this case, but the detail is set out in Ex. 19.

21. Another aspect arises in that the Respondents knew that the Appellant had transferred money from Canada but made no attempt to 30 ascertain the position creating special relief to the Appellant under the provisions of section 48 of the Law, if that money was in fact lawfully chargeable to this Colonial Tax.

The Respondents found no fault with these Bank Statements before them, and the statements prove their assessment to be inaccurate.

22. I formed the opinion that the explanation of this incomprehensible conduct arose from a misconception of the powers vested in the Respondents by subsections 39 (2) (b) and (3) of the Law.

Where they refuse to accept a taxpayer's return they have definite 40 powers to assess income to the best of their judgment as they may do where they are of opinion that the taxpayer has not provided adequate information; or inaccurate information.

This power, only given to meet the case of recalcitrant taxpayers, has been grossly misused by the Respondents, and no attempt made to arrive at a true assessment by "the use of their best judgment."

23. The misuse of this power has been exposed in this Court on several occasions, as is shown in the judgments that I am lodging with the Registrar of the Privy Council for the information of those who will be dealing with this matter in London. I have adopted this course to avoid 50 burdening the record in this case.

24. (1) One example arose on the item forming the basis of the subhead 1 (a) of the Respondents' application for me to state this case. The sum of \$2,500 was additionally assessed to try and compel the Appellant to adopt a different method of valuation of his herds of cattle. It was not called that.

(2) The Appellant was refused any information of the origin of this item, and when the Respondents were called upon by me to say what it was they were unable to give any explanation.

(3) I stress this point to emphasize the necessity of dealing with this
10 assessment afresh, as the assessment of the Respondents has been entirely indefensible.

25. I shall now deal with the law governing this matter which should have guided the best judgment of the Respondents as it appears to me.

26. (1) The power to charge income tax is created by section 5 of the Law. It is chargeable upon the profits and gains "accruing in," "derived from" or "received in" the Colony.

(2) If these words "received in" stood alone, it might be held that they were intended to refer to all receipts by the taxpayers in the Colony.
20 It is clear, however, that three separate types of transactions were envisaged. Firstly, "accruing in" means monies or income received from inside the Colony by a resident taxpayer; secondly, "derived from" means income from inside the Colony received by a taxpayer resident outside the Colony; and thirdly, "received in" means income derived from outside the Colony received by a taxpayer inside the Colony. From this it is clear—and it has always been accepted—that income accruing outside the Colony to a taxpayer inside the Colony, but not received by him in the Colony, is not subject to tax in the Colony.

27. (1) The issue in this case is restricted to the aspect of income
30 received in the Colony from outside.

(2) The first decision to be made appears to be what shall be treated as the "income" of a person resident in the Colony and when it becomes "income" chargeable under the Law. As I have said the Law recognises that a taxpayer may have two incomes. An extra-Colonial income not chargeable and an internal Colonial income which is chargeable under this Law. Accepting that position one is faced with a new statutory meaning—under this Law—of the words "income of a person." In ordinary circumstances—apart from International double taxation—cash received can only be taxed once in some financial period. The time when
40 the cash, or its equivalent, reaches the taxpayer's custody and control is when it becomes his income. These receipts are collected usually into annual financial periods (although exceptionally these periods may be less, such as where adjustments are necessary when a taxpayer changes his financial year of accounting; see proviso to section 7 of the Law). Once a receipt becomes true income it always ceases to attract this tax in so far as this recipient is concerned.

The words "received in" create an artificial position because a taxpayer's external income may not be received by him during the basis year in which it is subsequently received in the Colony. Can it become
50 income received by him twice? That is not an easy question to answer.

(3) To give an exaggerated example.

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continued.

Suppose a taxpayer has capital in England producing an annual income of £1,000. This income would not attract Colonial income tax whilst it remained there. Suppose he allows this income to accumulate from 1932 to 1941, and three years later transfers the £10,000 to Belize, during the Basis Year of 1944.

Can it be said that this sum was "income" received by the taxpayer in 1944, when in fact it had been money in his custody and control for many years, and possibly been derived from a source having no connection with this Colony whatever?

If that question is answered in the affirmative, then all capital monies 10
become income when received in the Colony.

28. (1) The Law of this Colony does not follow the English Income Tax law, where the income of a resident attracts income tax at once, wherever it may be derived, although the tax possibly may not be payable until it is received in Great Britain.

(The Income Tax Act 1918 (schedule "D" (1) (i)). Halsbury Statutes of England, Vol. 9, p. 559.) Here this external income may never attract income tax if it is received and accumulated or spent outside the Colony.

(2) In my opinion, this is no error of law, but a definite policy suited 20
to the economic structure of the Colonies. It stimulates essential commercial credit by the lodgment of substantial assets in England. The accumulated income is used on business and holiday visits there—to say nothing of meeting the expenses of educating children and it forms the basis of strong links between the Mother Country and the Colonies, with beneficial results to both.

(3) Leaving that generalization to return to the interpretation of the Law as it exists, it seems necessary to decide when external income becomes untaxable if received in this Colony. It is not sufficient to say the answer is when it becomes capital, because, in my opinion, if the income is received outside and inside the Colony in the same basis period 30
it must attract this Colonial income tax. That is less obvious than may appear at first sight, because a large external income might reach this Colony in the form of a complete sawmill. A substantial asset, the cost of which would seem unquestionably of a capital nature.

(4) Once the external income has been received by the taxpayer outside the Colony, in any basis period, I think its nature does change in so far as its receipt in the Colony in subsequent basis periods may be concerned. Section 6 of the Law clearly limits this tax on chargeable income to the basis period, and creates a fundamental principle governing this tax. 40

(5) In paragraph 75 and 76 of my judgment of the 16th July 1946 40
(pp. 30, 31), I held that cash accumulated by a taxpayer prior to the basis year might become income in the Colony, if not used for capital purposes on its receipt here. I was guided by the judgment in *Cunards Trustees vs. Inland Revenue Com. : McPheeters vs. Inland Revenue Com.* Reported in Law Times, 12th Jan., 1946. It was held in those cases that where payments were income directed to be made "by way of addition to income," the purpose was an income purpose, and the fact that they were made out of capital irrelevant (Vol. 20, p. 201). The direction was from the terms of a will disposing of an estate finally. Here the recipient 50
is a taxpayer voluntarily transferring his own property into another taxation area. In this case there is no statutory guide to interpret and principles alone are available to decide the issue.

Lord McKinnon in *Corke vs. Frye* (Vol. III, Tax Cases, p. 341) said :
 “ In this, as in all cases upon revenue statutes, we must give the words
 that are not defined their ordinary and customary meaning.”

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(6) That being so, whilst the money or its equivalent may have been received in the Colony by the taxpayer in a particular basis period, it may not be a profit or gain “ received ” by the taxpayer within that period. It may be cash or its equivalent “ received by him ” prior to that basis period outside the Colony.

(7) This is the real issue for determination. I am not convinced,
 10 after further consideration, that I was right in holding, in the above mentioned paragraphs of my judgment, that such prior receipts could ever become the taxpayer’s “ income ” if subsequently brought to this Colony and used for income purposes.

29. (1) All legislation taxing the subject is strictly interpreted by the Courts. To cite the judgment of Lord Sumner in *Brown vs. Nat. Prov. Institution ; Ogden vs. Provident Mutual Life Ass.* (L.R. App. Cases 1921 (2), at p. 260) “ In any case statutory language cannot be construed by asking which construction will most benefit the Revenue.”

(2) Must the language of this Ordinance be held to mean that all
 20 the profits or gains received by a taxpayer in the Colony during a basis year must attract this Colonial tax ; without any regard to its previous receipt by the taxpayer outside the Colony prior to such basis period ? In such circumstances although this receipt does take place in the Colony within the basis year, it is not a profit or gain received by the taxpayer during the basis period. Are the words in section 5 “ received in the Colony ” to be construed so strictly as to deprive the word “ income ” of its ordinary and customary meaning ?

30. Since the 24th June 1946, the word “ income ” has been defined in the Income Tax Amendment Ordinance 1946 (No. 2—1946) very strictly.
 30 The definition uses the word “ means,” and not the word “ includes ” which gives a wider latitude. Section 2 says—“ Income means net income, namely the sum remaining after deducting the expenses (if any) of acquiring the income, including the necessary expenses actually incurred in carrying on any business or trade, but not including personal living or family expenses.”

Prior to that date the word was not defined.

31. In my opinion, the controlling purpose of this legislation is to tax profits or gains “ coming in ” to the taxpayer during certain limited periods upon which the assessments are based ; and where such profits and gains
 40 do not “ come in,” to the taxpayer, whether within the Colony, or not, during those periods, they cannot be regarded as income if subsequently brought into the Colony after accumulation outside.

If it was held that the physical receipt of monies in the Colony during a basis period converted them into taxable income of the person receiving them automatically, then, as I have said already, all capital monies received in the Colony would become income in the particular basis period in which they arrived.

32. In my opinion, that would be forcing a construction of the language not contemplated when this legislation was passed.

50 It is true that a taxpayer might so arrange his external financial affairs as to bring his external income regularly into the Colony after the

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Case
Stated,
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1946,
continued.

basis year in which he had received it, and thus ensure that it would escape taxation. The possibility of such practices involving large sums is unlikely, and its risk of loss of revenue not a very serious matter. Certainly no justification for accepting an unnatural construction so opposed to the underlying principle of this law. (See judgment Lord Sumner, 1921 (2) A.C., p. 260.)

33. (1) Applying this construction of the law to the facts I have found, this is the position.

The Appellant has given oral evidence that his dividends received from the Canadian Company accumulated in his Montreal Bank Account 10 prior to the basis year 1944. Unquestionably, they did not attract this Colony's income tax there, either notionally, or otherwise. His evidence I accepted.

(2) The Appellant has produced original Bank Statements from Martin's Bank, London, showing that he had £3,523 : 2 : 6 in his private account on the 1st April 1944 (see Ex. 10), and he said that that balance was there on the 1st February 1944. That evidence I also accepted.

In this same private account, after the Canadian drafts had been duly credited therein, the Appellant's credit balance on this account was £12,375 : 7 : 3, and this sum was not cash received by him, either in 20 Canada or England, during the basis year 1944.

From that said account he transferred £6,000 to the Belize Company Account at Martin's Bank, London, as capital.

(3) By paying accounts in London he transferred £3,383 : 6 : 8 to Belize (see Ex. 19, p. 60). That was the total amount received in Belize by the Appellant, and it was wholly made up of cash in his possession prior to the basis year 1944. I dealt with this aspect and the effect of the decision in *Clayton's* case in paragraph 89 of my judgment. (See p. 32).

34. (1) The Respondents allege that there were no facts upon which I could find—

(A) "1 (c) (1). That the \$21,925.74 constituted a capital receipt which does not attract income tax in the Colony." 30

My reply to that is that the oral evidence of the Appellant and the Bank Statements produced provided evidence, which, if accepted by me, showed that that last mentioned sum was inaccurate, but that, had it been accurate it was not income received by the Appellant within the basis period, but a capital accumulation in his custody and control prior thereto. Further, it was devoted to a capital purpose, as working capital, and so appeared in the Belize Company ledger before the Court.

(B) 1 (c) (2). That this item of \$21,925.74 is wrong and must 40 be struck out.

My reply to that is that the Bank Statement produced showed clearly that this sum was wrong arithmetically, and therefor should be struck out in any case.

(C) 2. This ground contains the only point of law really in issue and I have dealt with it in paragraphs 25 to 32 of this Case.

(D) 3. Whether in point of law the Chief Justice was correct in holding that upon the failure of the Appellant to furnish information respecting his accounts to the satisfaction of the Commissioners, the Commissioners were bound to inspect, and accept as conclusive, 50 the unaudited accounts of the Appellant. (Section 34.)

As it stands this ground is nonsense, as it is not in accordance with the record.

It does raise an aspect of some importance worthy of decision, since this matter is before Your Lordships.

(2) The Ordinance contains the normal requirement that taxpayer should disclose his books and accounts for the purpose of enabling the Commissioners of Income Tax to assess his income for certain specified basis periods.

10 (3) In this Colony, however, where an income taxpayer is legally entitled to have a chargeable income, within the Colony, and, a non-chargeable income without the Colony, it seems clear that this right of discovery applies only to the accounts "required for the purposes of the Ordinance" under the provisions of section 34 of the Law. I have so ruled in this case, and that my ruling may be upheld, or not, is why I have stated this aspect of the case.

(4) My reply to this ground, as raised by the Respondents, is that it is untrue.

20 (5) I held that the Appellant had produced all information "as was required for the purposes of the Ordinance (Sect. 34)." I explained in paragraphs 85 and 86 of my Judgment that their demand to know how much of the drafts was capital accretion and how much dividends, when earned by the Canadian Company trading in the purchase and sale of stocks and shares, was asking for an impossibility. Moreover, as the balances were made up on monies accumulated prior to the basis period there was no need to know of what they were comprised, when that latter fact was established.

30 (6) The Appellant's case came within the provisions of subsection 39 (2) (b) as the Appellant did furnish a return. It was the duty of the Respondents "to the best of their judgment to determine the amount of his chargeable income."

(7) To carry out this task, I found as a fact, that they were given full access to the books and accounts and explanation was given to them in every relevant point, by persons much better qualified to explain accounts than they were.

(8) If this task was to be carried out conscientiously they were in duty bound to inspect all the information before them, and determine how much they would accept as true. At no time in my judgment did I suggest that this honest discretion was in any way fettered by compulsion to accept any evidence before them.

40 35. (1) I made no order for costs in connection with this application for a case to be stated, because I was of opinion that it would be well to leave that matter to Your Lordships, with a statement of its position here.

Your Lordships will appreciate that the statutory vesting of such arbitrary powers, patterned on those with which English Income Tax Officials are vested, create openings for injustice to the taxpayer, because in England there are independent tribunals reviewing their actions which do not exist here, apart from the appeal to the Court and its consequential heavy expenses.

No. 21.
Case
Stated,
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No. 21.
Case
Stated,
30th
December
1946,
continued.

The Colonial Secretary, Attorney General and Accountant General of the Colony have been Commissioners and have reason to raise the Revenue by every legitimate means in their power.

In this Colony all officials are disgracefully underpaid. No Senior Official has received any increase of salary to meet the increased cost of living during the war and that has doubled during that period. That is because the Colony is grant aided, a fact depending on the revenue raised. Our low revenue is caused by most of the industries being either foreign ; or English Companies paying Imperial Income Tax in England on the profits they make here. The possibility of bias arising created, by extreme financial worry, is obvious, however well intentioned an official may be. 10

(2) Added to this strong possibility of bias against the taxpayer, when he is forced to appeal by an unjustifiable assessment, the Commissioners can threaten to involve him and in fact involve him in the very considerable expense of a further appeal to Your Lordships, without the Commissioners being financially involved themselves, even if they lose the appeal. If a point of law is alleged by either party, the Chief Justice is compelled to state a case, however little money may be in issue or however frivolous the point of law raised on appeal may be.

The language of subsection 44 (10) of the Law, coupled with the provisions of section 12 of the Interpretation Ordinance, Chapter 1, British Honduras Laws 1924, make that action imperative by the use of the word "shall." 20

On the one hand, the financial responsibility would create some control of a taxpayer's improper appeal ; on the other hand there is no such control over the Commissioners.

I have therefor left this question to Your Lordships without any indication of my own opinion, in the hope that a very definite warning will be given that if, in the future, circumstances should warrant that action Your Lordships will have no hesitation in advising that the Commissioners, or if he is proved responsible, the Counsel advising an unjustifiable appeal, will be made personally responsible for the costs. 30

I have already suggested to the Government of British Honduras that no appeal should be launched by the Commissioners without the prior approval of the Governor in Council.

(Sgd.) C. G. LANGLEY,
Chief Justice.

30th December, 1946.

EXHIBITS.

Exhibit
No. 10.

EXHIBIT No. 10.

Aug. 9 1944.

Telegraphic Address,
"Forenmart," London.Telephone
Mansion House 6568.Martins Bank Limited,
London Foreign Branch,
68, Lombard Street,
London, E.C.3,

4 July 1944.

10 To Messrs. C. Melhado & Sons,
Belize.The Manager begs to enclose statement of your CURRENT account
up to the 30 Jun 1944. Kindly sign and return the attached confirmation.Signed & returned
23/8/44.

Aug. 9 1944.

INTEREST STATEMENT.

C. Melhado & Sons,
Belize.

20

In A/c with Martins Bank Limited, London Foreign Branch.

Date	Balances	Days	Products	
			Dr.	Cr.
20 Mar. 1944	901	1		901
21	903	10		9030
31	901	19		17119
Apl. 19	763	2		1526
21	738	8		5904
30 29	736	19		13984
May 18	735	13		9555
31	730	2		1460
Jun. 2	729	15		10935
17	3729	2		7458
—				
19				77872
				<u>77872</u>
	Interest for Quarter at $\frac{1}{2}\%$		.. ..	<u>£1.1.4</u>

Exhibit
No. 10,
continued

Aug. 9 1944.

In Account with Martins Bank Limited, London Foreign Branch.
C. Melhado & Sons,
Belize.

Date	Particulars	Debit	Credit	Balance
1944				
1 Apl.	Balance forward		901 1 8	901 1 8 T
19	360	137 8 5		763 13 3 T
21	Payt. against Documents to B.S.A. Cycles, Ltd. ..	24 19 0		738 14 3 T 10
29	361	2 10 0		736 4 3 T
18 May	Cost of cable 17.5.44 .. To Belize re your letter 14th April	10 5 J. 130		735 13 10 T
31	362	4 15 0		730 18 10 T
2 Jun.	363	1 0 0		729 18 10 T
17	Henry Melhado, Belize ..		3000 0 0	3729 18 10 T
20	Interest on account ..		1 1 4	3731 0 2 T
30 Jun.	1944	171 2 10	3902 3 0 T	3731 0 2 T
	Add Contra Debtors Belize			20
	With Contra int. a/c Loan E. & O. E.			61 9 2
	MARTINS BANK LIMITED LONDON FOREIGN BRANCH			3792 9 4
	Less			
		497 1 6		
		66 0 4		563 1 10
		563 1 10		3229 7 6

Martins Bank Limited. 30
London Foreign Branch.
68, Lombard Street,
London, E.C.3.

No. 59452.

June 17th 1944.

To Henry Melhado, Esq.,
Belize, British Honduras.

Debit Advice.

The Manager begs to advise that in accordance with the instructions
contained in your Letter No. Dated 27/5/44, your account has been
debited with £3,000.....value to-day.

£ 40
£
£

Transferred to Messrs. C. Melhado & Sons,
Belize, British Honduras.

Martins Bank Limited.
London Foreign Branch.

This advice bears no signature.

Martins Bank Limited.
London Foreign Branch.

Exhibit
No. 10,
continued.

68 Lombard Street,
London, E.C.3.

June 17th 1944.

No. 59452.

By Order of

Henry Melhado, Esq.,
Belize,

10 British Honduras.

Credit advice.

Capital
Private A/c.

Kindly note that we have credited
your account with the following
amounts as per their letter No.
dated 27/5/44.

£3,000 value to-day
£ " "
£ " "
£ " "

For account of Jul 27 1944.

20 Messrs. C. Melhado & Sons,
Belize, British Honduras.

Checked by

Pro. Manager.

Henry Melhado, Esq.,
Belize.

In account with Martins Bank Limited, London Foreign Branch.

Date	Particulars	Debit	Credit	Balance
1944				
1 Apl.	Balance Forward ..		3,523 3 6	3,523 3 6 T
11 May	Proceeds \$22,165.42 ..		4,952 10 2	8,475 13 8 T
30 1 Jun.	Proceeds \$15,754.89 ..		3,899 13 7	12,375 7 3 T
17	C. Melhado & Sons, Belize	3,000 0 0		9,375 7 3 T
		<u>3,000 0 0</u>	<u>12,375 7 3 T</u>	<u>9,375 7 3 T</u>

E. & O. E.

30 Jun. 1944 MARTINS BANK LIMITED
LONDON FOREIGN BRANCH

Exhibit
No. 11.

EXHIBIT No. 11.

Nov. 4 1944.

Télégraphic Address
Forenmart London.Telephone
Mansion House 6568.Martins Bank Limited.
London Foreign Branch.68, Lombard Street,
London, E.C.3,

3 Oct. 1944.

To Messrs. C. Melhado & Sons,
Belize.

10

The manager begs to enclose statement of your current account up to the 30 Sep. 1944. Kindly sign and return the attached confirmation.

INTEREST STATEMENT.

Nov. 4 1944.

C. Melhado & Sons,
Belize.

In A/c with Martins Bank Limited, London Foreign Branch.

Date	Balances	Days	Products		20
			Dr.	Cr.	
19 Jun. 1944	3729	1		3729	
20	3731	15		55965	
5 July	3693	1		3693	
6	3491	7		24437	
13	2418	4		9672	
17	2410	1		2410	
18	2260	6		13560	
24	1697	4		6788	
28	4697	5		23485	30
2 Aug.	4666	15		69990	
17	4727	8		37816	
25	4773	4		19092	
29	4736	1	J. 174	4736	
30	4710	10		47100	
9 Sept.	4558	2		9116	
11	4292	4		17168	
15	4179	3		12537	
—					
18				361294	
	Interest for Quarter at $\frac{1}{2}\%$		.. ..	£4 19	40

Nov. 4 1944.

Exhibit
No. 11,
*continued.*C. Melhado & Sons,
Belize.

In Account with Martins Bank Limited, London Foreign Branch.

Date	Particulars	Debit	Credit	Balance
1944	Fwd.	3,070 15 2	6,837 13 3 T	3,771 17 1 T
19 Sept.	Interest on A/c for Qtr. . .		4 19 0	
23	Fgn. Beh. Lpl. A/c Messrs. Staveley Taylor & Co.	100 0 0		3,671 17 1 T
10				3,671 16 11 T
26	Stamp on Cheque . .			
30	Commission on A/c for quarter at 3/8% on payt. against documents	8 14 0		
		3,179 9 4	6,842 12 3 T	3,663 2 11 T
			Less	709 1 0
				<u>£2,954 1 11</u>

E. & O. E.

30 Sept. 1944.

MARTINS BANK LIMITED

20

LONDON FOREIGN BRANCH

				C.	D.
83370	..	59 18 6		30/1/45—7805 16 1	5063 14 8
83372	..	3 12 6	Less	8 9 0	49 1 9
83374	..	633 11 7		9 11 3	7756 14 4
83373	..	12 0		22 2 6	4802 12 5
83375	..	11 6 5		10 0	
				8 9 0	
		<u>£709 1 0</u>			
				<u>49 1 9</u>	

30

"C" 7756 14 3

"D" 4802 12 5

Agreed
(Sgd.) J. T.2954 1 11

Exhibit
No. 11,
continued.

C. Melhado & Sons,
Belize.

In Account with Martins Bank Limited, London Foreign Branch.

Date	Particulars	Debit	Credit	Balance
1944				
1 Jul.	Balance forward		3,731 0 2	3,731 0 2
5	Payt. against Docs. ..	37 14 4		2,693 5 10 T
6	Payt. against Docs. ..	202 3 4		3,491 2 6 T
13	Payt. against documents Your letter 14.4.44 our Ref. 7817	1,072 19 6		2,418 3 0 T 10
17	Payt. against documents	7 18 0		2,410 5 0 T
18	Fgn. Beh. Lpl. A/c Messrs. Staveley Taylor & Co. C. & E. Morton, Ltd. ..	100 0 0 50 0 0		2,260 5 0 T
24	366 365	66 0 4 497 1 6		1,697 3 2 T
28	Henry Melhado		3,000 0 0	4,697 3 2 T
2 Aug.	Our Ref. 7823, Payt. against Documents to C. Melhado & Sons, Belize	30 11 0		4,666 12 2 T 20
17	Your letter 2.8.44 \$247.98		61 6 10	4,727 19 0 T
25	½ proceeds sale Jewellery A/c Mrs. V. N. Slack ..		45 6 3	4,773 5 3 T
29	369 368	34 3 8 2 9 5		4,736 12 2 T
30	Payt. against documents	26 0 3		4,710 11 11 T
9 Sep.	Payt. agst. Documents .. Payt. agst. Documents ..	93 0 4 59 11 3		4,558 0 4 T 30
11	Payt. agst. Documents .. Payt. agst. Documents ..	140 9 6 125 3 3		4,292 7 7 T
15	Payt. agst. Documents ..	112 17 5		4,179 10 2 T
18	Payt. against Documents	367 19 7		3,811 10 7 T
19	Pymt. agst. Docts. To Natural Chemicals Cr. 7837	44 12 6		
		3,070 15 2	6,837 13 3 T	

Sep. 21 1944.

" 11 "

Exhibit
No. 11,
continued.

Martins Bank Limited.
London Foreign Branch.
68 Lombard Street,
London, E.C.3.

July 28th 1944.

Debit Advice.

No. 59530.

10 To Henry Melhado, Esq.,
Belize,
British Honduras.

Capital The Manager begs to advise that in accordance with the
Transfer instructions contained in your cable No. Dated 27.7.44
 your account has been debited with
 £3,000.....value to-day

£ " " For account of

£ " "

£ " "

20 Transferred to J. 142.

Messrs. C. Melhado & Sons,
Belize,
British Honduras.

Martins Bank Limited.
London Foreign Branch.

This advice bears no signature.

Telegraphic address
"Forenmart," London.

Telephone
Mansion House 6568.

Martins Bank Limited.
London Foreign Branch.

68, Lombard Street,
London, E.C.3.

30

FT.

Confirmation of cable Message received from Henry Melhado Esq.,
Belize, British Honduras.

Please transfer £3,000 to account of C. Melhado & Sons.

Henry Melhado, Esq.,
Belize.

In Account with Martins Bank Limited, London Foreign Branch.

Date	Particulars	Debit	Credit	Balance
1944				
40 1 Jul.	Balance Forward ..		9,375 7 3	9,375 7 3
28	C. Melhado & Sons ..	3,000 0 0		6,375 7 3 T
	E. & O. E.			

MARTINS BANK LIMITED
LONDON FOREIGN BRANCH

30 Sep. 1944

Exhibit
No. 19.

EXHIBIT No. 19.

SUMMARY OF MARTINS BANK.

Balance of a/c 31.1.45	£1,382	9	11	
Items received in Belize on credit to account	436	5	2	
<i>Add</i>				
Remittance Staveley Taylor 30.1.46 ..	200	0	0	
,, Martons	37	10	8	•
	<hr/>			
	£2,056	5	11	
Amount assessed Income Tax ..				£5,440 12 7 10
,, returned to Belize " A " ..	3,383	6	8	
	<hr/>			
	£5,440	12	7	£5,440 42 7
	<hr/> <hr/>			

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF BRITISH HONDURAS.

BETWEEN

THE COMMISSIONERS OF INCOME TAX - - *Appellants*

AND

HENRY IGNATIUS MELHADO - - - - *Respondent.*

RECORD OF PROCEEDINGS

BURCHELLS,
9 BISHOPSGATE, E.C.2,
Solicitors for the Appellants.

WITHALL & WITHALL,
49-51 BEDFORD ROW, W.C.1,
Solicitors for the Respondent.