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| Governor | 697 |
| Belfield | |
| 1915 | |
| 15th Sept | |
| Last previous Paper | |
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| 31855 | |

**ALLOWANCE FOR ATTORNEY GENERAL
FOR ACTING AS JUDGE ADVOCATE GENERAL**

15th Sept

Last previous Entry

~~W.O.~~ 21855

Would hesitate to compare work done by Mr Barth with that done by other officers. Takes opportunity of stating additional work has been done without complaint. Encloses further letter from the Deputy Adjutant. Desires to leave matter in hands of S. of C.

2696

Dr. Peiley
Fr.-G.-Fideler

The point really is that the
actions of G. & L. has acted as two
parties at once. Other officers
even the R.C. officers of the Library have
been asked to speak on behalf
of the Library. The ~~new~~ ~~present~~ ~~present~~
~~and~~ ~~new~~ ~~present~~ ~~present~~

the end of the 18th century, following
the long and costly war of 1793-4.
1855 - The results of the war were that
it was the French who had emerged
from the war ^{as} victors.

— 17 —

3/(21):5

I think A in Mr. Bottomley's minute is of
a. It is not merely a case of increase of

17 March 1943 **Imports**

Mr.

the Court's work as Attorney General owing to the war, it is now time to discharge the functions of Judge Advocate General and Legal Adviser to the military authorities as well, substantially an additional office.

In Prince Court colonies the proper officer of the Crown (who is in most cases the Attorney General) will eventually receive remuneration either in the shape of fees or salary - it is uncertain what at present - for discharging the duties of that Office in addition to those of his ordinary office.

That is of course a statutory matter of Prince Courts Act 1914 (Section 4), but it is fair that extra legal work in connection with military affairs should be on the same footing as the other legal affairs. There is also the question of the right of the local Law Officers to practice etc. in so far as adviser of the military authorities see minutes on 31/8/03.

In Hong Kong where there have been differences between the Governor and the Colonial Secretary the Attorney General did not act and did not have acted as Legal Adviser to the latter. It appeared that the latter had an independent legal Adviser who presumably was the C.A.

The same thing will result in P.C. There were differences there between the Governor and the Colonial Secretary that the Attorney General should not act between the two. In Hong Kong there the Attorney General should not get something for being evidently a considerable amount of extra work as Judge Advocate General and Legal Adviser to the military authorities.

I think therefore that Mr. Barth might be given or promised something "debitable to War Expenses" (28484). It need not necessarily be salary as proposed in 28484 you might be a lump sum, and the rate or amount could be determined hereafter if that were thought proper

ASR

b7c

Off for whom I will M.R. by
point 6 to account for the \$2000
and enclose you the copy of the
order & from L. in case of the
R.C. are the different opinion

Sagoo

Aug 10 11 '15

AS. 12. "

~~With the same~~
going with immediate effect
as it is attempting to pay
for exactly \$16.

AS. 12. "

GOVERNMENT HOUSE,
NAIROBI,

BRITISH EAST AFRICA

EAST AFRICA PROTECTORATE.

No. 697.

September 15th, 1915.

SIR,

In reply to your despatch No. 561 of
July 29th, 1915, on the subject of the proposal
to grant an allowance to the Attorney General,
I have the honour to state that I should hesi-
tate to institute comparison between the extent
and ~~value~~ of the additional work performed by
that officer and that which has been imposed
upon other officers of the Administration in
consequence of the state of war. It is un-
questionable that prevailing conditions have
necessitated the performance of a substantial
amount of additional work by most of my offi-
cers, and I am pleased to avail this opportunity
of stating that it has been undertaken cheer-
fully and without complaint.

The case of the Attorney General was

put

THE RIGHT HONOURABLE

ANDREW BONAR LAW, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

put forward by the command officer commanding
as in the case of the eight men of whom this has been
done by M.L.D. I do not consider it right and
advantageous to do so, as it would be a sign of
the lack of other officers and the admiring tra-
ditionals would justify a recommendation by his
in their behalf, and probably I am not pre-
pared to say that there is no room for singular
and exceptional treatment.

3. I append copy of a further communication from the Deputy Assistant Adjutant General Quartermaster General, dated September 1st, and should greatly appreciate your permitting me to leave the situation on the subject in your hands.

I have the honour to say,

GOM, EN - H.

put forward by the General Officer Commanding
as he has special cognisance of what has been
done by Mr. Farquhar in the capacity of Judge Ad-
vocate General. He has no such knowledge of
the work of other officers of the Administration
as would justify a recommendation by him
on their behalf, and personally I am not pre-
pared to say that there is a case for singular
and exceptional treatment.

4. I append copy of a further communi-
cation from the Deputy Assistant Adjutant and
Quartermaster General, dated September 8th,
and should prefer, if you will permit me, to
leave the decision on the subject in your hands.

I have the honour to be,

Sir, Your Obedient servant,

H. G. Moore, Brigadier

GOVERNOR.

INCLOSURE

Reference No. 11013/14

Command Headquarters,
Nainital.
8th September, 1915.

No. 854/4.

FROM
The Director General of
Command Headquarters,
The Board, The Chief Commissioner
to the Government of P.K.A.

SIR,

With reference to your No. 11013/14
dated 27th August, 1915, I am directed to furnish
the following summary of work performed by the
Genl. The Attorney general:-

(A) SCRUTINISING AND ADVISING ON A VERY
large number of Courts Martial, Europeans,
Indians and Africans.

owing to irregularities or illegali-

ties in the original sentence, the
same have either had to be quashed, amended
or remitted.

(B) ALMOST DAILY before the Courts Martial
such questions as apply to the conduct
of the CIVIL tribunals, etc., in which legal
advice was essential.

EXPLANATION OF CIVIL TRIBUNAL INQUIRIES
and what additional advice has been required
from time to time.

(1)

INCLOSURE

P.

No. 654/4.

Command Headquarters,
Nairobi,
8th September, 1915.

FROM
 The E.A.A. & A.C.
 Government Secretary, etc., p.g.

500
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 Regd
 Regd 1 Nov 15

The following is a very
 brief statement of E.A.A.

SIR,

With reference to your No. S. 11218/14
 dated 27th August, 1915, I am directed to furnish
 the following summary of work performed by the
 Hon. The Attorney General:-

(a) Scrutinising and advice on a very
 large number of Courts Martial, Europeans,
 Indians and Africans.

Owing to irregularities or illegali-
 ties brought to notice some sentences
 have either had to be quashed, amended
 or revised.

(b) giving legal references and advice on
 such questions as application of Martial
 Law, Civil contracts, etc. in which legal
 advice was essential.

(c) Drawing up of Martial Law Regulations,
 amendment, and additions as required
 from time to time.

(d)

(d) Drawing up & Draft Notices affecting
Central Law, Regulation, and Local Ordin-
ances, etc. affecting Protectorate
Military Forces.

4. The General Officer Commanding can do
nothing more than to issue the following Rule
of the Forces, being liable to the signature.

The General Officer Commanding cannot speak
too highly of the ungrudging assistance the
Attorney General has afforded him as Judge Advo-
cate General, to the Forces, and he thinks it
only fair that the Services should receive some
recognition.

Sd. C. R. DODD, Major

D.A.G., & J.A.C.

22 Nov., 1915.

DRAFT

The Secretary
War Office

MINUTE.

Mr. Cooke 17/11/15
Mr. Bostockley 17/11/15

Mr. Read 17/11/15

Mr. Risley 17/11/15

X Sir G. Biddle 19/11/15

Sir H. Just.

Sir J. Anderson.

Mr. S. M. Mandell

Mr. Bungee, etc.

for counsel.

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work with which he has to deal as Attorney-General of the Protectorate, but rather the fact that, in acting as Judge Advocate-General and advising the Military Authorities on legal matters, he is, in effect, performing the duties of an additional office.

(3) A claim based on

this ground could be appropriately supported by analogy with the case of

Pay Court Officers in

Colours under a Pay Com-

mission constituted the

Pay Court of the Com-

mission in each State. The

Attorney-General, will

eventually receive remunera-

tion for discharging the

duties of Proper Officer -

addition to those of his ordinary appointment.

Such cases, of course, are regulated by Statute. It seems fair, however, that the same treatment should be accorded to officers called upon to perform extra legal work, whether that work is connected with general or with military affairs. A further analogy is also to be found in the case of

Factories, or Colonies in which, in ordinary times, there are military establishments. In

these cases the local Law

Officers have ^{agreed} to have

a "certain" right to receive fee for advising the Military Authorities.

(4) It may further
be pointed out that it has
happened in the Colony
that, owing to a divergence
in the views held by the
Govt. and by the G.O.C.
the Attorney-General has
not, and could not have,
acted as Legal Advisor to
but that the G.O.C.,
the latter, being apparently
employed an independent
legal adviser and presumably
remunerated him for his
services. ^{good} The understanding
is that exists between the
Govt. and Military Authorities
that D.B.C. renders such
unnecessary
that dependency. But it
seems arguable that the
Attorney-General, inasmuch
as he performs a considerable
amount

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amount of additional
work on the confidential
reports part of his
Adviser's usual and legal
Adviser to the G.O.C.
has a fair claim to the
extra remuneration
which another officer
performing those duties
would receive.

(5) Mr. Bonar Law
would be glad if the
Government would
consider Mr. Bartho's case
in the light of the claims
put forward on both sides,
and furnish him with their
views as to the desirability
of granting any extra
remuneration in this
instance.

(Signed) R. J. READ
for the Under Secretary of State

(4) It may further be pointed out that it has happened in one Colony that, owing to a divergence in the views held by the Govt. and by the G.O.C., the Attorney-General has noted, and could not have acted as Legal Advisor to the latter, who apparently employed an independent legal adviser and presumably remunerated him for his services. The understanding which prevails between the civil and Military Authorities in the E.A.F. renders such a course necessary in that department. But it seems a grave blot if the Attorney-General, invested as he performs a considerable amount

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amount of additional
work in the substantially
separate post of Judge
Advocate-General and legal
adviser to the G. O. C.,
has a fair claim to the
extra remuneration
which another officer
performing those duties
would receive.

(5) Mc Bonar said
would be glad if the
Army Council would
~~do~~
the right by the soldier
put forward on both sides,
and favour him with their
views ~~as~~ to the desirability
of granting any extra
remuneration in this
instance.

(Signed) H. A. READ