

EAST IND PROT

20252
REC'D
REG. 1 NOV 15

Governor 697
Belfield
1915
16th Sept
Last previous Paper
W.O.
21855

ALLOWANCE FOR ATTORNEY GENERAL
FOR ACTING AS JUDGE ADVOCATE GENERAL

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 Asst Adjutant. Desires to leave matter in hands of S. of S.

W.M.G.

Copy 100
The 1st copy a bare and 100
100

Mr. P. P. Mr. G. Fisher
The real reality is that the
attorney Genl has acted in two
capacities at once. Other officers
even the R.C. officers of the Army
have all been engaged in work
of the same nature.
I mean of the Government
and really could not say of the
1855 - 1856 - 1857 - 1858 - 1859 - 1860
to visit the Service had
never the matter.

Next enclosure of Paper
100
53337

3/21/15

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

Mr. Bartlett's work as Attorney General owing to the war, he has had to discharge the functions of Judge Advocate General and Legal Adviser to the military authorities as well, substantially an additional office.

In Prize Court Colonies the proper Officer of the Law (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 (cf. Prize Courts Act 1914, s. 4), but it is fair that when dealing with connection with prize affairs should be on the same footing as in the case of other affairs. There is also the question of the statutory right of the local Law Officers to attend etc. as adviser of the Admiralty Committee (see minutes on 3180).

In some cases where there have been differences between the Governor and the G.O.C. the Attorney General did not act (and could not have acted) as Legal Adviser to the G.O.C. It appeared that the latter had an independent legal Adviser who presided over the court.

The same thing would result if there were differences between the G.O.C. and the G.O.A. It is suggested that there should be a statutory provision between the G.O.C. and the G.O.A. that the Attorney General should not get something for which he is 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 and might be a lump sum, and the rate or amount could be determined hereafter if that were thought proper

YSA
6/11/15

OK for same falling Mr. Barth.
point to saying that the 20 day
order to pay the same amount of the
D.C. are the different figures
for 10/11

Agree Oct 10 11 15

As-12-11

It is understood that the responsibility
for any error committed is to be
borne by the party to whom the money
is sent by V.C.

Am 11/11

GOVERNMENT HOUSE, NAIROBI. NOV 15

EAST AFRICA PROTECTORATE.

BRITISH EAST AFRICA

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 hesitate 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 unquestionable that prevailing conditions have necessitated the performance of a substantial amount of additional work by most of our officers, and I am pleased to have this opportunity of stating that it has been undertaken cheerfully and without complaint.

The case of the Attorney General was

put

THE RIGHT HONOURABLE

ANDREW BONAR LA, P.C., F.R.S.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

put forward by the General Officer Commanding
 as to the special consideration of what has been
 done by Major Pitt in the discharge of his ad-
 vanced duties. He has a personal knowledge of
 the work of other officers of the Adminis-
 tration as would justify a recommendation by him
 in their behalf, and personally I am not pre-
 pared to say that there is cause for singular
 and exceptional treatment.

I append copy of a further communi-
 cation from the Deputy Assistant Adjutant and
 Quartermaster General, dated September 17th,
 and should permit me, if possible, to
 leave this decision on the subject in your hands.

I have the honour to be,

Sir,

Your obedient servant,

GODFREY H.

put forward by the General Officer Commanding
 as he has special cognisance of what has been
 done by Mr. Bartley in the capacity of Judge ad-
 vocate General. He has no such knowledge of
 the work of other officers of the Administra-
 tion 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.

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,

Your humble, obedient servant,

H. G. G. G.

GOVERNOR.

ENCLOSURE

To Secy to Govt of P. & A.

Command Headquarters,
Nainital,
5th September, 1915.

No. 854/4.

FROM

The Deputy Quarter
Command Headquarters.

10252
11 NOV 15

The Hon. The Chief Secretary
to the Government of P. & A.

SIR,

With reference to your No. 11913/11
dated 27th August, 1915, I am directed to furnish
the following summary of work performed by the
Hon. The Attorney General:-

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

Owing to irregularities of illegality

... have either had to be quashed, amended
or reversed.

By these means reference was made to
such questions as appeals from military
and civil courts, etc. in which legal
advice was essential.

(b) Drawing up of Courts Martial law, etc. in
order that the conditions be regulated
from time to time.

INCLOSURE

11/11/15

P.

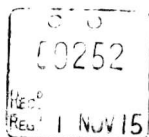
Command Headquarters,
Nairobi,
8th September, 1915.

No. 854/4.

FROM

The B.A.A. (B.A.A. 2/15)
Colonel, Nairobi, Kenya.

The Hon. the Attorney General,
to the Government of B.A.A.



Sir,

With reference to your No. S. 11219/14 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 illegalities brought to notice some sentences have either had to be quashed, amended or revised.
- (b) Advice, 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, amendments, and additions as required from time to time.

(d)

(d) Drawing up of draft Notices affecting Central Law Regulations, and Local Ordinances, etc. affecting Protectorate Military Forces.

2. The General Officer Commanding must bear the responsibility of the delay in the transfer of the heavy guns to the Indian Army.

The General Officer Commanding cannot speak too highly of the ungrudging assistance the Attorney General has afforded him as Judge Advocate General, & the Forces, and he thinks it only fair that his services should receive some recognition.

Ed. C. F. DOHIS, Major

D.A.M. & I.V.

22 NOV, 1915

DRAFT.

The Secretary
War Office

MINUTE.

Mr. Cooke 17/11/15

Mr. Bostanley 17/11/15

Mr. Reed 17

Mr. Risley 17

X Sir G. Fiddes 19

Sir H. Just

Sir J. Anderson

Mr. Stan. Mandau

Mr. Donaldson

for comment

Recd 22/11/15

your letter of the 10th of July,
No 0165/6882 (F.2.), and to
transmit, for the inf. of the
Army Council, copies of
correspondence with the Gov.
of the E.A.P. on the subject
of the ~~proposal to~~
~~Attorney General's claim~~
to be granted extra remuneration
to the Attorney General
for performing the duties of
Judge Advocate General and
legal adviser to the Military
Authorities.


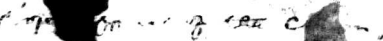
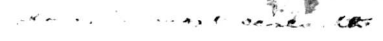
17/11/15 (10852)



17/11/15 (10853)

Recd 22/11/15
Copy for Sir

It appears to the
S. of S. that the point which
gives weight to Mr. Bark's
claim is not the fact of the
increase in the volume of the

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 Paye Court Officers. In Colonel's case a Paye Court Officer consulted the  of the   Attorney-General, will eventually receive remuneration for discharging the

duties of Proper Officer in 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 naval or with military affairs. A further analogy is also to be found in the case of   or Colonels, in which, in ordinary times, there are military establishments. In these cases the local law requires Officers ^{to} have a "customary" right to receive fees 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 Gov. and by the P. O. C., the Attorney-General has not, and could not have acted as Legal Adviser to the latter, ^{but that the P. O. C.} ~~is~~ apparently employed as independent Legal Adviser and presumably remunerated him for his services. ^{Good} ~~The~~ understanding ^{is} ~~exists~~ between the Gov. and Military Authorities ~~is~~ ^{under such} ~~is~~ ^{necessary} that dependency. But it seems arguable that the Attorney-General, inasmuch as he performs a considerable amount

amount of additional work in the substantially separate part of Judge Advocate-General and Legal Adviser to the P. 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~~ ^{Government} consider Mr. Barthe's case in the light of the ~~views~~ ^{views} 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. 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 Gov. and by the G. O. C., the Attorney-General has not, and could not have, acted as Legal Adviser to the latter; ^(but that the G. O. C.) ~~not~~ apparently employed an independent Legal Adviser and presumably remunerated him for his services. ^{Good} ~~The~~ ^{fully} ~~understanding~~ ^{which} ~~exists~~ ^{exists} between the Civil and Military Authorities in the E. I. P. renders such a course unnecessary in that ~~department~~ ^{department}. But it seems a quibble that the Attorney-General, inasmuch as he performs a considerable amount

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) Mr. Bonar Law would be glad if the Army Council would ~~consider~~ ^{take} the light of the ~~above~~ ^{above} put forward on both sides, and favour him with their views ~~to~~ ^{to} the desirability of granting any extra remuneration in this instance.

(Signed) H. J. READ.

Secretary of State