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1916
16 November

Last previous Paper
4/11/16
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ATTORNEY GENERAL'S DEPARTMENT

submit proposal for re-organisation including the appt of a Solicitor General on £700 with duty allowance of £70. Recommends Mr I.L.O.GOWER for the appt.

Head (in of case - 18/11/16)

~~Mr Read~~
Mr Read,

The Attorney General's Department at present consists of -

- Attorney General, Mr Barth, £900 + £90 duty pay.
- Assistant Attorney General, Mr Young, £400-20-500 + £40 duty pay.

In this despatch the Governor makes out a very good case for having in addition a Solicitor General. I need not repeat his arguments. They are based on the increase of work owing to the development of the Protectorate, and on the necessity of having a ~~well~~ capable legal adviser to take the place of the Attorney General when he is on leave. I would approve the creation of the new post at the salary proposed by the Governor, namely, £700 + £70 duty pay.

This approval brings up at once the question of Mr Young, the Assistant Attorney General. We have been in difficulties over this officer ever since 1911, when Sir P. Girouard wanted him transferred to some other service on the ground that he was not fitted for the duties

Last subsequent Paper

See ^{CP} 30/10/1917
Jan 13/1918

duties of his appointment. It has been reported throughout that he is willing and hardworking but he has no professional capacity for ^{any} legal work. The last confidential report on him, dated the 10th of January, 1916, (see file 614), says that he is loyal to his Chief and honestly does his best, but that best is so valueless that the Attorney General finds him of no assistance whatever. In this report the Governor said that he would decline to entrust him with the duties of the Attorney General when the Attorney General went on leave. He has carried out this threat in his despatch of the 4th of September attached to file 614. He there states that Mr Young is a ^{valuable} willing and hardworking officer, but that he is unfortunately ^{not} ~~lacking~~ ^{not} ~~having~~ professional capacity, that it is quite out of the question to entrust him with the responsible and complicated legal work which devolves on the Attorney General of the East Africa Protectorate.

We have no alternative but to accept the reiterated opinion of Mr Young's capacity. It is evidently out of the question to entrust him with the Attorney General's duties, and there is a fresh argument for the creation of the appointment of a Solicitor General. It is stated in the despatch and in the despatch of the 4th of September (file 614) that he will continue to be useful on the present scale of salary in comparative positions, with which the greater part of the time is already occupied. So long as this is the case, one need not raise the question of dispensing with Mr Young's services, which would be very difficult after all these years. It is equally useless in view of the reports upon him, to ask any Government to take him.

For the new post of Solicitor General the Governor recommends Mr Gower, at present ^{the} Legal Assistant in the Land Office, on the scale of salary

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£400-20-500, with duty pay of £40. Mr Gower is at the maximum of his scale. The promotion proposed is substantial but I think it worth while in view of Mr Gower's experience of the Protectorate and particularly of its land legislation and land problems, which will again loom very large when hostilities are over, ^{then} the settlers get back to the farms and ^{then} new settlers begin to take up land. In the latest confidential reports on Mr Gower the Governor says "Has impressed me with his capacity for administration and with his sound legal knowledge during the period that he has acted as head of the department. I place reliance upon his judgment, and consider him a valuable officer". (3112/14). And again, on the 1st of February last he says, "My high opinion of this officer is fully maintained. I consider him well qualified for a responsible legal position".

? Approve the Governor's proposals with effect from the 1st of April next, and say in reply to his despatch of the 4th of September on file 614 that, in view of this approval, the question of Mr Young acting in the absence of the Attorney General will not arise.

The title of Mr Young's appointment should be changed to that of "Assistant to the Attorney General" instead of "Assistant Attorney General". Mr Young will not like it, but it results from his incapacity for the duties, and he will have to put up with it.

Bring up with the Governor
the question of dispensing with Mr Young's services

Mr Young, for the Governor because he does his best, but he is let by the Government in view of those under 5 with whom he has worked, not very good.

I began here a while when I saw him that
that his reports were not so favourable as
to encourage the idea of speedy
though promotion, and he was vastly
surprised. Apparently not one of the
Crosses under whom he has served has
even given him a similar hint, and
though criticism would not have cured
lack of - precisely I think it is rather
hard to say that he should have been
left under the impression that he
was doing all he could & earning
a living in a good direction.

It would be better to read slightly
I think of a new book now made
"Cross Process" or something else
of work as well as editorial work
I was Council (as in the Council
I think it best)

We might suggest this
to the F.

1897

Mr Long I have the separate book of the
number of sales of the book to the public & the
price of the book. The price of the book is
1/6d

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

CONFIDENTIAL No. 151.

16th November, 1916.

Sir,

I have the honour to approach you with a view to obtaining your consent to a reorganization of the Attorney-General's Department of this Protectorate.

2. The history of the department began with the appointment of Mr Barth as Crown Advocate on 1st October, 1905. On Mr Barth's promotion to the Bench he was succeeded by Mr Combe in August 1905. In the following year the office of Assistant Crown Advocate was created and Mr Young was appointed on 1st June, 1906. From that date the number of the staff has remained unchanged, the only alteration being the substitution of the titles of Attorney General and Assistant Attorney General for those of Crown Advocate and Assistant Crown Advocate. The only alteration in personnel is the appointment of Mr Barth as Attorney General on Mr Combe's transfer to a similar post in Nigeria.

3. It is unnecessary to dwell on the details of the development of the Protectorate during the last ten years. That a very great advance both

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

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

in settlement and administration has taken place during those years is within your knowledge.

Such development has naturally and automatically increased the volume of work passing through the Attorney General's Office with the result that it has now become difficult if not impossible for that office with its present staff of two to cope with it without delay and without asking it to bear an undue strain. It is evident that the staff which was considered necessary in the days when the Protectorate had advanced but a little way on its career is now inadequate to meet the many and great demands upon it. It must be remembered that there is no Solicitor's Department attached to the Government so that the entire legal business of the Protectorate and of every department, except that dealing with land, has to be dealt with in the Attorney General's office, including the preparation of all briefs in litigious matters. The vice which appears in the estimates for two solicitors is self-evidently for briefing advocates to appear in cases at Leoben and elsewhere when it is impossible for the attorney general or his assistant to attend.

4. In view of the above facts I now urge your sanction for the inclusion in the estimates for 1917-18 of provision for a new post which I suggest should be that of Solicitor General in conformity with the practice obtaining elsewhere. The pay attaching to such post should in my opinion be not less than £2000 per annum with a duty allowance of £70 and in this connection I would

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would refer you to your predecessor's confidential despatch of the 16th November, 1911, and its enclosure. It is therein stated that on a change of the holder of the post of Assistant Crown Advocate Mr Harcourt considers that the emoluments should be raised to £500 - £700 by £250 with duty pay at the rate of £50 per annum. If that were the rate of salary deemed at that time to be reasonable for the post of Assistant Crown Advocate I have no hesitation in recommending now an initial salary of £700 per annum with a duty allowance of £70 for the proposed new appointment. This amount errs rather on the side of inadequacy than extravagance but in making any suggestion with regard thereto I find myself governed by the salaries at present drawn by the judicial staff, and the Attorney General.

5. I regret that I was unable to recommend Mr Young for the proposed appointment, and I would suggest, unless another post can be found for him, that he should remain in the Attorney General's department either under the title of Crown Prosecutor or of assistant to the Attorney General. The greater part of his time is now taken up with Crown cases both criminal and civil, the latter being mainly debt collecting on behalf of Government departments for services rendered. If the new post is sanctioned I would recommend that Mr I. L. Gower the Legal Assistant to the Land Officer be selected for its first occupant. Mr Gower acted for Mr Young during that gentleman's

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last leave to the entire satisfaction of the Attorney General who is of opinion that he is well fitted for the position; he has now been eight years in the Protectorate service and has a good knowledge of the somewhat complicated body of law which applies here and I am able to say from my own knowledge and observation that he is a sound lawyer and a painstaking officer. In the event of Mr Young being transferred his place should be filled by an appointment of a Crown Prosecutor at the same rate of pay, i.e. £400 - £500 and £40 duty allowance.

6. Although comparisons are often misleading the authorised establishment of the Attorney General's or similar departments in other Protectorates and Crown Colonies affords, I venture to submit, some argument in support of my proposals. For example in Nigeria the Attorney General's staff consists of three legal advisers and two Crown Prosecutors and in the Gold Coast the Attorney General's staff includes a Solicitor General and three Crown Counsel. Similar instances could be multiplied.

7. In view of the large and increasing European population of the Protectorate it is most important that the legal work of the Protectorate should not unduly be delayed. There is a great amount of advisory and drafting work practically the whole of which at present, for reasons of which you are acquainted, falls on the shoulders of the Attorney General and in addition the work of my Executive Council tends to take up a much greater proportion of the time of its members than in the earlier stages of its existence. It is thus

rendered

(5)

rendered almost impossible for the Attorney General to give that prolonged and consecutive consideration which is necessary for dealing with lengthy and complicated legislative measures. I may here cite two important bills, i.e; the Public Health and Electricity Bills which have been delayed for some time owing to lack of opportunity for continuous application to adopt the many and complex provisions which the technical and professional advisers of the Government wish to be inserted. It is true that the war has thrown upon the Attorney General a very considerable additional burden but after giving that fact full consideration, I am assured that the appointment I ask you to sanction is necessary for the efficient working of the Department and hence for the proper despatch of public business.

8. Another advantage which the appointment will afford is that it will be possible to make suitable provision for performing the duties of the Attorney General while that officer is on leave. Although Mr Young does useful work in connection with Crown cases of minor importance I have formed the opinion that he is entirely unsuited for the very varied and onerous duties which the Attorney General is called upon to perform and, as I have already informed you in my confidential despatch of the 4th September, 1916, in the event of the Attorney General going on leave I have decided that I should have to rely on another department to supply an officer to perform his duties.

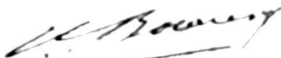
9. I earnestly commend my proposals to your favourable

favourable consideration and trust that you will see your way to accept them.

I have the honour to be

Sir,

Your humble, obedient servant,



*Left approved to
the*

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18 Jan 1917

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Confidential

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Ans $\frac{614}{21}$ EAP (9/11/17)

I approve your proposals for the appointment of a Solicitor General, with salary at the rate of £500 a year with duty allowances of £70, with effect from the 1st of March next, and the appointment of the Solicitor General, Legal Assistant, Land Office, to the new post.

Md 17/1/17
Mr Bottumley

2 With reference to your conf. despatch no. 107 of the 4th of Sept, which I have also received, the question