

REVENUE PROT  
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Rev  
Berkeley 773  
1915  
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208

### Revenue and Expenditure of L.A. Court of Appeal

Your copy Report by Mr Justice Hamilton Reports  
having proposed to Waimea by resolution & that  
F.A.P. should bear whole expenses of the Court (as per 1-4-16)  
including travelling, alices & expenses of Members coming  
from other Provs, but exclusive of any part of their salaries  
of that whole of Revenue whch be credited to Cap Waimea & that  
agree, but ~~not~~ propose Mr Justice Hamilton's suggestion  
to be for decision by the group

Mr. Hamilton

It would have been interesting  
to see the result of the vote on  
the proposal. Mr. Hamilton's that  
at least of actual work at an  
average cost of £2,000 p.a.  
of the expenditure),  
that is, out of the £5,000, which  
in all the cases,  
has been necessary to cover the  
whole of the expenses of the Court,  
it is that the proposal of by a small  
committee that the whole of the  
protection to be given to their  
share

Mr. H. Delfield's suggestion is  
no doubt that the advantage of  
being able to collect say £7,500 p.a.

The Court of Appeal

See subsequent paper

7225

on 29<sup>th</sup> of year ~~is not~~ from three  
Protestants of this is last worth  
the 1000

There can be little doubt that  
he is right, and the prospect of  
the position being altered by the  
defect & being formed into a profit  
is remote

I delightfully approve of  
the views of Mr. East & myself  
on the subject  
Wm. East 1712 15

at home  
W. J. H.  
1712 15

57829

431

REC<sup>d</sup>  
REG<sup>d</sup> 15 DEC 15GOVERNMENT HOUSE,  
NAIROBI,  
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

No. 773.

November 4th, 1915.

Sir,

I have the honour to transmit herewith for your consideration a copy of a report by Mr. Justice Hamilton on the revenue and expenditure of the Court of Appeal for Eastern Africa.

2. After a full discussion of the matter with my Executive Council I addressed a communication to the Governors of Uganda and Nyasaland and to the British Resident at Zanzibar, in which I proposed that, as from the 1st of April 1916, this Protectorate should bear the whole expense of the Court of Appeal for Eastern Africa including travelling allowances and the expenses of

members

THE RIGHT HONOURABLE

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

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

member coming from other Protectorates, but exclusive of any portion of their salaries, and that the whole of the revenue derived therefrom should be credited to this Protectorate.

3. To this proposal the Governor of Uganda and the British Resident, Zanzibar, replied in the affirmative, while the Governor of Nyasaland preferred the suggestion made by Mr. Justice Hamilton, namely that the Government of this Protectorate should meet all expenditure connected with the Court of Appeal in the first place, and that the Governments of the Protectorates concerned should be debited with a share of any deficit in the ratio of the number of appeals emanating from each Protectorate.

4. I have the honour therefore to submit the matter for your decision. With all deference to the opinion expressed by Sir George Smith, I venture to state that the proposal as suggested by me would prove much more simple in its execution and I trust that it may be adopted. I should

be

be grateful for a reply by telegraph in order that the necessary steps may be taken in connection with the draft Estimates.

I have the honour to be,

Sir,

Your humble, obedient servant,

*Alfred Bayly*

GOVERNOR.

ENCLOSURE

C O  
57829  
Recd  
Recd 10 DEC

REPORT

on

The Revenue and expenditure of the Court of Appeal  
for Eastern Africa

1. The Court from 1912 until 1917 consisted of the Judges of the High Courts of East Africa, Uganda and Nyassaland. In 1914 when Zanzibar was brought under the jurisdiction of the Court the Judges of the High Court for Zanzibar also became Members of the Court.

2. The Court now exists for the benefit of all four Protectorates equally, and is composed of their Judges having equal powers but convened and presided over by the Senior Member, who has hitherto been the Chief Justice of the East Africa Protectorate. No salary is paid to the Judges in respect of their work on the Court of Appeal.

3. The address of the Court is at Mombasa and the ministerial work is carried out by a Registrar and a Court Clerk.

Since the salaries are borne on the Judicial Establishment of the Protectorates... The Registrar who is also Registrar of the High Court of East Africa, has received a duty allowance of £50 per annum on account of his duties as Registrar of the Court of Appeal, but as his pay being placed on a better footing last year this duty allowance was merged in his increased salary so which a duty allowance of £40 is now attached.

(2)

- 4. The Clerk of the Court, who is a first grade clerk, was appointed to do the work of the Court but as it does not at present occupy all his time he is also employed on the local East African Appellate work.
- 5. The services of these two officers are borne entirely out of the revenues of East Africa and I estimate the value of the proportion of their time which they devote to the work of the Court of Appeal at £200 per annum.
- 6. The other expenses of the Court, leaving out of account housing, library, stationery and incidental expenses which for present purposes need not be taken into account, fall under two heads (1) the travelling expenses of Judges summoned to sit on the Court, and (2) the travelling allowance of £1 a day which a Judge receives during his journey to and fro and for the time that he is engaged on the Court.
- 7. In order that the whole of these expenses might not fall on East Africa I arranged with Judge Harris, at that time the 20th August 1948, that East Africa should pay the travelling allowance but that the Protectorate from which a Judge was summoned should pay the travelling expenses of the Judge. No Judge from Protectorate has ever sat on the Court and till last year the question did not arise with regard to Sumner.

This arrangement, which was a purely arbitrary one, does not appear always to have been strictly

(3)

adhered to, and the experience of 5 years working of the Court now enables a better view to be taken of the position with the object of arriving at some satisfactory scheme of allocation.

8. The approximate total cost of the travelling expenses of the Judges summoned to attend the Court in the past 5 years amounts to Rs.8000 or an average of Rs.1600 a year, and of their travelling allowances to Rs.4500 or an average of Rs.900 a year.

The combined cost under these two heads is Rs.2500 a year; adding to this the cost of the ministerial officers' services, valued at Rs.3000 a year (cf. paragraph 5), and we get the total cost of the Court at an average of Rs.5500 a year.

9. During this same period the total revenue of the Court has amounted to Rs.14,271 or an average of Rs.2854 a year showing on the balance an average annual debit of Rs.2646.

10. The total number of appeals dealt with amounts to 132 of which 122 emanated from the East Africa Territories, 1 from Uganda, 1 from Nyasaland and 8 from Zanzibar. Of the 122 East Africa appeals 54 were taken as Government appeals, one appeal was taken without fee as a Government appeal, and in another the fee was only partly paid.

11. It thus appears that hitherto the great bulk of the work has been East African and that nearly half of that has been taken free. The inclusion of Zanzibar within the jurisdiction of the Court is too recent for any accurate idea to be formed of the number of appeals which are likely to be received from



(4)

there in the future, but in all probability there will be at least some 4 or 5 annually.

12. Should this estimate be somewhat exceeded it is still evident that the expenses of the Court are likely to exceed the revenue for some years to come, though this might be somewhat diminished if fees were charged on an appeal by a Protectorate Government as I submit should be done.
13. For the purpose of dealing with the 135 appeals which have been before the Court there have been 64 attendances of Judges as follows:-

East African Judges, attendances	40
Uganda	20
Zanzibar	2
Temporary Members appointed "	<u>2</u>
	64

Sittings have been held at the places following

Mombasa	14
Nakabbe	3
Nairobi	1

14. From the above it will be seen that in practice the bulk of the cases have been from East Africa where naturally sittings are generally held and it is only a small number of the Judges who travel from other Protectorates.

It does not therefore seem reasonable either that all the Protectorates should contribute equally to the expense or that they should contribute on the basis of attendances by their Judges.

(5)

15. The fairest scheme would I think be that each Protectorate should contribute on the basis of the number of appeals emanating from that Protectorate.

The whole of the expenses should be borne in the first instance by East Africa and at the end of the year the expenses of the Court for the year could be ascertained and any debit balance found due, after deducting the revenue which is collected in Mombasa, could be allocated on this basis to the various Protectorates concerned, who would reimburse the East Africa Protectorate accordingly.

For instance, supposing that in one year

25	appeals emanated from East Africa		
3	"	"	Zanzibar
2	"	"	Uganda
0	"	"	Nyasaland

and that the debit balance was Rs. 3000, East Africa would be debited with  $\frac{25}{30}$ ths of Rs. 3000, Zanzibar with  $\frac{3}{30}$ ths, Uganda with  $\frac{2}{30}$ ths and Nyasaland with nothing.

16. If in the future the work of the Court became so remunerative that there was a credit balance this balance should be credited to the various Protectorates concerned on the same basis.

Mombasa,

12th June 1915.

SENIOR MEMBER

Court of Appeal

For 57829/1915 - Lat

28 Dec 1915

DRAFT

Switzerland  
to 203  
Mr Smith

17/4/5

London

Have the honour to inform you that the Govt of the East has forwarded for my consideration a copy of the report by Mr Justice Hamilton on the revenue and expenditure of the Court of Appeal for Eastern Africa & has recommended that the East should bear the whole expense of the Court, including the travelling allowance & the expenses of members coming from other Protectorates, but exclusive of any portion of that salaries & that the whole of the revenue provided therefrom should be credited to that Court & I understand from Mr Henry Bedford that his proposal was submitted to the

Sir 57829/1015  
East

490

sent 6.15 pm

DRAFT Telegram

17 December  
Dazed like

Governor  
Nairobi

Your despatch of 4 Nov to  
[unclear]

473 Court of Appeal  
[unclear]

M.A. 17/12/15  
Bottomley, 12.2.15

Your proposal approved  
[unclear]

Boonaroo

4/15