

1937

38178

CO 533/482

38178

KENYA

Legal Department Staff

Previous

R 98

Mr Legation (B)

1936

Subsequent

1938

297

297

R 297

28/9/37

R 307

2.10

Sir G. Bunde

4/10

Mr. [unclear]

6/10

Mr. [unclear]

7.10

Mr G. Tomlinson

7/10

S. C. Bittanley

8/10

R 299

1/10

297

14/10

311

15/10

R 297

311

16/11

63  
7/11

9 *Kenya. 2nd Conf. 29. 1. 37*  
*(Duplicate Orig. regd in 40303 EA (Phillips))*  
*recommends appointment of Mr. A Phillips*  
*as Crown Counsel vice Mr. Lewery, with effect*  
*from 25<sup>th</sup> September 1936*

*Mr Phillips appointment approved on 40303 b.A.*

2. GOV'S DEP., KENYA.....CONF.No.132.....22.9.37  
Submits memo. drafted by A/A-Genl., recommending post of  
"Legal Asst." be substituted for existing post of Chief  
Clerk and that H.E. Stacey be apptd. thereto.

Sir B. Budge

*I take it there will be no objection to the  
creation of the post & in view of what they say about  
Mr Stacey he should get it. Indeed if he doesn't they won't  
want to fill the appt.*

*Drops here with.*

*S. E. Hand 1.10.*

*4113  
4/10*

I have spoken to Mr. Acheson about the  
scale of salary proposed for this appointment. <sup>It</sup> There  
is one in which legal qualifications are essential  
but it is not (see the marked passage in Mr. Willan's  
note) to be at present scheduled in the Colonial  
Legal Service. The reason for this is that Kenya  
wish to avoid paying the scale (£550-£840) which is  
the lowest attached to African appointments in the  
Unified Service.

The creation of a less well-paid post of this kind requiring a legal qualification must tend, I think, to open a back door means of entry into the Colonial Legal Service, and we may expect in time to receive a recommendation, if Mr. Stacey does well, for his admission to that Service in spite of his lack of practical professional experience. It seems hardly necessary, however, to anticipate this, and I agree that the Governor's proposal should be approved. Mr. Acheson also agrees.

*J. G. J.*  
6.10.37

*J. G. J.*  
*Stacey's*  
7/10

*G. J. J.*  
7.10.37

*W. G. J.* 8/10

3 L. Kenya Conf. - 2 Approved. - 11 OCT 1937

~~DESTROYED UNDER STATUTE~~

*3/10/37*  
*13/10/37*  
No 3

*[Handwritten signature]*

C. O.

4111

Mr. Hood 1-10

Mr. G. Baile H/10  
Mr. Jeffries 7/10  
Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

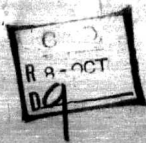
Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

7.10.37  
B.L.S.

11 Oct. 1937



Sir

I have the hon. to ask the rest of

your hon. conf. day. No 132 of the 22<sup>nd</sup>

of Sept. to inform you that I agree

with your proposal to submit to the

Legislative Council the creation of a new

post of legal assistant in substitution

for that of chief clerk with salary at

the rate of £ 800 - £ 825 - £ 850 - £ 875 - £ 900.

2. If Council <sup>accepts</sup> ~~opposes~~ the proposal, I

readily agree the app. of Mr. Slaney to

the new post with salary at the rate of

£ 550 a year as from the 1<sup>st</sup> of January

next

**DRAFT.**

Kenya

Confidential

Govt.

FURTHER ACTION.

(Signed) W. ORMSBY-GORE.



2

CONFIDENTIAL

RECEIVED

28 SEP 1937

C. O. MEGY

22 September, 1937.

Sir,

30010 PA

With reference to correspondence, terminating with your despatch No. 115 of the 19th February, 1936, regarding Mr. H.E. Stacey, Chief Clerk, Legal Department, I have the honour to submit for your consideration a memorandum drafted by the Acting Attorney General, recommending that a post of "Legal Assistant" on a salary scale of £600 by £25 to £600 by £50 to £720, carrying with it a pensionable status, should be substituted for the existing post of Chief Clerk, on a salary scale of £425 by £25 to £600. If you see no objection to the proposal, I shall be prepared to insert the new post in the Draft Estimates for 1938 in the Standing Finance Committee stages.

2. I am advised that Mr. H.E. Stacey, the holder of the existing post, both as regards his industry and legal qualifications, is deserving of promotion, and, in the event of the post of Legal Assistant being sanctioned, I would recommend that he should be appointed to it, with effect as from the 1st January, 1938, at the £550 step in the scale.

THE RIGHT HONOURABLE  
W. ORMSBY GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W. 1.

5. I do not propose to enlarge further on this aspect of the matter, since Mr. Willan has dealt fully with it in his memorandum, and I concur with the views expressed by him. In this connection, it will be appreciated that in the event of the new post being filled in the manner proposed, no additional expenditure will be incurred until the expiry of two years and, at the same time, the retention of a valuable officer will thereby be ensured. It will be observed that the proposal has the support of Mr. Harragin, the Attorney General, who is at present absent from the Colony on leave.

I have the honour to be,

Sir,

Your most obedient, humble servant,



GOVERNOR'S DEPUTY.

MEMORANDUM ON PROPOSED SUBSTITUTION OF POST  
OF LEGAL ASSISTANT FOR CHIEF CLERK.

I have the honour to address you on the subject of the post of Chief Clerk in this Department, at present held by Mr. Stacey.

2. I am strongly of the opinion that the status and salary of this post must be regarded. The present staff of this Department consists of the Attorney General, the Solicitor General, three Crown Counsel and the Chief Clerk. In recent correspondence, I have already pointed out that it would have been impossible to carry on with the work of this Department with the present staff were it not that Mr. Stacey had a distinct flair for, and interest in, legal matters. Since then he has passed the examinations necessary for call to the Bar, and it is now only a matter of keeping terms before he can be called. Apart from his long experience in this Department he has thus passed the necessary academic examinations and the only difference which being called would make would be that he would be entitled to appear in Court. But this cannot affect his knowledge of law and he now does, and has for some time been doing, solely work which would otherwise have to be done by a Counsel or at least a Solicitor. Were it not for his ability in this respect it would have been necessary to have asked for another Counsel, who would have been additional to a Chief Clerk were the holder of that post only capable of carrying out the duties normally associated with that designation. From my experience in other Colonies I am of the opinion that this Department is understaffed. For example recently the position here has been as follows - Mr. Wallace and I have been in Council or on Select Committees. Mr. Phillips has been at Mombasa for over two months for the Court of Appeal and the Sessions (which are not yet finished) and Mr. Penrison, who has recently returned from local leave, has been appearing in the Supreme

- 2 -

Court in Nairobi. I have no hesitation in saying that, were it not for the fact that the holder of the post of Chief Clerk is capable of dealing with work which would otherwise normally have to be done by a Counsel the work of this Department would soon get into arrears. With the leave movements of this Department, as at present arranged, there is no likelihood of there being any change in this respect, for I shall go on leave when Mr. Harragin returns and then Mr. Wallace on my return.

3. I have come to the conclusion therefore that the post of Chief Clerk in this Department is a misnomer, and that the post should be designated "Legal Assistant" and that it should carry a status and a scale of salary more commensurate with its responsibilities and the type of work involved. I strongly recommend that the post of Chief Clerk be deleted from the Estimates for next year and the post of Legal Assistant on the scale of £550 by £25 to £600 by £50 to £720 be substituted therefor; In deciding on the scale of salary I have been guided by the contents of the Secretary of State's despatch Confidential No. 2 of the 4th March, 1937, in which he proposes that the scale of salary to be applied to Solicitors in the Service should be £550 to £840. I do not recommend that (for the time being at any rate) the post should be in the Colonial Legal Service; for I feel that, were Mr. Stacey to leave this Department, it would be possible to obtain a recently qualified Solicitor on that scale, whereas if it were inserted in the Legal Service it would have to carry the higher scale proposed by the Secretary of State. But the post must be a pensionable one and carry first class privileges. It must be understood that the present duties of the post are such as could not be performed by a person without the requisite legal training, both academic and practical, and the recommendation is not therefore based



solely on personal grounds, but for the obvious reason that, if Mr. Stacey leaves this Department, it will be necessary to replace him with a Solicitor. I may add that in the Straits Settlement, apart from a Staff of an Attorney General, Solicitor General and Crown Counsel, there is an Assistant to the Attorney General who performs exactly the same duties as the holder of the post of Chief Clerk in this Department and that the salary attached to that post is approximately £900 a year.

4. I may say that I have referred this letter to Mr. Harragin who is in full agreement with its terms, and is prepared to appear before the Standing Finance Committee on Estimates and support the recommendation. The alteration if approved will involve no increase in the total of the Estimates of the Department as Mr. Stacey will be drawing £550 a year from next March.

RECEIVED  
E...

Copy for 38178/37  
40303.P.F.  
1.18.1937

Telegram from the Officer Administering the Government of Kenya to the Secretary of State for the Colonies.

Dated 29th January, 1937. Received 10.3.a.m.  
29th January, 1937.

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No 21. Confidential.

40303, P.F. a mark

32 on  
40303EA

Your despatch of 28th December. Person named

gratefully accepts appointment offered and passed medically fit. He would prefer however for family and other reasons to remain in Kenya for a few years.

8/38178/36  
38178/36

My telegram No 240 of 7th October 1936 Attorney General now strongly recommends the appointment of person named to the vacant post of Crown Counsel Kenya with effect from 20th September 1936 namely the date since when he has acted. In addition to legal qualifications he is keenly interested in African life and languages. Attorney General goes on leave 15th March and leave arrangements make desirable that person named should remain in view of the 5 months experience in the office. Attorney General advises that ~~the~~ is no suitable candidate for secondment from the Administration. I should be glad therefore if the person named could be appointed Crown Counsel Kenya and other appointment made to Nigeria.