

1935

38096/

C0533/458

38096/

KENYA

Judicial Staff.

Salary of Chief Justice.

Previous

3288/33

Subsequent

1936

R. 287

R. No. 3288/33 attached

M. please

Sir J. Sheridan - S.O. - 23.12.35

2  
1/2/36  
197

Mr. Flood.

A

If I remember correctly, neither you, nor Sir Cecil Bottomley, nor I thought that this salary should be reduced, but Lord Swinton thought otherwise. It was apparently only meant to be temporary. But however all that may be, clearly if the matter is raised again it must be considered again. The point is whether we could consider it on this letter. His object, of course, in writing semi-officially is to avoid getting a snub, which would be the result of his application being turned down if made officially.

JFB

8.1.36.

Sir G. Butler

See 3288/33 where it was bettered out.

The demand for a reduction came from the Kenya unofficials who wanted the salary reduced to £2,000. We didn't agree & said it should be at least the same as the Col. Sec. (£2,200) plus £100 as being President of the Appeal Court or £2,300 in all.

A. is correct. But there was no idea of it being a temporary reduction.

Sir J. Sheridan's argument that because it was once £2,400 it should stay there unless you reduce everybody all round is not a good one. (You can never alter salaries except upwards if it holds)

I think we had better consider the matter on his letter, but I should be inclined to tell him that his best move would be to get the unofficials to ask that the salary be restored, as they did the cut.

1.1.36

Mr. Flood.

Sir Cecil Bottomley.

Would you agree to my replying that if the Governor will recommend reinstating the salary it would be agreed to here, but that the Secretary of State is not prepared to take the initiative in the matter?

I assume you would not want to go further than that, though, in justice, I am not sure that we ought not to. I agree with Mr. Flood of course that no one can suggest that one salary cannot be cut unless all the others are cut, but I think what Sir Joseph Sheridan is saying is that he alone has had his salary cut. I think it was pointed, the Governor did not recommend it, and I don't think it would have been directed except for the fact that it was the salary of a legal post.

J.B. 8.1.36.

One has to be very careful. Here the elected members through their "organization" deliberately suggested £2,000 but the S. of S. would not agree to less than the Col. Sec. plus £100 because of the appeal work.

The elected members might be ashamed of themselves or might not, and it would depend on their view whether the Gov. put up the proposal or no.

? Sir G. Bushe might reply as he suggests adding that as a reduction was proposed by the elected members the Gov. would probably wish to get them to suggest an increase before recommending it.

J.E.G. 7/2/36

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Sir G. Bushe  
Sir G. Tomlinson.

We have had some discussion on this.

It is not possible for Sir G. Bushe to say that the increase would be agreed to here unless we first get the Secretary of State's consent and I would rather not ask for it until we have the Governor's views. In addition, to give Sir J. Sheridan the impression that the increase of the salary was favourably regarded here would hamper the Governor's freedom of judgment. Only he can say what political difficulties will be caused by the proposal to restore the salary. Quite possibly there would be none as Sir J. Sheridan has an old and well-deserved popularity in Kenya.

There is the further point that the original proposal for reduction is coupled with one for the reduction of the Governor's own emoluments. If we reopen the one point the opportunity will probably be taken to bring up the other and the Secretary of State ought to be left free to form his own judgment of the Governor's emoluments, in the light of the position which exists at the time the appointment has to be made and of the officer who is to be appointed.

I should prefer that Sir G. Bushe would suggest to Sir J. Sheridan that he should take the opportunity of having a talk with the Governor, pointing out that the question is not merely one of the suitability of the present emoluments of the Chief Justice but of the difficulty which there might be in getting the consent of Council to the restoration of the old rate.

I agree.  
S.G.B.  
10.1.36

W.C.S.  
10.1.36

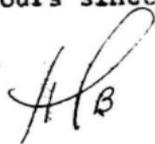
17th January, 1938.

My dear Sheridan,

Your letter of December the 23rd about your salary. I have discussed the matter with the Department, and it has been suggested to me that you should take an opportunity of having a talk with the Governor about the matter.

I appreciate that your point is that you alone have been singled out for a reduction, but the question now is not only the suitability of the present salary but the possible difficulties locally, in the Legislative Council or elsewhere, in getting the old rate restored. That being so, consultation with the Governor would seem to be indicated as a first step.

Yours sincerely,



HONOUR,  
THE CHIEF JUSTICE,  
NAIROBI.

Date 23rd December 1935.

My dear Bushe,

I am writing to you on a personal matter about which you may be able to help me from the Colonial Office and more easily than if I were to write in officially here. It is on the subject of the Chief Justice's salary which was reluctantly altered by the Secretary of State from £2400 to £2300 when the post was offered to me. I say reluctantly (and as you know yourself it was at the instance of the Unofficial Members) because on your referring to the Secretary of State's despatch of November 1933, you will see that he says "In view however of the additional consideration that the Chief Justice is President of the Eastern Africa Court of Appeal that position should be recognized and reflected in the salary" and he therefore considered 'that the present rate of salary of £2400 a year would hardly be excessive' and added that in view of the need for economy at the time he agreed to £2300. Now let me put one or two considerations before you. The first and main one is that in the case of no other senior post in Kenya has the substantive salary been reduced on a new appointment being made. I attach a list from which this will appear clear to you and what I say is this. Seeing that the reduction in the Chief Justice's salary was not followed - and one can but suppose that the justification for the reduction was that it would be followed - in the case of new heads of other departments, I would suggest that the salary of £2400 be restored. Secondly, the position of the Chief Justice of Kenya as President of the Court of Appeal for Eastern Africa cannot be said to be "recognized and reflected in the salary" while it remains at £2300 (At the present time with the levy off in Tanganyika, the Chief Justice there is better off than

Amos (2)

I am after having been five years Chief Justice of Tanganyika). I need not assure you of the heavy work entailed as President of the Court of Appeal, for you know it and you know also how expeditiously the work is dealt with and the frequency with which Sessions of the Court are held. The third consideration is that a deduction of £100 per annum cannot effect any appreciable economy and the Secretary of State agreed that the reduction could only be accepted on the basis of "the need for economy at the time". And the position from the Budget point of view is better now than it was at the time the Secretary of State wrote. The fourth and an important consideration is this. The Secretary of State when he offered me the premier Chief Justiceship in Eastern Africa carrying with it the office of President of the Court of Appeal intended that some benefit would accrue to me on my eventual retirement and yet the position is that if I were to retire from here to-day I would not receive as much in pension as if I had remained in Tanganyika and were to retire from there; and in any event because of the reduction in house allowance for purposes of pension from 15% of one's salary to a fixed figure of £150 per annum, I cannot reach the pension that Barth did; indeed I can never reach more than I would have received had I remained in Tanganyika. I do not think that this can have been taken into consideration when the reduction of £100 was made. It so happens that had Barth retired a short time earlier and I had then been appointed, I would have succeeded to a more valuable pension because I would have my house allowance calculated at 15% of my salary for pension purposes. On May 12th, 1933 the alteration from 15% to £150 p.a. was made and by that date I had served the full period of my pensionable service less approximately two years. The alteration on a basis of a salary of £2300 per annum means a loss of £75 per annum in pension and on £2400 per annum a loss of £152. The details of all this can be vouched for

by T. I. K. Lloyd whom I interviewed at the Colonial Office when I was at home. In conclusion I would say here I am as Chief Justice and President of the Court of Appeal officially housed in the most magnificent building after many years experience in a wood and iron shed and yet it is at this period that the salary of the Chief Justice (and the holder is an officer who has spent all his service in the same group of colonies and the greater part of it in Kenya) is kept at a figure below that of his predecessor with the consequences I have stated. Prior to my leaving for Africa, I mentioned the question of the reduced salary to Bottomley and how it affected me and told him that though I should in all probability not raise it immediately on my return to Kenya I might do so later. Lest it should be said that I was offered the post at £2300 and accepted it at that figure which is perfectly true, I merely wish to make it clear that the Secretary of State's intention was that the reduction should be temporary and it would, I think you will agree, be fantastic to suggest that a reduction of £100 per annum could in any real sense effect an economy when it was not followed by a corresponding reduction in the case of other heads of departments.

*Yours truly*

*Imp. J. J. J.*

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<u>Designation.</u>	<u>Last holder &amp; his salary.</u>	<u>Present Holder.</u>	<u>Salary.</u>	<u>Date of appointment.</u>
Colonial Secretary.	Mr. Moore. £2200.	Mr. Wade.	£2200	8.12.34.
Chief Native Commissioner.	Mr. Wade. £1450.	Mr. Montgomery	£1450.	8.12.34.
Treasurer.	Mr. Rushton. £1450 salary £ 200 currency. £ 50 Land Bank.	Mr. Walsh.	£1450. £ 150. £ 50.	7.3.34.
Commissioner of Customs.	Mr. Walsh. £1400 salary. £ 100 Harbour Advisory Board.	Mr. Kirsopp.	£1400. £ 100	12.4.34.
Director of Agriculture	Mr. Holm £1500 salary £ 100 personal allowance.	Mr. Waters	£1500.	1.12.33.
Director of Education.	Mr. Scott. £1500.	Mr. Morris.	£1500.	7.11.34.
Attorney General	Mr. MacGregor £1800.	Mr. Harragin	£1800.	5.10.33.
Director of Med. & S.S.	Dr. Gilks. £1500.	Dr. Paterson	£1500.	4.11.33.

NOTE.

All the above officers it will be seen were appointed subsequent to the Unofficial Members having made a recommendation that the salary of the post of Chief Justice should be reduced to £2300. (See Page 9 of the published "Report of the Select Committee on the Draft Estimates for 1934" reading "Head XII Judicial Department - 74. Item 1. Chief Justice, £2400. The Committee learned that in response to a recommendation made earlier in the year by Elected Members for the reduction of the salary of this post, the Secretary of State had agreed that a reduction to £2300 per annum might be made."