

EAST AFR. PROT.

30731

REC'D JUN 22 1920

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GOVT SERVANTS CHARGED WITH CRIMINAL OFFENCE
REPORT BY GOVERNMENT LEGAL ADVISERS

Reports difficulty arisen out of ruling by Acting Chief Justice that Govt Legal Advisers cannot properly appear for the defence. Gives details of case in point i.e. of Sgt. Bachan Singh. In circumstances recommends refund of Rs 530 the expense he incurred in his defence.

Mr. Dingley

For your views, please, as to
representation by Law Officers.

On the particular case, the man
must of course have the Rs 530, I
think. But if a man knows that
the Govt will repay if he is acquitted
& that he can't possibly pay if he
is convicted the consequences of the
representation becomes a matter of
regret but perhaps
he has little incentive to keep down
fees. On the other hand, will a
good counsel take on such
speculative work?

W.S. 24.6.20

GOVERNMENT HOUSE,
 NAIROBI.
 BRITISH EAST AFRICA
 REC-22 FIN
 May, 1920.

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My Lord,

I have the honour to bring to Your Lordship's notice a difficulty that has arisen out of a ruling by the Acting Chief Justice that the Legal Advisers to the Government cannot properly appear for the defence of a Government servant charged with a criminal offence, the outcome of official action.

2. In the case in point Sat Bachan Singh, an Indian Sub-Inspector in the East Africa Police, was charged with having given false evidence in the case of Rex v. Sajaad Hussein in which he was an investigating officer and one of the principal witnesses for the Crown. Sajaad Hussein was found guilty of murder and the advocate for the accused subsequently obtained permission to prosecute in the case of perjury, and it was clear that, were a prosecution for perjury to be sustained against the Sub-Inspector, the arguments to be put forward by the prisoner under sentence to the Court of Appeal would be materially strengthened thereby.

3.

RIGHT HONOURABLE

VISCOUNT MILNER, P.C., G.C.B., G.C.M.G., &c., &c.

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

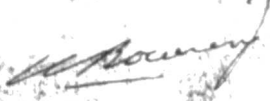
3. The Acting Attorney General was willing to defend Bachan Singh but withdrew in view of the Acting Chief Justice's ruling.

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4. Bachan Singh therefore, was faced with the alternative of conducting his own defence against an European Advocate or of employing counsel at his own expense. It is an undoubted fact that laymen and particularly non-Europeans are severely handicapped in a Court of Law when, themselves unaided by Counsel, they are faced with a prosecution conducted by an advocate, a handicap that might result in an unjust conviction. Bachan Singh adopted the second alternative, thereby incurring expenses entirely beyond his means. He was acquitted of perjury and his character completely cleared.

5. No provision exists here for the payment of the fees of Counsel employed in the circumstances detailed above as, I believe, is the practice in India, and I strongly recommend, for Your Lordship's favourable consideration, the refund of the expenses incurred by Bachan Singh in his defence. The fees in this case amount to Rs:530/-.

I Have the honour to be,
Your Lordship's
humble, obedient servant,



ACTING GOVERNOR.

ft to the alternatives of ...
ence or of employing Counsel for ...
might ... a policeman at the mercy of two
three persons who ... against him & who
might enter into a conspiracy to accuse him of some
...
I am advised that it should be the business of the
... of the Police to decide whether any particular
... in which the case should be officially
... & if he thinks desirable that it is he should
... Council for reference to an ... meeting of the ...
... some Counsel other than the ... legal advisers of the
... to the defence. If the ... of Police decided to
... in this way, the expense to be borne by the
... whether the result is an acquittal or a conviction,
... in which the ... of Police decided against an official
... would probably not be numerous, & the question
... refunding the expenses of the accused could be decided in each ...
... & the ... in each case on the merits of the case.

(3) In the particular case with you
... (as from ...)

REGISTERED No. _____

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