

1933

3041

CO 533/432
KENYA

1933

3041

Private Employment of Government Officials

Previous

17313/31

P. Hood

24

29
Precedents (60)

27/10
3/11

Subsequent

28162/35

297

R. 297

11/2

W. Brantman

13/2

H. J. J. J.

14

C. S. D. P.

14

D. J. J.

14

S. C. P.

15

R. 309

16

297

17/2

Precedents R. 80

21/2

R. 297

18/10

W. J. J.

21/1

D. J. J.

21

D. J. J.

23

D. J. J.

23

Professors

23

FILE A.

1. Lawrence Byrne 5 _____ 6 Jan 33

States that a further application has been received from
E. F. Marshall
to accept offer to act as manager of the new Capital
Theatre & that subject is covering sanction arrangements
has been given under certain conditions.

Mr. Marshall makes a practice of taking
spare time employment to judge for
1. 1602/30 and 1731/31 on the former
occasions his activities have been limited
to certain specified evening hours. It
is stated that the duties of manager will
be performed after office hours. However
I should be inclined to doubt whether they
could be so restricted - and as to
from job the case complies with the
principles laid down in the despatch of
2. 51285/28. It can I suppose
be assumed that in virtue of his office
as Chief Clerk in the Water Affairs Dept
Mr. Marshall has nothing to do in connection
with the licensing of Cinemas and films.

On the whole this seems to be a border
line case and I suggest: that it
be not approved on the ground that
the S. of S. is not satisfied that the duties
will not conflict with Mr. Marshall's
official duties.

W. P. Ross
13/1/33

As the ~~3000~~ P.C. and bygone are satisfied

I think we need hardly object.

W. P. Ross

See underlined portions of page 3 of despatch. (1) Mr

(1) Mr Marshall's extra employment is expected to be of temporary duration (2) Mr Marshall may be called upon at any time to resign his appointments.

The position seems to be well subordinated. And we may approve and leave the matter to the Governor's discretion.

Unshowered
14.2.33

The proposal is contrary to the letter of C.R. 28 and also, I think, to the spirit of the rules generally as to governing the activities of whole-time civil servants. But on the understanding that the arrangement is purely temporary we need not object?

C. J. Dobson
14.2.33

First of all it was a semi-charitable sort of job done for the good of the natives. Now it is to be used as manager of the "Capitol Theatre" - apparently a cinematograph place. Approval or not of the local people I should have no hesitation in saying that it should not be allowed unless it is clear that it is truly "temporary in duration".

But such temporary things have a habit of lasting and I would reply

? That the S. of B. sees very grave objections to the proposal but will not refuse his approval provided that the appt. of Mr Marshall does not last

more than six months when it must cease

11.6.33
14.2.33

I agree. There must be many men waiting to get on the work and will to leave it in 6 months.

W.S.D. 15.2.33

P.F. advised

2 To Gov. 107 (16/2/33) 17 FEB 1933

To be sent to Gov. 107

S. H. C. Transport 121 15.2.33

Submit for confrm. that Mr R.R. Duncan should be allowed to join the board of Directors of K.K. Duncan Ltd.

The relevant Colonial Regulations are 28 and 29 in the old edition or 52 and 53 in the new edition.

It is quite obvious that whether Mr. P.L. Duncan holds a position in the Company or not he must be already deeply interested in it since it nearly affects him and his family. It is difficult as Director would not therefore be likely to have his private interests conflict with his public duties or at least not to any greater extent than they do at present.

On the other hand Colonial Regulation 29 forbids public officers to engage in trade or employ themselves in any commercial undertaking. As the Board of Directors control the management of the Company I do not think that the Acting High Commissioner's argument that the Director is in no way

If Duncan the director of the bank

W. H. H. 23/10

I agree with him

W. H. H. 23/10/33

connected with the running of the business is a good one.

It would not seem to entail any particular hardship upon his family if Mr. R.A. Duncan were not allowed to be a director. When his brothers come of age they can go on the Board instead of him.

The Acting High Commissioner's proposals seem to me to be in conflict with Colonial Regulation 26 and as such should be rejected. Otherwise I cannot see where we can draw the line unless each case is to be decided individually on its merits.

The existence of C.R. 53 (new edition) side by side with 52 shows that a clear distinction should be drawn between engaging in trade (categorically forbidden in 52) and possessing an interest in a local company (permitted with the Governor's consent, under 53).

The facts given in the despatch justify regarding the Director as coming under 53 rather than 52, and I would see no sufficient ground for overriding the view of the C.R. & H.C.

? Approve
W. H. H. 21/10

H To H.C.T. 188 (3 lines) 26 Oct 1933

Proceedings
W. H. H.

W. H. H. 21/10

3041/33 Kenya.

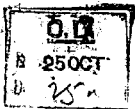
115

C. O.

26 October, 1933

Mr. Marshall ^{24/10}
Mr. Penning ^{25/10/33}
Mr.

Mr. Parkinson.
Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Stuckburgh.
Permt. U.S. of S.
Party, U.S. of S.
Secretary of State.



Sir,

I have etc. to acknowledge

(3)

the receipt of your despatch ^{12/12/31}
of the 15th of September, and to
inform you that I approve your
recommendation that Mr. R. A. Duncan
should be allowed to join the
Board of Directors of R. B.
Duncan, limited, under the
conditions stated in your despatch.

DRAFT.

Transport.

Kenya-Uganda

No. 118

High Commissioner

FURTHER ACTION.

I have etc.

(Sgd.) P OUNLIFFE-LISTER.



36

OFFICE OF THE HIGH COMMISSIONER FOR TRANSPORT,
GOVERNMENT HOUSE,

NAIROBI,
KENYA.

15th September, 1933.

TRANSPORT

KENYA-UGANDA

NO. 12!

RECEIVED
1 OCT 1933
C. D. REGY

Forward (4)

Sir,

I have the honour to refer to Colonial Regulation No. 29 to the effect that salaried public officers should not be connected with any company or undertaking which might bring their private interests into real or apparent conflict with their public duties, and to submit for your favourable consideration the case of Mr. R. A. Duncan, a Clerk, Class I, in the Chief Mechanical Engineer's Department of this Administration.

2. Mr. K. B. Duncan, the father of Mr. R. A. Duncan who is the eldest son, owned a grocery and general provision business in Nairobi called K. B. Duncan Ltd., and died in January 1930. Since his death the business has been administered by the Public Trustee.

3. Under the will of Mr. K. B. Duncan, practically the whole of the shares of the business are owned by his widow, who is an invalid living in Edinburgh and never likely to return to Kenya. On the widow (Mrs. Duncan)'s death, the shares of the property will be divided amongst the surviving children, and Mr. K. A. Duncan, being the eldest son, has been invited to join the board of Directors since his brothers are not of age. Mr. R. A. Duncan is naturally anxious to become fully acquainted with all matters concerning the business both in his own interests and on behalf of his brothers and sisters and, should he join the Board, he would be in no way connected with....

THE RIGHT HONOURABLE,
MAJOR SIR PHILIP GUNLIFFE-LISTER, G.B.E., M.C., M.P.,
DOWNING STREET, S. W. 1.

with the running of the business which is conducted by a paid manager acting under the Board of Directors. The Board of Directors holds about six meetings a year and, in the event of Mr. Duncan being allowed to join, the Board would in future hold these meetings after 4 p.m. i.e. after office hours.

4. There is no question of Mr. Duncan investing capital in the business and he has been offered by the directors one ordinary Shs. 20/- share, which is the necessary share qualification.

5. The General Manager has carefully considered the question and recommends that Mr. Duncan should be allowed to join the Board of Directors as he does not consider that he will be prevented thereby in any way from devoting his full activities to the service of the Administration nor does he consider that Mr. Duncan's duties on the Board will conflict with his duties as a Railway servant. The Public Trustee has also recommended that Mr. Duncan should be allowed to join the Board, and he has further assured me that if at any time Mr. Duncan should be devoting more time to the Board than is necessary, or becoming involved in any way with business so that it would conflict with his duties as a servant of this Administration, he would vote him off the Board.

6. In the circumstances explained above, it appears to me that Mr. H. A. Duncan's case merits special consideration, and that if he were allowed to join the Board of Directors of K. B. Duncan Ltd. it would not bring his private interests into conflict with his public duties.

I.....

I accordingly recommend for your approval that he should be allowed to join the Board under the conditions mentioned above.

I have the honour to be,

Sir,

Your most obedient, humble servant,

C. G. G. G.
~~HIGH COMMISSIONER~~

C.D.
R 17 FEB
D 199

2
9

O. O.

Mr. Priestman 16/2/33

Mr. ~~Josephine Gray~~ 16.2.33

Downing Street,

17 February, 1933.

- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Permt. U.S. of S.
- Party. U.S. of S.
- Secretary of State.

Sir,

I have the honour to

acknowledge the receipt of your

(1) despatch No.5 of the 6th January,

regarding
~~on the subject of an application~~

by Mr. F.R.C. Marshall, Chief
Clerk, Provincial Administration,

for permission to undertake the
duties of Manager of the Capitol
Theatre.

2. I see very grave ob-

jections to the proposal, but I

will not refuse my approval provided

that

DRAFT

KENYA

No. 104

Govr.

that the appointment of Mr
Marshall as Manager of the
Theatre does not last for
more than six months at the
end of which period it must
cease.

I have, etc.,

(Sgd.) P. CUNLIFFE-LISTL A.

KENYA.

No. 5.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

1
10

RECEIVED
4 FEB 1933
COL. OFFICE

6 January, 1933.

Amended (2)
No 2
17/3/31

With reference to Mr. Thomas' despatch No. 603 of the 31st August, 1931, on the subject of payment for the provision of a weekly cinematograph programme for natives at the Memorial Hall, Pumani, by Mr. F.R.G. Marshall, Chief Clerk, Provincial Administration, I have the honour to inform you that a further application has been received from Mr. Marshall to accept an offer to act as Manager of the new Capitol Theatre.

2. The attention of the provincial Commissioner, Kisumu, and of the District Commissioner, Nairobi, in whose office Mr. Marshall is employed, was directed to the principles which govern the acceptance of private employment by Government officers set out in paragraph 2 of Mr. Amery's despatch Miscellaneous of the 24th September, 1928.

51285/28
Send.

Both the Provincial Commissioner and the District Commissioner have recommended the application and Messrs. Dunn, Hornby and Company, Chartered Accountants, Nairobi, who are Secretaries of the new Theatre, state that the Board of the Theatre have carefully considered the names of various persons for the position

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GURLEFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON S.W.

11 END

of Manager of the Theatre, and after consideration, in their opinion, Mr. Marshall was the only person with the necessary ability and who was at all capable of filling the office indicated.

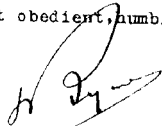
3. Mr. Marshall's duties as Manager of the Theatre will be performed after office hours and, while I should not have been willing to endorse the employment of a Government official solely in a managerial capacity at a theatre, I have given approval, subject to your covering sanction, because I understand that the duties particularly include technical supervisory work connected with film projection and because I am informed that the extra employment will be temporary in duration.

Mr. Marshall, I am informed, has considerable experience of cinematograph photography and he has been instructed that there must be no question of conflict with his official duties and that he must not enter into any binding engagement which will preclude him, at any time, from resigning the appointment should Government call upon him to do so or should you refuse to sanction the application.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL
GOVERNOR.