

SIMLA RECORDS.

1
1914.

**GOVERNMENT OF INDIA.
HOME DEPARTMENT.**

POLITICAL—A.

Proceedings, June 1914, nos. 39-47.

Employment of Mr. A. B. Broadway, Assistant Legal Remembrancer, Punjab, to conduct the prosecution at Delhi of the Delhi-Lahore conspiracy case and grant to him of a special daily fee of Rs. 300 while so employed.

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POLITICAL A., JUNE 1914.

No. 39-47.

EMPLOYMENT OF MR. A. B. BROADWAY, ASSISTANT LEGAL REMEMBRANCER, PUNJAB, TO CONDUCT THE PROSECUTION AT DELHI OF THE DELHI-LAHORE CONSPIRACY CASE AND GRANT TO HIM OF A SPECIAL DAILY FEE OF Rs. 300 WHILE SO EMPLOYED.

LETTER FROM THE CHIEF COMMISSIONER, DELHI, NO. 1758-HOME, DATED THE 14TH MARCH 1914. Pro. no. 39.

Please write to Mr. Hailey demi-officially as follows :—

Demi-official from the Hon'ble Mr. H. Wheeler, C.S.I., C.I.E., to the Hon'ble Mr. W. M. Hailey, C.I.E., Chief Commissioner, Delhi, no. 2311-C., dated the 26th March 1914.

Your letter no. 1758-Home, dated the 14th March, regarding the employment of Broadway.

With reference to your verbal information the other day that the Punjab Government were anxious to employ further counsel to lead, it would be better if any proposals in that connection came up now and the whole case was dealt with as a whole. If Broadway does not lead, would that affect his fee? A rate of Rs. 300 per diem is appreciably in excess of what I now see is his outstation Punjab scale, and I am not quite clear why he is given so much more when employed in the Frontier Province. These points relative to him could be replied to demi-officially; if any suggestion to employ other counsel is to be made this will presumably be done officially.

Have you considered the possibility of settling a lump payment for the case? This is an idea that was mooted in connection with these protracted political proceedings in Bengal. In these lengthy hearings a daily fee mounts up rapidly and a lump payment is a direct incentive to expedition.

Demi-official from the Hon'ble Mr. W. M. Hailey, C.I.E., Chief Commissioner, Delhi, to the Hon'ble Mr. H. Wheeler, C.S.I., C.I.E., no. 2270-Home, dated the 1st 2nd April 1914.

Will you kindly see your demi-official letter no. 2311-C., dated 26th March 1914, regarding the employment of Broadway?

I have just received a letter from the Legal Remembrancer, Punjab, stating that the Punjab Government is paying Alston's fees.

As regards Broadway, the Legal Remembrancer states in his letter as follows :—"The Lieutenant-Governor's main object in employing him was to strengthen the prosecution by securing the co-operation of the most experienced counsel available. It was not at all the intention that Broadway should become merely an assistant. In England it frequently happens that two or three eminent counsel will appear for the same person, and that though one of them must be senior the distinction gives rise to no difficulties, and they all work on a practical equality. This is in effect what is contemplated in this case." I do not think, therefore, that the question of Broadway leading or not should affect his fee. The rate of Rs. 300 a day was recommended by the Legal Remembrancer, Punjab, who, as you know, acts as Legal Adviser to the Delhi Province, and this sum was suggested because Broadway's residence at Delhi throughout this case will deprive him of all opportunities of taking private practice.

I had not considered the question of a fixed fee in this case and do not think it would be possible to raise the point now in view of the fact that Broadway came down here on special duty on the 11th March 1914, but if the Government of India think this advisable the point could be taken up in connection with the sessions case supposing the latter to be tried here.

Submitted for orders.

R. D'A.,—5-4-14.

C. W. E. COTTON,—6-4-14.

In the circumstances we may ask the Finance Department to agree to the expenditure at the daily fee rate before the committing magistrate ; this will give us some indication of how long the case is likely to take at sessions, and in connection therewith the Chief Commissioner may be asked to consider the possibility of a lump fee, if necessary.

2. As soon as these proceedings were instituted we impressed on Mr. Hailey the necessity of getting his legal procedure properly supervised from the outset. It has been the regrettable experience of Bengal that cases can be badly muddled and there has been only recently a most unfortunate instance. Hence the employment of Mr. Broadway and in the circumstances the fee proposed is not unreasonable. It is of vital importance that the present prosecution should not fail and we are bound to leave nothing undone which will ensure that result.

As Hon'ble Member is on tour the papers are sent direct.

H. WHEELER,—7-4-14.

Finance Department.

In dealing with this case it would have been helpful to know what terms the Punjab Government has made with Mr. Alston and also why it pays one counsel and Delhi pays for another. But in view of the considerations urged by the Home Department we may agree to the payment of some special fee to Mr. Broadway. In this connection the following remarks are offered on the proposal as made :—

- (1) Will Mr. Broadway draw his pay of Rs. 680 in addition to his daily fee ? From the last paragraph of the paper under consideration it is gathered that he will not. This should be made clear.

- (2) It is understood that he will draw the daily fee during the whole time that he stays at Delhi in connection with the case, not only for the days he attends* court. This

*Cf. Rule XIII (1) (a) of the Rules relating to the conduct of business in the Law Department, Punjab.

is not objectionable in the special circumstances stated, although in the capacity of Assistant Legal Remembrancer he is ordinarily en-

titled to a retaining fee of Rs. 100 from Government in criminal cases in respect of every day's attendance in any court other than the Chief Court.

- (3) If the case is adjourned he will obviously go back to Lahore from time to time. Is

Ibid.

The committal proceedings will probably be continued, but it might be well to provide for a possible contingency.

he to be paid at the proposed rate during such periods as he is away from Delhi ? Apparently he should not be.

F. W. JOHNSTON.

- (4) Will he draw travelling allowance for the journey between Delhi and Lahore or elsewhere whenever he goes between the stations (if the case is adjourned from time to time these journeys may be many) or is the fee intended to include all claims to travelling allowance ? To the Assistant Legal Remembrancer going to outstations travelling allowance is admissible, besides a daily fee of Rs. 100. But here a special fee of Rs. 300 is proposed.

- (5) The amount of Rs. 300 seems excessive. The fees granted to the Advocate-General,

Cf. Judicial A., January 1911, nos. 32-35.

Judicial A., March 1912, nos. 284-85.

Judicial A., December 1911, nos. 166-68.

Judicial A., April 1912, nos. 134-35.

Page 1 of notes in Judicial A., August 1913, nos. 156-57.

Bombay, in addition to his pay (Rs. 2,000) in connection with important political cases were only Rs. 150, while, on the other hand, it must be noted that the Calcutta rates were very high.

2. As regards the authority competent to sanction :— If Mr. Broadway appears in the

The case in Judicial A., September 1913, nos. 381-82, is a special one, *vide* Deputy Secretary's note on page 1.

reference to the Secretary of State is apparently required. If he is to be treated as an officer

Cf. Secretary of State's despatch no. 41-Public of 24th February 1911; in Judicial A., March 1911, nos. 284-85.

a month. If the case is, on the other hand, viewed as the engagement of a private barrister, unconnected with the position he holds as Assistant Legal Remembrancer, on a special rate of fee, the remuneration limits laid down in the audit resolution do not apply and

capacity of Assistant Legal Remembrancer, the grant of a special fee falls under item 2 of Rule XIII of the rules relating to the conduct of business in the Law Department, Punjab, and no State's sanction may be required as the fee income at Rs. 300 a day may exceed Rs. 4,166½

no reference to the Secretary of State will be required to the expenditure which doubtless does not fall under the class 'expenditure of an unusual nature' Perhaps Comptroller-General may be consulted.

K. U.,—9-4-14.

I. K. M.,—9-4-14.

Perhaps Home Department could kindly let us have the answers to 1-4 of paragraph 1 of the note above.

As regards sanction, it is understood that, if Mr. Broadway was a Law Officer of Government, he would be entitled to fees at such rate as might be considered reasonable. With his deputation his position as Assistant Legal Remembrancer, Punjab, apparently lapses, and he becomes a Government servant on deputation and his position at Audit is apparently the same as if he was deputed as Additional Judge of the Chief Court. He will, therefore, apparently, as regards sanction, come under the Audit rules and a reference to Secretary of State will be required. The case does not appear to have been examined as regards the necessity of any sanction for Mr. Broadway to take the fee proposed, had he retained his substantive appointment. If this is permissible, it would perhaps be better not to put him on deputation, but, if the Punjab insists, to allow them to create a temporary post of Additional Assistant Legal Remembrancer.

As the Home Department wish this case to be treated promptly, it seems advisable that these points should be considered.

After settlement of them and of the matter of sanction, Honourable Member's orders will be taken as to the proposed fee, regarding which this Department should not be taken to have expressed an opinion.

F. W. JOHNSTON,—15-4-14.

Home Department.

The questions asked by the Finance Department may be answered as follows :—

- (i) It was not proposed to give Mr. Broadway on deputation his pay as Assistant Legal Remembrancer in addition to the daily fee of Rs. 300.
- (ii) Mr. Broadway should be regarded as entitled to the fee for the whole time he is at Delhi in connection with the case, Sundays and holidays included. Save for one inevitable adjournment from the 17th—24th March in connection with the transfer application to the Chief Court, the commitment proceedings have gone on *de die in diem*.
- (iii) It is not proposed to pay him at the same rate for days of absence from Delhi unless he is definitely engaged elsewhere in connection with the case—as for example, in opposing the application for transfer in the Chief Court.
- (iv) Mr. Broadway will only be paid travelling allowance for journeys between Delhi and Lahore or elsewhere in connection with the case. He will be entitled to travelling allowance from Lahore for his first journey to Delhi, and from Delhi to Lahore when the commitment proceedings are over—and also for the journey to and from Lahore made in connection with the transfer application in the Chief Court.

2. We may welcome any proposals which will obviate the necessity for a reference to the Secretary of State. Mr. Broadway's appointment as Assistant Legal Remembrancer, Punjab, is non-pensionable, and the Punjab Gazette notification might be amended into the grant of leave, when he would draw no pay, and might be treated by the Chief Commissioner, Delhi, as any other private advocate. } A

Judicial A., September 1911, nos. 101-102.

C. W. E. COTTON,—27-4-14.

Hon'ble Member has not seen the case which came up while he was on tour.

The above answers may be communicated to the Finance Department, but I do not agree with the suggestion at A, which may occasion difficulty—what I understand Mr. Johnston to suggest as a possibility is to cancel the notification placing Mr. Broadway's services at the disposal of the Chief Commissioner and appointing Mr. Herbert to act in his place; therefore Mr. Broadway continues to be Assistant Legal Remembrancer, Punjab, but can be sent for this particular purpose to Delhi, but if the Punjab say they cannot manage without an Assistant Legal Remembrancer at Lahore (as it may be assumed they will), they may make a temporary appointment of a second assistant while Mr. Broadway is away. If this will avoid a reference to the Secretary of State

there seems to be no objection, but it would seem to follow that any pay drawn by Mr. Broadway as nominally Assistant Legal Remembrancer should be deducted from his special daily fees.

H. WHEELER,—27-4-14.

I agree with Secretary.

R. H. C[RADLOCK],—27-4-14.

Finance Department.

The file deals with a proposal to grant Mr. Broadway, Assistant Legal Remembrancer, Lahore, while employed in connection with the Delhi conspiracy case, a daily fee of Rs. 300, subject to the conditions mentioned in paragraph 1 of Mr. Cotton's note of 27th April 1914. The original intention was to place Mr. Broadway on special duty for this purpose. But Mr. Johnston pointed out in his note of 15th April 1914 that in that case the grant to him of the proposed remuneration would require the Secretary of State's sanction, as the Government of India are not

competent to grant an officer placed on deputation a higher remuneration than Rs. 4,166½ a month; and he suggested that:—

- (1) Mr. Broadway should be treated as on ordinary duty at Delhi, the new province being entitled under existing arrangements to the services of the Assistant Legal Remembrancer, Punjab; and the special remuneration proposed for him granted under Rule XIII (2) of the Rules regulating the conduct of business in the Law Department of the Punjab; and
- (2) a temporary appointment of Additional Assistant Legal Remembrancer should be created in the Punjab for the performance of Mr. Broadway's regular duties.

The Home Department are prepared to accept the suggestion, and on the understanding that it will be accepted, we may agree to sanction the proposed remuneration. I am not sure that Mr. Johnston's arrangement will prove free from audit difficulties, e.g., the audit office may hold that the Rules regulating the conduct of business in the Law Department of the Punjab no longer apply to Delhi, or it may object to the grant of fees to the Additional Assistant Legal Remembrancer; but in that case we can go up to the Secretary of State for confirmation of our orders.

B. N. MITRA,—29-4-14.

I readily agree to the employment of Mr. Broadway, but I must ask for further justification of the enormous fee proposed, which works out to Rs. 9,000 a month. It is said by Mr. Hailey that this is to compensate Mr. Broadway for loss of his private practice in the Punjab while on duty at Delhi. Well, Mr. Broadway's pay from Government at Lahore was, I gather, Rs. 680 a month. Is it seriously contended that this gentleman is making anything like Rs. 8,000 a month by private practice? And why it should not have occurred to Mr. Hailey to propose a lump fee for what he knew to be a long case, instead of a very expensive daily arrangement, I cannot conceive.

W. S. M[EYER],—29-4-14.

Home Department.

Submitted. In addition to his pay of Rs. 680 per mensem, Mr. Broadway receives "a fee of Rs. 100 a day, in respect of every day's attendance in any court other than the Chief Court *plus* travelling allowance, when admissible." We cannot say what this works out to on an average every month, nor do we know at what figure Mr. Broadway's private practice is estimated.

R. D'A.,—30-4-14.

The fee of Rs. 300 a day was fixed not solely with reference to Mr. Broadway's estimated income at the bar, but also with reference to the importance of the case for which he was engaged, in which, until Mr. Ross Alston was introduced, at the expense of the Punjab Government he was leading for the prosecution and in which he still plays a very important part. It may further be pointed out that the prosecution evidence has now been completed and it is not likely that the Magisterial Proceedings will be much further prolonged, and, if Mr. Broadway who took up the case on March 11th will not be engaged for more than two months on it or draw at the rate proposed more than Rs. 18,000. It is unlikely that his services could have been secured for a lump payment of very much less. Different arrangements may be made in connection with the sessions case (assuming that commitment of the majority if not of all the accused is inevitable), as proposed in Mr. Hailey's letter of the 2nd April.

C. W. E. COTTON,—30-4-14.

3. Draft III—the demi-official to Mr. Hailey—follows Hon'ble Member's note of 1st May 1914, but the spirit of the latter is apparently that the question of a lump fee should be considered irrespective of the particular counsel engaged. Perhaps some such words may be added at end :—

“ Indeed the point should be considered whichever counsel is engaged ”.

V. K. M.,—14-5-14.

Perhaps the Home Department will not object to the pencil additions made, with which we may concur in the drafts, though as draft III is a demi-official it might not be out of place to suggest that the remuneration of Rs. 300 a day already agreed to seems open to some objection on the ground of generosity, as applied to the sessions case.

F. W. JOHNSTON,—18-5-14.

Home Department.

Pro. no. 40.

TELEGRAM FROM THE CHIEF COMMISSIONER, DELHI, NO. 84, DATED THE 18TH MAY 1914.

We may accept the pencil amendments made in the drafts by Finance Department. An addition has been made in draft III, as suggested by Mr. Johnston. (It is for approval.) The drafts may issue as modified.

An *ad interim* telegraphic reply to the Chief Commissioner, Delhi, is put up for approval, on the assumption that Mr. Broadway's services will be retained for the sessions trial also. (The Chief Commissioner has not made any recommendation as to this.)

R. D'A.,—19-5-14.

Drafts I and II, if approved, may issue.

Mr. Hailey's telegram of yesterday renders a demi-official to him unnecessary. I submit a draft reply for approval.

C. W. E. COTTON,—19-5-14.

Issue at once.

H. WHEELER,—19-5-14.

Pro. no. 41.

TELEGRAM TO THE CHIEF COMMISSIONER, DELHI, NO. 211, DATED THE 19TH MAY 1914.

Pro. no. 42.

LETTER TO THE CHIEF COMMISSIONER, DELHI, NO. 212, DATED THE 20TH MAY 1914, AND
ENDORSEMENT TO THE FINANCE DEPARTMENT, NO. 213, OF THE SAME DATE.

Pro. no. 43.

LETTER TO THE GOVERNMENT OF THE PUNJAB, NO. 214, DATED THE 20TH MAY 1914.

Pro. no. 44.

TELEGRAM FROM THE CHIEF COMMISSIONER, DELHI, DATED THE 20TH MAY 1914.

Three hundred rupees for five weeks would amount to Rs. 10,500. I should be rather surprised if Mr. Broadway refused a firm offer of Rs. 10,000, but having regard to the extreme importance of the case, I do not think an offer of Rs. 12,000, if one is to be made, would be too extravagant. The alternative is to continue the daily fee with the possibility of the trial being protracted by the tactics of those appearing on behalf of the different accused. It is not possible to suggest a reduction in the daily rate.

C. W. E. COTTON,—20-5-14.

We cannot afford to lose Mr. Broadway in the case or to have an adjournment, and as Mr. Broadway is unwilling to take a lump fee I do not see there is much use in making him an offer. Mr. Hailey's telegram is not very intelligible on the point. It is not what we desire, but what Mr. Broadway will take.

2. I venture to think that looking to the extreme importance of this case we should concede the daily fee of Rs. 300. If we can secure a conviction the money will have been well spent. To the arguments in the preceding notes I would add two others. Firstly, it is not the case that a man like Mr. Broadway can come away for a protracted case of this kind, and on its conclusion step right back to work at Lahore. While he is away he can book up no forward dates, especially when there is no certainty how long the case may last, and in this way he

It is very difficult to assess these counsel's fees. A man of standing has a recognised rate for which he will go away from headquarters. In Mr. Broadway's case the Rs. 300 rate is recognised in the North-West Frontier Province and comparatively it is not immoderate. I have known quite ordinary mufassal men demand Rs. 150 a day and a leader of the Calcutta Bar might ask for Rs. 1,000. Of course this means that if they get a lengthy case the total soon runs up and they do uncommonly well over it, but that is an unfortunate consequence of these lengthy proceedings. The "lump sum" idea has never been very extensively applied and I fancy counsel would be inclined to object. It was definitely put to Mr. Hailey in my letter of the 25th March, but he demurred to it in his reply of the 2nd April. Of course Mr. Broadway does not make Rs. 9,000 a month in private practice at Lahore, but that is not the sole criterion. If he is in a position to demand an outstation fee of Rs. 300, he will not come for less, because that would lower his market rate and if we want him, we have to pay him. A case like this is undoubtedly a wind fall, but he does not adjust his fees by wind falls, but by what all the year round he can command.

We can put the matter again to Mr. Hailey, if desired, but the difficulty is that Mr. Broadway has already given his services and probably on an implied understanding (knowing what the Legal Remembrancer and Mr. Hailey had recommended) on getting Rs. 300. The case is rather like that of a doctor; he has a daily fee and if you have a long illness and have not compounded on an insurance basis, you have to pay an uncomfortably large sum, but the doctor will not alter his customary daily rate on that account.

H. WHEELER,—30-4-14.

I am afraid that nothing can be done as regards the case in the Magistrate's court. Mr. Broadway did a lot of work on it before the case came into Court at all. But in respect to the sessions case, if he is still employed, a fee for the whole case should be arranged, if possible. I am sorry that Mr. Hailey did not think of this before; but it was probably impossible to estimate the probable duration of the case.

R. H. C[RADDOCK],—30-4-14.

Finance Department.

Submitted.

B. N. MITRA,—1-5-14.

In the matter of Mr. Broadway's fees, I agree to what is practically *fait accompli* as regards the magisterial enquiry, since my Honourable Colleague states that efforts will be made to remunerate Mr. Broadway by a lump fee for the Sessions Court proceedings if his services are required there. I trust that more economical arrangement will be made on this basis.

2. I am afraid I cannot agree with Mr. Wheeler that the Rs. 300 a day fee allowed to the Punjab Legal Officers for appearance in the closely connected Frontier Province is 'not immoderate'. It seems to me to be excessive, having regard to the fact mentioned in the Finance Department office note of 9th April that the Bombay Advocate-General only got Rs. 150 a day extra for employment in important political cases there. I should be glad if Home Department would kindly give separate consideration to this matter.

W. S. M[EYER],—1-5-14.

Home Department.

Three drafts are submitted for approval. Finance Department may see before issue.

(Paragraph 2 of the Honourable the Finance Member's note, dated the 1st May 1914, has been extracted and other relevant extracts taken and sent to the Judicial Section for necessary action).

R. D'A.,—7-5-14.

C. W. E. COTTON,—11-5-14.

Finance Department.

The drafts are in order and may be agreed to.

2. But, to meet the first point in Assistant Secretary's note of the 29th April 1914, an addition may perhaps be made, after Home Department verifies it, after line 9 of the letter to Chief Commissioner "who under existing arrangement is a law officer for the Delhi Province also".

loses money. Secondly, European barristers of the requisite qualifications in Northern India are few; if we discard Mr. Broadway (apart from the extreme inconvenience) there is no certainty that we shall obtain a suitable substitute more cheaply.

3. As regards paragraph 2 of the Hon'ble Sir W. Meyer's note of the 1st instant, I would beg to point out that what I wrote was "*comparatively*.....not immoderate." I have discussed with Sir W. Vincent informally and he confirms that view and mentioned that he has had men appearing before him on Rs. 1,500. I am afraid the Bombay precedent cited is rather the exception.

H. WHEELER,—20-5-14.

It is absolutely essential—

- (i) that this case should not be adjourned;
- (ii) that Mr. Broadway should be employed.

It is quite impossible to attempt any negotiation with him at this stage. Moreover if the trial costs us a fairly large sum we cannot complain. The Midnapur case cost Government 11 lakhs. The fee is not unreasonable for a case of this great importance.

R. H. [CRALDOCK],—20-5-14.

As the matter is emergent I took the file over to the Finance Department, and Mr. Johnston, after consulting Mr. Brunyate, agrees to the issue of orders approving the engagement of Mr. Broadway on Rs. 300 per diem for the conduct of the case before the Sessions Judge. I submit a draft telegram to the Chief Commissioner for approval. After issue the file should be sent back to the Finance Department, as the Hon'ble the Finance Member has yet to see.

C. W. E. COTTON,—20-5-14.

H. WHEELER,—20-5-14.

TELEGRAM TO THE CHIEF COMMISSIONER, DELHI, NO. 215, DATED THE 20TH MAY 1914. Pro. no. 45.

Finance Department.

Hon'ble Member last saw this case on the 1st May 1914. The drafts regarding paragraph 1 of that note issued on the 19th May in reply to Mr. Hailey's telegram of the 18th May.

In his telegram of yesterday Mr. Hailey states that Mr. Broadway is unwilling to accept a lump sum, and that as the sessions case is to begin the next day, it will be necessary otherwise to ask for a postponement.

The case was given to me by Mr. Cotton about 4-30 when the offices were about to close, and, in view of the necessity of issuing orders at once, I took the instructions of Secretary, and in view of Hon'ble Member, Home Department's note of the 20th May 1914, informed Mr. Cotton as in his note of the 20th May 1914.

I doubt if Mr. Broadway's position in the legal world justifies the payment to him of a fee at this rate, though it might well be necessary to give it to Counsel of higher eminence, and it is possible that had time been available for negotiation, more reasonable terms might have been obtained.

The case is submitted for Hon'ble Member's orders.

F. W. JOHNSTON,—21-5-

Hon'ble Member will, I think, confirm the decision to which Deputy Secretary refers.

Yes, I don't suppose he is a budding Charles Russell or Edward Clarke.

W. S. M[eyer].

2. If Mr. Broadway has taken advantage of his position to obtain extortionate terms the remedy is not to give him such work in future.

J. B. BRUNYATE,—21-5-14.

W. S. M[eyer],—21-5-14.

Home Department.

Submitted for orders as to the action to be taken on paragraph 2 of the Hon'ble Mr. Brunyate's note of the 21st instant.

R. D'A.,—23-5-14.

Please see the Hon'ble Member's note, dated the 20th May 1914. The conduct of the trial may show whether the terms are extortionate, but nothing else will. No orders.

G. M. YOUNG,—23-5-14.

H. WHEELER,—26-5-14.

A copy of the Chief Commissioner of Delhi's telegram of the 20th instant and of our reply thereto may be communicated to the Finance Department. Draft endorsement put up.

R. D'A.,—27-5-14.

G. M. YOUNG,—28-5-14.

Pro. no. 46. ENDORSEMENT TO THE FINANCE DEPARTMENT, NO. 270, DATED THE 30TH MAY 1914.

Pro. no. 47. LETTER FROM THE GOVERNMENT OF THE PUNJAB, NO. 313-S., DATED THE 29TH MAY 1914.

No orders.

R. D'A.,—5-6-14.

G. M. YOUNG,—6-6-14.

Exd. by—C. W. M.

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PROCEEDINGS OF THE

HOME DEPARTMENT, JUNE 1914.

Employment of Mr. A. B. Broadway, Assistant Legal Remembrancer, Punjab, to conduct the Delhi-Lahore conspiracy case. [Pro. nos. 39—41.]

EMPLOYMENT OF MR. A. B. BROADWAY, ASSISTANT LEGAL REMEMBRANCER, PUNJAB, TO CONDUCT THE PROSECUTION AT DELHI OF THE DELHI-LAHORE CONSPIRACY CASE AND GRANT TO HIM OF A SPECIAL DAILY FEE OF RS. 300 WHILE SO EMPLOYED.

No. 1758-Home, dated Delhi, the 14th March 1914.

Pro. no. 39.

From—The HON'BLE MR. W. M. HAILEY, C.I.E., Chief Commissioner, Delhi,

To—The Secretary to the Government of India, Home Department, Simla.

With reference to the impending prosecution at Delhi of Amir Chand and certain other persons, the facts of which are within the cognisance of the Government of India, I have the honour to request sanction to the entertainment of Mr. A. B. Broadway, Barrister-at-law, on a special fee, during the prosecution of the case at Delhi.

2. The Legal Adviser for the Delhi province is, under the present arrangement, the Legal Remembrancer, Lahore, and the province is entitled in ordinary circumstances to utilise the services of the Government Advocate and Assistant Legal Remembrancer, Lahore. The importance of the case now contemplated is such that it is advisable to engage the whole time services of a prosecuting counsel who would not be liable to be called away by other duties. It has, therefore, appeared to me desirable, after consultation with the Legal Remembrancer, to request the latter to place Mr. Broadway, who is Assistant Legal Remembrancer, on special duty for this case. This will necessitate the temporary appointment of another barrister at Lahore to carry on Mr. Broadway's work during his absence at Delhi.

3. Mr. Broadway's salary is Rs. 640 per mensem, plus a retaining fee of Rs. 100 per day for such days as he is engaged

Judicial A., September 1911, nos. 101-02.
Page 873 of Punjab Gazette, Part I, dated
7th December 1899.

in outstation work. In view of the fact that Mr. Broadway's employment at Delhi involves a considerable break in his private practice the Legal Remembrancer has sug-

gested that he should be remunerated during the period of his special duty at Delhi by a fee of Rs. 300 a day. This, he states, is the fee paid to the Government Advocate when employed in the Frontier Province.

4. I have the honour to recommend, therefore, that Mr. Broadway be remunerated during his period of special duty at Delhi, by a fee of Rs. 300 a day, with effect from the 12th instant, the date on which he arrived in Delhi to advise the officers in charge of the prosecution.

Telegram no. 84, dated Delhi, the 18th May 1914.

Pro. no. 40.

From—The Chief Commissioner, Delhi,

To—The Secretary to the Government of India, Home Department.

Please see my 1758-Home, dated 14th March and wire if I am to retain Broadway's services for the sessions case which commences 21st.

Telegram no. 211, dated Simla, the 19th May 1914.

Pro. no. 41.

From—The Secretary to the Government of India, Home Department,

To—The Chief Commissioner, Delhi.

Your telegram 84 of 18th instant. Before agreeing to retention for Sessions case Broadway's services, Government of India would be glad to learn by telegram what rate of remuneration is proposed. Also your views as to offer to him of lump sum in lieu of daily fee. How long is sessions trial expected to last?

PROCEEDINGS OF THE
HOME DEPARTMENT, JUNE 1914.

Pro. nos. 42—43.] Employment of Mr. A. B. Broadway, Assistant Legal Remembrancer, Punjab, to conduct the Delhi-Lahore conspiracy case.

Pro. no. 42.

No. 212, dated Simla, the 20th May 1914.

From—The HON'BLE MR. H. WHEELER, C.S.I., C.I.E., Secretary to the Government of India, Home Department,

To—The Chief Commissioner of Delhi.

With reference to your letter no. 1758-Home, dated the 14th March 1914, I am directed to state that the Government of India have decided that Mr. A. B. Broadway, who under existing arrangements is a law officer for the Delhi Province also, should be treated while conducting the prosecution at Delhi of the Delhi-Lahore Conspiracy case as on ordinary duty, *i.e.*, as Assistant Legal Remembrancer, Punjab. This will necessitate the cancellation of the gazette notifications, nos. 401-402, dated the 31st March 1914, issued by the Government of the Punjab. That Government is being addressed accordingly and is also being authorised to create a temporary appointment of Additional Assistant Legal Remembrancer for the province during the period of Mr. Broadway's absence at Delhi.

2. As to the remuneration to be granted to Mr. Broadway, I am to state that, as regards the proceedings before the committing Magistrate with effect from the 12th March 1914, the date from which he has been employed on the case, Mr. Broadway may be permitted to draw a daily fee of Rs. 300 for the whole time he is at Delhi on the case, including Sundays and court holidays, except for periods of adjournment, in connection with which he will draw no fees unless engaged elsewhere on the case, as for example, in opposing the application made by the defence to the Chief Court for the transfer of the case for trial to Lahore. For as long as he draws this special daily fee Mr. Broadway will receive no salary as Assistant Legal Remembrancer.

3. Mr. Broadway may also be permitted to draw travelling allowance for journeys performed between Delhi and Lahore, or elsewhere, in connection with the case.

No. 213, dated Simla, the 20th May 1914.

Endorsed by the Government of India, Home Department.

Copy, with a copy of the letter replied to, forwarded to the Finance Department for information.

Pro. no. 53.

No. 214, dated Simla, the 20th May 1914.

From—The Secretary to the Government of India, Home Department,

To—The Chief Secretary to the Government of the Punjab.

In forwarding, herewith, a copy of the Home Department letter no. 212, of even date, to the address of the Chief Commissioner of Delhi, I am directed to request that, if His Honour the Lieutenant-Governor has no objection, the Gazette notifications nos. 401-402, dated the 31st March 1914, issued by the Government of the Punjab placing the services of Mr. A. B. Broadway, Assistant Legal Remembrancer, Punjab, at the disposal of the Chief Commissioner of Delhi and appointing Mr. H. A. Herbert, Pleader, to act *vice* Mr. Broadway, may be cancelled. This arrangement will avoid various complications which might otherwise arise and the Government of India hope that it will not prove inconvenient to the local Government.

2. For the performance of Mr. Broadway's regular duties during his absence at Delhi the Government of India authorise the creation of a temporary post of Additional Legal Remembrancer, to which Mr. Herbert may be appointed.

PROCEEDINGS OF THE
HOME DEPARTMENT, JUNE 1914.

Employment of Mr. A. B. Broadway, Assistant Legal Remembrancer, Punjab, to conduct the [Pro. nos. 44—47.
Delhi-Lahore conspiracy case.

Telegram, dated Delhi, the 20th May 1914.

Pro. no. 44.

From—The Chief Commissioner, Delhi,

To—The Secretary to the Government of India, Home Department, Simla.

Your 211, dated 19th. I propose same rate of remuneration as for committal proceedings. Case estimated to last minimum period five weeks, maximum two months, but length of course depends on action of defending counsel not on prosecution and maximum period consequently difficult to calculate. I have consulted Broadway on subject lump sum and he is unwilling to accept owing to uncertainty above mentioned. If Government still desires fixed fee I suggest calculation at three hundred per day up to first July. Would again remind you that sessions case fixed for to-morrow and it is desirable to give Broadway definite intimation to-day whether Government desires him to appear in case. If he is to retire from it I must ask for adjournment to engage fresh counsel. Venture to remind you that I first sought orders in this case on 14th March.

Telegram no. 215, dated Simla, the 20th May 1914.

Pro. no. 45.

From—The Secretary to the Government of India, Home Department,

To—The Chief Commissioner, Delhi.

Your telegram of to-day. Broadway. Government of India sanction his engagement for sessions case on same terms as for commitment proceedings.

No. 270, dated Simla, the 30th May 1914.

Pro. no. 46.

Endorsed by the Government of India, Home Department.

(i) Telegram from the Chief Commissioner, Delhi, dated the 20th May 1914. A copy of the marginally noted papers is forwarded to the Finance Department,
(ii) Telegram to the Chief Commissioner, Delhi, no. 215, dated the 20th May 1914. for information, in continuation of the Home Department endorsement no. 213, dated the 20th May 1914.

No. 313-S (Home), dated Simla, the 29th May 1914.

Pro. no. 47

From—The Hon'ble Mr. J. P. THOMPSON, I.C.S., Revenue Secretary to the Government of the Punjab,

To—The Secretary to the Government of India, Home Department.

With reference to your letter no. 214, dated 20th May 1914, I am directed to inform you that the Gazette notifications in question will be cancelled, and that Mr. Herbert will be appointed Additional Legal Remembrancer as suggested.