F.O.
371

CLOSED UNTIL
1991

149116

1960

B

ARABIAN DEPARTMENT

ARABIA

B BA 1644/19

FROM Mr Man. Bahrain

No. 55. 1642/2

Dated 14 June.

Received 16 June.

SUBJECT:

Appeal to the Full Court for the Persian Gulf by a litigant in Kuwait under Article 19(2) of the Kuwait Order.

References

BA 1644/17

BA 1644/24

(Printing Instructions)

149116. ~~149694~~

(Outward Action)

Dft. C.O. f/.
U/S State June 28
C. M. Wyatt
(By)

Tel 748 to Bahrain
June 29

DD) Sir. H. Trench
from Mr Vallat
20/7

(Action completed)	(Main Indexed)
LS 2/9	9/12/60

MINUTES

he should be grateful for your advice.

Mr Hare 17/6

Judge Hutchins.

Mr. Burgess.

I think that we must be guided by the Legal Advisers as to the nominations to be made under Article 14(4)(iii). I imagine that a Court of two members would be sufficient but if three are thought to be necessary then 3 Courts sit (Art 14(4)(iii)) but Art 14(4)(iv) provides for the procedure in case of disagreement when two judges sit.

It might be as well to suggest that, in the case of the application for leave to appeal, the parties should be ready to proceed forthwith if leave is granted and thus avoid the necessity for convening another Full Court if leave is granted.

C.M. Hawes
17/6

I should have thought myself that two members would be sufficient, and that for an ad hoc court of this kind colonial judges from perhaps

J15 56467—1

perhaps Aden or Cyprus would be the best answer, if any are available. The only other suggestion I can make is that Sir Donald Kingdon might be invited to act. In a case of this kind, involving appeals from the Judge of the Chief Court, I think it would be advisable to try to appoint persons of a ~~difficult~~ standing at least equal to the Judge of that Court, and that it would be worthwhile staging the proceedings for a little longer if thereby we shall be able to provide really suitable persons. If Arabian Dept. agree, would they please draft to the Colonial Office?

I trust that Arabian Department will be seeking whatever financial approval or authority may be necessary.

J. Burrows.

21/6

I attach a draft to the C.O. but I would suggest that it might be worth supplementing it with a telephone call to one of the C.O. legal Advisers either by Judge Hunter or by Mr. Burrows. I have not said anything in the draft about a fee for the specially engaged judges – should we? Could we also give some indication of how long the hearing is likely to last?

W. Nkrumah-Ag

22/vi

/ Dm

Number of copies.....

Number of copies of enclosures.....

D(a) Sir. H. Willan from Mr Beaumont (Cmnd 28/7

D(a) Sir. E. Williams. Mr Beaumont (Cmnd 28/7

D(a) Mr Clark. Try from Mr Hunter 4/8

On the whole I think it would be better not to telephone me if the Colonial Office Legal Advisers about this. I do not know which one of them will be concerned or indeed if any will. On the question of how and when the matter of fees should be raised, I suggest the precedents be got out.

Perhaps Judge Haines could estimate the probable length of the hearing + it would be useful to add this to the draft.

J. Burrows
22/6

It is hard to estimate exactly but I cannot imagine that the arguments would take more that a day or two in each case. I think we could say that we do not expect the hearings to last more than two or three days.

S. W. Haines
22/6

Presumably fees will not be involved unless the judges recommended are retired judges. Any of the latter would be sent to the Treasury; I think made an appropriate addition.

J. Lewis
24/6

Judge Haines tells me that on

→

NOTHING TO BE WRITTEN IN THIS MARGIN

the only previous occasion when the Full Court has been convened the Judges were Mr. Howes (then employed in the Foreign Office) and the Legal Adviser in Cairo so the question of fees did not arise.

W. Nicholas-Fry
24/6.

Archives
17/6

A. Balmain 433 28/6.

submitted on p.w.

(B) Mr Gilbert. Colonial office
to U.S. of S. BCD 432/755/052.
11 July.

I doubt whether Mr. Campbell would welcome a suggestion that he should go to the Gulf for a few days when he is getting himself ready to go to a new post on August 10. I have spoken to Mr. Brooke, Southern Dept, about the possibility of the Chief Justice of Cyprus being asked to undertake this mission; and he thinks that with Cyprus becoming independent on August 16 this is not a good moment to ask the Chief/-

NOTHING TO BE WRITTEN IN THIS MARGIN

Chief Justice to disappear for a few days and that it would also be embarrassing from the political point of view. In the circumstances it seems wiser to settle for two of the retired judges living in the U.K. — I say "retired" but this may only be from colonial service as Mr. Windsor-Aubrey's address suggests that he may still be sitting as a judge. Sir H. Hillen and Sir E. Williams look as though they may indeed be retired and they are more conveniently placed for consultation in London if required.

2. If we were to engage these retired judges we should have to offer them a fee.

3. I am afraid I do not know the procedure regarding fixing a date for the sitting of the full Court. Can we simply suggest a date to the P.R. or Mr. Mawdsley (the Registrar) who will then notify the parties that they are to be present on such-and-such a date? Or should we ascertain first that the parties will be available in Kuwait? (This seems rather derogatory to the prestige of the Court.)

→

NOTHING TO BE WRITTEN IN THIS MARGIN

36283 (9370) A.O.St.

4. It is clear from the History of this case that there is no hurry on the part of the appellant so I think we might suggest towards the end of August as a time for the Full Court to meet.

5. I have tried my hand at a draft to the two judges.

W. Williams-Jones

13/viii

Mr. F. Burgess

We can consult Mr. Dawdeley about fixing the date of the hearing when we have found out two judges & know when they are available.

2. Would Mr. Little please speak to me about the honorarium? I have in mind 75 guineas as the assumption that the judges will be away for about a week, but we may have to provide for a repetition of say ten guineas a day for each day over say five in Kuwait.

W.V.G. Evans

14/7.

Dr. Little

I have agreed with Mr. Little that the amount of the honorarium should be fixed in consultation with Try. Solicitor & Try. before we write to Sir H. Willan & Sir E. Williams
2. Off. to Sir H. Kent. WVGE 19/7.

Mr. Evans

We spoke /—

NOTHING TO BE WRITTEN IN THIS MARGIN

NOTHING TO BE WRITTEN IN THIS MARGIN.

Minutes.

(C) Reply Bolivia & Arabia
Dept 1642/2 18 July

(D) Sir. Harold Kent, &
Mr Vallat. 26 July.

M.F.P

NOTHING TO BE WRITTEN IN THIS MARGIN.

Minutes.

Mr Evans.

We spoke. If
he sees ca he clears wth
Treas Solicitr, Treas telephone
Treas for sanction. We can then
make a offer. Ca 2 guineas.

Jeyes
15/7

Now see M. Vallat's
letter of July 20 to Sir Harold
Kent and Sir Harold's reply
of July 26. We should
adopt the suggestion that the
referee should be at the
rate of 15 guineas a day.

W.G. Evans
20/7.

I have spoken to
the Treas who agrees that we may

Minutes.

Offr his 2 ex pages 75
for honoraria + bags for any days
over 5, plus travel + subsistence
expenses. Secy (Mr J.H. Clarke)
will take instructions in writing.
Perhaps you would draft a letter
Comte, attd the letters have gone off

Re Hollyhock Frs

27/7

Re draft can now issue.

Re-submit a.a.

28/VII

Offr Mr. Clarke.

28/VII

DO NOT WRITE OUTSIDE THIS MARGIN. NOTHING TO BE WRITTEN IN THIS

RESTRICTED

RESTRICTED

British Residency,

BAHRAIN.

14th June, 1960.

B

Despatch No. 55

(1642/2)

RECEIVED IN ARCHIVES 16 JUN 1960

TA 1644/19

Sir,

I have the honour to inform you that an Appeal to the Full Court for the Persian Gulf has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2)of the Kuwait Order. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a Judgement of the Judge of the Chief Court.

2. Under Article 14(4)(ii) of the Kuwait Order, 1959, the Full Court is to sit under arrangements made by the Political Resident, and under the same paragraph it is for you, Sir, to nominate members to constitute the Court. It would seem that two such members will need to be nominated, neither of them being the Judge of the Chief Court.

3. I should be grateful if the necessary nominations could be made as early as possible and if I might be informed of a probable date when the judges could come out. It is unfortunate in this case that both the matters under appeal are "interlocutory" and thus likely to hold up the trial of the case out of which they arise. Alternatively, if the trial of that case were to proceed whilst these matters were still pending, it might only lead to further appeals, and I consider that an early hearing is desirable. At present, I am informed, the proceedings have been temporarily stayed until 11th July, by which time it may be possible to know approximately when the appeal proceedings can be heard and thus decide what further, if any, stay should be granted.

/4.

The Right Honourable
Selwyn Lloyd, C.B.E., M.P.,
etc., etc., etc.,
FOREIGN OFFICE, S.W. 1.

4. I am sending a copy of this despatch to Judge Haines and to Her Majesty's Political Agent at Kuwait.

I have the honour to be,
with the highest respect,
Sir,
Your obedient Servant,

(M.C.G. Man)

2870

+1. 28/5

Registry
No. BA 1644/19

Top Secret.
Secret.
Confidential.
Restricted.
Open.

KW7 22/6

Draft.

Colonial Office
for signature by
Mr. Beaumont

J.B. 22/6

Mr F. Bottomley 22/6
Judge Haines } first
Finance Dept }

A.W.
Mr Wyatt
(Treasury)

27/6

NOTHING TO BE WRITTEN IN THIS MARGIN.

Sir,

I am etc. to state for the information of the Secretary of State for the Colonies that an Appeal to Her Britannic Majesty's Full Court for the Persian Gulf has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court.

2. Article 14(4)(ii) of the Kuwait Order, 1959 provides that the Full Court shall be composed of not more than three and not less than two members nominated by the Secretary of State from among the following:-

The Judge of the Chief Court

The Assistant Judges of the Chief Court

Persons who ~~have~~ hold or have held judicial office under the Crown.

→

RECEIVED IN DIVISION
27 JUN 1960
SENT TO
BY
DESPATCHED

(76252) Hw.

[Members of the Bar of England, Scotland or Northern Ireland of not less than 9 years' standing.]

Typists note there this is still indented

As the Judge of the Chief Court has already heard the case in the Chief Court, ~~he is debarred by Article~~ he can, under Article 14 (4) (iii) of the Order, only hear the case as a member of the Full Court if the latter is composed of three members. There are at present no Assistant Judges of the ~~CC~~ Chief Court.

~~3. I am therefore to request the assistance of Mr. Macleod~~

3. Mr. Lloyd would be most grateful if Mr. Macleod could recommend two persons who hold judicial office under the Crown, either in Aden or in Cyprus, or who have held such office and whom Mr. Lloyd could nominate to act as members of the Full Court for the Persian Gulf to hear the appeal or appeals mentioned above. The Foreign Office would be responsible for the travel expenses and subsistence allowance of the persons nominated. ~~Mr. Lloyd wishes~~ It is hoped to convene the Full Court, either in Kuwait or in Bahrain, as soon as possible as both the matters under appeal, being interlocutory, are

It is not expected that the Full Court would need to sit for more than three days, and it is seeking Treasury sanction for the cost of air passages and for any fees which might be involved.

either /—

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Registry No.

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Confidential.
Restricted.
Open.

Draft.

NOTHING TO BE WRITTEN IN THIS MARGIN.

likely to hold up the trial of the case out of which they arise. Proceedings in this case have been temporarily stayed until July 11. It is however appreciated that it may be a little time before suitably qualified persons can be made available for this task. Nevertheless an early indication whether Mr. Maclean is likely to be able to recommend two persons would be most welcome.

4. A copy of this letter is being sent to ~~Mr. A.W. Wyatt, of the Treasury~~ Sir.

~~H.M.~~ the Treasury, ~~for the information~~ marked for the attention of Mr. A.W. Wyatt.

~~F.A.A.~~

A.R.W.
27/6

M.F.P.

BA 1644/19

FOREIGN OFFICE,
S.W.1.
June 28, 1960.

Sir,

I am directed by Mr. Secretary Lloyd to state for the information of the Secretary of State for the Colonies that an Appeal to Her Britannic Majesty's Full Court for the Persian Gulf has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court.

2. Article 14 (4) (ii) of the Kuwait Order, 1959, provides that the Full Court shall be composed of not more than three and not less than two members nominated by the Secretary of State from among the following:-

The Judge of the Chief Court
The Assistant Judges of the Chief Court
Persons who hold or have held judicial office under the Crown.
Members of the Bar of England, Scotland or Northern Ireland of not less than 9 years' standing.

As the Judge of the Chief Court has already heard the case in the Chief Court, he can, under Article 14(4)(iii) of the Order, only hear the case as a member of the Full Court if the latter is composed of three members. There are at present no Assistant Judges of the Chief Court.

3. Mr. Lloyd would be most grateful if Mr. Macleod could recommend two persons who hold judicial office under the Crown, perhaps in Aden or in Cyprus, or who have held such office and whom Mr. Lloyd could nominate to act as members of the Full Court for the Persian Gulf to hear the appeal or appeals mentioned above. The Foreign Office would be responsible for seeking Treasury sanction for the travel expenses and subsistence allowance of the persons nominated, and for any fees that might be involved. It is not expected that the Full Court would need to sit for more than three days, and it is hoped to convene the Full Court, either in Kuwait or in Bahrain as soon as possible as both the matters under appeal, being interlocutory, are likely to hold up the trial of the case out of which they arise. Proceedings in this case have been temporarily stayed until the 11th of July. It is however appreciated that it may be a little time before suitably qualified persons can be made available for this task. Nevertheless an early indication whether Mr. Macleod is likely to be able to recommend two persons would be most welcome.

/4.

The Under-Secretary of State,
Colonial Office.

4. A copy of this letter is being sent to the Treasury, marked for the attention of Mr. A.W. Wyatt.

I am,
Sir,
Your obedient Servant,

R. A. Beaumont.

FROM BAHRAIN TO FOREIGN OFFICE

B

RECEIVED IN ARCHIVES 28 JUN 1960

BA 1644/19 (A)

Fm Clair

M[redacted] Man

DEPARTMENTAL DISTRIBUTION

No. 433
June 28, 1960

D. 8.03 a.m. June 28, 1960
R. 8.24 a.m. June 28, 1960

Addressed to Foreign Office telegram No. 433 of June 28.
Repeated for information Saving to :- Kuwait.

My despatch No. 55: Kuwaiti appeal to the Full Court.

I should be grateful for a reply by telegram as Mawdsley will be visiting Kuwait within next 10 days, and is then sure to be questioned.

DISTRIBUTED TO :-

Arabian Department
Judge Haines

++++++

Dft tel. Bahrain.

Judge Haines 28/6

Mr Bayley

W. Nicholas-Fry 28/vi

Tel sent for despatch.

MAF
28/vi

NOTHING TO BE WRITTEN IN THIS MARGIN

Registry
No. BA 1644/19

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Confidential
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Open

~~EMERGENCY~~ } *
IMMEDIATE
~~PRIORITY~~
ROUTINE
with ——— priority
without
~~DEFERRED~~

* Date and time (G.M.T.) telegram should reach addressee(s) .....

(*Date*) 29 JUN 1960

Despatched 4-7f

Draft.

[*Security classification —if any*] .....

Telegram to :—
Bahrain

No. 748

(*Date*) 29/6/60

And to :—

Repeat to :—
Kuwait
413

En Clair.
Code
Cypher

RECEIVED IN ARCHIVES 30 JUN 1960

Distribution :—
Dept.

Arabian
~~Sta~~
Judge Hawes
~~Ht~~

Copies to :—
~~Hh~~ 29/6
Judge Hawes
Mr. Burrows
first

7.B 29/6

[Codeword—if any] .....

Address to Bahrain

telegram No. 748 (*date*) June 29

.....

repeated for information to Kuwait

.....

Yesterday's no. 433 [of June 28: Full Court for the Petroleum Suit].

We have asked the Colonial Office to supply judges and await a reply. We will inform you as soon as we know when the Full Court can be convened.

Dispatched
Arabian Dept
Judge Hawes

NIX
29/6

3.20 29/6/60

FROM FOREIGN OFFICE TO BAHRAIN

En Clair

DEPARTMENTAL DISTRIBUTION

BA 1644/19

No. 748
June 29, 1960

D. 4.7 p.m. June 29, 1960

Addressed to Bahrain telegram No. 748 of June 29
Repeated for information to: Kuwait

Your telegram No. 433 [of June 28: Full Court for the Persian Gulf].

We have asked the Colonial Office to supply judges and await a reply. We will inform you as soon as we know when the Full Court can be convened.

DISTRIBUTED TO:
Arabian Department
Judge Haines

=.=.=

COLONIAL OFFICE

GREAT SMITH STREET, LONDON S.W.I

Telephone: ABBey 1266, *ext.*

B

RECEIVED IN ARCHIVES
12 JUL 1960

Our reference: BCD 432/75/052
Your reference: BA 1644/19

11 July, 1960

BA 1644/19 (B)

Sir,

I am directed by Mr. Secretary Macleod to refer to your letter of the 28th June about an Appeal to Her Brittanic Majesty's Full Court for the Persian Gulf and the consequent need for two additional members of the Full Court for a period of about three days.

2. Names and addresses of five gentlemen, who can be confidently recommended as suitable in all respects for this temporary assignment, are attached, together with very brief particulars of their more recent appointments but it is not known to what extent they would be immediately available. Mr. Campbell is booked to sail for the Bahamas on the 10th August and it is essential, if he should go to the Persian Gulf, that he should be back in this country in sufficient time to enable him to sail as planned.

3. A copy of this letter is being sent to the Treasury marked for the attention of Mr. A. W. Wyatt.

I am,
Sir,
Your obedient Servant,

T. L. Gilbert

THE UNDER-SECRETARY OF STATE,
FOREIGN OFFICE.

r Harold C. Willan, C.M.G., M.C.

Age: 64

Address: 6 Squirrel Way, Epsom, Surrey.

Late Chief Justice, Federation of Malaya (retired 1951)
Late Chief Justice, Basutoland (retired 1955/56).

Sir Paget Bourke, Chief Justice, Supreme Court, Cyprus.

Age: 53

Address: Chief Justice's Chambers, Supreme Court, Cyprus.

It is not known whether Sir Paget Bourke can be spared at the present time, even temporarily, from Cyprus.

Sir Ernest H. Williams

Age: 60

Address: 42, Dome Hill, Caterham, Surrey.

Late Chief Justice, Combined Judiciary of North Borneo, Sarawak and Brunei (retired 1959).

Mr. R. A. Campbell, Chief Justice, Aden.

Age: 54

Address: Burton Hall, Christchurch, Hants.

Chief Justice designate, Bahamas - on leave in England and due to sail for the Bahamas on 10th August.

Mr. H. M. Windsor-Aubrey

Age: 59

Address: Judge's Lodgings, St. Ann's House, Carlisle.

Late Puisne Judge, Supreme Court, Ghana (retired 1958) and late Judge of the Special Courts, Cyprus, 1958/59.

Registry
No. WVJE

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~~Restricted.~~
Open.

Draft.
Letter to

Sir Harold S. Kent, K.C.B., H.M. Procurator and Treasury Solicitor, 35, Old Queen Street, S.W.1.

From Dr. Vallat

NOTHING TO BE WRITTEN IN THIS MARGIN.

Dew. 19/7

(76252) Hw.

Under the Kuwait Order, 1959, a copy of which I attach for your convenience, appeals may be made from the decisions of H.B.M. Chief Court for the Persian Gulf to H.B.M. Full Court for the Persian Gulf. An appeal to the Full Court has recently been filed against ~~the~~ directions given by the ~~Judge of the~~ Chief Court under Article 19(2) of the Order. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Chief Court.

Under Article 14(4)(ii) of the Order the Full Court is ~~to sit under arrangements made by the Political Resident, and under the same paragraph it is for~~ composed of not more than three and not less than two members nominated by the Secretary of State. ~~to nominate members of the Bar to constitute the Court.~~ For the purpose of the present appeals it is proposed to invite two former colonial judges to accept ~~the appointment.~~ nomination They are Sir Harold Willan, late Chief Justice in Basutoland, and Sir Ernest Williams, late Chief Justice in North Borneo, Sarawak, Brunei. Their travelling expenses by air to and from the Persian Gulf ~~will~~ would be borne by the Foreign Office and they ~~will~~ would be paid subsistence allowance at the appropriate rate. We shall, however, I think, also have to offer them an honorarium for their services and I should be grateful for your views as to how much this should be.

The Judge of the Chief Court is paid a salary of £3,800 a year, i.e. about 10 guineas

/a day.

a day. I understand that with luck it should be possible for the Full Court to complete its work in about three days but, of course, these things do have a habit of taking longer than expected. On this basis it seems to me that the minimum honorarium which we could offer would be say 75 guineas plus a refresher of 10 guineas a day for each day spent in Kuwait over five days. But you may feel that we should go a little higher.

I should perhaps add that appeals to the Full Court have so far been extremely infrequent. So far as I have been able to ascertain the Court has only been convened on one previous occasion in the last ten years. It was then composed of a member of the Bar who was employed temporarily in the Foreign Office and the Legal Adviser in Cairo, so that the question of fees did not arise.

NOTHING TO BE WRITTEN IN THIS MARGIN.

Out ei

BA 1644/19

FOREIGN OFFICE, S.W.1.

July 20, 1960

Under the Kuwait Order, 1959, a copy of which I attach for your convenience, appeals may be made from the decisions of Her Britannic Majesty's Chief Court for the Persian Gulf to Her Britannic Majesty's Full Court for the Persian Gulf. An appeal to the Full Court has recently been filed against directions given by the Chief Court under Article 19(2) of the Order. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Chief Court.

Under Article 14(4)(ii) of the Order the Full Court is composed of not more than three and not less than two members nominated by the Secretary of State. For the purpose of the present appeals it is proposed to invite two former colonial judges to accept nomination. They are Sir Harold Willan, late Chief Justice in Basutoland, and Sir Ernest Williams, late Chief Justice in North Borneo, Sarawak, Brunei. Their travelling expenses by air to and from the Persian Gulf would be borne by the Foreign Office and they would be paid subsistence allowance at the appropriate rate. We shall, however, I think, also have to offer them an honorarium for their services and I should be grateful for your views as to how much this should be.

The Judge of the Chief Court is paid a salary of £3,800 a year, i.e. about 10 guineas a day.

I understand that with luck it should be possible for the Full Court to complete its work in about three days (including the hearing of the second appeal, if leave is granted) but, of course, these things do have a habit of taking longer than expected. On this basis, it seems to me that the minimum honorarium which we could offer would be say 75 guineas plus a refresher of 10 guineas a day for each day spent in Kuwait over five days. But you may feel that we should go a little higher.

I should perhaps add that appeals to the Full Court have so far been extremely infrequent. So far as I have been able to ascertain the Court has only been convened on one previous occasion in the last ten years. It was then composed of a member of the Bar, who was employed temporarily in the Foreign Office, and the Embassy's Legal Adviser in Cairo, so that the question of fees did not arise.

(F.A. Vallat)

Sir Harold Kent, K.C.B.,
35 Old Queen Street,
S.W.1.

CONFIDENTIAL

CONFIDENTIAL

(1642/2)

British Residency,

BAHRAIN.

July 18, 1960.

RECEIVED IN ARCHIVES 21 JUL 1960

BA 1644/19/C)

B

BA 1644/19

Dear Department,

Please refer to our Despatch No. 55 of the 14th of June and your telegram No. 748 of the 29th.

2. Mawdsley has been visiting Kuwait, and in his capacity of Registrar of the Chief Court has stayed the proceedings in the Court for Kuwait pending the hearing and determination of the appeal to the Full Court and the application for leave to appeal - both by the same litigant. He was asked when the Full Court was likely to sit, and said that he had no information but doubted very much whether it would be in August. The question was also raised whether the Full Court would sit in Kuwait or Bahrain. It can of course do either, but Kuwait would undoubtedly suit the litigants and in the new climate of Kuwait they would certainly expect the case to be heard locally, as we here should also recommend.

Yours ever,

RESIDENCY

A.

Arabian Department,
Foreign Office
LONDON, S.W. 1.

CONFIDENTIAL

ז נכח
25/VII

Mr. Evans
This is satisfactory.

RECEIVED IN
ARCHIVES
28 JUL 1960
BA 1644/59 (1)

35, Old Queen Street,
Westminster,
London, S.W.1.

26th July, 1960.

Dear Vallat,

Thank you for your letter of July 20th. I think that your suggestion that the remuneration for the members of the Full Court for the Persian Gulf of an honorarium of 75 guineas plus a refresher of 10 guineas a day after five days is perfectly reasonable. My only suggestion is that perhaps the refresher might be 15 guineas which would be equal to the amount payable for each of the first five days, if the case lasts as long. I realise of course that the refresher would cover days not spent in court, but even so it seems an appropriate figure.

Yours sincerely,

H. Skent

F.A. Vallat Esq.,C.M.G.,
Foreign Office,
Downing Street,
S.W. 1.

2 Drafts

oc:

28/12 2895

Registry
No. BA 1644/19

Top Secret.
Secret.
Confidential.
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Open.

WHF 13/VII

Draft.

Sir H. Willan,
CMG, MC,
6, Squirrel Way,
Epsom,
Surrey

and

Sir Ernest Willis,
42, Dorne Hill,
Caterham,
Surrey

Kuwait Order, 1959

WHF 14/7

Mr. F. Burrows (Legal Adv. Finance Dept.) (Mr. Little)

first

Pl. see

Minute Jones 27/7

Sir,

by The Earl of Home.

I am etc. to inform you that Her Majesty's Government have nominated two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgement of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal (already filed) and, if necessary, the application for leave to appeal from the judgement of the Judge of the Chief Court →

NOTHING TO BE WRITTEN IN THIS MARGIN.

(76252) Hw.

RECEIVED IN DIVISION
28 JUL 1960
SENT TO BY 28/7
RETURNED 28/7

is granted. This second Appeal as well. It is hoped to arrange for the Full Court to sit towards the end of August but this has not yet been definitely arranged.

I am to invite you to accept nomination by ~~Mr. Lloyd~~ Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of ~~air~~ the journey by air to and from Kuwait ~~will~~ would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am etc.

of 25 guineas plus a reporter of 15 guineas a day for each day spent in Kuwait over five days.

NOTHING TO BE WRITTEN IN THIS MARGIN.

XXX
28/VII

out letter

(BA 1644/19)

Foreign Office,

S.W.1.

July 28, 1960.

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit towards the end of August but this hasnot yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait and honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

Sir Harold Willan, C.M.G., M.C.,
6, Squirrel Way,
Epsom,
Surrey.

Out ltr

BA 1644/19.

S.W.1.

July 28, 1960.

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit towards the end of August but this has not yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

Sir Ernest Williams,
42, Dome Hill,
Caterham,
Surrey.

Registry
No. BA 1644/19

~~Top Secret.~~
Secret.
Confidential.
Restricted.
Open.

VIII 7
29/VIII

Draft.

J. L. Clarke, Esq.,
Treasury
from
J.E.R. Little

Prince Davis first

3/8/60

RECEIVED IN
DIVISION
-4 AUG 1960
SENT TO BY 4/8
REGISTERED 4/8

Tonight toc. 4/4.10
4/5

I write to confirm our telephone conversation on July 27 about the Konvarium to be paid to the two retired colonial judges whom we hope to engage to sit as members of H.M. Full Court for the Persian Gulf for a few days at the end of August or beginning of September.

2. In a letter dated July 26 to Vallat Sir Harold Kent agreed with our ~~suggestion~~ proposed Konvarium of 75 guineas but suggested that the refresher should be 15 guineas (rather than 10 guineas) a day after 5 days spent in Kuwait. We have accordingly offered the two judges on →

M.F.P

NOTHING TO BE WRITTEN IN THIS MARGIN.

Remuneration of 75 guineas plus a refresher of 15 guineas a day and have said that we would pay the cost of their air passage to and from Kuwait and would also pay them a subsistence allowance for the period of their stay in Kuwait. Although we did not say so in our letter we would of course book first-class air passages for them.

HWT
4/VIII

NOTHING TO BE WRITTEN IN THIS MARGIN.

Out

(BA[redacted]644/19)

FOREIGN OFFICE, S.W.1.

August 4, 1960.

I write to confirm our telephone conversation on July 27 about the honorarium to be paid to the two retired colonial judges whom we hope to engage to sit as members of Her Majesty's Full Court for the Persian Gulf for a few days at the end of August or beginning of September.

2. In a letter dated July 26 to Vallat Sir Harold Kent agreed with our proposed honorarium of 75 guineas but suggested that the refresher should be 15 guineas (rather than 10 guineas) a day after 5 days spent in Kuwait. We have accordingly offered the two judges an honorarium of 75 guineas plus a refresher of 15 guineas a day and have said that we would pay the cost of their air passage to and from Kuwait and would also pay them a subsistence allowance for the period of their stay in Kuwait. Although we did not say so in our letter we would of course book first-class air passages for them.

(J. E. R. Little.)

J. L. Clarke, Esq.,
Treasury.

1960

B

ARABIAN DEPARTMENT

ARABIA

B A1644/20

FROM Mr. Richmond (Kuwait) to M. Beaumont

CONFIDENTIAL

No. 1642/60

Dated 14/6

Received 20/6/60

SUBJECT: Kuwait Penal Code

Changes in the text since the final draft.

References

BA1643/47
BA1644/11
-/13

(Printing Instructions)

(Outward Action)

(Action completed) EC 14/9.

(Main Indexed) 29/12/60

10

MINUTES

Please see also minute on BA 1643/47.

Judge Haynes
Mr. Bygnes
} may wish to comment on the indications given here of the Criminal Procedure Regulations.

W.N. Hillier-Fry 22/vi

A.R. Salmon 23/6.

I think I must wait until I see an English copy of the Penal Code and the Criminal Procedure Regulations but I can make the following comments on Mr. Richmond's letter.

The new provisions regarding adultery seem to be quite liberal.

It is a pity that the procedure rules have been rushed through. Article 23 is not really like our procedure under Article 26 & 27 of the Order. Our orders are only made after evidence on oath whereas these are made only on suspicion — presumably the investigator's word regarding suspicion is sufficient.

Arrest. I should have thought that 7 days was too long in a place like Kuwait to detain

a

J15 56467—I

a man before bringing him to Court.

I do not think we need worry about unlimited powers to award compensation. Ours was limited because we thought that civil liability might be too complicated for a criminal Court.

Article 148 is one which I think we might have to object to. Surely a person should not have to run the risk of a years imprisonment without a trial. If the were limited to offences punishable by a small fine eg. some traffic offences then it might not be so bad. However there ought to be a provision enabling the individual to demand a trial.

J.H. Hames
28/6

I agree.

J. Burrows.
5/7

HXH
14/VII

Number of copies.....

Number of copies of enclosures.....

(1642/60)

RECEIVED IN
ARCHIVES
20 JUN 1960

BA 1644/29

H.M. Political Agency

Kuwait.

June 14, 1960.

CONFIDENTIAL

Dear Dick,

BA 1643/47

Would you please refer to my letter 10427/60 of June 1 to Sir Roger Stevens, about the pattern of future cessions of jurisdiction and the action necessary on our part to ensure that the programme runs smoothly.

2. By a clerical error, copies of the Secretariat's piece of paper setting out the proposed Kuwaiti programme of promulgation referred to in paragraph 3 of my letter escaped being added to the rest of the paperasserie at the despatching stage. They went to addressees by airmail on June 12 and I enclose a spare herein also.

3. Since my letter under reference was written, the Kuwaitis have once more demonstrated their eagerness not to let their programme slip, dispelling all our fears about possible delay set out in paragraph 4 of my letter. On June 11 we were greeted on arrival at our desks by a complete new Penal Code (given force by Decree No. 16/1960, signed by the Ruler on June 2) in 282 Articles, comprising three main parts:-

i) Preparatory Rules, covering definitions and terms used, and penalties;

ii) Offences against public order;

iii) Offences against the person and property.

The text, which comes into effect immediately (not on November 1) is very little changed from the final draft on which we reported enclosing an explanatory minute by Hijazi, in our letter 1642/60 of April 5, 1960. Shaikh Sa'ad al-Abdullah's objections to Chapter 2 of Part II on sexual offences, which we reported in McCarthy's letter to Hillier-Fry 1642/60 of April 24, 1960, have had the effect of introducing into the text various changes for the better, e.g.

BA 1644/11

BA 1644/13

Adultery

Article 195. Adultery is not punishable as an offence unless the guilty couple are caught flagrante delicto; in any case it may be punished by imprisonment or a fine not exceeding Rs. 5,000/- or both.

? (when) (it is an offence) (and not by stoning)

Article 197. Proceedings against an adulterer may not be instituted except at the request of the aggrieved husband

R.A. Beaumont Esq., C.M.G., O.B.E.,
Arabian Department,
Foreign Office,
London S.W.1.

CONFIDENTIAL

CONFIDENTIAL

or wife, and they may be dropped at any stage following the aggrieved party's intercession.

4. The above two articles provide suitable room for manoeuvre and compounding of this type of "offence" for hard cash at some stage or other. Thus the apparent harshness of the new code is watered down in accordance with the best Beduin tradition, producing a result, which is by no means unreasonable even in the 20th century. With any luck the devout should not feel excessively antagonised for long.

Drink and Dangerous Drugs
Articles 206, 207, 208. These remain as in the draft, on which you already have Hijazi's comments. Briefly, drinking as such is not an offence, but drinking in a public place is. Nothing is said about drunkenness in a public place for the time being: I understand it will be covered by a special law on Misdemeanours - (Qanun al-Junah). Offering drink for sale in a public place, with the intention that it should be consumed there, is an offence. Penalties are imprisonment for 6 months or a fine of Rs. 500/- or both. On the whole a great deal is left unsaid and Ashraf Lutfi assures us that this is by design.

5. Then on June 13 a Decree appeared No. 18/60, promulgating the Criminal Procedure Rules in 250 Articles, & 4 parts effective from November 1, 1960. We were rather surprised to see these in print so soon, especially as there were many outstanding points of contention in the draft when Shaikh Sa'ad showed it to Hijazi on May 14 (our tel. No. 278 to the Foreign Office of same date). Because of pressure of routine work Hijazi has not been able to pass on to Sanhoury and discuss with him in detail the content of the Palestine and Baghdad Criminal Procedure Regulations which you sent us at the beginning of this month (though he pointed out the complications of Sanhoury's original draft to Shaikh Sa'ad several times), but we are glad to see that there are substantial variations from the French system of procedure in the issued text. For example, it is laid down in Articles 9 and 36 that investigations into all crimes will be conducted by a special section of the Police and Public Security Department. The Branch will not, as was originally hinted at in the Main Law for the reform of the Judicature of December 28, 1959, be empowered to conduct its own investigations from the start of any proceedings, as in the French system. Article 12 expressly forbids the use of force or threats on the part of an investigator to extract confessions etc; Article 15 however gives the investigator the power to summon anybody concerned in an investigation; failure to appear will result in the issue of a warrant of arrest. Article 23 says that a person suspected of an offence may be brought before a Court, which will then warn him he is under suspicion; he may then be ordered into a recognisance to keep the peace. This precautionary measure is roughly similar to the powers conferred by Articles 26 and 27 of the Kuwait Order (1959). Article 62 gives the investigator, being a member of the Police and Public Security Department, the power to arrest an accused person - presumably a peculiarity of the French system - but the arrested person

—/13(A)

CONFIDENTIAL

must appear before a Judge if his detention is to be extended beyond seven days (Article 69). Article 78 states that persons, their places of residence and their communications with each other by all means shall be considered in law as inviolable, except as provided elsewhere in the Code. Rules Article 80 gives the investigator the right of search, however, without resort to the Courts.

6. Part III of the Code gives the Criminal Division of the Courts unlimited powers to deal, in the same proceedings, with questions of damages and compensation arising out of the commission of crimes. This goes much further than our provisions in paragraph 52 of the Penal Code, which limits compensation to Rs. 1,500/-. In our view the change is welcome in a busy, wealthy place like Kuwait. Article 148 lays down that the prosecutor may, in any case of misdemeanour punishable by not more than imprisonment for 1 year or a fine of Rs. 1,000/-, apply for what is called a "Criminal Order". The effect of this would be to try an accused in his absence (without even summoning him) and the trial would take place on the sole basis of an examination by the judge of the investigator's minutes. The penalty for such a trial can only be a fine of up to Rs. 1,000/-. We presume that this form of trial will be reserved for Traffic cases, but Hijazi will seek confirmation.

7. Appeals may be made within 20 days (Article 201) as against the seven days allowed in our system. In cases of simple imprisonment, the accused may ask to work instead on the Government's behalf without wages for the whole term involved, as a free man, and his hours of work are limited to seven hours per day. This seems a most liberal provision (Article 235)

8. We have again pointed out to Ashraf Lutfi that the important thing now is for him to let us have full and reasonably accurate translations of these two Laws. The four translators working in the Finance Department (paragraph 2 of McCarthy's letter to Walmsley 16427/60 of May 3, 1960) are busy on the Civil Procedure Rules and the Companies' Law; so Ashraf says he will start translating the Penal Code and then the Criminal Procedure Rules himself, with help from Hijazi on the technical vocabulary, and should have completed both undertakings within six weeks from now. The Kuwait Oil Company's translators are also getting started on the Penal Code, which they want to consider and sum up for themselves without a possible six weeks' delay. At any rate I hope to be able to send you adequate versions of both Laws before the end of July, which will leave you rather over two months to consider their content and arrange for their transfer. You already have our Draft Queen's Regulation (enclosure to my letter of June 1 under reference).

9. I apologise for writing at such length. Copies of this letter go to Sir George Middleton and Morgan Man at Bahrain.

Yours ever,
John R.

(J.C.B. Richmond)

CONFIDENTIAL

COPY

STATE SECRETARIAT
GOVERNMENT OF KUWAIT

Ref. No. S/16-5/1056 May 25th, 1960.

MEMORANDUM

As directed by His Highness the Ruler in Decree No. 19 for 1959, the Kuwait Government expect to be able to have completed arrangements for both the promulgation of the Civil and Penal Codes and the recruitment of the necessary number of judges and other personnel by November 1st, 1960, when the new legal machinery will be set into motion.

It is expected that the Penal Code (Decree on the Law of Criminal Proceedings and Decree on the Criminal Law) will be promulgated some time in June this year.

Of the set of Decrees comprising the Civil Code, i.e.

1. Civil Proceedings,
2. Companies Law,
3. Commercial Law,
4. The Mijallah,

the Decrees governing the first two Laws have already been promulgated, and it is planned that the Decree giving effect to the Mijallah as part of the Kuwaiti Civil Code will be promulgated in October 1960. The Commercial Law is now under preparation and the Decree in its respect will be promulgated in October this year.

To sum up: by the end of June this year all sections of both the Civil and Penal Codes will have been promulgated, with the exception of the Commercial Law (under preparation) and the Mijallah (already available in book form).

An English translation of these Decrees is being prepared by a special team of translators, recruited from various Government Departments, and it is hoped that a good part of the Codified Law of Kuwait will have been translated by November 1st 1960, or soon after.

The Kuwait Government wishes, however, to confirm the understanding of His Highness the Ruler as set out in the Kuwait Government Secretariat's letter No. s/17-2/186 of January 31st 1960, i.e.:

1 - the Queen's Regulations in connection with the transfer of jurisdiction of the various sections of the Kuwait Codified Laws will be issued soon after the promulgation of such laws;

2. the translation of these sections into English is not a condition for effecting the transfer of jurisdiction over such sections.

The Kuwait Government is, therefore, confident that with the information given above about the progress of the Codification of Kuwait Laws, Her Britannic Majesty's Government will be able to make the necessary arrangements for the completion of the transfer of all promulgated sections of jurisdiction by November 1st 1960.

1960

B

ARABIAN DEPARTMENT

ARABIA

B A1644/21

FROM Agency (Kuwait) to Arabian

RESTRICTED

No. 1642b/20

Dated 27/6

Received 1/7/60

SUBJECT: Change of formula for heading of new Kuwaiti laws.

References

TA 1017/14

MINUTES

See minute on BA 1017/14.

Wilkinson-Fry 12/VII

Will 13/VII

(Printing Instructions)

(Outward Action)

(Action completed) Ec 3/7

(Main Indexed) 9/12/60

J15 56467—1

RESTRICTED

B

(16[illegible]6/60)

Political Agency,

Kuwait.

June 27, 1960.

RECEIVED IN ARCHIVES 30 JUN 1960

BA1644/21

Dear Department,

A point of interest in Kuwait legislation promulgated since June 11, 1960, is the change of formula at the beginning of ~~each~~ new Laws. Before that date Laws were headed "We, Abdullah as-Salim as-Sabah, Emir of Kuwait, following submission by the President of the Department of ....., enact the following Law:-" Then followed the text, with His Highness' signature, and the date and place of signing, appended at the end of the last Article.

major h

2. Since June 11, on which date the Penal Code was published, the Ruler has signed a separate Law, or Decree, enabling the main Law and appearing on a separate page before the main provisions. Thus the enabling Decree to the Penal Code runs as follows:-

" A Decree
No.16/1960
issuing the Penal Code.

We, Abdulla as-Salim as-Sabah, Emir of Kuwait, on submission by the President of Justice, and after the agreement of the Supreme Council, have enacted the following Law:

Article 1

The Penal Code accompanying this Decree shall come into effect.

Article 2

The President of Justice shall implement this Code, which shall be effective from the date of its publication in the official gazette.

Signed.

A - S - Al Sabah,

Emir of Kuwait.

Issued on the 8th day of Dhul Hijja corresponding to the 2nd day of June, 1960.

[promulgated June 11] "

Then follows the text of the main Law, headed

"Penal Code

Book One

General Rules
Section one
Article one." etc.

/3

Arabian Department,
Foreign Office, S.W.1.

RESTRICTED

3. The interesting point, apart from the revised formula of a Law introducing a Law, is the addition of the clause bringing in the Supreme Council by name. The Ruler has of course been bringing them into policy decisions and the public eye more and more over the course of the last year; the wording of the clause is reminiscent of our "by and with the advice of Her Privy Council," but the Arabic noun used is stronger - 'muwafaqatun', consent, agreement.

4. Hijazi tells us that a similar formula was used in his time as a preface to Libyan Decrees, and that he has no doubt that Sanhoury suggested the insertion of the new clause, or at least its wording.

5. We are copying this letter to the Residency at Bahrain and the Agencies at Bahrain, Doha and Dubai.

Yours ever,

AGENCY

1960

B

ARABIAN DEPARTMENT

ARABIA

B A 1644/22

FROM Agency. Kuwait
to Arabian Dept

No. 16426/60

Dated 3 July

Received 12 July

SUBJECT:

End: Copy of the "Law of Advocates No. 21/60"

References

BA. 6444/27

(Printing Instructions)

(Outward Action)

(Action completed)	(Main Indexed)
4/8.	9/12/60

MINUTES

You will be interested in the covering letter.

W.H. Hillier-Fry 13/vii

Judges Haines
Mr Burrows
} may care to see on their return. say Aug 4.

J.B. 4/8

A.R. Walmsley 14/7

14/7.

It will be interesting to see what the professional judges will think of Kuwaiti advocates. I think that to begin with a need for foreign lawyers will be felt and the temporary list may be expanded.

G.W. Haines 3/8

4/viii

J15 56467—1

L 7 B

(16426/60)

Political Agency,
Kuwait.
July 3, 1960.

RESTRICTED

RECEIVED IN
ARCHIVES
12 JUL 1960
PA 1644/22

Dear Department,

We enclose herein a copy of the Law of Advocates No.21/60, promulgated in the Official Gazette of June 26 and effective from November 1, 1960, the day the reformed Courts are due to start functioning.

2. This is not a Law which will need jurisdictional transfer to the Kuwaitis. Article 7 about a "Temporary List" of those who practise advocacy, not being Kuwaiti nationals, lays down that not more than three of those entitled to practise before the Political Agency Court "before its abolition" may have their names entered on the Temporary List, which would then enable them to practise for a limited period in the Kuwaiti Courts. The names of 3 properly qualified non-Kuwaiti Arabs may also, if necessary, be entered on the Temporary List. The life of the Temporary List is to be three years only, but may be extended for a further two years, and the general opinion here is that it certainly will be.

3. As nobody under our jurisdiction is compelled to register on the Temporary List the question of transfer of jurisdiction hardly arises. What is interesting in this otherwise admirable Law is the high degree of protection for Kuwaiti talent built into it. Apart from the limitations of Article 7, the profession of advocacy is limited to Kuwaiti nationals. A Kuwa iti applying to practise as an advocate within a year from November 1, 1960 need only be in possession of a secondary certificate of education (Article 2); we do not suppose the examination he would have to undergo before the Bar List Committee would be very rigorous. (This method of registration is, however, limited to six persons in all). One of the merits of the Law is the barring of every Tom, Dick and Harry from appearing as "authorised agents", (Article 1), and of civil servants from actively engaging in advocacy (Article 6); if they are serving Government officials and qualify to practise at the Bar, their names may only be entered on the "non-practising" List.

4. The provisions on professional conduct seem, at a first reading, and for a place like this, admirable.

5. We are sending copies of this letter, with enclosure, to the Residency at Bahrain, and to the Agencies at Bahrain and Doha.

Yours ever,

Agency

Arabian Department,
Foreign Office,
London, S.W.1.

RESTRICTED

3½ LAW OF ADVOCATES NO.21/1960

We, Abdullah As-Salim As-Sabah, Emir of Kuwait, after being informed on Law No.19/1959 concerning the reorganisation of the Judicature and on submission by the President of the Department of Justice and with the consent of the Supreme Council enact as follows:-

SECTION 1
Defines those entitled to plead before the Kuwaiti Courts.

ARTICLE 1

A litigant may stand as his own advocate before the courts; he may not, however, appoint as his agent anybody whose name is not registered on the List of Advocates. ("Bar List").

A litigant may appoint her husband, or any relative within the 4th degree, to plead for her/him, without his being registered in the list of advocates.

Government Departments may appoint a special agent to plead for them

An advocate registered in the Bar List of any Arab country may in a particular case and with special permission from the President of the Department of Justice, be appointed as advocate before the Kuwaiti Courts.

ARTICLE 2

A person wishing to be enrolled on the list of advocates must possess the following qualifications:

1. Be a Kuwaiti;
2. Enjoy full legal capacity; never having been convicted for an offence against morality, and be of good conduct and reputation;
3. Have obtained either a Licenciate in law, or a permit to practice in Shari'a Law.

Attorneys who are Kuwaitis practising before the Kuwaiti Courts at the time of issue of this Law are exempted from these conditions.

A Kuwaiti who offers himself for work as an advocate during the year immediately following the issue of this Law shall also be exempted from the above conditions, provided he is in possession of a secondary education certificate and undergoes an examination before the Bar List Committee (see Article 3 below) which will establish whether he is able to practise the profession of advocacy. The number of Kuwaitis who may be registered in this way shall not exceed six.

ARTICLE 3

The Bar List Committee shall be composed as follows:-

1. President of the High Court of Appeal, (President of Bar List Committee)
2. Assistant President of the High Court of Appeal.
3. The Public Prosecutor,
4. The Director General of the Department of Justice,
5. The President of the General Court.

ARTICLE 4

Applications for enrolment on the List of Advocates must be presented to the President of the Bar List Committee supported by documents proving that the qualifications necessary for enrolment are amply met.

ARTICLE 5

The Bar List Committee shall hold meetings by invitation of its President, and will look into the applications presented and decide on the enrolment of the names of those who are fully qualified. A person whose application for enrolment is rejected may appeal to the Committee, and the Committee will decide on his appeal after hearing what he has to say.

ARTICLE 6

If a person whose application for enrolment is successful is an official in one of the Government departments, his name will be entered on the "non-practising" List; if he later leaves his governmental post his name may be transferred to the list of practising advocates.

ARTICLE 7

The Bar List Committee shall prepare a Temporary List of those who practise advocacy, not being Kuwaiti nationals. The names of not more than 3 advocates who used to practise in the Political Agency Court before its abolition and were resident in Kuwait may be entered on the temporary list. If necessary, the names of not more than 3 non-Kuwaiti Arabs in possession of a Licenciate Degree in Law may also be entered on the temporary list, provided that they have resided in Kuwait for a period of not less than 3 years. Candidates will be selected after being tested by the Bar List Committee.

The Temporary List shall remain operative for a period of 3 years from the date of its establishment. It will be abolished at the end of this period. On submission, however, by the Bar List Committee or at the request of the President of the Department of Justice, the Temporary List may be extended for a further period of 2 years by executive order of the Supreme Council.

ARTICLE 8

The Fee for enrolment on the List of Advocates (Bar List), whether as a permanent or temporary member, shall be Rs.500, payable at the time of registration.

SECTION 2
The Rights, Obligations and Disciplining of Advocates.

ARTICLE 9

Business before the Kuwaiti Courts shall be conducted in Arabic. Legal documents to be filed in Court shall be written in this language. They may, however, be accompanied by translations in a foreign language.

ARTICLE 10

An advocate shall receive remuneration for his work from his client in accordance with the written agreement between them. The Court hearing a particular case may, however, at a client's request, decrease the agreed payment if it finds it to be excessive, in view of the effort put into the case by the advocate for the benefits accruing to the client.

ARTICLE 11

An advocate shall not make an agreement with his client, directly or indirectly to the effect that his remuneration shall be part of the cause of action which is the subject of the case in hand. All agreements of this sort shall be void.

ARTICLE 12

If no written agreement on fees existed between an advocate and his client, or if the written agreement is void, the Court concerned with a case shall estimate the fees, when disputed, in accordance with the efforts put into the case by the advocate and the benefits accruing to the client.

ARTICLE 13

If a client changes his mind about employing an advocate or if an advocate throws up a case before the disposal of it and a dispute has accordingly arisen regarding fees, the Court which dealt with the case or the Court whose concern is to look into it shall estimate the fees due, even if a written agreement does exist between the parties. Consideration shall be paid to the efforts put into the case by the advocate, the benefits accruing to the client and the importance of the reasons which brought about the cancellation of the power of attorney.

ARTICLE 14

An advocate must exert himself to the full in defending the rights of his client and keep him informed of the progress of his case on every suitable occasion.

ARTICLE 15

An advocate shall not disclose the secrets of his profession. Any advocate who does shall be liable to imprisonment for a period not exceeding 2 years and to a fine not exceeding Rs.2,000 or to both these penalties.

ARTICLE 16

An advocate may not accept a brief from an opposing party in the same case once he has been appointed to act by a client; nor may he under any circumstances get in touch with an opposing party in such a way as to injure his client's case.

ARTICLE 17

If an advocate fails in his duties, the President of the Department of Justice may refer his case to the Bar List Committee when assembled in its role of a disciplinary body (council).

ARTICLE 18

The Disciplinary Council may institute any investigation which it finds necessary and may delegate one of its members to do such investigation. Both the Council and a member delegated to investigate on its behalf enjoy the powers of a Court of misdemeanour with regard to witnesses whom they may find it useful to call.

ARTICLE 19

The meetings of the Disciplinary Council shall be held in secret. The Council shall take its decision after hearing the defence of the advocate sent for disciplining, who may present his defence in writing or chose another enrolled advocate to defend him.

ARTICLE 20

The penalties which the Disciplinary Council may award are as follows:- reprimand, suspension from working as advocate for a period not exceeding 2 years, or final removal of an advocate's name from the Bar List.

The Disciplinary Council may, if it decides to impose the last penalty mentioned above, review its decision at the request of the disciplined person, if it finds suitable justification for such action and provided that 5 years have elapsed since the penalty was inflicted.

ARTICLE 21

The President of the Disciplinary Council shall communicate the Council's decisions after issue to the President of the Department of Justice.

ARTICLE 22

The President of the Department of Justice shall implement this Law and it shall come into effect from the 1st of November, 1960.

signed: Abdullah As-Salim As-Sabah.

Emir of Kuwait.

date: June 18, 1960.

1960

B

ARABIAN DEPARTMENT

ARABIA

BA 1644/23.

FROM Dr. W. Schattman
German Embassy
& Mr Wilberforce

No. 502-8C-SL
Scha/44.

Dated 22 July.

Received 25 July.

SUBJECT:

Requests English Translations of the following Kuwaiti Acts:-

1) Traffic Act
2) Passport Act.
3) Judicature Act
4) Nationality Act.
5) Aliens Settlement Act.

References

BA 1372/3 (59)
BA 1648/11 (59)

BA 1644/4 (60)
BA 1643/4 (60)
BA 1602/1 (60)

BA 1643/36 (60)

(Printing Instructions)

(Outward Action)

Del Dr. Schattman
from Mr. Hay.
(Cmdr) 3/8

MINUTES

Draft reply.

WHF
28/VII

(1) Dr. Schattman, German Embassy
502-8C SL 5. 5 August.

WHF
10/VIII

(Action completed)

EQ 3/8.

(Main Indexed)

9/12/60

J15 56467—1

B? enter (not W).

25/7.

Botschaft
der
Bundesrepublik Deutschland

Embassy
of the
Federal Republic of Germany
Consular Section

21-23, Belgrave Square
(Entrance Chesham Place)
London, S. W. 1.
Tel.: BELgravia 5033

RECEIVED IN
ARCHIVES
25 JUL 1960
RA: 644/23

502-80-SL Scha/Hu

22nd July, 1960

Dear Mr. Wilberforce,

May I ask you for your assistance in the following matter:

As the Auswärtige Amt has been informed, five new Acts have recently been enacted by the Government of Kuweit, i.e.:

RA 1372/3 (59) — a) Traffic Act
RA 1644/7 (60) — b) Passport Act
RA 1643/4 (60) — c) Judicature Act
RA 1644/7 (60) — d) Nationality Act
RA 1602/1 (60)
RA 1646/11 (59) — e) Aliens Settlement Act.

It has, however, only been possible to obtain the official text but not the English translation thereof.

I would, therefore, be very grateful if you could pass this letter to the right desk, in order to provide us with the above mentioned publications.

Yours sincerely

W. Schattmann.

(Dr. Werner Schattmann)

W.J.A. Wilberforce, Esq.,
Foreign Office,
Whitehall,
LONDON S.W. 1.

94
09
0

DO NOT WRITE IN THIS MARGIN.

Registry
No. BA 1644/23

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Dr. Werner Schattenmann,
German Embassy.

from
W.N. Hillier-Fry
~~W.F.A. Hilberforce~~

~~Western Dept first~~

RECEIVED IN
DIVISION
29 JUL 1960
SENT TO BY 2917
REGISTERED 3/8

I am replying to your letter 502-80-SL of July 22 about five Acts recently enacted by the Govt of Kuwait.

I enclose an English translation of each of the Acts mentioned by you. ~~Some of these translations I have prepared by the~~ I hope that these are adequate for your purposes. If there is any other assistance which I can give you at any time concerning Kuwait please do not hesitate to write or telephone to me.

M.F.P

Out Ltr

(BA 1644/23)

FOREIGN OFFICE, S.W. 1.

August 3, 1960.

I am replying to your letter 502-80-SL of July 22 about five Acts recently enacted by the Government of Kuwait.

...

I enclose an English translation of each of the Acts mentioned by you. I hope that these are adequate for your purposes. If there is any other assistance which I can give you at any time concerning Kuwait please do not hesitate to write or telephone to me.

(W.N. Hillier-Fry)

Dr. Werner Schattmann,
German Embassy.

Botschaft
der
Bundesrepublik Deutschland

Embassy
of the
Federal Republic of Germany
Consular Section

21-23, Belgrave Square
(Entrance Chesham Place)
London, S. W. 1.
Tel.: BELgravia 5033

PW
WY
9/viii

502-80 SL 5 Scha/Hu

Your Ref:(BA 1644/23)

5th August, 1960

RECEIVED IN
ARCHIVES
9 AUG 1960
BA 1644/23 (A)

Dear Mr. Hillier-Fry,

Thank you for your letter of August 3rd, 1960 and the enclosed translations of five Acts recently enacted by the Government of Kuwait, which I have forwarded to the Auswärtige Amt.

I shall certainly contact you again, should any new queries concerning Kuwait arise.

Yours sincerely

(Dr. Werner Schattmann)

W.N. Hillier-Fry, Esq.,
Foreign Office,
Whitehall,
LONDON S.W. 1.

94
09
0

1960

B

ARABIAN DEPARTMENT

ARABIA

B A 1644/24.

FROM Sir Ernest Williams

SUBJECT:

Legislation - Kuwait.

Appeal to the Full Court of the Persian Gulf - nomination of members for the Full Court.

No.

Dated 1st August

Received 2nd August.

References

BA 1644/19
BA 1644/26
BA 1644/29

(Printing Instructions)

(Outward Action)

Des) Sir. E. Williams. 4/8.

Des) Sir. H. Wilkan 4/8

Des) Sir Donald Kingdon 9/8

Des) Sir Thomas Creed 9/8

Des) Mr Mawdsley Bahrain from J. Haines 6/8

cc) Mr Hijazi. Kuwait

(Action completed)

8/9.

(Main Indexed)

A 9/12/60

MINUTES

Draft reply.

Re-submit as a.a. with refs.

HJT 3/viii

(A) Sir. Harold Wilkan to Walmsley 31 July.

We must now begin again from scratch. Judge Haines has suggested that Sir Donald Kingdon might be interested - he has the advantage of some knowledge of the circumstances in the Gulf. I shall be grateful for the further views and suggestions of

Judge Haines

Mr. Burrows

U.M.Hillier-Fry 5/viii

The only other names which occur to me are (1) Sir Thomas Creed K.B.E. K.C., who is now principal of Queen Mary College, Mile End Road, London E.1. He often sat on the Full Court in Egypt when he was Legal Secretary to the Sudan Govt.

(2) Sir William O'B Lindsay, KBE who was C.J. Sudan. He was employed by an Oil Coy in Muscat but I understand that he has now left that Coy. He may be available. Lee did ask casually if he would act when he was in Muscat but he said that he could not as his Coy's interests might be involved.

F.A. Haines
5/8

Judge Haines' nominees sound to be suitable.

J. Burrows
5/8

Stephen Judge Haines who suggests trying Sir D. Kingdon and Sir T. Creed in the first place.

Drfts to these gentlemen to issue.

Then to Judge Haines with draft to Mr. Maudsley.

Re-submit a.a.

HXT
8/VIII

(B) Sir. D Kingdon 10 August

(C) Sir. T. Creed. 15 August.

Letters to Sir D. Kingdon and Sir T. Creed already despatched.

2. Sir W. Lindsay is now in Nairobi and must therefore be dropped from the list of possibles. Although Sir H. Trusted is not answering his telephone at home, his club (Athenaeum) has no forwarding address and we must therefore risk writing to his home.

→

Number of copies.....

Number of copies of enclosures.....

Dft Sir. T. Creed 16/8

Dft. Sir. H. Trusted 16/8

Dft) H.M Windsor-Aubrey. 29/8

Dft(-) Mr. Windsor-Aubrey. 7 Sept.

Tel - Agency Bahrain 34 '19

Ref. BA 1644/19.

B

CATERHAM 3347

P.S. Return herewith the Kuwait Admin Cases

42, DOME HILL,
CATERHAM,
SURREY.

RECEIVED
ARCHIVES
2 AUG 1960
BA.1644/24.

1st August 1960

Sir,

I have to acknowledge with thanks the receipt of your letter of the 28th July 1960 [No. BA 1644/19] informing me that the Earl of Home had invited me to accept nomination as a member of the Full Court for the purpose of hearing appeals from Kuwait. I shall be grateful if you will convey my thanks to him for the honour he has done me in nominating me

However I very much regret that for reasons of health I must

repesa. During the past year I have had
chest trouble which began shortly before I
left Sarawak but which is now improving.
On receipt of your letter I consulted my
doctor on my fitness to take the trip.
He advised against my going as
he thought that the long air-trip might
aggravate worsen my heart condition.
I was most disaffonded but think
under the circumstances that it would be
wiser to ask to be permitted to
decline the invitation

I express my regrets but trust
that in the near future I shall be fit
enough to undertake such work should
I have the honour to receive a similar
invitation.

I am
Your obedient Servant
D. H. Williams

To
The Under Secretary of State

NOTHING TO BE WRITTEN IN THIS MARGIN

Minutes

Dft Sir H. Trusted.

B.V. 10 days

W. Nicholson-Fox

16/viii

Judge Staines has spoken to Sir H. Trusted who has to take a vacation court in Chester.

Dft. Mr. Windsor-Aubrey.

B.V. 10 days. 1017 24/viii

(D) Sir. H. Trusted 24th Aug.

(E) Kuwait Tel. No 419 27th Aug

(F) Mr Windsor-Aubrey 25/8

The Kuwait Order was

despatched on August 26.

2. We will no doubt hear

by myself days in advance by

the the Kuwait telegram and

Mr. Windsor-Aubrey's letter. MH 3/9

Judge Haines.

I had a visit yesterday from Mr A. Mansur, a registered legal practitioner who is appearing for the respondents in one of the appeals. He is here in London undergoing medical treatment and will not be ready for the case before the end of Sept.

I suggest that we fix a date in the first week of October. Say 3rd if that fits in the air flights.

The two judges will wish to see the papers before they arrive so I suggest telegraphing Mawdsley to send immediately two copies of the proceedings so that they can be handed to the judges. We could ask him to fix provisionally Oct 3rd.

I hope to see Sir Donald Kingdon on Monday next week for discussions on drafting which are likely to take some time but perhaps it would be convenient for him to see the legal advisers on the same day.

I hope to go out to the Gulf about the same time but I am still awaiting news from Mr Mawdsley.

G. H. Haines
31/8/60

Please see draft telegram and draft letter attached.

Perhaps you could insert a date in the blank space

NOTHING TO BE WRITTEN IN THIS MARGIN

NOTHING TO BE WRITTEN IN THIS MARGIN

in the draft letter.

2. Perhaps also you would agree to inform Sir Donald Kingdon if there does seem to be little or no likelihood of his seeing Mr. Windsor-Aubrey before they board their aeroplane for Kuwait.

M. 1/9

Sunday Morning.

I have spoken to Mr. Burrows who thinks that it would be better if I saw him rather than one of the Legal Advisers. I think, therefore, we ought to tell Mr. Windsor Aubrey who to ask for when he calls. I suggest that Sept 15 might be a suitable time. I will tell Sir Donald Kingdon when I see him.

P.H. 1/9

M. 1/9

(F)

(F) Bahrain Agency Tel. 40
3' Sept.

(H) Kuwait 429 4' Sept

I have asked Travel Service (Mr. Hunt) provisionally to book first-class return tickets for the two judges, the second joining at Basra on Oct. 2.

BA 204, London 2000 Oct. 2 – Kuwait 1150 Oct. 3.

2. Other arrangements can wait until they arrive by the comc.

M. 6/9

(i) Mr Maudsley & Judge Haines CT/119/60 5' Sept.

see 129

NOTHING TO BE WRITTEN IN THIS MARGIN

Registry
No. BA 1644/24

~~Top Secret.~~
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir Ernest Williams,
42, Dome Hill,
Caterham,
Surrey

Sir,

I am etc. to thank you for your letter of August 1 but have to express his regret that you are unable for reasons of ill-health to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf. Thank you for returning the copy of the Kuwait Order-in-Council.

I. S.

M27
3/VIII.

NOTHING TO BE WRITTEN IN THIS MARGIN.

RECEIVED IN
DIVISION
-3 AUG 1960
SENT TO BY 3/8
4/8

M.F.P

outletter

BA 1644/24

FOREIGN OFFICE,
S.W.1.

August 4, 1960.

Sir,

I am directed by The Earl of Home to thank you for your letter of the 1st of August but have to express his regret that you are unable for reasons of ill-health to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf. Thank you for returning the copy of the Kuwait Order-in-Council.

I am,
Sir,
Your obedient Servant,

Sir Ernest Williams,
42, Dome Hill,
Caterham,
Surrey.

Tel. 1185.

RECEIVED IN
ARCHIVES
3- AUG 1960

BA1644k4(4)

6 Squirrels Way,
Epsom,
Surrey.

31 July '60.

B

Dear Mr Walmsley,

Your BA 1644/19 of 28.7.60

Thank you for your letter under reference inviting me to be a member of the Persian Gulf Full Court for the purpose of hearing one Appeal and also an application for leave to appeal.

Owing to other engagements I regret I am unable to accept your offer.

I return the copy of the Kuwait Order, 1959, enclosed with your letter.

Yours truly,

Harold Willan.

WRITE IN THIS MARGIN.

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir Harold Willan,
C.M.G., M.C.,
6, Squirrels Way,
Epsom,
Surrey

from

A.R. Walmsley

+cc

I write to acknowledge receipt of ~~Thank you for~~ your letter of July 31 from which I was ~~[illegible]~~ sorry to learn that owing to other engagements you are unable to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf. Thank you for returning the copy of the Kuwait Order, 1959.

WMT
4/VIII

RECEIVED IN
DIVISION
-4 AUG 1960
SENT TO BY 4/8
REGISTERED 4/8

out this

(A. 1644/24)

FOREIGN OFFICE, S.W.1.

August 4, 1960.

I write to acknowledge receipt of your letter of July 31 from which I was sorry to learn that owing to other engagements you are unable to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf. Thank you for returning the copy of the Kuwait Order, 1959.

(A. R. Walmsley.)

Sir Harold Willan, C.M.G., M.C.,
6, Squirrels Way,
Epsom,
Surrey.

NOTHING TO BE WRITTEN IN THIS MARGIN.

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

1 Sir Donald Kingdon Q.C.,
9, Old Camp Road,
Eastbourne.
Sussex.

2 Sir Thomas Creed,
KBE, Q.C.,
Queen Mary College,
Mile End Road,
~~London~~ E.1.

2 letters

etc

8/12

9/12

[draft is to Sir E. Williams in -/19, amending last sentence of second para to read: " It is hoped to arrange for the Full Court to sit ~~in early~~ in early September but this has not yet been definitely arranged. "]

hm
8/viii

RECEIVED IN
DIVORCE
- 3 AUG 1960
SENT TO | 8/8
BY | 9/8

Enclosure

Out file

BA 1644/24

FOREIGN OFFICE,
LONDON,
S.W. 1.

August 9, 1960.

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19 (2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit in early September but this has not yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

Sir Donald Kingdon, Q.C.,
8, Old Camp Road,
Eastbourne,
Sussex.

Overlin

BA 1644/24

FOREIGN OFFICE

S.W. 1.

August 9, 1960.

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19 (2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit in early September but this has not yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

Sir Thomas Creed, K.B.E., Q.C.,
Queen Mary College,
Mile End Road,
E. 1.

Registry
No. BA 16444/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir William O'B.
Lindsay, K.B.E.,
c/o Staff Records Dept.,
Iraq Petroleum Co. Ltd.,
214, Oxford St.,
W. 1.

[mark envelope
"Please forward"]

+ O C

12/40
12/12

[draft as to Sir D. Kingsley]

below

M17
11/VIII

Cancelled.

DO NOT WRITE ANYTHING TO BE WRITTEN IN THIS MARGIN

RECEIVED IN
DIVISION
11 AUG 1960
SENT TO
BY
DESPATCHED

11/8.

M.F.P

B

Your reference
No. BA/1644/24

RECEIVED IN
ARCHIVES
11 AUG 1960
BA1644/24 (B)

8 Old Camp Road
Eastbourne
Sussex.
10th August, 1960.

Dear Sir,

I acknowledge with thanks the receipt of your letter dated the 9th August, 1960, inviting me to accept nomination by Lord Home as a member of Her Britannic Majesty's Full Court for the Persian Gulf for the purpose of hearing the Appeal or Appeals mentioned in your letter.

2. I shall be glad to accept nomination upon the terms set out in your letter.

3. As you suggest, it would be a great help for me to discuss the matter with one of the Legal Advisers to the Foreign Office, & I shall be grateful if you can arrange an appointment for me. It would be convenient for me to come up to London on either Monday, August 15th or Tuesday August 16th, but I could manage any day next week, except Thursday. As to time, 11-30 a.m. suits me best, as that fits in with a train from Eastbourne; but, again, I can fit in any time that would be more convenient.

? Aug 16 or Wed

I am, Sir,
Your obedient servant,
Donald Kingdon.

The Under Secretary of State
Foreign Office

(SIR DONALD KINGDON)

NOTHING TO BE WRITTEN IN THIS MARGIN.

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir Donald Hingston
8. Old Camp Rd.
Eastbourne
Sussex.

toc.

12/10
12/11

Sir.

I am etc. to thank you for your letter of Aug 10 and for your willingness to accept nomination as a member of the H.M. Full Court for the Persian Gulf for the purpose described in my letter of Aug 9.

As it has not yet been possible to appoint the second member of the Full Court I am to suggest that you may wish to defer your visit to the Foreign Office until it is possible for you to meet your fellow member at the same time. I will write to you again as soon as possible suggesting a time

→

RECEIVED IN
DIVISION
12 AUG 1960
SENT TO
BY 12/8
DESPATCHED 12/8

M.F.P

NOTHING TO BE WRITTEN IN THIS MARGIN.

out letter

BA 1644/24

FOREIGN OFFICE,

S.W.1.

August 12, 1960.

Sir,

I am directed by The Earl of Home to thank you for your letter of the 10th of August and for your willingness to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf for the purpose described in my letter of the 9th of August.

As it has not yet been possible to appoint the second member of the Full Court I am to suggest that you may wish to defer your visit to the Foreign Office until it is possible for you to meet your fellow member at the same time. I will write to you again as soon as possible suggesting a time for this meeting.

I am,
Sir,
Your obedient Servant,

Sir Donald Kingdon,
8, Old Camp Road,
Eastbourne,
Sussex.

QUEEN MARY COLLEGE
(UNIVERSITY OF LONDON)
MILE END ROAD · E·1
TELEPHONE · ADVANCE 4811

RECEIVED IN ARCHIVES
12 AUG 1960
BA1644/24(c.)

11 August 1960

Sir,

I refer to your letter BA 1644/24 dated 9 August 1960.

I very much regret that owing to previous engagements in September I am unable to accept nomination as a member of the Full Court for the Persian Suit for the purpose of hearing the Appeals mentioned in your letter.

May I add that should it be desired to nominate me as a member of the Court on some future occasion, I should be pleased to accept, provided the dates do not conflict with my engagements in the University of London?

I am,
Sir
Your obedient servant
J.P. Emeléus

The Under Secretary of State
The Foreign Office

HMT 15/viii

DO NOT WRITE IN THIS MARGIN.

Registry No. BA 1644/24

~~Top Secret.~~
Secret.
Confidential.
~~Restricted.~~
Open.

1107 → 8/viii

Draft.

W.P.R. Maudsley, Esq.,
HM Political
~~British~~ Agency,
Bahrain

from

C.H. Haines 10/8
(+ 1 spare)

Judge Haines first

Copy: A.H. Higazi,
Kuwait
a/Asst.
15/8

RECEIVED IN
DIVISION
11 AUG 1960
SENT TO BY 11/8.
DESPATCHED 15/8

x2c

[BY AIR MAIL (TO BOTH)]

15/12 11/3

I am sorry that we have not been able to give you any news about convening a full Court for the Persian Gulf since our tel. no. 748 of June 29 to the Residency. [in -/19]

We wrote to two of the retired judges suggested by the Colonial Office but both have declined nomination. We have now written to two other retired judges of our acquaintance and hope that we shall have better luck this time.

2. We are now suggesting that the full Court should ~~not~~ sit in Kuwait early in September as we naturally do not want

→

M.F.P

to delay proceedings unduly. Do you think that the appeals can be ready and counsel available by then?

2. I enclose a copy of this letter and AHMED HIJAZI
am sending a copy to Ahmed Hijazi in Kuwait.

NXT
11/viii

NOTHING TO BE WRITTEN IN THIS MARGIN.

(E 1644/24)

UNCLASSIFIED

FOREIGN OFFICE, S.W.1.

August 15, 1960.

I am sorry that we have not been able to give you any news about convening a Full Court for the Persian Gulf since our telegram No. 748 of June 29 to the Residency. We wrote to two of the retired judges suggested by the Colonial Office but both have declined nomination. We have now written to two other retired judges of our acquaintance and hope that we shall have better luck this time.

2. We are now suggesting that the Full Court should sit in Kuwait early in September as we naturally do not want to delay proceedings unduly. Do you think that the appeals can be ready and counsel available by then?

3. I enclose a spare of this letter and am sending a copy to Ahmed Hijazi in Kuwait.

(C.H. Haines)

W.P.R. Mawdsley, Esq.,
Bahrain.

NOTHING TO BE WRITTEN IN THIS MARGIN.

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir Thomas Creed,
KBE., QC.,
Queen Mary College,
Mile End Road,
E.1

RB
+cc

15/7
15/8

Sir,

I am etc. to ack receipt of your letter of Aug 11 from which he was sorry to learn that ~~you are~~ owing to previous engagements you are unable to accept nomination as a member of H.M. Full Court for the Persian Gulf when it sits early in September.

I am to thank you for your willingness to accept nomination on a future occasion and I am to say that it is hoped that on a ~~future~~ another occasion it will be possible to give you longer notice of the intention to convene the Full Court.

I am etc. WMT 15/viii

RECEIVED IN
DIVISION
15 AUG 1960
SENT TO BY 15/8.
DESPATCHED 15/8.

BA 1644/24

Cuthe-

S.W.1.
August 16, 1960.

Sir,

I am directed by The Earl of Home to acknowledge receipt of your letter of the 11th of August from which he was sorry to learn that owing to previous engagements you are unable to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf when it sits early in September.

I am to thank you for your willingness to accept nomination on a future occasion and I am to say that it is hoped that on another occasion it will be possible to give you longer notice of the intention to convene the Full Court.

I am,
Sir,
Your obedient Servant,

Sir Thomas Creed, K.B.E., Q.C.,
Queen Mary College,
Mile End Road,
E.1.

NOTHING TO BE WRITTEN IN THIS MARGIN.

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

Sir Harry Trusted, Q.C.,
31, Sloane Court West,
S.W.3

(with envelope "Please forward")

RECEIVED IN DIVISION
AUG 1960
SENT TO BY 16/8
REGISTERED 16/8

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16/3460

16/5

[draft as to Sir J. Kerjedon of Aug 9]
herewith

NXF
16/viii

FOREIGN OFFICE,

Our file

BA 1644/24

S.W.1.

[August 16, 1960.]

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit in early September but this has not yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

[Sir Harry Trusted, Q.C.,
31, Sloane Court West,
S.W.3.]

6P/

Registry
No. BA 1644/24

Top Secret.
Secret.
Confidential.
Restricted.
Open.

Draft.

H.M. Windsor-Aubrey. Esq.,

Judge's Lodgings,
St. Ann's House,
Carlisle

2 AUG 1960
SENT TO REGY BY 24/8 24/9

NOTHING TO BE WRITTEN IN THIS MARGIN.

M.F.P

+cc 24/2

24/3 or Last M Pile.

[Dft ~ to Sir H. Trusted 1 Aug 16]

VIII 7
24/viii

Ret. Tele

BA 1644/24.

FOREIGN OFFICE,
LONDON, S.W.1.

August 24, 1960.

Sir,

I am directed by The Earl of Home to inform you that he has to nominate two members of Her Britannic Majesty's Full Court for the Persian Gulf in order to hear an Appeal which has been filed by a litigant in Kuwait. The Appeal is from directions given by the Judge of the Chief Court under Article 19(2) of the Kuwait Order, 1959, of which a copy is enclosed for your information. The same litigant has also filed an application to the Full Court under Article 54 of the Order, asking for leave to appeal from a judgment of the Judge of the Chief Court. The constitution of Her Majesty's Courts in the Persian Gulf is described in Part III of the Kuwait Order, 1959.

It is considered that it will not be necessary for the Full Court to sit for more than three days in order to hear both the Appeal already filed and, if the application for leave to appeal from the judgment of the Judge of the Chief Court is granted, this second Appeal as well. It is hoped to arrange for the Full Court to sit in early September but this has not yet been definitely arranged.

I am to invite you to accept nomination by Lord Home as a member of the Full Court for the purpose of hearing the Appeal or Appeals mentioned above. The cost of the journey by air to and from Kuwait would be borne by this Department and in addition to a subsistence allowance for the period of your stay in Kuwait an honorarium would be paid to you for your services of 75 guineas plus a refresher of 15 guineas a day for each day spent in Kuwait over five days. If you are prepared to consider this appointment you may wish to discuss the matter with one of the Legal Advisers to the Foreign Office with whom I should be happy to arrange an appointment for you.

I am,
Sir,
Your obedient Servant,

H.M. Windsor-Aubrey, Esq.,
Judge's Lodgings,
St. Ann's House,
Carlisle.

RECEIVED IN
ARCHIVES
25 AUG 1960
WA1644/24 (1)

31, (5) SLOANE COURT WEST,
LONDON, S.W.3.
SLOANE 6838.

24 Aug 60

Dear Beaumont

I have just
telephoned to your
secretary. and have
also spoken to Harris -
explaining that I only
received your letter RA.
1644/24 - dated 16th today -
or it was not forwarded
to me. Hence the delay
for which please excuse

R.H. Beaumont Esq

my sincere apologies.
I much regret that
I cannot go to the
Persian Fete as I am sitting
at a Dinner Party
on that night.

Yours sincerely
Harry Arnold.

I believe the order

B.

RECEIVED
ARCHIVES
29 AUG 1960

BA 1644/24 (E)

FROM KUWAIT TO FOREIGN OFFICE

En Clair

DEPARTMENTAL DISTRIBUTION

Mr. Richmond
No. 419
August 27, 1960

D: 1.16 p.m. August 27, 1960
R: 1.52 p.m. August 27, 1960

Addressed to Bahrain Agency telegram No. 14 of August 27,
Repeated for information to: Foreign Office.

Following for Crawford from Hijazi.

Judge Haines's letter to Mawdsley BA 1644/24
of August 15.

I regret that dates suggested are not suitable as both parties would need at least three weeks' notice. I suggest late September, in which case we shall require early confirmation of selected date, or early October.

DISTRIBUTED TO:

Arabian Department
Judge Haines

JJJJJ

29 AUG 1960

ST. ANN'S HOUSE,
ETTERBY SCAUR,
CARLISLE.

B

~~WOODDALE HOUSE,~~
BILLINGSHURST,
~~SUSSEX.~~

August 25th, 1960

BILLINGSHURST
SUSSEX.
CARLISLE 25035

RECEIVED IN ARCHIVES
27 AUG 1960

BA1644/24(F)

REFERENCE BA/1644/24.

Sir,

I thank you for your letter of the 24th of August. I shall be glad if you will inform Lord Home that I am pleased to accept nomination as a member of the Full Court for the Appeal or Appeals to be held at Kuwait.

With reference to the first paragraph of your letter I fear that, by an oversight, the Kuwait Order 1959 was not enclosed and I should be grateful if this could be sent to me.

I think a discussion with your Legal Advisers is most desirable and I shall be pleased if you will arrange an appointment for me. Any date would suit me but I should be glad to have a few days notice, if possible, as accommodation is difficult to arrange in London at this time of the year.

I am,
Sir,
Your obedient servant,

Hmw Aubrey

(H.M.Windsor-Aubrey)

The Under-Secretary of State,
Foreign Office,
London, S.W.1

NOTHING TO BE WRITTEN IN THIS MARGIN.

Registry No. BA 1644/24

~~Top Secret.~~
Secret.
Confidential.
~~Restricted.~~
Open.

Draft.

+ O 2/1 2/2

Sir,

Hm Gordon-Ashley,
St. Ann's House,
Ettenby Seam,
Carlisle.

I am directed by the Earl of Home to thank you for your letter of the 25th of August and for your willingness to accept nomination as a member of Her Majesty's Court for the purpose described in my letter of the 24th of August.

I am to suggest that you might like to call at the Foreign Office to see [(His Judge of the Chief Court (Judge Hamer's husband of)] one of the Legal Advisers on the 15th of September at 10.30 a.m.; perhaps you would

RECEIVED IN DIVISION
-2 SEP 1960
SENT TO BY 2/9
RESPATCHED 2/9.

(76252) Hw.

suggest another time if this is

inconvenient.

It is more likely that

the full Court will be

convened in the early days of

October.

) Yrs, etc.

M. 1/9

NOTHING TO BE WRITTEN IN THIS MARGIN.

Out file

BA 1644/24

FOREIGN OFFICE,

S.W.1.

September 2, 1960.

Sir,

I am directed by The Earl of Home to thank you for your letter of the 25th of August and for your willingness to accept nomination as a member of Her Majesty's Full Court for the Persian Gulf for the purpose described in my letter of the 24th of August.

I am to suggest that you might like to call at the Foreign Office to see Judge Haines, the Judge of the Chief Court instead of one of the Legal Advisers on the 15th of September at 10.30 a.m., perhaps you would suggest another time if this is inconvenient.

It is now likely that the Full Court will be convened in the early days of October.

I am,
Sir,
Your obedient Servant,

H.M. Windsor-Aubrey,
St. Ann's House,
Etterby Scaur,
Carlisle.

Registry
No. BA 1644/24

~~Top Secret~~
~~Secret~~
Confidential
~~Restricted~~
Open

~~EMERGENCY~~
~~IMMEDIATE~~
~~PRIORITY~~
ROUTINE
with ____ priority
~~without~~
~~DEFERRED~~

* Date and time (G.M.T.) telegram should reach addressee(s) .....

Date - 1 SEP 1960

Despatched 8.20 pm

Draft.

Telegram to:—
BAHRAIN (Agency)
No. 34
(Date) 1/9
And to:—

Repeat to:—
KUWAIT 520

RECEIVED IN ARCHIVES - 2 SEP 1960

En Clair
~~*Code*~~
~~*Cypher*~~

Distribution
Defence
Arabian
Judge Hains.
Copies to:—

[*Security classification if any*] —

[*Codeword*]—*if any* .....

Address to Political Agent BAHRAIN (~~Agency~~)

telegram No 34 (*date*) 1/9

.....

repeated for information to KUWAIT

.....

for [redacted] CRAWFORD ~~Comptroller~~ [redacted]

Kuwait Tel. no. 14 [of August 27] to you.

Be suggest full Court be convened in Kuwait October 4.

Judge Sir Donald KINGDON and Mr. H. M. WINDSOR-AUBREY could come by BOAC flight arriving 11 am October 3.

NOTHING TO BE WRITTEN IN THIS MARGIN

1.40p
1/9/60

2. (Powers of Judges

Chichester means two offices of

proceedings as called for by Rule 14(2) of
Kuwait Civil Appeal Rules.

Distributed to
Archive Dept
~~Judge Hann~~

Arch.

NOTHING TO BE WRITTEN IN THIS MARGIN

FROM FOREIGN OFFICE TO BAHRAIN
(The Political Agent)

En Clair

DEPARTMENTAL DISTRIBUTION

BA 1644/24

No. 34
September 1, 1960 D: 8.20 p.m. September 1, 1960

Addressed to Political Agent, Bahrain
telegram No. 34 of September 1.
Repeated for information to Kuwait.

For Crawford.

Kuwait telegram No. 14 [of August 27]
to you.

We suggest full Court be convened in Kuwait October 4. Judges Sir Donald Kingdon and Mr. H.M. Windsor-Aubrey could come by BOAC Flight arriving 11 a.m. October 3.

2. Grateful you send for use of Judges by quickest means two copies of proceedings as called for by Rule 14(2) of Kuwait Civil Appeal Rules.

DISTRIBUTED TO:-
Arabian Department

B

FROM BAHRAIN TO FOREIGN OFFICE

(Political Agent)

ARCHIVES
-5 SEP 1960

BA 1644/24(F)

En Clair

DEPARTMENTAL DISTRIBUTION

No. 40 D. 1.35 p.m. September 3, 1960

September 3, 1960 R. 12.58 p.m. September 3, 1960

Addressed to Kuwait telegram No. 101 of September 3.
Repeated for information to Foreign Office.

Your telegram No. 14.

419 to FO.

I agree; letter follows.

BA 1644/24(E)

DISTRIBUTED TO:

Arabian Department
Judge Haines

HHH

5 SEP 1960
ARABIAN DEPARTMENT

RECEIVED IN ARCHIVES
-5 SEP 1960

BA 1644/24 (14)

B.

FROM KUWAIT TO FOREIGN OFFICE

En Clair

DEPARTMENTAL DISTRIBUTION

Mr. Richmond
No. 429
September 4, 1960

D. 4.11 p.m. September 4, 1960
R. 4.33 p.m. September 4, 1960

Addressed to Bahrain Agency telegram No. 16 of September 4.
Repeated for information to Foreign Office.

Foreign Office telegram No. 34 to you. BA 1644/24

Following for Crawford, from Hijazi.

Date quite convenient.

DISTRIBUTED TO:

Arabian Department

5 SEP 1960

o-o-o-o

COPY

CONFIDENTIAL

RECEIVED IN ARCHIVES 9 SEP 1960
BA 1644/24 (1)

CONFIDENTIAL

CT/119/60

BRITISH RESIDENCY

BAHRAIN

September 5, 1960.

My dear Judge,

I have just returned from local leave and saw your letter BA 1644/24 of the 15th of August, and F.O. telegram No. 34 of September 1. I understand that the suggested date (October 5) is quite convenient to Kuwait for the Full Court.

2. For the Judges, I enclose two copies of:

A. Appeal papers in the matter of the application to the Chief Court under Article 19 (2) of the Kuwait Order.

B. Application to the Full Court for leave to appeal against Judgment of the Chief Court, and appeal proceedings of the Chief Court.

As regards B, this of course only requires to be heard by one of the Judges, but if leave were to be granted then both would come into the picture.

3. The proceedings at first instance in the Court for Kuwait are still with Hijazi at the point where they broke off, and I am asking him to send you two copies as soon as possible. How far the Judges will want to study them I do not know, as I think that the main points really appear in the appellate proceedings, but no doubt the original proceedings should go too.

4. I am also sending Ahmad Hijazi Notices of Hearing for the 4th of October. Sir Bernard Burrows authorised me some years ago to perform Registrar's duties for the Full Court so I think I can properly sign the Notices on its behalf.

Yours ever

(Signed) Mawdsley

(W. P. R. Mawdsley)

Judge C. H. Haines, C.B.E.
Foreign Office,
S.W.1.

CONFIDENTIAL