

THE  
FOURTEENTH REPORT  
OF THE  
COMMISSIONERS

Appointed to inquire into the Duties, Salaries and  
Emoluments, of the OFFICERS, CLERKS, and MINISTERS  
of JUSTICE, in all Temporal and Ecclesiastical Courts  
in *Ireland*.

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JUDGE OR COMMISSARY OF THE COURTS OF  
PREROGATIVE AND FACULTIES.

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*Ordered, by The House of Commons, to be Printed,*  
*21 February 1826.*

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Appointed to inquire into the Duties, Salaries and Allowances of the Officers, Clerks and Ministers of Justice, in all Temporal and Ecclesiastical Courts

in Ireland.

BY J. J. JUDGE OF COMMISSIONERS OF THE COURTS OF

PRINCIPAL AND JUDICIAL

(Ireland.)

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FOURTEENTH REPORT  
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TO THE KING'S MOST EXCELLENT MAJESTY, IN HIS HIGH  
COURT OF CHANCERY.

**W**E, YOUR MAJESTY'S Commissioners, whose hands and seals are hereunto  
set, beg leave to lay before YOUR MAJESTY the result of our Inquiries  
respecting the situation of Judge in the Courts of Prerogative and Faculties in  
*Ireland*.

Courts of  
Prerogative and  
Faculties.

IT had been our intention to complete our Report on the Office of Sheriff,  
previously to the commencement of any Inquiry into the Fees, &c. of the several  
Ecclesiastical Courts in Ireland. In consequence, however, of an intimation  
from YOUR MAJESTY'S Government, conveyed to us by letter, dated the  
18th August 1825, a copy of which is subjoined in the Appendix, stating  
"that the Lord Lieutenant was very desirous, for many reasons, to receive from  
"us a Report upon the Prerogative Court, and especially upon that part of  
"it which relates to the situation of the Judge, and the sources from which his  
"Emoluments are derived;" and urging us to report, previously to the commence-  
ment of the present Session, without prejudice however to our pending Inquiry  
respecting the Office of Sheriff, we have, though much pressed by this latter  
very laborious investigation, directed our attention to that particular depart-  
ment of the Ecclesiastical Courts, which, from the letter alluded to, we consider  
as prescribed for our immediate consideration. This subject, thus narrowed,  
affords a comparatively small field for investigation; we have therefore now to  
present to YOUR MAJESTY a much more limited Report than otherwise, in  
the ordinary discharge of our duty, we should have deemed it requisite  
to make.

Appendix,  
No 1.

With respect to the jurisdiction and practice of Ecclesiastical Courts, we  
shall here remark, in general, that in Ireland, as in England, the jurisdiction of  
these Courts is either what is termed contentious or voluntary, or both. Their  
contentious Jurisdiction is that whereby they administer redress of injuries, and  
decide

Blacks tone.



Courts of  
Prerogative and  
Faculties.

Blackstone.

Ibid.

decide between litigant Parties. Their voluntary Jurisdiction is that in virtue of which they are merely concerned in doing of acts which are not opposed ; such as granting dispensations, faculties, licences, &c. The injuries of which, in the exercise of their contentious jurisdiction they take cognizance, are either of a pecuniary nature, such as subtraction of tithes in certain cases, non-payment of ecclesiastical dues, spoliation, dilapidation, &c. ; of a matrimonial nature, such as jactitation of marriage, subtraction of conjugal rights, &c. ; or lastly, testamentary, such as disputes concerning the validity of wills, obstruction of administrations, and subtraction of legacies. Their proceedings are regulated according to the practice of the Civil and Canon Law, as well as by their own particular Usages, and the occasional interposition of the Courts of Common Law.

We shall now proceed with the immediate subject of Inquiry ; namely, the situation of Judge of the Courts of Prerogative and Faculties. The power of appointment by the Archbishops of Armagh to the situation of Judge of the Courts of Prerogative and Faculties, rests upon the authority of the Irish Acts of 28 Hen. 8, c. 19, and 2 Eliz. c. 1 ; and two Patents made, one in the twentieth year of the reign of James the First, and the other in the second of Charles the First, which we shall here very briefly notice.

s. 20.

s. 22.

c. 8.

s. 1.

s. 6.

The Irish statute, 28 Hen. 8, intituled, "The Act of Faculties," enacts, that the English Act of 25 Hen. 8, c. 21, shall be of force in Ireland ; and further, "That all and every person or persons authorized, or to be authorized by Commission under the Great Seal, for the exercising of any Ecclesiastical Jurisdiction, or granting of any Faculties in Ireland, should have like authority for exercising and granting the same, as the Archbishop of Canterbury, and his successors, had or should have in England or Ireland." By statute 3 & 4 Phil. and Mary, in Ireland, this Act of the 28 Hen. 8, c. 19, was repealed ; and by the 2d Eliz. c. 1, Irish, the Act of Phil. and Mary is repealed, and the Act of 28 Hen. 8. revived ; and it is further enacted, among other things, "That her Majesty, her heirs and successors, should have power, by letters patent under the Great Seal of England or Ireland, and the chief Governor or Governors of this Realm for the time being, should have power, by letters patent to be made by his or their warrants under the Great Seal of Ireland, to authorize such person or persons, being natural born subjects, as her Majesty or such Chief Governor should think meet, to exercise all manner of jurisdictions, privileges and pre-eminencies in any wise concerning any spiritual jurisdiction in Ireland ; and that such person or persons should have power, by virtue of that Act and of such letters patent, to exercise the premises, according to the tenor of such letters patent."

The patent of James the First grants the jurisdiction of the Prerogative Court and Court of Faculties in Ireland to the Archbishops of Armagh, and their successors ; and, among other powers, gives that of appointing substitutes, and revoking such substitutions at their discretion. The patent of King Charles the First grants a power to the Archbishops of Armagh, and their successors, to appoint Deputies, or Commissaries of these Courts, to hold for term of their lives, or during good behaviour, together with various other powers. By virtue of these patents, and the statutes above-mentioned, the Archbishops of Armagh at present appoint the Judge of each of these Courts.

Appendix,  
N° 3.  
N° 4.

The situation of Judge or Commissary, in the Courts of Prerogative and Faculties, is at present filled by the same person, the Right honourable Doctor  
John

John Radcliff, who was appointed by His Grace the late Doctor William Stewart, Archbishop of Armagh, by Commission, bearing date 15th March 1816, constituting him Judge of the two Courts, for the period of his life, without condition or consideration of any kind. These situations are stated by this Officer to have been always held together; and although their union, in the same individual, does not seem to have been made necessary by the provisions of the Patent under which the appointment to them is made, yet their separation at the present day would, we conceive, be attended with much practical inconvenience.

We shall consider each of these Courts separately, in reference to the Duties and Emoluments of the Judge.

#### PREROGATIVE COURT.

THE office of Judge of this Court is one of great dignity, and is considered to rank next after the Judges of the superior Courts of Justice; and requires, in the possessor of it, great legal knowledge and ability. Its Jurisdiction is both contentious and voluntary; its Duties, which are more fully set out in the Commission of the present Judge, and the Patents therein recited, consist, as described in the Return of that Officer, in the granting of Probates and Letters of Administration, and hearing and determining all causes and matters relative thereto, in all cases where there are *Bona Notabilia*, or Chattels of a Testator, in two or more distinct Dioceses. Its Jurisdiction extends over the whole of Ireland; and, in the course of its exercise, Suits of the most serious importance, (owing to the amount of property which they involve, and to other causes) are decided. The hours of Attendance commence at half-past ten in the forenoon, and continue during the day, pending the sittings of the Court; which, according to a regulation of the present Officer, commence the day before the first sitting-day of the Law Terms, and continue as the business requires (the Court being kept open) until the Court of Chancery rises after the Term. In the Vacations, a regular attendance is given throughout the year upon three days in each week, from half-past ten in the forenoon until twelve o'clock, for the purpose of swearing persons seeking Probates or Administrations, and for other business; and one day, in each of the long vacations in every year, is devoted to disposing of Caveats previously entered, with a view to prevent the inconvenience which might arise to persons, seeking to prove Wills or obtain Administrations, from the entry of vexatious or ill-grounded Caveats, which otherwise would obstruct the granting of such Probates or Administrations until the ordinary sittings of the Court commenced; and at all other times, when necessary, occasional attendance is given.

The Judge of this Court receives no Salary, but is remunerated by Fees; in the rates of which no increase has been made since his appointment: he states that he is ignorant of the time of their commencement, but that, according to his belief, they are claimed upon the authority of ancient usage.

By the patent of Charles the First, already mentioned, "such Fees and Perquisites are granted to the Archbishops of Armagh, and their Commissaries, as are enjoyed by the Surrogates and Commissaries of the said Offices in the province of Canterbury respectively;" from which it might be inferred that the legal Fees in the Irish Courts of Prerogative and Faculties, in the year 1627, were the same in rate as those at that period taken in the Courts of Prerogative and Faculties of the Archbishops of Canterbury; but

Appendix,  
N° 2.

N° 4.

N° 2.

N° 3.

Ibid.

Ibid.

N° 5, Q. 14.

Ibid.

N° 3.

N° 2.



Appendix,  
N<sup>o</sup> 5, Q. 3.

whether in point of fact they were so or not, we have not been able to discover.

The earliest period in which we have been able to ascertain the rates of the Fees taken by the Judge of these Courts, is the year 1718; in which year a list of Fees was returned to the House of Lords by James Coghill, the then Register, verified by his oath, and which he therein states had been for some years previously hung up in the registry of those Courts. From this list it appears that Fees upon a much greater number of Services were at that time taken by the Judge of the Prerogative than at present. The Table which follows our observations on the duties and emoluments of the Judge in the Court of Faculties, will exhibit the several Services on which Fees were received in 1718 by the Judge of this Court, and those at the present day, with the rates of Fees taken on each respectively.

N<sup>o</sup> 3.

No Gratuities or Perquisites of any description have been received by the present Officer. On the contrary, his practice has been, in the case of poor Applicants, to remit the Fees on Probates and Administrations, where the Assets were small; and in instances where the granting of Probate or Administration has led to the possession of substantial Assets, but at a future period, the Fees have been in like manner remitted.

s. 2

By the provisions of the statute 40 Geo. 3, c. 69, a retiring Salary, not exceeding 1,000*l.*, is made grantable to the Judge of this Court upon resignation, provided he has filled the office for fifteen years, or become afflicted with some permanent infirmity, disabling him from the due execution of its duties; but with respect to the Commissary of the Court of Faculties the statute is silent.

Appendix,  
N<sup>o</sup> 3.  
N<sup>o</sup> 5, Q. 11.

The only Patronage enjoyed by the Judge of this Court is the appointment of two Examiners, to whom he delegates the examination of witnesses, a duty supposed to be performed by himself. These Officers are restricted from practising as Advocates in this Court; they take down the depositions in writing, and the witnesses are then brought before the Judge, "and repeated," as it is termed, before him. Formerly this duty was (as in other Ecclesiastical Courts) deputed to the Register, but being found to occupy too much of his time, and for other reasons, it has been transferred to the Examiners.

The annual Income produced to the Judge of the Prerogative by Fees, in each of the four years ending 31st December 1825, is as follows:—

		£.	s.	d.
N <sup>o</sup> 3.	For the year ending 31st December 1822 -	1,280	11	10
	For the year ending 31st December 1823 -	1,433	12	6
	For the year ending 31st December 1824 -	1,494	7	3
N <sup>o</sup> 5, Q. 31.	For the year ending 31st December 1825 -	1,630	10	8

N<sup>o</sup> 3.  
N<sup>o</sup> 5, Q. 13.

The increase which it appears from this statement has taken place in the Emoluments of this Officer is attributable, amongst other causes, to increased exertions on the part of the Commissioners of Stamp Duties, and their Officers, to prevent persons administering Assets without obtaining Administrations, or proving Wills.

## COURT OF FACULTIES.

N<sup>o</sup> 21

THE Jurisdiction of this Court is voluntary; and its Duties, which, in like manner as those of the Court of Prerogative, are fully set out in the Commission of the present

present Officer and the Patents therein recited, consist, as stated in his Return, in “granting special Licences or Dispensations for Marriage; Faculties or Dispensations to Clerks for Pluralities; Faculties to Public Notaries, and in all other cases allowed by law.”

Appendix,  
N° 4.

The Dispensations for Pluralities have hitherto formed a very important part of the business of this Court, and have been one of the principal sources of Emolument arising in it. By the Commission made to the present Judge, the power of granting Dispensations for Pluralities is in all cases reserved to the Primate, or his successors; but during the lifetime of the late Primate, temporary Commissions were from time to time granted by him, authorizing the Judge, in his absence or illness, to determine upon the qualifications of persons applying for Dispensations or Faculties; and to give fiant for the same, in his discretion; and by a Commission bearing date the 14th day of March 1823, a continuing power has been granted by the present Primate to act in like manner in all cases of illness or absence; and in consequence of a late regulation of the present Primate not to grant Dispensations to Clerks to hold two Benefices, which are distant more than thirty miles from each other, the number of Dispensations for Pluralities has been materially diminished in the last year, and they will probably in future rarely be granted.

Ibid.

N° 2.

N° 5, Q. 1.

N° 6.

N° 4.

N° 5, Q. 19, 20.

The Commissary of this Court receives no Salary; his Remuneration arises from certain Fees, and a proportion of a Tax payable upon the granting of Dispensations for Pluralities, called the Faculty Tax. This Tax is not now payable on the granting of any other Faculties or Dispensations than those for Pluralities. Its commencement is matter of history, which we do not find to be any where precisely ascertained. Down to the passing of the stat. 25 Hen. 8, c. 21, in England, which was adopted in Ireland by stat. 28 Hen. 8, c. 19, as before stated, it was payable to the Bishops of the See of Rome, by whom Dispensations, Faculties and Licences of various descriptions were then granted; by these statutes, it is provided, amongst other things, that this power in the Bishops of Rome should cease; and that no impositions of any kind should thenceforth be paid to them by the subjects of these Realms; and the power of granting Faculties and Dispensations in England, was transferred to the Archbishop of Canterbury and his successors, and in Ireland to persons to be authorized under the Great Seal for the purpose, and who were thereby invested with like authority as the Archbishop of Canterbury and his successors in England; and it was provided by the Irish Act, that the Tax theretofore payable to the See of Rome, on the occasion of granting such Faculties and Dispensations in Ireland, should be “employed and ordered,” that is, distributed, according to the following scale, where the Tax amounts to 4*l.* or upwards:—

N° 4.

N° 5, Q. 16.

To the King	-	-	-	$\frac{1}{4}$	of $\frac{2}{3}$	-	<i>id est</i> , $\frac{1}{2}$	of entire Tax.
To the Lord Chancellor	-	-	-	$\frac{2}{3}$	of $\frac{1}{4}$	of $\frac{2}{3}$	-	$\frac{1}{2}$ ditto.
To the Clerk of Faculties in Chancery	-	-	-	$\frac{1}{3}$	of $\frac{1}{4}$	of $\frac{2}{3}$	-	$\frac{1}{18}$ ditto.
To the Lord Primate	-	-	-	$\frac{2}{3}$	of $\frac{1}{3}$	-	-	$\frac{2}{3}$ ditto.
To his Grace's Commissary	-	-	-	$\frac{1}{3}$	of $\frac{1}{3}$	of $\frac{1}{3}$	-	$\frac{1}{27}$ ditto.
To his Grace's Registrar and Secretary	-	-	-	$\frac{2}{3}$	of $\frac{1}{3}$	of $\frac{1}{3}$	-	$\frac{2}{27}$ ditto.

Several other scales of distribution are provided by the same statute, where the Tax to be divided is less than 4*l.*; these, however, are never in practice resorted to, the Tax always at present exceeding that sum.

The amount of Tax thus distributable is at present calculated upon one year's value of the Benefice in possession, and of the Benefice to be taken by the Faculty,

N° 4.

Faculty, at the rate of 12*l.* per cent on the first 100*l.*, and 8*l.* per cent on every additional 100*l.* But when, or upon what considerations this rate of Tax was first adopted, we have not been able to ascertain.

According to the above-stated scale of distribution, it appears that the Commissary of this Court is entitled to a very inconsiderable fractional part of the Tax, namely,  $\frac{2}{3}$  of  $\frac{1}{3}$  of  $\frac{1}{3}$ , which is equal to  $\frac{2}{27}$ ; he receives, however, a much larger proportion of it at present. The increase of his share is thus accounted for: In the year 1622, the Crown, by letters patent dated 10th April, granted one moiety of its share, or  $\frac{1}{6}$  of the entire Tax, to the then Primate and his successors; and in the year 1727, it granted the remaining  $\frac{1}{6}$  to the then Commissary. By the Commission of the present Judge of this Court, all the Primate's Faculty Fees, except one moiety of the share of the Tax granted by King James to the then Primate and his successors, are granted to the Commissary. Thus, according to this statement, his share should be ascertained by adding together the King's  $\frac{1}{3}$  of  $\frac{2}{3}$ , *i.e.*  $\frac{2}{9}$ , the Primate's  $\frac{1}{6}$  of  $\frac{1}{3}$ , *i.e.*  $\frac{1}{18}$ , and the Commissary's  $\frac{2}{3}$  of  $\frac{1}{3}$  of  $\frac{1}{3}$ , *i.e.*  $\frac{2}{27}$  share, and deducting from the sum of these  $\frac{1}{6}$  of the entire Tax, which is paid to the Primate; and this is stated in the Return of the present Judge to be the rule of calculation now acted on, and to have been so since the year 1727.

All the Fees of the Commissary, including his share of the Faculty Tax, are stated by him to have been received without increase in their rates whilst he has filled this office, and for a long period previously; and he further states that no Gratuities of any description have been taken by him, or on his behalf, at any time to his knowledge or belief.

The annual Income produced to the Commissary of the Court of Faculties by Fees, and his receipts of the Faculty Tax, in each of the four years ending 31st December 1825, is as follows:—

		£.	s.	d.
Ibid.	For the year ending 31st December 1822	-	-	622 5 3
	For the year ending 31st December 1823	-	-	793 5 7
	For the year ending 31st December 1824	-	-	537 0 4
Nº 5, Q. 31.	For the year ending 31st December 1825	-	-	294 10 5

The great diminution which appears from this statement to have taken place in the Receipts of the Commissary of this Court, in the year ending December 1825, has been caused by the late regulation of the Primate as to granting Dispensations for Pluralities, already mentioned. The Receipt in each of the four years, as above stated, arose from the share of the Faculty Tax received on granting those Dispensations, with the exception of 15*l.* 11*s.* in the year 1822; 8*l.* 11*s.* 4*d.* in the year 1823; 5*l.* 6*s.* 10*d.* in the year 1824, and 16*l.* 4*s.* 6*d.* in the year 1825; which sums consisted of Fees received on granting Marriage Licences and Notaries Faculties.

It thus appears, that the total annual Emolument arising from the offices of Judge of the Prerogative, and Commissary of the Court of Faculties in Ireland, amounted to,—

	£.	s.	d.
In the year ending December 1822	-	-	1,902 17 1
In the year ending December 1823	-	-	2,226 18 1
In the year ending December 1824	-	-	2,031 7 7
In the year ending December 1825	-	-	1,925 1 1



The following TABLE exhibits the several Services on which Fees were received by the Judge of the Courts of Prerogative and Faculties in 1718, and those on which Fees are now received, with the Rates of the Fees paid for each Service at each period respectively.

N <sup>o</sup>	SERVICES On account of which Fees claimed.	FEEES claimed in 1718.	FEEES claimed in 1825.	OBSERVATIONS.
PREROGATIVE:		£. s. d.	£. s. d.	
1.	For every original citation at the instance of a party - -	0 1 1	0 2 0	
2.	For a citation with an inhibition - - - - -	0 2 6	0 3 6	
3.	For every decree and monition personal, or viis et modis ex- communications, absolutions, or any other of the like kind }	0 0 11	no claim.	
4.	For a denunciation against an excommunicated person -	0 1 8	no claim.	
5.	For the absolution, or testimonial of absolution, of every party excommunicate - - - - - }	0 6 8	no claim.	
6.	For every denunciation of an absolution of a party excom- municate - - - - - }	0 1 8	no claim.	
7.	For every significavit de excommunicato de capiendo - -	0 6 8	0 7 8	
8.	For every significavit de excommunicato de liberando -	0 6 8	0 7 8	
9.	For every interlocutory sentence - - - - -	0 10 0	0 10 0	
10.	For apostles when an appeal is made from the Judge - -	0 10 0	0 7 8	
11.	For every renunciation of an executorship, or the right of administration - - - - - }	0 3 4	0 3 4	
12.	For taxing every bill of costs - - - - -	0 4 0	0 4 0	
13.	For a sentence definitive or interlocutory, having the force of a definitive sentence, at the instance of the party - }	1 0 0	1 0 0	
14.	For an exemplification of every such sentence - - -	1 0 0	1 1 0	
15.	For testimonials under the Judge's seal of libels, depositions of witnesses, answers and other records - - - }	0 6 8	no claim.	
16.	To the Judge, if he goes out of his house to examine a party, principal or other - - - - - }	0 10 0	1 0 0	
17.	For the probate of every will, or granting letters of admini- stration - - - - - }	1 0 0	1 1 0	
18.	For every commission to take an oath or bond in the country, or appraise goods, or to take an account - - - }	0 6 8	0 7 8	
19.	For the exhibiting of an inventory to account - - -	0 1 0	no claim.	
20.	For the dispensing with the exhibiting of an inventory or account - - - - - }	0 13 4	no claim.	
21.	For every order commanded by the Judge for the distribution of the goods of an intestate - - - - - }	1 0 0	no claim.	
22.	For a certificate under the seal of the office of any record or act into any of His Majesty's Courts - - - }	0 6 8	no claim.	
23.	For the cancelling an obligation or recognizance - - -	0 2 0	no claim.	
24.	For the taking of every recognizance or bond - - -	0 2 6	0 2 6	
25.	For admitting of a writ of prohibition - - - - -	0 15 0	no claim.	
26.	For the Judge's seal of office to an exemplification of an act -	0 6 8	no claim.	
27.	For the Judge's seal to any transcription or transmission -	1 0 0	0 10 0	
28.	For the production of every party principal - - -	0 1 0	no claim by the Judge. These fees are sup- posed to have merged in the fees taken by the examiners.	
29.	For the production of every first witness - - - - -	0 1 0		
30.	For the production of every other witness - - - - -	0 0 9		
31.	For the examination of every party principal upon articles, libels, or matters exceptive - - - - - }	0 1 0		
32.	For examining every first witness - - - - -	0 1 0		
33.	For examining every witness upon interrogatories exhibited by the plaintiff or defendant - - - - - }	0 2 6		
34.	For a commission to examine witnesses, or a party principal -	0 6 8		

N <sup>o</sup>	SERVICES On account of which Fees claimed.	FEES claimed in 1718.	FEES claimed in 1825.	OBSERVATIONS.
	PREROGATIVE— <i>continued.</i>	£. s. d.	£. s. d.	
35.	For admitting of a caveat in a beneficiary cause, or other cause	0 3 4	0 3 4	
36.	For a suppletory oath of a party - - - - -	0 2 6	no claim.	
37.	For the taking every account, and granting a quietus est -	0 12 6	no claim.	
38.	For exhibiting an inventory post diem - - - - -	0 2 6	no claim.	
39.	For giving a longer day for the bringing in of an inventory } post diem - - - - -	0 2 6	no claim.	
40.	For giving a longer day for the bringing in of an inventory, } or an account in court - - - - -	0 1 0	no claim.	
41.	For the bringing in of an inventory and an account, and } giving a longer day out of court - - - - -	0 1 0	no claim.	
42.	For granting letters of tutill of the goods and person of } every minor - - - - -	0 6 8	no claim.	
43.	Where the administration is granted during the minority of an executor, if upon the expiration of the said admini- stration the said minor shall acknowledge satisfaction apud acta - - - - -	0 6 8	no claim.	
44.	For registering and engrossing of wills, more or less, not } exceeding 8s. per skin - - - - -	ut intra -	no claim.	
45.	For registering and enrolling of wills, after the same rate -	- - -	no claim.	
46.	For drawing an account in paper, after the rate of 12 d. per } sheet - - - - -	ut intra -	no claim.	
47.	For exhibiting an inventory ante diem - - - - -	0 1 0	no claim.	
48.	For an exemplification, or letters testimonial, upon libels, } witnesses, answers, or other records, containing one skin of parchment - - - - -	1 0 0	no claim.	
49.	For composition of process transmitted a iudice inferiori ab utraque parte, viz. the fourth part of the appellant, and the third part of the appellate, to the register -	ut intra -	no claim.	
50.	For the copies of libels, allegations, interrogatories, deposi- tions of witnesses, or any other matter whatsoever, if they be long, after the rate of 8 d. per sheet; if short, 3 s. 4 d. apiece - - - - -	ut intra -	no claim.	
51.	To the Judge for his seal and wax, for every probation of a will, administration, or any other instrument, of what nature soever it be - - - - -	1 0 0	0 1 0	{ this fee of 1 l. sup- posed to be inserted by mistake, instead of 1 s. (Appendix, N <sup>o</sup> 5, Question 6.)
	FACULTIES:			
52.	For a licence to preach per totum regnum - - - - -	0 6 8	no claim.	
53.	For a licence to marry - - - - -	0 5 0	0 13 6	
54.	For a licence for a physician or chirurgion - - - - -	0 10 0	no claim.	
55.	For a licence to eat flesh durante ægritudine - - - - -	0 6 8	no claim.	
56.	For a licence to eat flesh in Lent - - - - -	0 6 8	no claim.	
57.	For the creation of every public notary - - - - -	1 6 0	3 12 2 with one ream of paper and one hundred pens.	
58.	For a commission to the country to swear a notary - -	0 6 8	0 7 8	{ same service as N <sup>o</sup> 18.
59.	To the Judge for his seal and wax for every instrument, of what nature soever it be - - - - -	1 0 0	0 1 0	{ same observa- tion as N <sup>o</sup> 51.
	Fees in List of 1718, not belonging to either Court of Prerogative or of Faculties:			
60.	For a citation ex officio - - - - -	0 0 6	no claim.	
61.	For every decree of court in a cause of double querrell, ad transmittend. process. judic. a quo - - - - -	0 3 4	no claim.	
62.	For a double querrell, containing a citation, and an inhibition and absolution - - - - -	1 0 8	no claim.	

N <sup>o</sup>	SERVICES On account of which Fees claimed.	FEES		OBSERVATIONS.
		claimed in 1718.	claimed in 1825.	
	FACULTIES— <i>continued</i> .	£. s. d.	£. s. d.	
63.	For every suspension of a minister - - - - -	0 6 8	no claim.	
64.	For every absolution of such suspension - - - - -	0 3 4	no claim.	
65.	For every sequestration, or relaxation of sequestration - - - - -	0 6 8	no claim.	
66.	For an intimation to a patron of the avoidance of any benefice - - - - -	0 6 8	no claim.	
67.	For every institution or collation, with a mandate of induction } to every benefice - - - - - }	1 10 0	no claim.	
68.	For the testimonial of a subscription of a clerk to the articles } of religion, and that hath not committed simony - - - }	0 2 6	no claim.	
69.	For the certificate under the seal of office, upon a note of } certiorari, to certify the day of admission of a clerk to a } benefice - - - - - }	0 6 8	no claim.	
	For Exhibiting the Clergies Titles; viz.			
70.	For letters of deacon, 2 s. 6 d.; for letters of priesthood, } 2 s. 6 d.; for every institution to each living, 2 s. 6 d.; for } every union, 6 s. 8 d.; for every dispensation, 6 s. 8 d. to } the register - - - - - }	ut intra - -	no claim.	
71.	For every dispensation and union, 2 s. 6 d. apiece; and for } every other exhibit, 1 s. - - - - - }	ut intra - -	no claim.	
72.	For the admission, or testimonial upon the admission of every } resignation - - - - - }	0 2 8	no claim.	
73.	For a licence to talk, and conclude upon an annual pension } out of a benefice, upon resignation, made by reason of } impotency, or other just impediment - - - - - }	0 6 8	no claim.	
74.	For an attachment - - - - -	0 0 11	no claim.	
75.	For making of a schedule of resignation of a benefice or } spiritual promotion - - - - - }	0 6 8	no claim.	
76.	For the admission of every proxy of every beneficed man, not } appearing personally in a visitation - - - - - }	0 3 4	no claim.	
77.	For an intimation or publication for a purgation - - - - -	0 6 8	no claim.	
78.	For the return of a certificate thereof - - - - -	0 3 4	no claim.	
79.	For every party himself purgant - - - - -	0 2 0	no claim.	
80.	For every of his compurgators - - - - -	0 12 0	no claim.	
81.	For every dismission upon every purgation - - - - -	1 0 0	no claim.	
82.	For a testimonial under seal upon a dismission where a pur- } gation is passed - - - - - }	1 0 0	no claim.	

From a perusal of the foregoing Table, it will be seen that in 1718 Fees were received in the Courts of Prerogative and Faculties for the Judge upon eighty-two Services, whilst at present only twenty-one heads of Service are productive of emolument to him. Of the Services on which it thus appears that Fees to the Judge have been discontinued, twenty-one still occur; and of the others, it has been stated that several of them may occur, although not in common practice. We have not been able to ascertain when or under what circumstances the receipt of Fees on such continuing Services ceased.

Appendix,  
N<sup>o</sup> 5, Q. 4-

Ibid. Q. 5-

On eight Services peculiar to the Court of Prerogative, viz. N<sup>os</sup> 1, 2, 7, 8, 14, 16, 17 and 18, there appears to be an increase in the rate of the Fees at present taken, beyond those stated in the list of 1718; in all of which, save N<sup>o</sup> 16, we conceive this apparent increase is satisfactorily accounted for by the seal fee of 1 s. being included in the present charge, although not in the Fees stated in the list of 1718. The increase of 10 s. in N<sup>o</sup> 16 for the attendance of

Ibid. Q. 6.

Ibid.



Appendix,  
N° 5, Q. 7.

the Judge at the residence of a party, is supposed to have been made in consequence of the great increase of the city and its environs; it is, however, a Service which rarely occurs. The Fees at present taken on N° 10 and 27 are less than those stated in the list of 1718, but when the diminution took place we have not ascertained.

Ibid. Q. 9.

Ibid. Q. 10.

Ibid.

Ibid. Q. 6.

Of the Services peculiar to the Court of Faculties, four have altogether ceased in practice; and there appears an increase of Fee at present taken in two, viz. N° 53 and 57 beyond those stated in the list of 1718, the commencement of which we have not been able to discover; but from the different manner in which those Services are set forth in that list, and the returns and evidence of the present Officer, we cannot venture to say that the Services were precisely the same. In addition to the fee of 3*l.* 12*s.* 2*d.* payable in N° 57, one ream of Paper and one hundred of Pens are given according to a very ancient usage, although not noticed in the list of 1718. They are stated by the Officer to have been originally intended for the use of the Practitioners in the Court, and the Judge's Chamber, to which purpose they are at present applied. On one Service, N° 58, there is an apparent increase in the rate of Fee at present taken beyond that stated in the list of 1718, but we conceive it has been occasioned in the same manner as stated respecting N° 1, 2, 7, 8, 14, 17 and 18; viz. by the addition of 1*s.* for the seal.

Ibid. Q. 8.

The Services from N° 60 to N° 82, inclusive, are at present unknown in practice; and it has been suggested to us that they may have been taken in 1718 by the Commissary, either as Vicar-general of Armagh, which office has been hitherto generally held by the same individual filling that of Commissary of the Court of Faculties, or on Royal visitations, or under some ancient jurisdiction not now exercised. We postpone any regulation of the rates of these Fees, as we would recommend them to be taken in future, until our examination as to those received upon the same Services by the subordinate Officers in these Courts is completed, such preliminary examination being in our opinion necessary to enable us to make a satisfactory adjustment on the subject.

Ibid. Q. 21.

Ibid. Q. 28.

Ibid. Q. 21.

Ibid. Q. 27.

The Taxation of Costs in these Courts is a branch of the duty of the Judge; but in practice it is committed to the Register or Deputy Register, whose Taxation is afterwards certified and allowed by the Judge, unless an objection is made by either party, which rarely happens. Should, however, any such be made, the Judge goes into an examination of the objections, and finally decides upon them. In the discharge of this duty his own Fees necessarily form a part of the Bills of Costs so submitted to him. In all previous Reports we have deprecated this system, according to which the Taxation of Costs is entrusted to Officers interested in the amount of the Charges to be allowed or disallowed by them. It is, however, acted on in most of the Ecclesiastical Courts, if not in all, and when the remaining branch of the Courts of Prerogative and Faculties, and the other Ecclesiastical Courts, come under our consideration, we shall, in reporting on them, feel it our duty to suggest a remedy.

Ibid. Q. 22.

Ibid. Q. 23.

It has been the practice of the predecessors of the present Judge of these Courts from a very early period, probably owing to the inadequacy of judicial remuneration, at the same time that they filled these situations to pursue their profession as Barristers to a certain extent; and the present Judge has constantly practised in chamber as a Barrister, both at law and in equity, and still continues to do so, deriving from such professional business a very considerable income. In the course of this practice he has conscientiously abstained from giving  
opinions

opinions in any cases which could by possibility come under his consideration as a Judge. Under any circumstances, however, this union of the character of Judge and practising Lawyer, appears to us to be objectionable; besides the unsuitableness which attends mixing the judicial character with the pursuit of any profession, this practice might, in the case of an officer less respectable than the present, expose the administration of Justice in these Courts to suspicion. Under a less cautious limitation of the extent of practice as an advising Counsel, there would be a danger of acquiring, in that character, a bias which might influence imperceptibly the decision of the same individual as Judge; and professional men, furnishing cases for opinions, might be brought too closely in contact with the Judge in whose Court their suits were to be decided. We would, therefore, beg leave strongly to recommend that the Judge of these Courts should not in future be permitted to practise as a Barrister; and further, that in the place of deriving his income, as at present, from Fees, a mode of remuneration which in former Reports we have stated to be in our opinion unsuitable to the judicial station, he should be paid by a Salary adequate to the dignity and importance of the situation which he fills. And we would further recommend that until in our future Report on these Courts we shall have regulated the Fees hitherto received as for this Officer, they should continue to be received at their present rates, and should be applied to the formation of a Fund to meet the payment of his Salary.

All which we submit to YOUR MAJESTY's most gracious consideration.

Dated the 10th day }  
of February 1826. }

DAN<sup>L</sup> WEBB WEBBER, (L. S.)  
BERTRAM MITFORD, (L. S.)  
JOHN PLUNKET, (L. S.)  
W<sup>M</sup> WYNNE, (L. S.)

(A true Copy.)

Godfrey Fetherston,  
Secretary to the Commissioners.

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## APPENDIX.

### Appendix, No. 1.

LETTER from the Right honourable Henry Goulburn.

Gentlemen,

Dublin Castle, 18th August 1825.

THE Lord Lieutenant being very desirous, for many reasons, to receive from you a Report upon the Prerogative Court, and especially upon that part of it which relates to the situation of the Judge, and the sources from which his emoluments are derived, I have received his Excellency's commands to recommend this subject to your early attention, and to express a hope that you may be able to report upon it previous to the ensuing session of Parliament, and without prejudice to the other important inquiry respecting the office of sheriff, in which you have been for a long time past engaged.

I have the honour to be, Gentlemen,  
your most obedient humble servant,

The Commissioners of Judicial Inquiry.

Henry Goulburn.

Courts of  
Prerogative and  
Faculties.

No. 1.

Letter from the  
Right hon. Henry  
Goulburn.

### Appendix, No. 2.

COMMISSION appointing Doctor JOHN RADCLIFF to the office of Judge or Commissary of the Courts of Prerogative and Faculties in Ireland.

No. 2.

Commission ap-  
pointing Dr. John  
Radcliff, Judge or  
Commissary.

WILLIAM by divine providence Archbishop of Armagh, primate and metropolitan of all Ireland, also judge or president of His Majesty's court of prerogative for causes ecclesiastical and faculties, in and throughout that part of the united kingdom of Great Britain and Ireland called Ireland, by royal authority rightfully and lawfully constituted and established, to our beloved in Christ John Radcliff, doctor of laws, health, grace and benediction: Whereas the most illustrious prince in Christ James the first, late king of England, Scotland, France and Ireland, of happy memory, by letters patent under his great seal of the kingdom of Ireland, bearing date the 10th day of April in the twentieth year of his reign of England, France and Ireland, and of Scotland his fifty-fifth, for himself, his heirs and successors, granted the office or offices of president or commissary of his court of Prerogative for causes ecclesiastical and faculties, in and throughout the whole kingdom of Ireland, to his beloved in Christ Christopher, by divine providence then Archbishop of Armagh, primate and metropolitan of all Ireland, and to his successors Archbishops of Armagh, for ever; and by his said letters patent also, for himself, his heirs and successors, granted to the said most reverend father in God Christopher, by divine providence then Archbishop of Armagh, primate and metropolitan of all Ireland, and to his successors Archbishops of Armagh for ever, full power and authority to nominate, constitute, substitute and surrogate one or more learned and able men, for the due execution of the said letters patent, or any part of them, in the place and places of him the said most reverend father in God Christopher, by divine providence then Archbishop of Armagh, primate and metropolitan of all Ireland, and his successors Archbishops of Armagh for the time being, in the said courts, as well of prerogative royal for causes ecclesiastical as for faculties, in and throughout the whole kingdom of Ireland, as by the said letters patent more fully appears; the tenor of which said letters patent is in the words following (that is to say): James, by the grace of God king of England, Scotland, France and Ireland, defender of the faith, and so forth, to our right trusty and well beloved Christopher Lord Archbishop of Armagh, primate and metropolitan of all our realm of Ireland, greeting: Whereas in a parliament holden at Dublin, in our realm of Ireland, the twentieth day of January in the second year of the reign of our late dear sister and cousin Elizabeth, queen of England, France and Ireland, deceased, an Act passed, amongst other things, which was entitled an Act of restoring to the crown the ancient jurisdiction over the state, ecclesiastical and spiritual, and abolishing all foreign authority repugnant to the same, whereby it was established, amongst other things, and enacted, that the said late queen, her heirs and successors, kings and queens of this our said realm, and the lord deputy, governor or governors of the said realm for the time being, should have power and full authority by virtue of the said Act, by letters patent to be made by their warrants under the great seal of this realm, to assign, name and authorize, when and as often as the said late queen, her heirs or successors, or the lord deputy, governor or