

(Ireland.)

THE  
SIXTEENTH 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*.

—◆—  
CROWN OFFICE.  
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*Ordered, by The House of Commons, to be Printed,*  
*15 May 1827.*

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18 May 1837

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CLERK OF THE CROWN IN THE COUNTIES, COUNTIES OF CITIES, AND  
COUNTIES OF TOWNS.

### CORONERS.

REPORT - - - - - p. 1.

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(Ireland.)

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CROWN OFFICE.

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

WE, YOUR MAJESTY'S Commissioners, whose hands and seals are hereunto  
set, having in our Sixth Report laid before YOUR MAJESTY a full Statement  
respecting the Civil Side of the Court of King's Bench, to which we thought it  
advisable to confine our attention at that time, in order the sooner to bring before  
the Legislature a connected view of the entire Civil Administration of Justice in the  
three Law Courts; do now proceed to lay before YOUR MAJESTY a distinct State-  
ment of the establishment of the Criminal Jurisdiction of that Court, or what is  
termed the Crown Side of the King's Bench; an object which other intervening  
subjects, either referred to us by YOUR MAJESTY'S Government, or which appeared  
to us to claim more immediate investigation, prevented our earlier attention to.

Crown Office.

In this department of the court is administered that original jurisdiction which  
the King's Bench possesses in all criminal matters; as also that consequent super-  
intendence and control which it is among its most important duties to exercise  
over all inferior jurisdictions and offices connected with the preservation of the pub-  
lic peace. The Judges of this court are the chief conservators of the peace, and  
the supreme coroners throughout Ireland.

4 Co. 57.  
4 Insti<sup>c</sup> 173.

In this Report we shall consider, first, the Official Establishment, through the  
instrumentality of which this criminal jurisdiction is exercised within the Court of  
King's Bench; secondly, the department of Clerks of the Crown in the several  
counties, and counties of cities and towns in Ireland; and lastly, the office of Coroner  
for those several counties, and counties of cities and towns.

The office of Clerk of the Crown, together with that of Prothonotary of the  
Court of King's Bench, was granted in reversion to Lords Henry and Robert  
Seymour Conway, for their joint lives, and the life of the survivor of them, by letters  
patent of the 23d May 1766, and came into their possession in the year 1794;  
when under the powers contained in their patent, they appointed William Bradshaw  
(since deceased,) and Walter Bourne their deputies for executing the duties of the  
office. By a subsequent deed in the year 1798, the said Walter Bourne was ap-  
pointed sole deputy, with whom his son, Peter Bourne, was associated in the depu-  
tation by a further appointment, bearing date the 16th July 1810. Under this  
latter appointment the office is at present held and administered, during the pleasure  
of the patentees; and they appear never to have interfered in the discharge of it's

Appendix, N<sup>o</sup> 1.

Crown Office.

duties, nor in the receipt of the official fees and emoluments which have been received by the present deputies, Walter and Peter Bourne, paying thereout an annual sum of 200*l.* British currency, to the patentees.

Appendix, N° 1.

The duties of this office are, "to give daily attendance to the court during the terms, and in the office during vacations; to enter all the rules at the Crown side of the court; to sign and deliver copies; to receive and file all pleadings and proceedings on the Crown side; to make up and enroll records; prepare and issue all writs and process of the court; to administer the oaths of allegiance, abjuration, and supremacy, as well as the oaths appointed to be taken by persons professing the Roman Catholic religion; to examine and report upon all orders of reference; to tax costs; to swear the grand juries for the City and County of Dublin to keep and file all affidavits, &c.; to ground or account for presentments; to deliver copies of such presentments to the treasurers of the County and City of Dublin respectively; to form queries on such presentments, and deliver copies of them to the treasurer, with other ministerial acts of minor importance." The hours of attendance in the office are, in term time, from 11 till 4 o'clock each day, and from 6 until 8 in the evening; and in vacation, from 11 until 3 o'clock in the day; and the personal attendance of the officer is required in court during the sittings in term.

Ibid.

N° 4, Q. 27. 29. 32.

Mr. Bourne states, that at all times, except during circuit, he passes from one to several hours each day in his office, and that he has no other official or public situation from which to draw emolument, save that of Clerk of the Crown of the North-east Circuit. For the discharge of the duties of the office the deputies have the assistance of one permanent clerk, (Mr. Fergus Day,) on a salary of 52*l.*\* per annum, besides certain fees and gratuities paid by suitors on different services occurring in the office; producing together, on an average of three years, according to an estimate made by the clerk, an annual income of about 170*l.*; of which the receipt from gratuities, for expedition and extra attendance, may have amounted to 20*l.* The occasional assistance of other clerks is also required, whose remuneration proceeds from the permanent clerk, without causing any additional expense either to the officers or the suitors. The fees and emoluments received for the discharge of the duties, on an average of the three years ending the 31st December 1814, which were stated to have been more than usually productive,) amounted to 1,319*l.* 3*s.* 3*d.* from which are to be deducted the clerk's salary and other incidental expenses, represented to have together amounted to 100*l.* and the annual payment to the patentees, leaving the net annual profits of the deputies on the average of those years, at 1,002*l.* 9*s.* 11½*d.* The average annual receipts of the officers for the years 1823, 1824 and 1825, amounted 1,026*l.* 9*s.* 4½*d.*; from which, deducting the same official disbursements, and payment to the patentees, leaves the net annual profits to the deputies, on the average of those three years, at 709*l.* 16*s.* 0½*d.*

N° 1.  
N° 4, Q. 28.N° 5, Q. 7. 13. 21.  
28.

N° 1.

N° 3.

N° 4, Q. 21 to 24.

Id. Q. 94.

We proceed to observe on such of the Duties, and the Fees practically connected with them, as appear deserving of consideration. For the original adoption of the rates of those fees, Mr. Bourne states that he had no fixed standard or table of fees, but was directed in his practice as to his official charges partly from usage, and what he had experienced to have been the practice of the office before his time, and occasionally by the book of 1734, and books treating of Fees in the Crown Office in England. He further states, that when he came into office, it was generally considered that the fees at the Crown side were double what they were on corresponding duties at the Civil side, but that in point of fact they were not so in all cases. The annexed Table will set forth in distinct columns the rates of Fees as claimed in the book of 1734, and those at present received in the office.

\* All sums of money in this Report are stated in late Irish currency, unless otherwise expressed.

COMPARATIVE TABLE of the FEES claimed in the year 1734 (as set forth in the printed Book), and those Demanded and Received in the year 1826, in the Office of Clerk of the Crown, in the Court of King's Bench.

N <sup>o</sup>	SERVICES.	FEES claimed in 1734.	FEES claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
1.	For every person named in any venire fac. capias exigent, or other writ, issued upon any indictment, 2s.; and for the seal to be paid to the Lord Chief Justice, 6d.	0 2 6	0 5 5 whereof to the clerk, 1s. 1d., and a further fee of 2s. for each person named.	
2.	For entering the appearance of every one appearing upon process, issued upon any indictment, or for the peace, or upon any contempt, information, or quo warranto.	0 1 8	0 4 5 including to clerk 1s. 1d.	
3.	For his warrant of attorney upon any information, or warrant or action of debt for the King.	0 1 8	no claim.	
4.	For the copy of an indictment for trespass - - - -	0 1 8	same as N <sup>o</sup> 6.	
5.	If it be upon a statute - - - - -	0 3 0	same as N <sup>o</sup> 6.	
6.	For copies of informations, quo warranto, and so of all special matters and pleadings, by the sheet, every sheet containing twelve lines, and written in Latin and court-hand.	0 0 8	per sheet of 60 words 9½d. including to clerk 1½d.	
7.	For an imparlance in such cases - - - - -	0 1 8	0 3 4	Not charged in the officer's re- collection, App <sup>x</sup> N <sup>o</sup> 4, Q. 212.
8.	For entering a general issue to an indictment of felony or treason, or to any information or action of debt for the King.	0 1 8	0 4 5 including to the clerk 1s. 1d.	
9.	For entering the record, or defendant's plea of traverse unto any indictment of trespass, forcible entry or nuisance, &c.	0 6 0	same as N <sup>o</sup> 10.	
10.	If there be a traverse or plea that is long, then after the rate of 10s. by the roll, or 8d. sterling the sheet, ut supra, and the roll being written on both sides; if not, then pro rata.	- - -	0 13 4 every roll, containing 600 words, including 3s. 4d. to clerk.	
11.	For a transcript of a record of a general issue in trespass or felony, to be tried by nisi prius.	0 6 0	0 13 4 every roll containing 600 words, including 3s. 4d. to clerk.	
12.	If it be an issue upon special pleadings, then after the rate of 5s. the press.	- - -	no claim.	
13.	For entering the verdict and judgment upon a general verdict in debt for the King, or upon indictment of trespass or informations.	0 6 0	no claim.	
14.	If it be a special verdict, then by the roll, 10s., or by the sheet, 8d., ut supra.	- - -	same as N <sup>o</sup> 10.	
15.	For a writ of restitution of possession of lands or goods -	0 6 0	0 7 1 including to clerk 1s. 1d.	Obsolete.
16.	For entering the acquittal of any person upon an indictment of felony, and judgment thereupon.	0 6 8	no claim.	
17.	If it be upon an indictment for treason - - - -	0 13 4	no claim.	
18.	Of every one discharged by proclamation - - - -	0 3 4	no claim.	
19.	For entering the allowance of clergy to any person - -	0 6 0	0 6 0	Obsolete.
20.	For entering the discharge, where an indictment of trespass is avoided for insufficiency, besides the process.	0 2 0	0 2 0 (not confined to tres- pass.)	Ditto.
21.	If it be in felony - - - - -	0 6 8	0 6 8	Ditto.
22.	If it be in treason - - - - -	0 13 4	0 13 4	Ditto.
23.	For entering a submission of any to his fine upon an indictment of trespass, with his discharge, besides the process.	0 2 0	no claim.	
24.	For his submission, being with a protestation that he is not guilty, then for the entry of the protestation, besides the submission	0 1 0	no claim.	



N <sup>o</sup>	SERVICES.	FEEES claimed in 1734.	FEEES claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
25.	For entering a plea of autre fois acquit. in felony - - -	0 6 0	0 6 0	Obsolete.
26.	If it be in treason - - - - -	0 13 4	0 13 4	Ditto.
27.	If any person plead a special pardon to any indictment of felony, he is to pay for entering the plea 6 s. 8 d., and for entering the pardon 6 s. 8 d., and for entry of the allowance of it, with the parties discharge, 6 s. 8 d., besides the process.	1 0 0	1 0 0	
28.	If it be upon an indictment for treason - - - - -	2 0 0	2 0 0	
29.	If any person be outlawed upon an indictment of felony or treason, and is admitted to traverse the outlawry upon a writ of error, or otherwise, or avoid the indictment for insufficiency, then upon a special warrant he may have copies of the indictment and of the process, for which he is to pay by the sheet.	0 0 8	same as N <sup>o</sup> 6.	
30.	For entering every record in felony or trespass, where a writ of error is brought.	0 6 0	0 6 8 if in treason, 0 13 4	Obsolete.
31.	For entering the writ of error - - - - -	0 1 8	0 14 5 including to clerk 1 s. 1 d.	
32.	For every error assigned - - - - -	0 1 6	for filing assignment of error or other plead- ing - 0 7 9 including to clerk 1 s. 1 d.	
33.	For entering the exigent and return - - - - -	0 2 0	0 14 5 including 1 s. 1 d. to the clerk.	
34.	For a scire facias, Dm' mediatis et mediatis - - -	0 6 8	0 6 8	Obsolete.
35.	For entering the reversal of an outlawry - - - - -	0 6 0	0 14 5 including 1 s. 1 d. to the clerk.	
36.	For a supersedeas de non molestando - - - - -	0 6 0	0 6 0	Obsolete.
37.	For a writ of mittimus of a record sent into the Exchequer	0 6 8	0 6 8	Ditto.
38.	For a copy of an attainder of felony, which is to be granted upon a special warrant from the lord deputy.	0 6 8	same as N <sup>o</sup> 6.	
39.	If be an attainder of treason - - - - -	0 13 4	same as N <sup>o</sup> 6.	
40.	For search for any indictment or other record concerning the King, if it be within three years for every term.	0 0 4	where a copy is also required, and re- cord only one year filed, no fee is de- manded.	
41.	If it be above, then for every term - - - - -	0 2 6	0 2 6 for the entire search, unless it is an old and troublesome search.	Appendix N <sup>o</sup> 4- Q. 250 to 253.
42.	If it be in the reign of the late King James, or any time above, then for the whole search.	0 6 8	for every term 0 2 6 if above three years.	
43.	For exhibiting an information by an informer, when he petitioneth to have benefit.	0 3 4	no claim.	
44.	For an affidavit of the peace - - - - -	0 0 4	no claim, same as N <sup>o</sup> 90.	
45.	For a writ of the peace - - - - -	0 2 0	no claim.	
46.	For entering a discharge or release of the peace - - -	0 3 4	no claim.	
47.	For a supersedeas of the peace - - - - -	0 2 0	0 6 0	Obsolete.
48.	For entering a recognizance of the peace or good behaviour for ever.	0 3 4	no claim, same as in N <sup>o</sup> 50.	
49.	For entering a recognizance to appear upon warning - -	0 3 4	same.	
50.	For entering every other recognizance taken in court - -	0 2 0	0 7 9 including 1 s. 1 d. to clerk.	
51.	For entering every recognizance certified into court - -	0 2 0	0 7 9 including 1 s. 1 d. to clerk.	

N <sup>o</sup> .	SERVICES.	FEEES claimed in 1734.	FEEES claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
52.	For entering the appearance of any party upon a recognizance	0 2 0	no claim.	
53.	If he appear to be continued upon his bail, de die in diem -	0 0 4	no claim.	
54.	For entering the bailment de die in diem - - - -	0 0 4	no claim.	
55.	For entering the discharge of every recognizance - -	0 2 0	0 3 4	
56.	For every person bound by recognizance for appearance for felony, the peace, or good behaviour, and dieth before the day of appearance, whereby the sureties do plead the death of the party, then for entering the plea and discharge.	0 6 0	no claim.	
57.	For entering the discharge of any one committed for a contempt.	0 3 0	0 3 4	
58.	For entering the plea, and enrolling any charter being pleaded, whereof allowance is required.	1 0 0	1 0 0	
59.	For an enrolment upon a quo warranto, for every roll - -	0 10 0	same as N <sup>o</sup> 10.	
60.	For every writ of seizure of liberties - - - -	0 13 4	0 13 4	Obsolete.
61.	For the continuance of every matter upon indictment or information, after issue joined every term, of each person in the indictment or information.	0 2 0	0 2 0	
62.	For the exemplification of an enrolment upon quo warranto, per roll, if it be exemplified the same term, otherwise the custos brevium hath the exemplification.	0 13 4	0 16 8 including to clerk 3s. 4d.	
63.	For the enrolment of every traverse out of the Chancery, per roll.	0 6 8	no claim.	
64.	For the plea of every pardon of course, and the entry of the pardon.	0 13 4	0 13 4	Obsolete.
65.	For the bail in court - - - - -	0 2 0	no claim save as in N <sup>o</sup> 50.	
66.	For the entry of a fine upon information for the King's part, when the informer compounds.	0 6 8	0 6 8	Obsolete.
67.	For every cognition upon any presentment of nuisance, for highways and bridges, and the writ of constare facias thereupon.	0 2 0	no claim.	
68.	For every one that is discharged of any debt due to the King for deodands, felon's goods, or such like.	0 4 8	no claim.	
69.	For allowance of such debt, &c. upon letters patent, or upon quo warranto, formerly pleaded and allowed.	- - -	no claim.	
70.	For every copy of an indictment of felony made out by special warrant, or by rule of court.	0 6 8	no claim.	
71.	For drawing and engrossing all pleas, replications and rejoinders, in quo warranto, per sheet.	0 0 8	- - -	This service not now performed, App.N <sup>o</sup> 4,Q.274
72.	For drawing and engrossing a plea upon a writ of error in felony, or treason, being very rare and extraordinary, per sheet.	0 0 8	no claim.	
73.	For entering every cause returned upon a habeas corpus cum causa, in the King's case, 2s. and for the committitur, 2s.	0 4 0	for entering the cause, 0 2 4 and for the committitur 0 2 4	
74.	For taking the bail, and entering the discharge of any prisoner brought in by habeas corpus.	0 2 0	same as N <sup>o</sup> 50.	
75.	For every writ of procedendo upon a habeas corpus or certiorari.	0 4 0	0 9 9 including to the clerk, 1s. 1d.	
76.	For writs of duces tecum, habeas corpus, super cepi, and capias cum proclamation.	0 2 0	for the duces tecum, 0 6 1 including for clerk, 1s. 1d.	
77.	For every writ of execution, namely, capias ad satisfaciendum, fieri facias or elegit.	0 2 0	as in No. 75.	
78.	For every scire facias, for breach of the peace or good behaviour.	0 2 0	0 6 8	Obsolete.



N <sup>o</sup>	SERVICES.	FEEs claimed in 1734.	FEEs claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
79.	For a venire facias de novo, upon a traverse out of the Chancery, when it happens, which is very rare.	0 6 8	no claim - -	Obsolete.
80.	For entry of a general verdict at the bar, or postea, upon a traverse out of the Chancery.	0 5 0	for filing any postea, 0 14 5 including 1 s. 1 d. to the clerk.	
81.	For entering the judgment upon a verdict, general or special, in such traverses.	0 1 8	no claim - -	
82.	For the writ of amoveas manus, which usually reciteth all the pleadings of the traverse.	0 13 4	0 13 4	Obsolete.
83.	For the examination of every person upon an attachment of contempt.	0 3 4	0 6 8 for each hour occupied therein.	
84.	For the copies of such examinations, per sheet - - -	0 0 8	same as N <sup>o</sup> 6.	
85.	For entering a licence to compound upon an information -	0 1 0	0 1 0	Obsolete.
86.	For entering the committitur of every person brought to the bar, or rendering himself for felony or treason, or any other cause concerning the King.	0 2 0	0 2 4	
87.	For every habeas corpus ad subjiciendum, &c. - - -	0 2 0	0 4 4	
88.	For entering the special matter against every person committed by his own confession, or testimony of witnesses, of any deceit or misdemeanor against the court, and for his judgment.	0 0 0	0 0 0	
89.	For every writ of execution upon the statutes of perjury or witchcraft, where the offence is not felony.	0 2 0	no claim - -	Obsolete
90.	For filing any warrant of attorney, or other paper, not hereafter mentioned, required by law or the practice of the court to be filed, including 1 s. 1 d. to the clerk.	no claims save as in N <sup>o</sup> 3. -	0 4 5	
91.	For filing every affidavit for each deponent, including as before	no claim -	0 4 5	
92.	Copy thereof, if not more than five sheets - - -	d <sup>o</sup> - -	0 4 5	
93.	If more, then for each sheet containing 72 words - -	d <sup>o</sup> - -	0 0 9 $\frac{1}{2}$ including 1 $\frac{1}{2}$ d. for clerk.	On all copies actually made out, App. N <sup>o</sup> 4, Q. 122.
94.	For entering every rule of the court - - - - -	d <sup>o</sup> - -	0 2 4	
95.	Copy thereof, and attesting same - - - - -	d <sup>o</sup> - -	0 4 4	
96.	Filing every criminal information, or information quo warranto, including 1 s. 1 d. to the clerk, besides the warrant	d <sup>o</sup> - -	0 4 5	
97.	Copy of an appearance - - - - -	d <sup>o</sup> - -	0 3 4	
98.	Search for and taking pleadings off the files, preparatory to trial or marking judgment, including 1 s. 1 d. to clerk.	d <sup>o</sup> , same as in N <sup>o</sup> 40 -	0 4 5	
99.	For every search and certificate of no cause having been shown pursuant to any order or rule of the court, including 1 s. 1 d. to the clerk.	no claim -	0 4 5	
100.	Any certificate of conviction of outlawry or other special matter, including as before.	no claim -	0 7 9	
101.	For every summons to proceed under any order of the court to tax costs.	no claim -	0 3 9 $\frac{1}{2}$	
102.	For drawing and entering every engagement or undertaking to pay costs, where same is required by the order or practice of the court.	no claim -	0 5 5	
103.	For issuing writ of mandamus or exigent - - - -	no claim -	0 16 0 $\frac{1}{2}$ including 2 s. 8 $\frac{1}{2}$ d. for the clerk.	
104.	For every writ of certiorari - - - - -	no claim -	0 11 4 $\frac{1}{2}$ including 2 s. 8 $\frac{1}{2}$ d. to clerk.	
105.	For every writ of attachment, assistance, or to abate nuisance	no claim -	0 9 9 including 1 s. 1 d. to the clerk.	

N <sup>o</sup>	SERVICES.	FEEES claimed in 1734.	FEEES claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
106.	For every subpoena, or distringas ad respondendum, venire facias, or distringas juratores - - - - -	no claim -	0 6 1	
107.	Filing articles of the peace, or interrogatories, including 1s. 1d. to the clerk.	no claim -	0 4 5	
108.	Copies thereof, per sheet - - - - -	no claim -	0 0 9 $\frac{1}{2}$ including to clerk 1 $\frac{1}{2}$ d.	
109.	Drawing any warrant to be signed by any judge, or any recognizance to appear and answer, or for the peace, or to prosecute quo warranto, or other informations.	no claim -	0 11 1 including 1s. 1d. to the clerk.	
110.	For filing and entering any postea, or writ of mandamus, with its return, including as before.	no claim, same as in N <sup>o</sup> 80 as to postea.	0 14 5 including 1s. 1d. to the clerk.	
111.	Filing any other writ with return, including as before - -	no claim -	0 7 9	
112.	Filing any traverse to the return of a writ of mandamus, or any other pleading therein, or any plea to informations in nature of quo warranto, or any suggestion, or challenge to the array, or otherwise, or any petition to the court, including as before.	no claim -	0 7 9	
113.	Copies thereof by the sheet - - - - -	no claim -	if not exceeding five sheets, 4s. 5d., including 1s. 1d. to the clerk; if exceeding five sheets, then per sheet, same as N <sup>o</sup> 6.	
114.	Entering any charter when required to be produced or read -	no claim -	0 6 8	
115.	Marking and docketing any judgment for want of a plea, replication or other pleading, or upon a postea or verdict, including 1s. 1d. to the clerk.	no claim -	0 14 5	
116.	For entering every record in felony or trespass where writ of error is brought.	no claim, same as N <sup>o</sup> 30.	0 6 8	
117.	For filing, entering, or recording any consent of the attorney-general.	no claim -	0 5 0	
118.	For filing any nolle prosequi by the same - - - - -	no claim -	0 7 9	
119.	Entering same on record, and judgment thereon - -	no claim, same as N <sup>o</sup> 10.	0 10 0	
120.	Copy thereof per sheet - - - - -	no claim -	same as N <sup>o</sup> 6.	
121.	Poundage on money lodged in the officer's hands, which seldom occurs, for each £.	no claim -	0 1 0	
122.	For entering a traverse to any presentment of any grand jury, or to any information under the excise Acts, for a fine against any parish or place on account of any still, or other prohibited matter being found therein, and for entering same for trial, recording verdict, &c.	no claim -	1 8 2	
123.	Striking a special jury, and for attendances thereon - -	no claim -	4 11 0	
124.	Copy of jury panel, according to length - - - - -	d <sup>o</sup> - -	from 0 2 2 to 0 7 9	
125.	Attending trials at bar, has usually been paid for according to time and trouble, per day.	d <sup>o</sup> - -	from 1 2 9 to 5 13 9	
126.	Bringing down and entering record for such trial - -	d <sup>o</sup> - -	1 2 9	
127.	Appearance - - - - -	d <sup>o</sup> - -	0 3 6	
128.	Copies of the issue for the judges, per sheet - - -	no claim, same as N <sup>o</sup> 10.	same as N <sup>o</sup> 6.	
129.	Swearing witnesses, each - - - - -	no claim -	0 1 0	
130.	Readings or exhibits, under seal - - - - -	d <sup>o</sup> - -	0 5 0	
131.	Like of records - - - - -	d <sup>o</sup> - -	0 10 0	
132.	All other readings or exhibits - - - - -	d <sup>o</sup> - -	0 2 6	

N <sup>o</sup>	SERVICES.	FEEES claimed in 1734.	FEEES claimed in 1826.	Observations.
		£. s. d.	£. s. d.	
133.	Entering verdict - - - - -	no claim -	0 6 8	
134.	To the clerk of the Crown or his deputy, for each person who shall be indicted and tried for high treason.	d <sup>o</sup> - -	2 13 4	
135.	To the same, for each person who shall be indicted or tried for felony or other offence.	d <sup>o</sup> - -	1 6 0	
136.	Like fees, in case of submission to indictment, and on conviction on criminal information.	d <sup>o</sup> - -	0 0 0	
137.	Attendance before any of the judges in chamber, on any business relating to the office.	d <sup>o</sup> - -	0 6 8	
138.	Attending on references from the court - - - - -	d <sup>o</sup> - -	0 6 8	
139.	Filing the charge or discharge - - - - -	d <sup>o</sup> - -	0 5 0	
140.	Copies of either, per sheet - - - - -	d <sup>o</sup> - -	same as N <sup>o</sup> 6.	
141.	Drawing report - - - - -	- - -	0 6 8	
142.	Signing same - - - - -	- - -	0 6 8	
143.	For taxing any bill of costs of proceedings in the court - - - - -	- - -	from 0 2 6 to 5 13 9	

Appendix,  
N<sup>o</sup> 4, Q. 96. 286.

Id. Q. 102.

Id. Q. 98.

N<sup>o</sup> 1.

N<sup>o</sup> 4, Q. 102. 273.

N<sup>o</sup> 5, Q. 7, 8. 11,  
12. 20. 25.

The duty called in the book of 1734 "entering," and in modern practice "filing," consists in placing the document on a file, and entering in a book its denomination, and the date of its receipt in the office: for example,—in the case of appearances, the appearance itself, signed by the attorney, is placed on the file, and an entry of it made in the book; yet the official service for which the fee is demanded is termed "entering an appearance;" so, in most of the instances in which fees are still claimed in this office as for entering, although numerous and varying in amount, they will be found to comprehend payment for placing the document on the file, and making an entry of its denomination, and the date of its receipt in the books kept for that purpose, with a numerical reference, by which the original document itself can, if required, be with ease had recourse to. The term "entering" is also used as synonymous with enrolling; in which case it applies principally to pleadings. The service understood by "entering," in this sense, will be more particularly treated of when considering the subject of enrolment in a subsequent part of this Report. The documents which are the subjects of that description of entering which include filing, are principally writs with their returns, pleadings and affidavits; the fees arising from which are numerous and productive, and vary considerably in their amount, according to the different documents on which they are charged: for instance, the general filing fee is 4 s. 5 d., including 1 s. 1 d. to the clerk; but on most writs with their returns, (and on some pleadings,) including a like fee for the clerk, the charge is 7 s. 9 d.; on postea and writs of mandamus with return, including as before, the fee is so high as 14 s. 5 d. This variance of charge for the same identical service applied to different documents, cannot, in our opinion, be justified on any sound principle; and the rates which it appears to have established exceed any of those which we have found applicable to similar services inserted in the book of 1734. For instance, the claim made in that book for entering an appearance is 1 s. 8 d., while at present 4 s. 5 d. is demanded, including 1 s. 1 d. for the clerk: to the charges for entering the general issue to an indictment of felony or treason, &c. a similar observation applies. For entering an exigent and return a fee of 2 s. was claimed in the book of 1734, and 14 s. 5 d. including a clerk's fee, is at present received. The clerk's fee on these services was originally received by the clerk, but has been appropriated to himself by the present officer, in lieu of which he compensates the clerk with a salary of 52 l. yearly; still, however, permitting him to receive clerk's fees on other services, with occasional gratuities. No fees for a clerk are recognized in the book of 1734, and we consider them as an arbitrary increase of his own fees by the officer.

To avoid uncertainty, so favourable to abuse, by making it less obvious for correction, we feel it advisable to recommend uniformity of charge in all cases of application



application of a fee to services of the same description, and therefore in future would recommend that the filing fee upon all documents shall be chargeable in this office at the uniform rate of 3 s. 4 d., whether to be received for a fee fund, or to the immediate use of the officer. Connected with this service another practice prevails in this office, which we consider as unreasonable, and not capable of justification; viz. that of charging a separate filing fee in cases of affidavits for every deponent in such affidavit; and it is remarkable that this exaction extends to the clerk's fee; as a fee of 4 s. 5 d. which we have already shown to include 1 s. 1 d. for the clerk, is required to be paid on filing an affidavit, for every deponent named in it; so that for the single act of filing one document, the officer's demand may in some instances be the same in amount as if several documents, each requiring a separate official act, were filed. A similar observation may be applied to appearances; on the occasion of entering which, in addition to the charge of 4 s. 5 d. for each defendant, a separate fee to the same amount is charged, as for filing a warrant of attorney for each. These warrants were actually filed, whilst the stamp duty on law proceedings was required by Act of Parliament; however, since its discontinuance, the charge is persevered in, although the service has ceased to be performed. We would recommend that these constructive charges should be discontinued, and that in future but one fee should be taken for filing a single document.

Incidental to the service of entering or filing, is a class of fees for copies, with respect to which a practice exists calling for correction; and on which, in our former Reports, we have had occasion to animadvert: viz. compelling parties to take out copies of documents which they do not require; a practice principally prevailing in the filing of affidavits, on which occasion copies are always charged for whether taken out or not. This system has been productive of much profit to the officer, and of unreasonable charge to the suitor. For instance, should the attorney at the time of filing the affidavit bring with him a copy, the only service the officer performs for the charge is simple attestation; but if the attorney omits to make out such copy himself, and requires it to be made in the office, he is called upon for a fee of 1 ½ d. per sheet for the clerk making out such copy. On the taxation of costs the attorney is allowed for making out such copy; so that, when a copy is actually made out, the suitor pays doubly:—first, to the officer as for the attested copy; and, secondly, to the attorney for actually preparing it. The fee on copies of affidavits is sometimes a fixed charge, sometimes a given rate per sheet. Where the number of sheets does not exceed five, the bulk charge of 4 s. 5 d. is made for the copy, including 1 s. 1 d. for the clerk; which, being deducted, leaves the officer's fee for a supposed copy of a short affidavit, 3 s. 4 d. and this charge is made whether the affidavit contains one or five office sheets, but should it exceed that number, a charge is made at the rate of 8 d. per office sheet of seventy-two words. Where copies of affidavits are required by third persons, they are made out in the office. On these occasions, as on that of all other copies exceeding five sheets, a clerk's fee of 1 ½ d. per sheet is demanded, in addition to the officer's fee of 8 d. per sheet, besides occasional gratuities for expedition, one instance of which is stated to have amounted to two guineas.

Analogous to the case of affidavits, the charge for copies of pleadings is a fixed fee of 4 s. 5 d. for a copy not exceeding five sheets, and for copies containing a greater number of sheets, at the rate of 9 ½ d. per sheet, consisting of 8 d. per sheet as the officer's fee, and 1 ½ d. per sheet for the clerk. But a difference exists between copies of affidavits and of pleadings, in this respect; that, in the latter case, the sheet upon which the charge is computed contains only sixty words, whereas, in the former, it is required to contain seventy-two. It is here worthy of remark, that whilst the stamp duty was chargeable on copies of pleadings, the sheet for that purpose was calculated at seventy-two words; whilst for the same identical copy the official charge was computed by the officer upon a calculation of sixty words to the office sheet, thereby rejecting the principle of charge established by the Legislature, with a view of increasing his own emolument, and departing even from the practice in his own office with respect to copies of affidavits, which have always been computed at the rate of seventy-two words to the sheet. Upon reference to the book of 1734 it will be seen that copies of pleadings are there stated to have been charged by the sheet, "every sheet containing twelve lines, and written in Latin and court-hand," at 8 d. only, without any claim being made as for the clerk. That book is silent as to the number of words to be written in each line, but we see no ground for supposing that there were only five, and we are of opinion, that, in

Crown Office.

Appendix,  
N° 4, Q. 112.

Id. Q. 204. 248.

Id. Q. 103 to 117.

N° 5, Q. 8. 10. 28.

N° 4, Q. 115.

Id. Q. 131.

N° 5, Q. 11, 12.

N° 4, Q. 131.

N° 5, Q. 8. 10.

N° 4, Q. 114. 118.  
128.

N° 5, Q. 17.

N° 4, Q. 128.

Id. Q. 118.

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Appendix,  
N° 4, Q. 240.

this as in other offices, the contents of the office sheet in copies of all descriptions should be established at a uniform rate of seventy-two words, and that the additional charge of  $1\frac{1}{2}$  *d.* per sheet made for the clerk, as well as all gratuities, should be discontinued. Another distinction prevails with respect to copies of pleadings and of affidavits. In the latter case it has been shown that the party filing the affidavit must pay for a copy, whether he requires it or not; in the former, it is optional with the party filing the plea to take out a copy or not, and if he does not think proper so to do, he is not obliged to pay for it. The only case in which it is compulsory on a party filing a pleading to take out or pay for a copy, is, where the pleading filed is in answer to a previous pleading.

Id. Q. 217, 219,  
249 to 253.

Another head of charge made in this office is for searches; this service arises in the case of pleadings and proceedings, affidavits, rules and outlawries, and various others. Searches may be made for every document remaining of record in the office. With respect to the rate of charge on this service, two distinctions prevail; the first, as to the length of time which may have elapsed from the filing of the document; and the second, as to whether a copy be required or not: should a copy be required, the officer states that he scarcely ever makes a charge for the search if the document has been filed within a year; but if of longer standing, a search fee is generally charged in addition to the fee for a copy; should it not be an old and troublesome search, he seldom charges more than 2 *s.* 6 *d.* for the entire; but should no copy be required, the charge of 2 *s.* 6 *d.* is made, whether the document had been filed within a year or not. The income arising from this service is represented not to exceed 20 *l.* a year to the officer; but it has been made a fruitful source of emolument to the clerk, who states, he is paid gratuities for searches, according to the discretion of the party applying for them; and he admits that, in one case of a long and troublesome search, he received a gratuity of five guineas. In the book of 1734 the fee claimed for a "search for any indictment or other record concerning the King, if it be within three years, is 4 *d.* for every term; if it be above, then for every term 2 *s.* 6 *d.*" The practice of the office, however, has been as we have stated. We are of opinion that the charge to be made for this service should be fixed, and not, as at present, made at the discretion of the officer; and therefore recommend that no fee for a search shall be charged in any case in which a copy is taken out; but that if a copy is not required by the party calling for the search, the charge should be as in the book of 1734. A distinction in the rate of charge has been made by the officer, in the case of a search and certificate of no cause having been shown pursuant to any order or rule of court; for this the fee demanded has been 4 *s.* 5 *d.*, including 1 *s.* 1 *d.* to the clerk. As this service involves the giving of a certificate, we see no objection to allowing 3 *s.* 4 *d.* for it, being the fee at present taken for the officer. Another variety of this service, and in which a higher than ordinary rate is charged is, search for and taking pleadings off the files, preparatory to trial, or marking judgment; the fee charged for this service is 4 *s.* 5 *d.*, including 1 *s.* 1 *d.* to the clerk. We shall defer the consideration of this, and the charge made for it, to a subsequent part of the Report, when treating of the subject of enrolments.

N° 4, Q. 238.

Id. Q. 652.

Id. Q. 591, 592.

The next subject naturally presenting itself, in which fees frequently arise, is that of rules or orders of the court, which may occur in the progress of all the different modes of prosecution in criminal suits. These rules are of a twofold nature; first, such as are expressly made by the court on the application of the counsel or attorney of the party, and then entered by the officer; secondly, such as are entered, of course, in the office; which, though supposed to be pronounced by the court, are in point of fact the mere act of the officer. The fees on rules are uniformly charged at 2 *s.* 4 *d.* each; but there is also superinduced upon this, a claim of 4 *s.* 4 *d.* as for a copy, which is required to be paid whether such copy is made out or not; so that, in point of fact, the charge for entering a rule in this office may be considered as 6 *s.* 8 *d.* for which, if it is demanded, a copy will be made out and attested. In the book of 1734 no claim is made as for the entering or copy of a rule; it therefore is clearly a fee introduced by the officers, for their own benefit, since that period. We do not, however, consider a claim for entering a rule, and for a copy of it, when called for, as unreasonable; and shall therefore, in the Table of Fees which we recommend to be in future taken in this office, and which will be found subjoined to this Report, provide such fees for those services as appear to us reasonable. But we consider the charge as for a copy, where no copy is demanded or made out, as wholly unwarrantable, and therefore recommend its discontinuance. Under this head of service



service may be considered special orders of reference; those orders are with a view to obtain the officers' report on matters necessary to be ascertained in the progress of a cause; they also occur in cases where a bill of costs is referred to be taxed by the officer. Those references give birth to two distinct heads of official charge; viz. for summons, and attendance of the officer thereon; the fee for each summons is 3 s. 9  $\frac{1}{2}$  d. which is never charged unless the summons is actually taken out.

Appendix,  
N<sup>o</sup> 4, Q. 13. 36 to  
48. 580 to 586.

The officer states that he never issued more than three summonses on a single reference; he however admits that he sometimes issues more than one at the same time on the same reference, but does so only at the express desire of the party; but that, if the party desires it, he makes the second summons peremptory; and that he will proceed on the first, if the parties attend, or without any summons, if they come before him, and that he is not otherwise occupied. The book of 1734 does not recognize any claim as for a summons; we do not, however, think a fee of 2 s. 6 d. unreasonable. The emolument derived from summonses is very trifling, as the present officer does not estimate its annual profit at more than 5 l. The charge for attendance on references by the officer, is 6 s. 8 d. for each actual attendance, not exceeding one hour; and this charge is made if the attendance takes place, without reference to the number of summonses which have issued; and so far the two charges cannot be considered as concurrent. In addition to the fee for attendance on the reference, a fee of 6 s. 8 d. is charged for drawing the report, and 6 s. 8 d. for signing it; which is a service of so rare occurrence, that the officer does not recollect having made five reports since he came into office. These charges are of trifling importance, owing to the infrequency of the service, and we see no objection to their continuance, but would recommend that in future the officer should proceed on the first summons, if the parties, or either of them, attend.

With regard to references for taxation of bills of costs, and the charge for summonses and attendances consequent thereon, they will be noticed particularly in a subsequent part of this Report, when treating of taxation of costs. Whilst considering this subject, it may be proper to notice two other species of attendances, which are inserted in the return made by the present officer; viz. on trials at bar, and before a judge in chamber. With respect to the first, the subject has been already fully considered in our Seventh Report, to which we would beg leave to refer for this particular head of service, and the several others relating thereto. For the second, the usual fee chargeable for an attendance on an order of reference is taken. We conceive the amount not unfair, for the additional trouble given to the officer, in requiring his attendance out of his office before a judge in chamber.

pa.39(printed copy).

A fertile source of emolument in this office is the enrolment of pleadings and judgments. On this the charge is made upon the estimated contents of the documents. The contents of the roll in this office are, according to the evidence of the present officer, computed at 600 words. In the book of 1734 the claim stated is, "for entering the record or defendant's plea of traverse unto any indictment of trespass, forcible entry or nuisance, &c. 6 s." "If there be a traverse or plea that is long, then after the rate of 10 s. by the roll, or 8 d. sterling the sheet *ut supra*, and the roll being written on both sides; if not, then *pro rata*." And again, "for an enrolment upon a quo warranto, for every roll 10 s." From the amount of fee claimed for this service, in comparison with the rates for other services, it appears to us that the roll must at that period have contained considerably more than it is at present computed at, viz. ten office sheets of sixty words each. The printed book states that the roll should be written on both sides, which would hardly have been the case had the contents been but 600 words. The fee at present stated to be charged for this service is 10 s. per roll, but although so high a rate of fee is allowed, it has not been considered by the officer as sufficient, as there has been superinduced upon it an additional claim of 3 s. 4 d. per roll, as for the clerk. It might reasonably be expected, from the considerable payment made for this service, that due care should be taken that each roll should contain the full number of words. It appears, however, that it is ascertained only by reference to the contents of the pleadings, from copies which had been given of them; making an allowance for the formal entries of appearances, continuances, and so forth. There are two descriptions of rolls made up, or supposed to be made up in this office, of such pleadings and proceedings as go to trial; viz. a plea roll, and a transcript roll or

Appendix,  
N<sup>o</sup> 4, Q. 305.

Id. Q. 224 to 226.  
258.

Id. Q. 28. 230.

Id. Q. 226.

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Appendix,  
N<sup>o</sup> 4, Q. 222 to 238.

Id. Q. 242.

Id. Q. 215. 235.

Id. Q. 236, 237.

record for trial. The plea roll is supposed to have entered upon it the several pleadings and continuances as they have occurred, and the transcript roll or record for trial purports to be a copy or transcript of this roll, made for trial, either at bar or by nisi prius, and from which, when returned, the postea is entered upon the plea roll, and the final judgment is made up. In practice, however, no plea roll is ever made, unless in cases where a judgment is made up, which seldom occurs. The transcript roll or record for trial is made from the pleadings, which are taken off the file for that purpose; for which, and the search preparatory thereto, a separate charge of 4*s.* 5*d.* is made; and upon the return of this transcript into the office, if the final judgment is required to be made up, the plea roll is then made up from the transcript roll, with the addition of the postea, and the several continuances and the judgment. Thus, in point of fact, the plea roll, which is supposed to be the original from which the transcript is copied, is merely a copy of the transcript roll, with the additions already stated. But although the plea roll is not, in practice, made out previously to the issuing of the transcript roll, the officer requires the fee of 10*s.* per roll for it; so that according to this system, the payment of 1*l.* per roll is required, in addition to 3*s.* 4*d.* per roll for the clerk for the transcript. If, afterwards it becomes necessary to have the final judgment made up, and consequently the plea roll completed, credit is given for the 10*s.* per roll, already paid as for this service, and the officer then receives two further fees of 13*s.* 4*d.* each, for filing the postea and for marking the judgment, (on each of which a clerk's fee of 1*s.* 1*d.* is required,) and 2*s.* for every continuance which may be necessary. For every additional roll which the record, in this extended form, may contain, a fee of 10*s.* is demanded for the officer; and for the clerk an additional 3*s.* 4*d.* per roll on the entire. The claim stated in the book of 1734, for a "transcript of a record of a general issue, in trespass or felony, to be tried by " nisi prius," is 6*s.* "If it be an issue upon special pleadings, then after the rate " of 5*s.* the press." We consider the double charge made upon the issuing of a transcript roll, and the two fees of 3*s.* 4*d.* taken as for the clerk, as unwarrantable, and therefore recommend their being discontinued; and that in future the fees stated in the Table annexed to this Report, as recommended to be taken, shall be received for the performance of this service; the plea roll not to be paid for unless required by the party to be made up. We would further recommend, that the roll shall in future consist of ten office sheets of seventy-two words each, and that the fees of 14*s.* 5*d.* (including 1*s.* 1*d.* for the clerk) for marking the judgment, and of 4*s.* 5*d.* for taking the pleadings off the file, of which 1*s.* 1*d.* is for the clerk, shall be discontinued; not seeing any reason why either the officer or his clerk should be paid for searching for and taking off pleadings, for the purpose of performing a duty otherwise productive of so much emolument. Should a copy of the judgment be required, it is charged for at the rate of 9½*d.* per sheet of sixty words, of which 8*d.* is for the officer, and 1½*d.* for the clerk; we recommend that, in future the clerk's fee of 1½*d.* per sheet be discontinued, and that the office sheet shall contain seventy-two words.

The issuing of writs is a duty which occasionally arises for various purposes in the commencement or progress of criminal suits, or after the judgment of the court thereon; and sometimes when no suit is depending. Of the writs now in use, there are several of which no mention is made in the book of 1734; and of those for which claims are therein set forth, several are now obsolete; the writs principally in use, in the modern practice of the office, are those of mandamus, certiorari, attachments, habeas corpus, venire, subpœna, subpœna duces tecum, and some others of minor importance. The charges made by the officer for the issuing of writs, vary according to the nature of the writ sued out, and are always accompanied by a fee to the clerk, varying in like manner. For instance, for a writ of mandamus the fee to the officer is 13*s.* 4*d.*, and to the clerk 2*s.* 8½*d.*; for a writ of certiorari, to the officer 8*s.* 8*d.* and to the clerk 2*s.* 8½*d.*; but for the writ of subpœna, subpœna duces tecum, or distringas, 5*s.* to the officer, and 1*s.* 1*d.* to the clerk; and for the writ of habeas corpus, to the officer 4*s.* 4*d.* and 1*s.* 1*d.* to the clerk. We do not feel it necessary to make any particular observations on the fees thus received. In the Table subjoined we shall suggest such fees as we think would be proper to allow for the several writs issued from this office; and we recommend in this, as in all other cases, a total discontinuance of clerk's fees.

Id. Q. 55.

Taxation of costs, as exercised in the office of the Clerk of the Crown of the Court of King's Bench, is represented to us as more productive of emolument than



than any other service. It appears from the returns of the officer to have averaged for the three years ending 31st December 1814, the annual sum of 266*l.* 7*s.* 0½*d.* and for the years 1823, 1824 and 1825, the annual receipt of 266*l.* 6*s.* 10½*d.* This duty so generally important, we consider more so in this office than in those belonging to the courts of civil jurisdiction. The public interest is more concerned that the attainment of justice in criminal proceedings shall be free from the obstruction of unnecessary process, or the discouragement of excessive expense, than in civil proceedings. The latter have, most generally, a sufficient inducement, founded on a supposed claim of right, to reconcile the individual who embarks in them to their consequent expenses; and a considerable portion of the costs incidental to them is visited on the party unjustly litigating. But in criminal proceedings, besides the invidious, and often dangerous consequences attending endeavours to bring offenders to justice, the expense frequently falls on prosecutors, without any reimbursement. It is true, that in crimes of a deeper die, or involving the safety of the state, the Government has in latter times very properly undertaken the duty of prosecution, by the agency of its own counsel and solicitor; but as the expenses attendant on such Crown prosecutions are defrayed out of the public purse, it is not the less desirable that they should be placed under due regulation and control; the exercise of this control is at present considered as solely vested in the Clerk of the Crown of the Court of King's Bench, who taxes all costs of criminal proceedings which are submitted to him, whether between party and party, or between attorney and client. The authority under which this officer acts so extensively, may be divided into four classes; the first in which, as Clerk of the Crown of the Court of King's Bench, he taxes costs between party and party of proceedings in the court, in virtue of a direct authority as an officer of the court; as in cases of mandamus, and some others, which form an exception to the general principle of law, that no costs can be awarded either for or against the Crown. Secondly, where he taxes in cases in which an action is brought by an attorney against his client in the Court of King's Bench, and where a verdict is taken for the plaintiff for the amount of the bill of costs, subject to the taxation of this officer, on an order of reference made by the judge presiding at the trial; or where he taxes on an order of reference obtained upon motion to that court, under the statute, without suit depending. Thirdly, where he taxes costs as between attorney and client, under a delegated authority from the respective officers of the different courts of law and equity, where orders of reference have been obtained in any of such courts to their own respective officers, who not wishing to tax directly in matters of a criminal nature, are in the habit of referring such parts of these bills as relate to proceedings of that description to this officer; and, fourthly, he is in the habit of taxing criminal costs between attorney and client, in all cases in which such bills are submitted to him, whether referred to him by the mutual consent of the client and the attorney, for the purpose of avoiding the delay and expense of an order of reference, or merely submitted to him by the attorney. This latter class comprehends by far the most numerous instances of taxation; amongst which are to be included the bills of costs of the several Crown solicitors, and solicitors of public departments. Thus it will be seen that in the class in which the most numerous and important instances occur, the officer has no legal authority whatsoever to perform the duty, either from the original jurisdiction of the court, or under the statute alluded to.

In our endeavours to ascertain the manner in which these several authorities have been exercised, we have not had the advantage of the inspection of any other bills of costs than those of the several Crown solicitors; the bills of costs, whether between party and party, or between attorney and client, of criminal proceedings carried on by private individuals, being rarely preserved. From the inspection therefore of Crown solicitors bills of costs, as taxed, and from an examination of the officer with respect to the principle of his allowances to them, and to the solicitors of private individuals, our observations will be derived. From these, however, and the several cases afforded by them, upon which which we shall feel it necessary to animadvert, we conceive will be sufficiently shown the mischiefs resulting from the taxation of costs being committed to a person having a direct interest in several of the items contained in such bills; a part of whose duty it consequently is to restrain and correct his own charges, some of which are made without any other guide than his own discretion. For it will be recollected, that to Mr. Bourne is referred the taxation of his own charges, not only as Clerk of the Crown in the Crown Office of the King's Bench, but as Clerk of the Crown for the North-

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Appendix, N° 3.

N° 4, Q. 54 to 64.  
69.

Id. Q. 67 to 69.

7 Geo. 2, c. 14. s. 9.

Appendix,  
N° 4, Q. 59. 77.

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east Circuit. In several of our former Reports we have found it our duty to comment upon this subject, and shall therefore here only observe, that the necessity for a distinct tribunal for the control of costs in business arising in this and other offices, connected with criminal proceedings, exists as much as in any other department.

Appendix,  
N° 4, Q. 49, 50.

Id. Q. 35, 132, 137.

Id. Q. 37 to 48.  
Q. 36.

Id. Q. 52, 53.

The charge made by the officer for the taxation of a bill of costs rests entirely in his own discretion, and is regulated according to his estimate of the trouble, as well as time occupied in the taxation; the sums paid for taxing a bill of costs are various, being from 2 s. 6 d. to five guineas for a single bill of costs; but whatever the sum is, it is always specified in the bill taxed. In cases of taxations, either between party and party, or between attorney and client, under an order of reference made from any court, it has been the practice of this officer to issue summonses, for each of which he charges a fee of 3 s. 9  $\frac{1}{2}$  d., and he includes a fee for an attendance on these summonses in the sum he charges for taxation. The officer states that he never issues more than three summonses for this purpose; but that if the party desire it, he marks the second summons as peremptory, and that if the parties attend on the first, or even without summons, he will tax, if not otherwise occupied at the time; and he asserts that he never charged for more summonses than actually issued: but he admits he has, at the instance of the party, issued more than one at a time, and he thinks upon an average, two summonses issue upon each bill of costs of the above description. The interval usually allowed between the issuing of each summons is twenty-four hours, but frequently more, according to the convenience of the parties. The attorney has a fee of 1 s. for a copy of each summons, and a further fee of 1 s. for the service of each; and he has also a fee of 6 s. 8 d. for each actual attendance not exceeding an hour, and for every hour after, 6 s. 8 d.; so that it is obviously the interest of both the officer and attorney that more than one summons should be issued.

Id. Q. 133 to 143.

Id. Q. 83, 85, 426.

Id. Q. 423.

Id. Q. 411 to 415.

Id. Q. 327, 410, 420.  
N° 8, Q. 148, 149.  
N° 18, Q. 12, 15.

In cases of the bills of costs of Crown solicitors, an expedient has been resorted to which naturally follows from the circumstance of the fee for taxation being discretionary in the officer, and accompanied with a concurrent fee as for the attorney attending to tax; viz. that the bill of costs for every case prosecuted by the Crown solicitor is considered as a separate bill, and as such, is subjected to a distinct fee, as for the officer taxing and attorney attending; although in practice, the bills of costs of all business connected with the entire circuit, are framed and furnished in one aggregate bill. In this manner, the officer admits that his fees upon a single bill of costs of a Crown solicitor for the business of one circuit may have amounted to fifty guineas. On some occasions, where the costs of two or more cases of a trifling amount succeed each other in the aggregate bill, the officer couples them together and takes but one fee; in general his charge for each is 10 s.; but if it should be very long, as in the case of costs incurred preliminary to the circuit, he regulates his charge by his own judgment of the time occupied in taxation, and the length of the bill. We have seen so large a sum as 2 l. inserted as his fee in a bill of costs of this description; and in every case in which a fee is charged by the officer for taxing, he allows the attorney 6 s. 8 d. as for attending him. When to the vague and undefined principle upon which this officer regulates his charges for taxation, is added the direct interest which he has, in his capacity of Clerk of the Crown of the King's Bench, and Clerk of the Crown of the North-east Circuit (comprising several counties) in many of the most important charges in these bill of costs, and the manner in which some of his fees are interwoven with those of the solicitor, it cannot excite surprize that the system should have been productive of abuse. Both the officer and one of the solicitors whom we have examined, agree in representing several of the services for which fees are charged and allowed as purely constructive, and sanctioned by the officer for the sole purpose of enabling him to allow what he conceives a *quantum meruit* for the services performed.

Id. Q. 39.

From the circumstance of the attorney's being allowed a fee for attending the taxation, it might reasonably be inferred that such attendance was actually given, for the purpose of explaining the items and exhibiting the vouchers, but the evidence warrants us in coming to a different conclusion. The actual practice is as follows: shortly after the circuits, each Crown solicitor is in the habit of submitting his costs to the officer for taxation, by lodging the bill with him, which consists both of costs incurred previously to the circuits, and those of business done



done at the several assizes towns. The officer at his leisure, examines those bills, and makes his deductions and observations in the margin, and returns them to the respective solicitors, with queries, for the explanation of any item or items he may wish to be informed upon; the solicitor, thereupon, either answers the queries in writing or attends the officer, who allows or disallows the charges as he thinks right. The portion of the officer's time occupied in taxing one of those bills, comprising the business of the entire circuit, appears from his own evidence seldom to exceed, in the whole, eight or ten hours, whilst that of the solicitor frequently does not exceed a single hour. For performing this service the officer himself admits his charges may have amounted to fifty guineas; and from some of the bills of costs which have been laid before us, we have extracted his fees, and those allowed to the solicitor for attending the taxation, and have found the former varying from 26 *l.* 10 *s.* to 7 *l.* 10 *s.*, and the latter from 17 *l.* to 5 *l.*; a remuneration which, considering the time occupied, appears to us very exorbitant both for the officer and the solicitor.

Appendix,  
N° 4, Q. 334. 337  
to 339.

A case already stated in the Seventh Report of this Board, that of the King against O'Grady, furnishes a strong illustration of the mischief resulting from this taxing officer's being the only person to control his own demands. Another very striking instance has appeared from an inspection of the bills of costs of the Crown solicitor for the North-east Circuit; by which, and the evidence of the officer whom we have examined on the subject, it will be seen that in the month of July 1824, Mr. Bourne, when directed by Government to make a certain return from his office of Clerk of the Crown of the North-east Circuit, incidental thereto, which would have occasioned some trouble to furnish, instead of complying with the requisition and making the return himself, sent the order to the Crown solicitor of that circuit to make out such return for him; this was accordingly done, and a charge of twenty-four guineas made for that service in the solicitor's bill of costs; for this sum Mr. Bourne, when the bill was submitted to him for taxation, substituted 10 *l.*, thus charging the public with that amount for the Crown solicitor, for the performance of a duty in nowise appertaining to his department, and only delegated to him by that officer to save his own trouble. Mr. Bourne accounts for his conduct in this particular, by stating that the Crown solicitor was the only person who could make out the return required with expedition and accuracy, from the papers in his hands, that it could not have been made out with accuracy in the Crown Office, and that he conceived if Government had been aware of the fact they would have sent the requisition to the Crown solicitor instead of the Clerk of the Crown; and further, that if he had himself made the return required, his legal fees arising from the searches, extracts, and certificates necessary thereon, would have amounted to considerably more. But he subsequently admits that had he himself made the return, he would not have been entitled to demand payment for it from any source, unless from Government upon memorial, and he cannot say whether or not such an application would have been complied with. It is obvious from this, that had Mr. Bourne not been himself the taxing officer, such an allowance would not have been made to the Crown solicitor; and therefore Mr. Bourne must himself, as we conceive he was bound, have made the return required, from the books and documents in his own office; from which sources alone, we are warranted, by the evidence of several other Clerks of the Crown, in stating, such a return could with accuracy be made. And accordingly, although at the period when this return was called for from Mr. Bourne, similar requisitions were forwarded to the several other Clerks of the Crown in Ireland, no demand connected therewith appears in any of the bills of costs of the Crown solicitors of the other circuits; they having themselves performed that duty without any charge to the public.

pa. 39.

N° 4, Q. 534 to 543.  
545. 594.

Appendix,  
N° 8, Q. 138 to 140.  
N° 11, Q. 57 to 60.  
N° 13, Q. 43 to 46.  
N° 15, Q. 50, 51, 52.  
N° 16, Q. 51.1  
N° 17, Q. 52 to 54.

Another evil which we are called upon to notice, is the allowance by the taxing officer, in the Crown solicitor's bill of costs, of the charges for copies of all informations, indictments and affidavits which relate to cases prosecuted by him. These copies are, in general, totally unnecessary, and are rarely made out, yet, notwithstanding, they are uniformly charged for and allowed; and in addition, an allowance is made to the solicitor for a search for the informations in each case; and uniformly a fee of 6 *s.* 8 *d.* for his attendance to procure the copies. Our evidence enables us to add, that frequently the solicitor himself is the person who lodges the informations in the Crown Office, having previously received them from the magistrates, and having taken sufficiently accurate copies of them; yet notwithstanding he is in every case allowed, on taxation of his costs, a fee for a search

N° 4, Q. 411. 415.  
Id. Q. 392, 393.  
396. 398.

N° 11, Q. 21.  
N° 13, Q. 28.  
N° 15, Q. 30.



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for and copy of them, and for an attendance to procure such copy; and in the case of indictments, he himself having prepared and lodged them, can have no possible occasion for such copies, and in fact never takes them out, yet he is uniformly allowed by the taxing officer a fee for a copy on each. It will be recollected that of these charges, those for searches and copies go into the pocket of the Clerks of the Crown, of whom the taxing officer being one, makes the allowances; knowing them to be as for services altogether fictitious, and from their nature quite unnecessary. On the Munster circuit, where (as will be shown in a subsequent part of this Report) the Crown Office is conducted in a much more regular manner than in other circuits, the charge as for a copy of an indictment was unknown, either to the Clerks of the Crown, or the Crown solicitor, until a few years since; when the taxing officer suggested to the Crown solicitor that the Clerk of the Crown was entitled to 6s. 8d. as for a copy of each indictment; and from that period the charge was introduced on that circuit, and ever since allowed. Similar objections may be offered to the allowance made to the Crown solicitors for certain rules. Of these, four at least are charged for, and allowed, in every case in which a conviction takes place; and two in those where the party is acquitted. For each of these a fee of 7s. 4d. is allowed to the attorney by the taxing officer, of which 2s. 4d. is for the Clerk of the Crown, and 5s. for the solicitor; yet, in point of fact, not one of these rules is entered in the Crown Office. The service, therefore, is to the knowledge of the taxing officer altogether fictitious; and, even where it actually performed, would not entitle the Clerk of the Crown to a fee; no such item being inserted in the schedule annexed to the Act of the 49 Geo. III. c. 101, by which the fees payable to that officer are regulated. On the Munster circuit no charge as for a rule is known to the Clerk of the Crown; and the fee of 7s. 4d. as for one, has been hitherto considered by the solicitor as of right his own fee, although for a service constructive only, at most; no part of it being either demanded by or paid to the Clerks of the Crown, yet invariably allowed; although Mr. Bourne has had before him, at the time of taxation, the accounts furnished by some of the Clerks of the Crown to the Crown solicitor, in which no mention is made of a fee for a rule; and from inspection of which he must, had he investigated the items, have perceived that no such fee had been charged.

By far the most productive class of fees to the solicitor, and in which the most is left to the discretion of the officer, is that for attendances, which are principally attendances at the Crown Office for copies of documents; attendances on counsel; attendances examining witnesses; attendances on trials, and others in miscellaneous business. Of these the two first are in a great measure fictitious, as although charged for in each case separately, the business of several cases is frequently done at a single attendance. The third is an actual service, but we conceive allowed for at too liberal a rate; particularly as the service denominated "drawing brief," is performed at such attendances, although paid for separately; and the fourth is an actual attendance, allowed for at rates varying, according to the discretion of the officer, from one to ten guineas; in general, however, the variance may be considered as from three to five guineas. In the exercise of this discretion he states he is guided by the length of the trial; the distance of the assizes town from Dublin; the number of cases which the solicitor has in the town, and the length of time occupied by the assizes, and by some other circumstances; and he adds, that he seldom allows for attending trials in one town, to a Crown solicitor, more than fifty or sixty guineas. In general, we can state that on inspection of the taxed bills of costs of Crown solicitors, the allowances for attendances appear to have been arbitrarily made; inasmuch as they have been allowed in some cases for performing certain services, and in others for similar services the charge has been disallowed. With respect to briefs it is but justice to observe, that the officer states that he examines one brief in each case, and sees that the proper quantity is contained in each sheet, and that no unnecessary matter is introduced. He does not however see, or require to see more than one brief where four are charged for, nor does he exercise any control as to when the briefs were furnished, nor over the fees paid to counsel, or the charges for expenses of witnesses; as he states that he leaves such disbursements to be verified by the affidavit, which the Government requires each Crown solicitor to make at the end of their bills of costs, and of which a copy will be subjoined in our Appendix. In point of fact, the object of the officer appears to be, and he admits that it is, to allow what he considers a *quantum meruit* for the business done; and with this view he couples charges,

and

Appendix,  
N<sup>o</sup> 18, Q. 5 to 7.N<sup>o</sup> 11, Q. 33 to 40.  
91 to 93.  
N<sup>o</sup> 18, Q. 13, 14.N<sup>o</sup> 17, Q. 45, 46.  
N<sup>o</sup> 18, Q. 13 to 21.N<sup>o</sup> 4, Q. 152 to 157.  
174 to 177, 180, 181.

Id. Q. 159.

N<sup>o</sup> 19.  
Id. Q. 410, 420, 421.

and deducts from them in bulk, without reference to the services as actually performed.

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From the evidence of one of the Crown solicitors, (to which for many reasons we would call particular attention), it appears that he considers a great part of each bill of costs to be made up of charges for ideal services, with a view to make a fair gross sum for each case; and he enumerates the several actual services performed. According to his statement, they consist of "preparing indictments" and briefs, examination of witnesses, and attending consultations and trials;" and he adds, that without the "ideal charges," a fair compensation would not be made up for the solicitor in each case. So very unsatisfactory does the present mode of payment appear to this Crown solicitor, that he states he would prefer a less income than he at present derives from his bills of costs so taxed, even with more business, if arising from a salary, or from fixed payments for each case, (which is the mode adopted by the Bank of Ireland), rather than the present mode of making up what he considers a fair compensation for each prosecution, by a systematic and formal bill of costs, consisting of charges, which though uniform and long established, may now in many instances be considered ideal; and so desirable does a change in the present system appear to him, that he thinks an average of the profits of his office as Crown solicitor for the last seven years, paid in the way of salary, would not only be a fair remuneration to him for prosecuting all cases directed by the Government, or paid for by it directly or incidentally, but also for all other cases at the assizes not voluntarily prosecuted by private individuals. Although such an arrangement, if made, would considerably increase the number of cases to be prosecuted by him, yet from the circumstance of his being at present obliged to incur the expense of lodgings and establishment of clerks, he thinks he could discharge the duties without much additional expense. We think this suggestion very important, and would therefore particularly refer to the evidence of this witness.

Appendix,  
N<sup>o</sup> 18, Q. 12.

Id. Q. 28.

Id. Q. 29.

Id. Q. 31.

The system of taxation therefore, as it is at present exercised, appears to us objectionable, not only as being inadequate to control the charges of officers and solicitors, but as being in a great measure the cause of many of the evils which exist, and of much of the unnecessary expense to which prosecutors and the public are subjected in carrying on criminal proceedings. In our opinion a considerable reformation would be effected by referring the taxation of costs of all criminal proceedings either to the officers already appointed for taxation of costs incurred in suits at common law, or to a distinct tribunal, composed of persons who have no interest directly or indirectly in the increase or diminution of the fees of either officers or attornies; whose remuneration should be by salary, and whose duty it should be to tax all costs of criminal proceedings, whether occurring in the Court of King's Bench, or in any other court of inferior jurisdiction, and whether between party and party, or between attorney and client. If between party and party, a summons should be served at least three clear days previously to the day of taxation, and upon proof of such service being made, the officer, in case of the non-attendance of the party chargeable with such costs, to proceed to tax them *ex parte*: if between attorney and client, the officer to be satisfied that the client desires to have such costs taxed, either by the attendance of such client in person, or by an agent for him, or in case of non-attendance, by the written request of the client to have such costs taxed without the attendance of any person on his behalf, and the officer thereupon to tax such costs; such taxation to be final and conclusive, and the client not afterwards to be entitled to have the same costs re-taxed, on the ground of such taxation having been *ex parte*. But whether attendance be given by or on behalf of the person chargeable with the costs or not, the officer's duty in all cases to be, carefully to investigate each item whether objected to or not, and make such allowance or disallowances as under the circumstances he feels to be just and reasonable. And the better to enable him so to do, he should be empowered to administer oaths, and to examine witnesses, if necessary, touching and concerning the costs submitted to him for taxation, or any item or items contained in them.

We now proceed to submit to Your Majesty such regulations as appear to us necessary for the due discharge of official duty in the Crown Office of the Court of King's Bench; after which we shall subjoin a Table of the Fees which, in our view, it should be lawful for the Clerk of the Crown, or other person in his employment,



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to demand or accept for or on account of any act, matter, or thing done in or concerning the business of the office; whether in future such fees shall be taken for the use of the officer, or in aid of a fee fund. Should the latter be deemed expedient, we conceive that the official establishment, contemplated in our Fourth Report, for the discharge of the duties of this office, may be adopted as adequate and suitable. We therefore recommend that one officer, for discharging in person all duties hitherto performed by the deputy (except the taxation of costs), with an efficient permanent clerk, be appointed; to be remunerated, the former by a salary of 738 *l.* 9 *s.* 2 *d.* \* per annum, British currency; the latter, by an annual allowance of 92 *l.* 6 *s.* 1 *d.* † British currency, which, in our estimation will prove sufficient for the discharge of the duties of this office, when relieved from the taxation of costs.

## REGULATIONS.

## I.

That of the several fees heretofore demanded, taken, or accepted in the Crown Office of the Court of King's Bench, such only shall be continued and be deemed lawful as are comprised in the Table subjoined to this Report; and that the receipt of any other fee, gratuity, or emolument, or other consideration for the services therein specified, by any person belonging to or employed in this office, shall subject such person to a pecuniary penalty for each offence, and further disqualify him from ever acting in any office of any court of law or equity.

## II.

That all the fees so established be considered the fees of the principal alone, and constitute one aggregate fund for payment of the several persons, whether officer or clerks, who shall execute the duties of the Crown Office, and for the official disbursements and expenses.

## III.

That a fair and legible Table of the established fees be constantly exposed in some conspicuous part of the Crown Office; and that on proof made, on summary application to the court, of any neglect or omission of such exposure, the officer so neglecting be liable to a pecuniary penalty on account thereof.

## IV.

That on every copy or engrossment made in the office, the officer, or some clerk appointed by him shall mark the number of office sheets contained therein, and sign his initials after such mark, for the correctness of which the officer shall be responsible; and that the attorney shall be bound to ascertain that such marking is correct; and in case of overcharge, the party or person overcharged may recover a certain penalty against the officer or attorney, at his election. And that no fee be demandable upon any document issued from the office, unless the charge be distinctly endorsed thereon, specifying the manner in which it is made up.

## V.

That no suitor or other person shall be required to take out or pay for any copy of his own pleadings or proceedings, or be compelled to take out or be charged with any fee for copies of any record or document in this office, unless where some ulterior proceeding is to be founded thereon, or the same shall be necessary under any rule of court; but that he be at perfect liberty to judge whether or not it be necessary to provide himself therewith.

## VI.

That the office sheet shall in future, in all cases, whether of copies or enrolments, contain seventy-two words; and that in no one copy, or other document, shall more than one fraction of a sheet be charged for as an entire sheet.

\* £.800. late Irish currency.

† £.100. late Irish currency

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That the roll, in all cases, shall consist of ten office sheets of seventy-two words each; and in case there shall be a fractional part of a roll, if such fractional part contains less than 360 words, it may be charged for as half a roll; and if such fractional part shall contain 360 words or more, it may be charged for as an entire roll.

## VIII.

That in all cases where it may be necessary to summon any party before the officer, upon reference or otherwise, the party issuing the summons shall be at liberty to attend at the time appointed by the first summons; and the officer, if requested, be bound to proceed *ex parte* in case of non-attendance by the opposite party, and proof made that such summons had been served at least three clear days previously to the time of attendance specified therein.

## IX.

That no person employed in this office shall practise as an attorney or solicitor in any court of law or equity.

## X.

That when any suitor or attorney shall think himself aggrieved by any practice, demand, delay or omission of the officer, or any person employed in the Crown Office of the Court of King's Bench, he shall be at liberty to submit the same to the court in a summary manner, by petition and affidavit, to be answered by the officer or person complained of; and such application shall be disposed of by order thereon, on the next motion day, in open court, and have precedence of all other business; the costs of such application to be paid by the petitioner or respondent, at the discretion of the court.

A LIST of all FEES recommended to be established as the lawful Fees for the Duties to be discharged in the Crown Office of the Court of King's Bench.

	British Currency.
	£. s. d.
For receiving, entering and filing every information, indictment, affidavit, writ with return, or any other document - - - - -	0 3 1
For copy thereof, if not more than three sheets - - - - -	0 1 10 $\frac{1}{2}$
If more, then for each sheet of seventy-two words - - - - -	0 0 7 $\frac{1}{2}$
For entering every rule of the court - - - - -	0 2 2
For copy thereof, and attesting the same when required by the party - -	0 4 0
For entering the appearance of every defendant to any criminal information, or information quo warranto, or to any indictment or process requiring appearance - - - - -	0 2 0
For copy thereof, if required - - - - -	0 1 10 $\frac{1}{2}$
For enrolments of all pleadings and proceedings upon indictments, informations, mandamus, &c. for every roll containing 720 words, if required to be made up - - - - -	0 9 2 $\frac{1}{2}$
For every transcript of a record for trial by nisi prius, for each roll containing 720 words - - - - -	0 9 2 $\frac{1}{2}$
For exemplification of an enrolment upon quo warranto, or other pleading or proceeding, per roll of 720 words - - - - -	0 12 4
For a search for any indictment, information or other matter, if above three years, for every term, where no copy is required or taken - -	0 2 4
If within that time, for every term - - - - -	0 0 4
(If copy taken, search fee not to be charged.)	
For a search and certificate of no cause having been shown pursuant to any order or rule of the court, or for any other certificate - - - -	0 3 1
For every summons to proceed upon a reference - - - - -	0 2 6
For every writ of mandamus or exigent - - - - -	0 12 4
For every writ of certiorari, attachment, assistance, to abate nuisance, procedendo, or writ of execution - - - - -	0 5 0
For every writ of habeas corpus, venire or capias, subpoena, duces tecum, or distringas ad respondendum, venire facias, or distringas juratores, or other writ - - - - -	0 4 0
For the examination of every person on interrogatories, exhibited for contempt - - - - -	0 3 1
For copies of the depositions taken thereon, for every sheet of seventy-two words - - - - -	0 0 7 $\frac{1}{2}$
For every recognizance to the King, taken in court - - - - -	0 7 2



## Crown Office.

	British Currency.		
	£.	s.	d.
For entering any charter, when required to be produced or read - -	0	5	0
For entering every cause returned on habeas corpus in the King's case -	0	4	0
For entering the committitur of every person brought to the bar, or rendering himself for any matter concerning the king - - - -	0	2	0
For entering the discharge of any one committed for contempt or other matter, or of any recognizance of the peace - - - -	0	3	1
Poundage on money lodged in the officer's hands, for each pound - -	0	0	6
For entering a traverse to any presentment of any grand jury, or to any information under the Excise Acts, for a fine against any parish or place, on account of any still, or other prohibited matter being found therein, and for entering same for trial, recording verdict, &c. - -	1	1	0
For striking a special jury, and furnishing each party with a copy of the panel of forty-eight names as struck, and a copy of the panel of twenty-four special jurors as struck - - - -	0	12	4
For attending trials at bar, and performing all the services relating thereto, including bringing down and entering the record, all readings or exhibits, and entering the verdict, in lieu of all fees heretofore taken.			
From the plaintiff per day - - - -	3	12	3
From the defendant or defendants, whether joint or separate, on appearing at the trial, whether two or more shall join in their plea, or plead separately, or shall appear at the trial by one attorney, or by distinct attorneys; in lieu of all fees heretofore paid by such defendants, per day -	1	0	0
For each person who shall be indicted and tried for high treason - -	2	9	3
For each person indicted and tried for petit treason or murder - -	1	10	9
For each person indicted or tried for felony or other offence - -	1	4	0
For attendances before any of the judges in chamber, on any business relating to the office - - - -	0	6	2
For attending on references from the court - - - -	0	6	2
For drawing a report - - - -	0	6	2
For signing same - - - -	0	6	2

Appendix, N° 20.

The Clerks of the Crown for the several counties, counties of cities, and counties of towns in Ireland, are appointed by letters patent under the great seal of Ireland; the office to be exercised by them, or their sufficient deputies, to be approved of by the Lord Lieutenant.

The office was formerly held during pleasure, but by statute 1st Geo. IV. c. 27, the tenure has been altered; and all Clerks of the Crown, whether previously or subsequently appointed, now hold during good behaviour.

The patent, in addition to the office of Clerk of the Crown, contains a grant of that of clerk of the peace, the appointment to which latter office has been claimed, and generally exercised, by the custodes rotulorum. From the schedule to the statute 4th Geo. IV. c. 43, the Legislature would appear to have contemplated these offices as separate and distinct; but a claim has been set up by the Clerks of the Crown, under their patents, to both offices, which has been resisted by the clerks of the peace; and the question is at present under legal investigation, as to the right of appointment.

N° 2. 7. 9. 10. 12.  
14.

The duties of the Clerk of the Crown are various, arising partly at the common law, and partly out of a series of legislative enactments. The principle are, to receive and preserve all informations, examinations and recognizances of magistrates, and all depositions, inquests and recognizances of coroners, returned pursuant to the statute, 10 Car. I. sess. 2, s. 1, at or before the different assizes; to draw indictments in cases in which they are not prepared by the solicitor for the Crown, or for private individuals; to swear the grand jury, and attend them with the indictments; to attend the Crown Court, arraign the prisoners; enter and record all pleas, orders and proceedings of the court in the Crown book; swear and examine the several witnesses on the trials; to prepare and keep all records of the assizes; to prepare all warrants necessary for the transmission of prisoners, and all warrants, as well for the execution of offenders, as to carry into effect the various sentences pronounced by the court; to make up and return all estreats into the Exchequer; to prepare and issue all warrants against offenders indicted and standing out; to file and keep all affidavits, maps, plans, and estimates for grounding any presentments, or affidavits accounting for public money; to deliver copies of all presentments of the grand juries, and of all discharged queries, to the treasurer of the county; to make out queries on all presentments of the grand jury; to receive and keep printed copies



copies of the registry books of the freeholders of the county, county of a city, or county of a town, which the clerk of the peace is required to furnish him with at every spring assizes; to produce such printed copies at every election for Members of Parliament, if demanded of him, and occasionally to tax costs.

1 Geo. IV, c. 11, s. 21.  
2 Sess. 6 Parl.  
Appendix,  
N<sup>o</sup> 11, Q. 18.

There are at present 39 distinct offices of Clerk of the Crown in Ireland, 15 of which are vested by patent in one individual, and the entire are committed to 11 persons, some of whom discharge the duty altogether by deputy. Three individuals act, each for an entire circuit; and others have the business of more than one county entrusted to them, whilst some are confined to a single county. Many of these officers reside and keep their offices in Dublin, having a depository for the more ancient records in the country, and only attend in the county towns during the respective assizes; and they state, that not only no inconvenience arises from this, but that they conceive their residence in Dublin and occasional attendance in the counties are productive of more practical convenience to the public, than would follow from their having their offices kept permanently open in the respective towns. On the other hand, such of them as are resident in the country, and hold their offices constantly there, are unanimous in representing this latter practice as indispensably necessary for the due execution of the duties of their office, and state that no occasions have occurred, within their experience, requiring personal attendance in Dublin, or which cannot be, and is not, as efficiently performed, whether with respect to the Crown, the prisoner or the public, by written communications or deputed attendance. It appears to us most conducive to the public service, and most convenient, that the office shall be kept in the counties. A permanent office in the county town for the custody of records appears indispensably requisite, as well with a view to the convenience of the public, who may require to search for and inspect them, as from the opportunity it affords the officer of adequately performing the responsible duty which he has undertaken in the care of important documents, and which we think cannot be done without having the records continually within his reach, or that of a properly qualified and accountable deputy. In those counties in which the officers do not reside, or keep an office permanently open, the practice has been to carry with them to Dublin the records of the year or two next preceding, and to leave those of a less recent date in their offices in the country. These offices are held either in the private lodgings of the Clerk of the Crown, or in the court-house; and if in the first, the custody of the records is committed, in the interval between the assizes, to the proprietor of the house in which they are deposited, or to some friend residing in the town, with whom the key under which they are kept is left. If held in the court-house, the key is committed to the court-keeper. These court-keepers are in general persons in a very humble situation in life, paid by the grand jury a very moderate salary, and not in any manner responsible to the Clerk of the Crown, or under his control; and it appears to us highly objectionable to commit the care of the records of a county to persons so liable to the influence of a bribe, or other corrupt inducement, to suffer them to be unduly inspected and copied, or to be altered, mutilated, or altogether removed. That such an attempt might at least, occasionally be made, is by no means improbable; for we find that in some instances large sums have been offered for copies of informations; and, in one case, it has been stated that upwards of 100 *l.* was offered to the clerk in the Crown Office, to give up to the friends of certain accused persons the original informations under which they had been committed. In this case, the only witness as to identity was murdered, and under the Act of 50th Geo. III. c. 102, his informations became legal evidence, consequently had the attempt been successful, eleven or twelve persons, who subsequently were capitally convicted, must have been acquitted for want of evidence as to identity. Another evil arising from the practice of committing the custody of the records of a county to a court-keeper, or other unauthorized person, is, that the duplicate list of registered freeholders, which by a modern statute is required to be deposited with the Clerk of the Crown, would thus be accessible to any interested person, who might make such an alteration in it as would ultimately influence the return to Parliament of a representative for the county. It appears needless to enter into any further detail of the mischiefs resulting from leaving the records of the Crown Office in the custody of any unauthorized person, as they must be obvious; and to this, and to the practice of holding the Crown Office permanently in Dublin, may be attributed many of the evils which it will be our duty to comment upon in this Report. We therefore recommend, that in future the Crown

N<sup>o</sup> 2.  
N<sup>o</sup> 8, Q. 1. 13.  
N<sup>o</sup> 11, Q. 1.

N<sup>o</sup> 4, Q. 479, 480.  
N<sup>o</sup> 8, Q. 6 to 10.  
N<sup>o</sup> 11, Q. 3 to 10.  
N<sup>o</sup> 13, Q. 2 to 4. 6.

N<sup>o</sup> 15, Q. 41 to 43.  
N<sup>o</sup> 16, Q. 3 to 8. 56.  
N<sup>o</sup> 17, Q. 3 to 10.

N<sup>o</sup> 11, Q. 6, 7. 72  
to 78.  
N<sup>o</sup> 13, Q. 3, 4. 6.

N<sup>o</sup> 17, Q. 32.  
N<sup>o</sup> 18, Q. 27.

N<sup>o</sup> 11, Q. 81.

## Crown Office.

Office shall be held permanently in the assizes town of each county, and regular attendance given at reasonable hours by the Clerk of the Crown, or some person properly empowered by him to discharge, whenever called upon, the several duties of the office.

It has been already stated, that one of the duties of the Clerk of the Crown is to receive and preserve informations, &c. which the magistrates are bound to return to the several assizes. It is manifest, that in counties where the Crown Office is only kept open during the circuits, informations cannot be returned to it by the magistrates until the commencement of the assizes; these informations, however, are frequently required by the Crown solicitors, previously to the going out of the several circuits, for the purpose of submitting them to the attorney-general for his directions as to their being prosecuted at the expense of the public; and it has become the practice for them to write to the several magistrates, who appear by the calendars to have taken such informations, requesting to be furnished with copies. Few magistrates, however, take the trouble of making copies of informations; but in general transmit the originals to the Crown solicitor, who, after having laid copies of them before the attorney-general, hands them over to the Clerk of the Crown. The other modes by which informations are returned to the Crown Office are various. In some instances they are delivered in by the magistrates in person; in others, sent by the police; by the clerks of the different courts of petit sessions, or by private messengers; sometimes sealed, sometimes unsealed. It appears to us very objectionable, that any person, except the magistrate, should have access to the informations previously to their being lodged in the Crown Office, and therefore think that they should, in all cases, either be delivered into the office by the magistrate in person, or transmitted there under seal; and for the purposes of public convenience, we recommend that the magistrates be required to return all informations taken by them within a given time after they are taken, and previously to the assizes.

Another practice has prevailed in the several Crown Offices which are held in the county towns only during the assizes, viz. that of permitting original documents and records to be taken from the office, and made use of by solicitors, instead of copies of them. This prevails principally in cases of informations and affidavits; which, in offices of the description alluded to, are almost universally given to Crown solicitors, and solicitors for prosecutions carried on at the expense of public departments and of private individuals; either to be made use of in court, or to have copies taken of them. The officers do not assert any legal authority justifying this practice, and only excuse it by alleging the hurry consequent upon the short period of time allotted for performing the entire business of the assizes; they state, however, that they always take care to have them returned as speedily as possible, and that they have never known any mischief or inconvenience to result from it. It will appear in a subsequent part of this Report, that although the copy is not made out, the office charges for one in each case where an original is made use of. It is proper, however, to observe, that this practice of parting with original documents is not found to prevail in counties in which the Clerk of the Crown resides and holds his office. In these counties the magistrates, when applied to for informations by the Crown solicitor, instead of sending them to him, return them to the Crown Office; and the Clerk of the Crown having received them some time previously to the assizes, has full time to prepare copies, with which he furnishes the Crown or other solicitors requiring them. We are of opinion, that the practice of parting with an original document, lodged in an office of record, is one which cannot be justified, and from which much evil might result; and therefore recommend that in future it shall not under any circumstances be permitted.

The fees of Clerks of the Crown were formerly vague and uncertain, not being regulated by any other standard than that of mere usage; they varied in the different counties, or at least on the different circuits, and required to be regulated and defined. By statute 4th Geo. I, c. 8, it was enacted that all officers who took or received any fee or reward, should return under hand and seal to the clerk of the council, a list or table of such fees as they claimed, under certain penalties therein mentioned; and that all *Clerks of the Crown* should in open court, where the assizes were held, engross and set up a duplicate of said fees so returned into the council office, in public view, fairly written in a plain and common hand, under a penalty of 50*l*. Although the directions of this statute appear to have been complied with

## Sect. 2.



with by the clerk of the commissions of oyer and terminer for the county and county of the city of Dublin, and by the Clerk of the Crown and Peace for the province of Leinster, yet, nevertheless, it appears by the preamble of the statute 49th Geo. III. c. 101, that great inconvenience resulted from the uncertainty and difference in the several counties of Ireland, as to the rates of fees payable on criminal prosecutions, and the several matters relating thereto, before the judges of assize; and that great mischiefs had arisen for want of the same being regulated and duly ascertained, and that great benefit would accrue from the due regulation thereof. And this statute enacted, that *no other or higher fees* than those enumerated in a schedule therein set forth, should thenceforward be payable on criminal prosecutions, or any other *matter or thing relating thereto*, in any county, county of a city, or county of a town, or other place in Ireland, to any of the officers therein mentioned; and that no Clerk of the Crown should demand or accept *any other or higher fee* than the sum or sums stated in that schedule, under a penalty therein specified. To the rates contained in this schedule the Clerks of the Crown appear to have conformed, upon the services therein specified. The payment of these fees is now principally confined to *prosecutors*; and as they have been regulated by a statute of so recent date, we do not see any objection to their amount, provided their demands be restricted to the occasion of their being required and actually performed. But in allusion to the practice upon which we have already observed, of the original informations being lodged in the Crown Office by the Crown solicitor, who previously has, or may have taken copies, we conceive the charge for search for and copy thereof as unwarrantable, in as much as no actual search for, or copy of any information is made by the officer in such case; and equally so we consider the charge for copies in cases where the solicitor has obtained the original document, and a copy has not been furnished; or where the original document having been prepared by the solicitor, as in case of indictments, a copy must be unnecessary, and is therefore never made out. The officers insist upon their right to these fees, as for services comprised within the legitimate duties of their office, and as such, conferred on them by the terms of their patent; an allegation with which, however, their practice but ill accords, as we find them admitting that they do not enforce the payment of these fees from the solicitors, for prosecutions carried on at the expense of private individuals; from which we infer, that they consider themselves as having in reality no better authority for these demands than the acquiescence of solicitors for the Crown and for public departments, who probably yield to them, influenced by long established custom, and mutual interest and convenience. It is right, however, to observe, that with respect to the fee for a copy of an indictment, one of the Clerks of the Crown intimates its having been sanctioned by the law officers of the Crown. Had the taxation of costs been committed to an officer not himself interested in the receipt of such fees, it is probable this practice would not have existed, as he would naturally have inquired into the necessity for, and the fact of, such copies having been made, and if not satisfied on that subject, would have disallowed the charge, and the Crown solicitor would have found it necessary to resist the payment. On the Connaught circuit, in the case of prosecutions for offences against the revenue laws, these fees are not at present charged, in consequence of an arrangement to that effect entered into between the Government and the present Clerk of the Crown on his appointment, which has caused a considerable annual saving to the public.

There are certain other fees which Clerks of the Crown in general appear to have received for services not comprised in the schedule to the Act, and which they attempt to justify on the ground of ancient usage and analogy. These fees are not only claimed, notwithstanding the terms of the statute, but are taken for services some of which are purely constructive. Had these claims been advanced for actual services performed, there might at least have been a colour of justice in making them; but even in that case an insuperable difficulty would have presented itself; viz. the powerful and conclusive language of the statute, which appears to have been framed for the express purpose of abolishing all fees claimed on the vague ground of usage, and substituting a fixed and unerring standard for the guidance of the officer and the public. Various grounds have been set up by the Clerks of the Crown in defence of these claims, the principal of which seem to be that of ancient usage and custom, and an allegation that the statute was intended as a remedy for the difference and variety of charges which were made by Clerks of the Crown in different parts of Ireland; and that for that purpose it enumerated the services on

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Appendix,  
N<sup>os</sup> 2. 6. 7. 9. 10.  
12. 14.N<sup>o</sup> 4, Q. 15.N<sup>o</sup> 4, Q. 394.  
N<sup>o</sup> 8, Q. 16, 17.  
N<sup>o</sup> 18, Q. 5 to 9.  
N<sup>o</sup> 4, Q. 398.  
N<sup>o</sup> 8, Q. 83.  
N<sup>o</sup> 11, Q. 22.  
N<sup>o</sup> 13, Q. 29, 36.N<sup>o</sup> 4, Q. 397.  
N<sup>o</sup> 11, Q. 83.  
N<sup>o</sup> 13, Q. 30.N<sup>o</sup> 8, Q. 70 to 78.N<sup>o</sup> 4, Q. 327, 328, 340,  
341.  
N<sup>o</sup> 8, Q. 148 to 150.  
N<sup>o</sup> 11, Q. 33 to 40.  
N<sup>o</sup> 13, Q. 52 to 54.

49 Geo. III. c. 101.



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which the charges were uncertain, and annexed a certain fee to them, but that it did not preclude the officers from receiving any other known and accustomed fee for a service with reference to which that statute is silent. But it would seem a strange mode of effecting uniformity, to omit certain items of charge, and leave the officers to claim them on the ground of usage, in which case different usages might be set up in different counties, and the very evil the Legislature meant to remove still continue to prevail. It is to be presumed that the Legislature in preparing this statute inquired into every fee previously claimed, and rejected such as they deemed unreasonable; and that they so proceeded appears by the words of the purview, "No other fees than those enumerated in the schedule;" and the words, "for or on account of any other matter or thing relating thereto." The Clerks of the Crown who maintain this claim have been in the habit of charging a fee of 2s. 4d. each, for certain rules, of which four are charged by them in every prosecution in which there is a trial and conviction; viz. a rule to record finding of grand jury, a rule for trial, a rule to record verdict, and a rule for judgment; and in other cases where a trial takes place but no conviction follows, two rules are charged; viz. a rule to record finding of the grand jury, and a rule for trial; no such service is mentioned in the schedule to the Act, nor is in fact performed. In the number of those who have been receiving these fees uniformly, contrary to the statute, we find the Clerk of the Crown for the North-east Circuit; who, (as has been already shown) in his character of taxing officer, always allows these items. On the Munster circuit this fee is never claimed or received by the Clerks of the Crown, but is always charged by the Crown solicitor, and allowed on taxation by Mr. Bourne; and it appears by the evidence of the Crown solicitor of that circuit, that he always considered this fee as belonging exclusively to himself. The charge made in the solicitor's bill of costs is 7s. 4d., consisting of 5s. for the attorney, and 2s. 4d. for the officer; of this analysis, however, both he and his predecessor were ignorant, conceiving the entire to be a fee for the solicitor.

Appendix,  
N<sup>o</sup> 4, Q. 327, 328.N<sup>o</sup> 15, Q. 38.  
N<sup>o</sup> 16, Q. 45.  
N<sup>o</sup> 17, Q. 45, 46.  
N<sup>o</sup> 18, Q. 13 to 21.N<sup>o</sup> 8, Q. 62, 63.  
N<sup>o</sup> 2, 6, 7, 9, 10, 12, 11.N<sup>o</sup> 8, Q. 152.  
N<sup>o</sup> 11, Q. 62.  
N<sup>o</sup> 15, Q. 53.  
N<sup>o</sup> 16, Q. 55.  
N<sup>o</sup> 17, Q. 14.

The other services connected with criminal proceedings, for which, though not contained in the schedule to the Act, fees are demanded and received, are, making up and enrolling records, for every record not exceeding two rolls, 1l. 8s. 2d.; if exceeding two rolls, then for every roll, each roll containing 600 words, 10s., copies thereof, 8d. per sheet, containing 72 words; returning every writ of certiorari or error, 13s. 4d.; we have not much ground of objection, in point of amount, to the fees received on these services, but we conceive some further regulation would be expedient to legalize their demand. There are also services of a miscellaneous nature, principally connected with grand jury presentments, which require legal sanction for their adoption and regulation; such as entering every traverse to a presentment; attending the trial of such traverse, swearing jury and witnesses, drawing verdict, &c., for which at present in some counties one guinea is demanded and received, and in others, 1l. 8s. 2d. We conceive the sum of one guinea to be sufficient, and recommend its establishment as the uniform rate of fee for that service. Copies of presentments, and certificates relating thereto, may, we conceive, be charged for at the rate of 3s. 4d. each.

Cap. 10.

By ancient usage certain fees were charged to prisoners against whom bills of indictment were preferred and ignored, or in case of a trial, whether acquitted or convicted; and such prisoners if unable to pay those fees, were detained in custody (although otherwise entitled to their discharge) till the officer's demand was satisfied. The inconvenience resulting from this system appears to have engaged the attention of the Legislature so early as the 4th of Anne. By a statute passed in that year, it was enacted that no fee should be taken or demanded of a prisoner for drawing or engrossing an indictment, or for a verdict of ignoramus, under a penalty of 20l. The next statute relating to the subject was the 3 Geo. II. c. 9, which enacted that the judges of assize should inquire from time to time what persons remained in gaol in the several counties within their circuits, merely for fees; and upon a representation by the grand jury that any such person or persons were unable to pay his or their fees, such judges, on due examination, should discharge him or them so being unable to pay such fees. In these statutes no mention is made of the claims of the officer, but by the subsequent Acts on this subject they appear to have been recognized; for by statute 3 Geo. III. c. 5, it was enacted that it should be lawful for the several grand juries of counties, counties of cities, and counties of towns, to present the *customary* and *legal fees*, due to the Clerk of the Crown from any person or persons against whom any bill of indictment should be

be found, and who should be acquitted at the several assizes; but it was thereby provided that no such presentment should be made for the fees of any person acquitted, unless the petit jury before whom such person was tried should certify in manner therein, that such person was a proper object for the benefit of that law, and unless the grand jury should be informed of the particulars of such fees, by affidavit made by the Clerk of the Crown, and that when such presentment should be confirmed as therein directed, the prisoners in whose favour it should be made should be forthwith discharged without fees; and a penalty of 20*l.* was thereby imposed for demanding or receiving fees contrary to its provisions. By statute 21 and 22 Geo. III. c. 41, which is the next Act in order relating to prisoners fees, after directing that all persons confined in any gaol in Ireland for fees only should be forthwith discharged, absolutely freed from any claim or demand for or on account of such fees, it was provided, that the several grand juries should be at liberty to present all, or any part of such fees, to be paid to the respective officers entitled to the same. By statute 23 & 24 Geo. III. c. 34, it was enacted, that every prisoner charged with any crime, against whom no bill of indictment should be found by the grand jury, or who on trial should be acquitted, or who should be discharged by proclamation for want of prosecution, should be immediately set at large, in open court, without the payment of any fee or sum of money to any person whatsoever, and thereupon the grand juries were empowered to present from time to time any sums they might think proper, not exceeding the amount of the *legal accustomed fees theretofore paid* to the Clerks of the Crown, the amount to be ascertained by affidavit of such officers; and there is a clause in the Act limiting the total amount of such presentments, on a scale and proportion therein mentioned.

sect. 6.

By the third section of the 49th Geo. III. c. 101, grand juries throughout Ireland are empowered to present for Clerks of the Crown, &c. any sum they think reasonable and fair, in lieu of the fees of such persons as should be indicted, tried, acquitted and discharged without fees, at or between each assizes, in satisfaction of such fees as they had theretofore been accustomed to demand and receive for the same; to be ascertained by the affidavit of the officer, according to the rates *allowed in the schedule to that Act*.

By statute 1st & 2d Geo. IV. c. 77, all fees payable by any prisoner, either on his "entry, commitment, continuance in custody or discharge," are abolished; and it is enacted that no prisoner should be detained for his fees only, and that no fee whatsoever should be taken or demanded from any prisoner by any Clerk of the Crown, &c. *any thing in the Act of the 49th of the late King notwithstanding*; and that if any Clerk of the Crown, &c. shall demand or accept any fee whatever, directly or indirectly, on the commitment, custody, trial or discharge of any prisoner, or for any matter or thing whatever relating thereto, he shall for each offence forfeit 5*l.*; and the grand juries of counties, counties of cities and counties of towns, are empowered to present to the officers such a compensation for the fees of prisoners discharged without the payment of fees, as would have been payable by such prisoners themselves if that Act had never passed; to be ascertained by the affidavit of the officer, according to the schedule contained in the 49th Geo. III. c. 101. By statute 4th Geo. IV. c. 43, it was enacted, that all officers (including Clerks of the Crown) for the payment or remuneration of whose duties, salaries or expenses, any presentment or presentments were theretofore required to be made by grand juries, under any Act then in force, should in future be paid and remunerated for all such duties, services and expenses, by annual salaries only, according to the amount mentioned in the table of classification of counties, and salaries of county officers, annexed to that Act; and that it should not be lawful for any grand jury of any county, county of a city and county of a town, to make presentments for any such officer, other than the amount of the annual salary payable to any such officer under said Act; and that such salary should be in lieu and satisfaction for all duties and services to be done and performed, and for all expenses to be incurred by such officers in the execution of their several duties, for which any presentment might have been made under any former Acts.

In consequence of some of the Clerks of the Crown having demanded certain fees from prisoners subsequently to the passing of the statute 1st & 2d Geo. IV., and so continuing to do to the present time, we have directed our particular attention to the provisions of that statute. The Act, after directing that no prisoner shall be

Appendix,  
N<sup>o</sup> 4, Q. 310.  
N<sup>o</sup> 8, Q. 50, 51, 52, 67.  
N<sup>o</sup> 11, Q. 17.  
N<sup>o</sup> 15, Q. 40.  
N<sup>o</sup> 17, Q. 47 to 50.



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detained for his fees only, prohibits the acceptance of any fee whatsoever from any prisoner; and superadds a specific penalty for demanding, taking, or accepting any fee, on the commitment, custody, trial or discharge of such prisoner, or for any matter or thing whatsoever relating thereto. It also empowers the grand jury to present such a compensation for the fees of prisoners discharged without fees, as would have been paid by the prisoners themselves, if that Act had never passed; and directs that the amount to be presented shall be fixed and ascertained in manner provided by the statute 49 Geo. III. already alluded to. The Clerks of the Crown have, however, almost universally adopted a distinction, by which they conceive those fees only for which a prisoner might (previously to the statute) have been detained as abolished, but hold themselves at liberty to receive those not necessarily payable by prisoners, but only occasionally, when called for at the option of the prisoner; and accordingly the fees for which they have sought compensation by presentment under 1st & 2d Geo. IV. were uniformly confined to the first four items contained in the schedule to the 49th Geo. III. and the remaining items were (whenever required) in general charged to the prisoner. The Clerks of the Crown have attempted to justify this construction of the Act, by stating, that immediately after it had passed, the question arose amongst themselves, when they considered that these latter services were not necessarily connected with the committal, continuance, trial or discharge of the prisoners, who were consequently liable to the fees payable upon them, and they themselves therefore justifiable in making the charge. They allege that they came to this decision against their own interests; inasmuch as if the fees were not payable by the prisoners, they must have been by the county, which mode of payment would have been much more satisfactory. However this latter construction might have influenced the emoluments of the officer previously to the passing of the statute 4 Geo. IV. c. 43, it has, since that period, tended to increase them, by giving fees from prisoners, in addition to the salaries provided by that Act; which salaries we conceive, under the natural and fair construction of the Act of 1st & 2d Geo. IV. c. 77, and that of 4th Geo. IV. c. 43, should be in full discharge of every fee which would have been payable by prisoners if those Acts had never passed. And in confirmation of this opinion, it has appeared in evidence that one of those fees which the officers considered as payable by prisoners, viz. that for a recognizance, having been brought under the consideration of the bench, the Judge directed that the fees upon such recognizances should be no longer received from prisoners; which decision, we conceive, would have been extended to all other fees from prisoners, had they been in like manner brought under the consideration of the court. This view of the subject coincides with the construction put upon the statute by some Clerks of the Crown; who have considered that they had not any right to demand or accept from prisoners any fee whatever since the passing of the statute.

Appendix,  
N° 8, Q. 53.

Id. Q. 52.

N° 16, Q. 29.  
1 & 2 Geo. IV. c. 77.

4 Geo. IV. c. 43.

The case of the Clerk of the Crown of the county, and county of the city of Dublin (both which offices are vested by patent in one individual, and the duties performed by the same deputy), with regard to prisoners fees, differs very materially from that of all the others. This officer is specially excepted out of the Salary Act; but is included in the statute 1st & 2d Geo. IV. c. 77. As, therefore, his remuneration for the fees of prisoners discharged without payment of fees, is directed to be made by presentment, pursuant to the 4th section of the latter Act, the question as to what fees he is entitled to claim as against the county, and what as against the prisoners, is wholly free and disencumbered, and may at any time be brought to a decision by a reference to the Court of King's Bench. Should the grand jury of the county, and county of the city, restrict their presentments to such fees as previously to the 1st & 2d Geo. IV. Clerks of the Crown had been accustomed to demand and receive, viz. the fee for each person that should be tried, or whose trial should be postponed; and if, at the same time, the strong prohibitory language of the statute should be construed as interdicting the acceptance of any fee whatever from a prisoner, a great injustice will be wrought by the statute on the construction thus given to it; as previously to its enactment the officer had clearly a right to charge every prisoner with the several fees enumerated in the schedule to the statute 49 Geo. III. c. 101; and as the statute 1 & 2 Geo. IV. c. 77, did not (as it is conceived) abolish any of those fees, but merely relieved prisoners from liability to payment of them, by transferring it to the county, it would appear as not intended to diminish the profits of the Clerk of the Crown.

From



From the return of the present deputy it appears that the total receipts of the Crown Office of the county of the city of Dublin, has been, on an average of the three years ending 31st December 1825, 396*l.* 2*s.* 9*d.*, and the annual deductions for the same period are estimated at 145*l.* In the county of Dublin the annual average receipts of the office in those years are stated to have been 183*l.* 5*s.* 10*d.* and the deductions 47*l.* 10*s.* We have not been able to ascertain the reason which induced the Legislature to except the city and county of Dublin from the operation of the statute 4th Geo. IV. c. 43. It appears to us desirable that the mode of remuneration should be assimilated generally throughout Ireland, and we therefore recommend that the provisions of that Act be extended to the offices of Clerk of the Crown for that city and county. It will be recollected that the duties of these offices comprehend attendance at six commissions in each year, and we are of opinion that a salary of 400*l.* per annum for the city, and 250*l.* for the county, would be a reasonable compensation to the officers, in lieu of the presentments to which they are at present entitled.

Appendix, N° 6.

N° 8, Q. 175.

Taxation of costs by the Clerks of the Crown has almost totally fallen into disuse; with the exception of the Clerk of the Crown of the Commission of Oyer and Terminer in the city of Dublin, very few instances have been stated to us of the other Clerks of the Crown having performed this service. Indeed from the observations which have been already made on this subject, with reference to the exercise of it by the Clerk of the Crown of the Court of King's Bench, it will sufficiently appear that no authority whatsoever is vested in any of these officers to tax costs, and that whenever any of them have done so, it has rather been in the character of arbitrators, than under any official authority. At present, it has in practice entirely ceased amongst those officers in the counties; Mr. Riky, the Clerk of the Crown of the Commission Court for the County and City of Dublin, continues to tax costs for the solicitors of two public departments, the Police and the Stamp Office. His emoluments derived from these sources are, however, very trifling; as the total receipts from taxing the police costs for the last year are stated to have been 4*l.* 15*s.* only, and for the Stamp Office they may be estimated at about 30*l.* annually. Instances of the taxation of costs of private prosecutions so rarely occur, as not to exceed one in two or three years. In the exercise of this duty this officer appears to have been governed in a great measure by the same principles which have influenced the deputy Clerk of the Crown of the King's Bench. On an inspection of the bills of costs taxed by them respectively, the allowances appear to have been made at similar rates. In one particular, however, Mr. Riky seems to have been peculiarly careful, viz. with respect to the allowance for briefs; Mr. Bourne only requiring one brief in each case to be submitted to his inspection, previously to making the allowance for them; whereas Mr. Riky states, that he invariably requires all the briefs to be furnished, which he minutely examines, and sees that the proper quantity is contained in each page, and that no unnecessary matter is inserted. He also ascertains by the noting of the brief that it has been in the hands of counsel. The same allowances for fictitious services which Mr. Bourne has felt himself justified in making, on the ground of ancient usage, have also been made by Mr. Riky. We conceive that the taxation of costs at present submitted to this officer should, in like manner as those taxed by Mr. Bourne, be committed to a tribunal such as we have recommended.

N° 15, Q. 49.

N° 16, Q. 49.

N° 17, Q. 51.

N° 8, Q. 118 to 150.

N° 4, Q. 159.

N° 8, Q. 132, 133  
134.

Id. Q. 148.

We shall now state the Regulations which we humbly suggest as proper for adoption in the Crown Office of the several counties of Ireland.

## REGULATIONS.

## I.

THAT a Crown Office shall be permanently kept in the assizes town of each county, and that daily attendance be given in such office by the Clerk of the Crown, or by some competent person properly authorized by him, for the purpose of receiving informations, making searches, granting certificates, and dispatching the other business of the office, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, on every day except Christmas Day, Good Friday and Sundays; and that in case any Clerk of the Crown shall omit or neglect to keep such office, or to give or cause to be given such daily attendance, between the hours prescribed, such Clerk of the Crown, on proof thereof made on summary application

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application to the Court of King's Bench, or to any judge of assize for the county, shall be liable to a pecuniary penalty

## II.

That the statute 10 Charles I. session 2d, be amended; and that the several magistrates and coroners be required to return, under a sealed cover, to the Crown Office of their respective counties, the several informations and inquests taken before them respectively; returnable to the several assizes within                      days after they shall have been so taken; and that should such information or inquest be taken within a shorter period than                      days before the assizes, such information or inquest be returned, at latest, upon the first day of the assizes.

## III.

That no Clerk of the Crown shall, under any circumstances whatsoever, permit or suffer any original document to be given or taken out of his custody, unless under the order or direction of the court; and that any such officer who shall offend herein, shall upon proof thereof be liable to a pecuniary penalty.

## IV.

That no suitor or other person shall be required to take out or pay for any copy of any information, indictment, affidavit, record or document in this office, unless where the same shall be necessary under any rule of court; but that he be at perfect liberty to judge whether or not it be necessary to provide himself therewith; and that such copy shall not in any case be charged for, unless actually made out at the desire of the party.

## V.

That the provisions of the statute 1 & 2 Geo. IV. prohibiting Clerks of the Crown from demanding or receiving any fees from prisoners for services of any description, be strictly enforced; and, that of the several fees heretofore demanded, taken or accepted in the Crown Office of each county, such only shall be continued and be deemed lawful as are comprised in the Table subjoined to this branch of this Report, and that the receipt of any other fee, gratuity or emolument, or other consideration for the services therein specified, by any person belonging to, or employed in this office, shall subject such person to a pecuniary penalty for each offence, and further disqualify him from ever acting in any office of any court of law or equity.

## VI.

That all the fees so established be considered the fees of the principal alone; and constitute one aggregate fund for payment of the several persons, whether officers or clerks, who shall execute the duties of the Crown Office, and for the official disbursements and expenses.

## VII.

That a fair and legible Table of the established Fees be constantly exposed in some conspicuous part of the said office, and that on proof made, on summary application to the Court of King's Bench, or the judges of assize, of any neglect or omission of such exposure, the officer so neglecting be liable to a pecuniary penalty on account thereof.

## VIII.

That with a view to the more effectual enforcement of the several statutable provisions now, or at any time hereafter to be enacted, in any manner affecting the Crown Office in the several counties, and whereby penalties have been or shall be imposed for a breach of their observance, it shall be the duty of the Crown solicitor to institute, and at the expense of the public, carry on all suits and prosecutions for recovery of such penalties; and that one moiety of all such penalties, after deducting thereout one half of the cost, out of pocket, of such suits or prosecutions, shall, when recovered, be forthwith paid over to the person or persons giving the information upon which such suit or prosecution has been founded and carried on, and the other moiety applied in aid of the consolidated fund.

We



We subjoin a List of the Fees which we recommend to be established as the Fees to be demanded or accepted in the office of Clerk of the Crown, in each of the counties, counties of cities, and counties of towns in Ireland.

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	British Currency.		
	£.	s.	d.
For each person that shall be indicted and tried for high treason - -	2	9	3
For each person that shall be indicted and tried for petit treason or murder - -	1	10	9
For each person that shall be indicted and tried for felony or other offence - -	1	4	0
For each person whose trial shall be postponed to a subsequent assizes or commission, half the fees that he is entitled to charge on the foregoing offences - - - - -	0	0	0
For each person that shall be ordered to enter into recognizance whether to attend at a subsequent assizes or commission, or to be of the peace and good behaviour - - - - -	0	7	2
On receiving every burning, loughing, maiming, or other petition - -	0	4	7½
For preparing the same, if required - - - - -	0	5	6½
For filing every affidavit that shall be sworn in relation to criminal business - -	0	5	6½
For making out and attesting every such affidavit - - - - -	0	5	6½
For every Crown summons, in which the parties may insert the names of four witnesses, requiring their attendance to give evidence on any of the matters relating to criminal prosecution - - - - -	0	3	1
For every bench warrant or Crown capias, in which the names of all the persons charged in the indictment that have not appeared or been tried, shall be inserted - - - - -	0	3	1
For every certificate that may be required in relation to Crown business - -	0	3	1
For the copy of the entry of each indictment which he is by law authorized to furnish - - - - -	0	3	1
For each copy of an examination which he is by law authorized to furnish - -	0	6	2
For the copy of each indictment that he is by law authorized to furnish - -	0	6	2
For every search he is required to make amongst his records in relation to Crown business - - - - -	0	2	0
For making up and enrolling all records, for every roll containing 720 words - - - - -	0	9	2
Copies thereof, per sheet of 72 words, if required by the party - - - -	0	0	7½
For returning every writ of certiorari or error - - - - -	0	12	4
For entering every traverse to a presentment made by the grand jury, attending the trial, swearing the jury and witnesses, drawing the issue, receiving and recording the verdict - - - - -	1	1	0
For every copy of a presentment, and for every certificate relating thereto - -	0	3	1
For copies of all documents to ground or account for presentments, each - - - - -	0	3	1

## OFFICE OF CORONER.

THE office of Coroner, though noticed incidentally in our Report on the office of sheriff, in reference to its civil or ministerial duties, falls more appropriately within the scope of our present inquiry. The officer is called Coroner, because his principal duties are connected with Crown or criminal proceedings. The Judges of the King's Bench, as has been already observed, are supreme Coroners, and their jurisdiction extends over the whole of Ireland. In cases of a sudden death happening in the Court of King's Bench, or in the Marshalsea, the clerk of the Crown is the proper Coroner. No instance, however, of the exercise of his jurisdiction in this particular is to be traced; and in a remarkable case which occurred some years since, of a person who died in consequence of having taken poison in the dock of the Court of King's Bench, the inquest was taken by the Coroners of the city of Dublin. At this day the entire duties of the office, throughout Ireland, are in practice performed by the Coroners of the several counties, counties of cities, and counties of towns.

The office of Coroner of the counties is of equal antiquity with that of sheriff; and in very early times was probably of equal dignity and importance. When the earl, or count, withdrew from the care and custody of the county, his duties were divided between the sheriff and the Coroner, before whom the sheriff's tourn was held where those officers presided, and the conservation of the peace was principally confided to them. By the statute of Westminster, 1 c. 10, it was expressly required that the Coroner should be a knight; but this qualification, though insisted on in early times, has, in like manner as a similar qualification with respect to the representatives of counties in Parliament, been dispensed with. Another ancient

4 Inst. 271.  
4 Co. 57.  
4 Inst. 73.  
4 Bl. Comm. 265.

Appendix,  
Nº 4, Q. 634 to 636

Mirror, c. 1, s. 3.  
2 Inst.  
Reeves' Hist. vol. 1,  
pa. 251.  
Gilbert's His. Comm. Pl.  
13.

14 Edw. 3, c. 8.



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statute required that this officer "should not be chosen unless he had lands in fee sufficient in the same county, whereof he might answer to all manner of people." No other law prescribing a qualification, in order to render persons eligible to this office, appears to have been made from that early period till the enactment of the 3d Geo. IV. c. 115, which is exclusively confined to Ireland; and which requires that the Coroner shall possess an estate of inheritance of the annual value of 200 *l.* or an estate of freehold of 400 *l.* a year, within the county; and the Act contains a form of oath to this effect to be taken by every candidate for this office.

When it is considered how irksome and laborious are the duties of a Coroner, and how trifling the emoluments, a qualification in property to so large an amount appears excessive; and if the Act should be strictly enforced, we have no doubt it would ultimately operate to deprive the public of this officer altogether. We have the authority of a gentleman of considerable property, and very conversant with county business, for stating, that in his opinion, if a vacancy occurred in the county in which he resides, no person, qualified according to the present law, would offer himself as a candidate for the office. Notice has already been taken of one of the provisions of this statute, in our Report on the office of sheriff, and the expediency of repealing the section containing such provision was there submitted; and we now beg leave to suggest the propriety of reducing the qualification for eligibility to this office, to a clear yearly income of 50 *l.* arising from lands within the county.

The Coroners of counties like the sheriff and conservators, were in ancient times elected into office by the freeholders of the county at the county court; and there is no reason to suppose that any other or different qualification was required in the electors in the one case than in the other. This mode of appointment of sheriffs was altered by an ancient statute, and the office of conservators fell into disuse; being superseded by the appointment of justices of the peace by commission, pursuant to the several statutes by virtue of which they were ordained, and their duties and authority regulated and defined. The Coroners, however, have continued to the present time to be elected by the freeholders, in pursuance of the King's writ de coronatore eligendo, issuing out of and returnable into Chancery directed to the sheriff of the county, commanding him to cause such Coroner to be chosen in a full county court, by the assent of the county. At common law, the individual elected was compellable to serve, however unwilling to undertake the duties of the office. Obedience was enforced by repeated amerciaments for neglect of duty, but in more modern times the duty is never imposed on any individual who does not voluntarily seek the office. By an ancient statute the election of Coroners of each county was directed to be made by the commons of the same county, which has been construed to mean the freeholders, but no statutable direction has been given in Ireland as to the manner of conducting such elections by the sheriff; although regulated in England and Wales, by the enactment of the statute 58th Geo. III. c. 95. The preamble of this Act states, that there are "no sufficient regulations for the election of Coroners of counties;" it prescribes a freeholder's oath for the voters, if required by any of the candidates, and defines, in some respects, out of what description of property the electors shall be admitted to vote. The want of similar regulations for the election of Coroners has been greatly felt in Ireland; where, whenever a contest takes place for the office, the sheriff, in the absence of any rule or principle to direct him, as to the admission or rejection of the votes, is governed altogether by his own discretion; in consequence of which, these elections are generally a scene of irregularity and confusion. The sheriff considers himself bound to admit the vote of every person who tenders himself; as the franchise extends to every freeholder, whether registered or not. And as the sheriff is not empowered to administer a freeholder's oath, consequently no legal criterion exists by which the right to exercise the franchise can be satisfactorily ascertained. Contested elections for Coroners are, however, not of very frequent occurrence; and in one county it is stated in evidence, that the office has been generally made the subject of purchase. But no such practice is likely to prevail since the enactment of the statute already alluded to; which having withdrawn from the Coroner the execution of civil process, (formerly the principal inducement to render the office desirable,) and having annexed so high a qualification for eligibility in the candidate, has taken away any anxiety to obtain it. Under all the circumstances attending the present system, we are of opinion that an alteration in the

Appendix,  
N° 28, Q. 25, 26.  
N° 29, Q. 8. 11.

15th Report, p. 12.

9 Edw. 2, stat. 2, (Eng.)

1 Black. Com. 349.  
1 Edw. 3, c. 16, (Eng.)  
4 Edw. 3, c. 2, (Eng.)  
18 Edw. 3, c. 2, (Eng.)  
36 Edw. 3, c. 1, (Eng.)  
17 Ric. 2, c. 10, (Eng.)  
2 Hen. 5, stat. 1, c. 4, (Eng.)  
2 Hen. 5, stat. 2, c. 1, (Eng.)

28 Edw. 3, c. 6, (Eng.)

2 Hawkins Pl. Cr. c. 9, s. 10.

Appendix,  
N° 8, Q. 159.  
N° 27, Q. 4.  
N° 29, Q. 12, 13.  
Appendix to 15th Report, N° 30, Q. 59.

Appendix,  
N° 28, Q. 27.  
3 Geo. IV. c. 115.

the law as to the mode of electing Coroners would be highly beneficial, and we beg to suggest the expediency of placing the right of appointment in the magistrates of the respective counties, subject to the approbation of the Lord Lieutenant, in whom should be vested an absolute power of removal in case of misconduct.

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In very early times the Coroner's duties were extensive and important, but in consequence of numerous alterations which have been effected in the criminal jurisprudence of the country, either by direct legislative enactments, or the disuse of certain proceedings, and the institution of others more congenial to the improved state of society, those duties have been gradually lessened, and are at this day in practice circumscribed within very narrow bounds. For instance, the statute creating the office of justices of counties, in a great measure dispensed with the interference of the Coroner in matters connected with the conservation of the peace; again, the duty of recording all criminal proceedings at the sheriff's tourn, and preserving the rolls and records of that court, and others connected with the peace of the county, formerly belonged to this officer by common law, but was transferred to the *custos rotulorum*, since his appointment under the commission founded upon the same statute. The Coroner was also in the nature of a comptroller to the sheriff in his county court, keeping accounts of all amerciaments there imposed. Amerciaments were assessed before the Coroner in pursuance of Magna Charta, c. 14; this latter duty ceased from various causes, and amongst others, in consequence of the statutes allowing costs. Another duty of the Coroner was the receiving and recording of appeals of murder and other felonies, and the confessions and appeals of approvers. This branch of jurisdiction, however, is entirely abrogated by a statute of the late King's reign. The Coroner's duties, likewise, in relation to felons who had fled into sanctuary, ceased in all kinds of high treason, by a statute by which that extraordinary protection, so far as it was allowed to traitors, was abolished: with respect to felons, however, it still nominally exists; the English statute by which it was withdrawn in all cases, never having been adopted in Ireland. On a reference to the statute 4 Edward 1. as well as to a contemporary work on the subject, it is plain that various other duties belonged to this officer in those early times, which, from causes not sufficiently understood at this day, have become obsolete.

Gillb. His. of Excheq. 64.  
Britton de Coronat. s. 2.

8 Co. 39. 6. Griesley's case.

59 Geo. 3, c. 46.

21 Jas. 1, cap. 28, (Eng.)

28 Hen. 8, c. 7, s. 2.

Britton.

With respect to the judicial authority of the Coroner, however like that of the sheriff, it may have reached beyond the inceptive stage of trial previously to the statute of Magna Charta, c. 17, it is certain that subsequently it became strictly inquisitorial. The principal duty of the coroner, as a judicial officer in criminal matters at this day, is, to take inquisitions upon view of the body, of the death of persons slain, or drowned, or suddenly dead, or who die under any circumstances in prison, with some special incidents thereto, such as inquiring as to accessories before the fact; escape, flight, deodands, &c. In the exercise of this duty the Coroner is instructed with great minuteness by a very ancient statute, which amongst other things directs, that, "when commanded by the King's bailiff, or by honest men of the county, he shall go to the places where any be slain, or suddenly dead or wounded;" should he decline or neglect promptly to obey this call, he is subject to a specific penalty; he is required to summon a jury forthwith; should any person summoned be guilty of disobedience, his duty is to present such person at the sessions or assizes, who may be there fined or amerced for such disobedience. The Coroner's duty on inquisitions is often attended with much trouble and loss of time; being frequently delayed for want of jurors, or by the absence of a surgeon, whose attendance is generally necessary, and whose arrival he must in such case await. As the inquest must always be taken upon view of the body by the Coroner and jurors, should such body have been buried it is necessary for the Coroner to have it disinterred and inspected. The absence of witnesses occasionally requires an adjournment, which leads to a repetition of attendance and trouble. It frequently becomes the duty of the Coroner to commit persons who by the verdict of the jury are found guilty of murder or manslaughter, or who appear to him to have been guilty, or to have been accessory before the fact, or accomplices therein; he is also required to bind witnesses who have given evidence at the inquest, in recognizances, to attend at the assizes or commission. In conducting the inquiry, he is expected to take down in writing the substance and import of the testimony of every witness examined on the inquest; to read the evidence so taken down to the witnesses, and have it authenticated by their signature and by his own. He may also be required

2 Hal. Pl. Cro. 56, 57.  
1 Reeves' His. 251.  
2 Insti.

4 Edw. 1, stat. 2, (Eng.)

3 Hen. 7, c. 1, (Eng.)

2 Insti. Stat. Marl. c. 18.  
pa. 136.  
2 Hal. pl. Cro. 62.Appendix,  
N<sup>o</sup> 26.  
N<sup>o</sup> 27, Q. 10



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to explain to the jurors the legal effect of the evidence, in order to enable them to specify in their verdict the precise nature of the offence, which in some cases of homicide requires much discrimination.

c. 18, sess. 2, s. 1.

By statute 10 Car. I. the Coroner is required, upon any inquisition before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory to the same before the fact, after having put in writing the effect of the evidence of the witnesses given to the jury before him being material, and having bound all such by recognizance, as declare any thing material to prove the said murder or manslaughter, to appear at the next gaol delivery to be holden for the county, to certify as well the same evidence as such recognizance, with the inquisition or indictment taken and found before him, at or before the time of trial thereof, to be had or made under pain of being fined for any neglect therein. The Coroner is also required personally to attend at each of the assizes for this and other purposes. In the drawing of the inquisition considerable skill may be necessary, as should an indictment be ignored by the grand jury, the prisoner may be arraigned and tried upon the inquisition. No case has been shown to us in evidence in which such a course has been adopted, but there are instances where it has been resorted to in England.

12 Mod. 112.

Appendix,  
N° 8, Q. 163.3 Geo. IV. c. 115.  
Appendix,  
N° 8, Q. 172, 173.  
N° 29, Q. 4, 5.2 Hawkins, pl. cr.  
c. 9, sect. 23.

6 Anne, c. 15, s. 2.

It is here proper to observe, that a practice exists in Ireland, for two magistrates, in the absence of a Coroner, to take inquisitions in cases of sudden deaths, *super visum corporis*. This course, though not sanctioned by law, has been resorted to in consequence of the difficulty sometimes experienced of procuring a Coroner. The operation of the late statute has been already felt in producing this inconvenience. In one county there is not a single Coroner; and in another county, where great disturbance at present prevails, there is but one who is efficient. This practice of taking inquests by two magistrates is an imperfect substitute, as an inquisition so taken cannot be used as an indictment, should such a course be found expedient; and the evidence is not admissible in the same manner as the depositions before the Coroner. The only case in which justices of the peace have legal authority to act, is, where either the body cannot be found, or has lain so long that the Coroner can in no way be assisted by the view, or where there is great danger of infection, should it be disinterred; in which cases the justices are authorized to take an inquest on the bare testimony of witnesses. Among the judicial duties of the Coroner still subsisting, is that of pronouncing judgment of outlawry on the exigent, and proclamations in the county court, in outlawries in criminal cases; and it is required by a special Act of Parliament respecting outlawries in civil actions, that the affidavit of the proclamations in said Act mentioned, together with the exigent, be returned by the Coroner to the clerk of the outlawries.

Reeves' Hist.

The concealment of treasure trove, was in early times considered as a criminal offence, and the Coroner was authorized to inquire into cases of that nature. This, and the case of wrecks, though little, if at all, known at the present day, are still within the scope of his authority, and may be made the subjects of inquisition.

By statute Westminster 1st, c. 10, which is declaratory of the common law, Coroners are forbidden to "demand or take any thing of any man to do their office," upon pain of great forfeiture to the King. However, by the statute 3 Henry VII. c. 1, Coroners were allowed for their fees, upon every inquisition taken upon the view of a body slain, 13s. 4d. of the goods and chattels of the slayer and murderer, if any he have; and if he have none, then of such amerciaments as shall fall on any township for escape of such slayer. No other general statutes affecting Ireland, by which the fees of Coroners of counties were regulated, was enacted until after the Union; previously, however, to that period, there were certain other local Acts authorizing grand juries in certain counties or cities to present specific sums half yearly for their remuneration; for instance, by statute 17 & 18 Geo. III. c. 38, s. 9, the grand jury of the city of Cork were empowered at each assizes to present any sum not exceeding twenty guineas to the two Coroners of that city for their trouble, and in lieu of fees; and also a sum of two guineas for the attendance of a surgeon at each inquest to be held in and for the said city, provided it should appear by affidavit that the attendance of a surgeon was necessary. And by statute 30th Geo. III. c. 9, this power of presenting to Coroners under local Acts, was extended to a sum not exceeding forty guineas. The statute 50th Geo. III. after reciting that Coroners in Ireland are at considerable expense

c. 30 s. 1.



expense in holding inquisitions, and are not sufficiently paid for the same, enabled the grand juries of each county, county of a city, and county of a town in Ireland, at each assizes or presenting term, to present for the Coroners any sum not exceeding five guineas for each and every inquest, proof having been previously made to the satisfaction of the grand jury of such inquests having been duly returned at such assizes or presenting term; provided the sum presented at any one assizes or presenting term should not in the whole exceed forty guineas: but it is therein provided that the Act shall not extend to inquisitions held in gaols in the county, or county of the city of Dublin; for which a specific provision had been made by a former Act. The Act here alluded to was the statute 33 Geo. III. c. 56, s. 47, by which an allowance by presentment of 20*s.* was directed for every inquisition taken by a Coroner of the county of the city of Dublin in any gaol. The statute 1st Geo. IV. c. 28, repeals the 50th Geo. III. c. 30; and after re-enacting the provision of that Act which allowed five guineas for each inquest, and restricted the presentment in the whole to forty guineas, superadds a proviso, that it shall not be lawful for any grand jury to make any presentment for remuneration of any Coroner, unless a certificate or certificates of each and every inquest respectively taken by such Coroners, made and signed by such Coroners respectively, in the form set forth in the schedule thereto annexed, shall have been previously laid before the grand jury, and that it shall be lawful for the grand jury to examine such Coroners as to the truth of such certificates. And in said Act there is a proviso that nothing therein contained shall extend, or be construed to extend, to prevent any Coroner in any county of a city in Ireland (who was then or should be thereafter appointed by virtue of the charter of such county of a city,) from receiving any payment or presentment to which he is entitled under any *local Act* or *Acts* relating to such county of a city. The statute 4th Geo. IV. c. 43, contains a repetition of the allowance of five guineas for each inquest taken by Coroners of counties, not exceeding the number of coroners specified in a schedule thereto annexed; but increases the maximum at each assizes, from the sum of forty guineas in *the whole*, as allowed by the former Act, to thirty guineas for each Coroner; confirming the other regulations and provisions of the statute of 1st Geo. IV. c. 28, and containing a similar proviso as to Coroners of counties of cities, entitled to presentment under any local Acts. By statute 5th Geo. IV. c. 93, reciting statute 4th Geo. IV. c. 43, and that it would be expedient that the same should be amended, it is enacted that in any county in which more than one Coroner shall be appointed, the grand jury may at each assizes present any sum, not exceeding in the whole a sum after the rate of thirty guineas for every such Coroner, as is allowed by the Act 4th Geo. IV. c. 43 to be appointed; and that such grand jury may apportion the whole of such sum among the several Coroners of such county, according to the number of inquests which may appear to have been respectively held by each since the date of the last presentment, provided that no one Coroner shall receive more than at the rate of five guineas for each inquest held by him. By statute 6th Geo. IV. c. 52, it is enacted, that it shall be lawful for any grand jury of any county of a town to make any presentment for the payment of Coroners where more than one Coroner should be appointed, according to the directions of the statute 4th Geo. IV. c. 43, as amended by the statute 5th Geo. IV. c. 93.

On taking a review of the several Acts and clauses of Acts to which we have referred, it cannot escape observation that the Legislature have not been quite explicit in conveying their intentions with regard to the provision to be made by grand jury presentment for the Coroners of counties of cities. The words in the 8th section of the 4th Geo. IV. c. 43, "within such county not exceeding the number of "Coroners specified in the schedule to this Act annexed," would confine the allowance strictly to counties at large, and would seem to preclude a construction extending it to counties of cities. The proviso, however, which immediately follows in the 9th section, would, in some degree, justify a different construction, viz. that counties of cities were meant to be included; and this latter interpretation would seem to be warranted by the provision contained in the 2d section of the 6th Geo. IV. c. 53, which confines the power of presenting, there mentioned, to counties of towns, thereby implying that the Legislature conceived they had already, by the 8th section of the 4th Geo. IV. c. 43, provided for the case of Coroners of counties of cities. But supposing, on the contrary, the Legislature in the 8th section (as the words strongly imply) to have meant to restrict the provisions therein contained to counties at large exclusively, the omission of counties of cities in that and the two

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sect. 2.

sect. 8.

sect. 3.

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subsequent Acts, which have been referred to, may be accounted for on the supposition that the allowance made to Coroners of counties of cities (in common with those of counties and of counties of towns), under the statute of 1st Geo. IV. coupled with their claims under local Acts, which are saved by the last section, would constitute a sufficient remuneration for their time and trouble. Supposing this section, however, as only affording to Coroners of counties of cities an option, either to take the allowance under local Acts, or under the statute containing it, they would be in a worse condition in point of remuneration than Coroners of counties or of counties of towns. There appears to us to be so much difficulty attending the construction of these statutes, as to render their explanation and amendment by the Legislature very desirable. Another difficulty arising out of the classification of the Coroners of counties, in the schedule to the 4th Geo. IV. c. 43, would, in like manner, seem to call for legislative explanation. In counties in which the number of existing Coroners who still execute the duties of the office, exceeds the number to which remuneration is allowed by that Act, and the schedule annexed to it, there is no mode pointed out for selecting such as are to receive the remuneration by presentment thereby allowed; consequently, in case of inquests certified by all, remuneration must be withheld from some, whose claims may be as fair as the claims of those who have received it.

25 Geo. II. c. 29.

15 Rep. pa. 12.

Upon the whole it appears, that this ancient office has been considered necessary to the due administration of criminal justice, not only by the English Parliament, by the preamble of a statute made in the reign of Geo. II. but by that of Ireland, by several local Acts, as well as by the Act of 30th Geo. III. c. 9, already referred to. And that it has been deemed advisable by the United Parliament, both in the late and the present reign, to uphold and continue it upon a respectable footing, appears by the several statutes providing for the remuneration and qualification of Coroners, commencing in the 50th year of Geo. III. and ending the 6th year of His present Majesty. The expediency of continuing and upholding this office, with a view to the ministerial duties annexed to it, as respects the execution of civil process, appears from the general sensation of alarm and dissatisfaction felt in Ireland, in consequence of the statute of the 3d year of the present reign repealing the Irish statute by which suitors were enabled, in case of neglect on the part of the sheriff, to resort to the coroner, as noticed in our Report on the office of sheriff. In order to render the office more respectable and efficient, it is conceived that a certain moderate qualification in property should be required in persons desirous of filling it; next, that a mode of election better calculated to ensure respectability in the officer should be adopted; and lastly, that a sufficient pecuniary remuneration should be held out, to induce respectable and intelligent persons to undertake the duties of the office. We would suggest that the discretion at present vested in grand juries ought to be better defined than it has been by the late statutes; with this view we recommend that for every inquest held by Coroners of counties, the grand juries shall present a sum not exceeding 5*l.* nor less than 1*l.*; every inquest to be regularly certified pursuant to the 1st Geo. IV. c. 28, and to be presented for, no matter how many shall have been taken. In counties of cities and counties of towns, the sum to be presented for each inquest not to exceed 3*l.* nor be less than 20*s.* in any case: we would also recommend that in all cases in which the attendance of a surgeon should be necessarily procured, the grand juries be empowered to present a sum not exceeding two guineas for such attendance. Should this mode of remuneration be adopted, the difficulty to which we have alluded, as arising out of the limitation of the number of Coroners directed by the schedule annexed to the statute 4 Geo. IV. c. 43, will be removed. We would further suggest the expediency of restoring to Coroners those ministerial duties in the execution of civil process, upon the impolicy of withdrawing which we have already in this, and in our Report on the office of sheriff, observed; should this source of emolument be restored to the Coroners, which however it is not to be expected will prove very productive, when the sheriff's office shall undergo regulation, it may possibly afford some additional inducement to a respectable description of persons to undertake the office. We also recommend that the officer be held to a strict residence within his county, and that upon any complaint of non-residence, or remissness in the discharge of his duties, in addition to the power to be vested in the Lord Lieutenant of removing such Coroner, the grand jury to be at liberty to inquire into the facts alleged against him, and if established in proof, to withhold their presentment, or a portion of it.

We



We would conclude by recommending, as we have formerly done respecting the office of sheriff, that the several statutes relating to the office of Coroner shall be reviewed, and consolidated into one regulated system.

Crown Office.

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

Dated the 5th day }  
of May 1827. }

DAN<sup>L</sup> W. WEBBER, (L. S.)

BERTRAM MITFORD, (L. S.)

WILLIAM WYNNE, (L. S.)

PETER LOW, (L. S.)

T. DRISCOLL, (L. S.)

(A true Copy.)

Godfrey Fetherston H.

Secretary to the Commissioners.

## APPENDIX

TO THE

## SIXTEENTH REPORT

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## APPENDIX.

### Appendix, N° 1.

GENERAL RETURN of Walter Bourne, Esquire, Deputy Clerk of the Crown of Court  
of King's Bench.

Crown Office.

No. 1.

General Return of  
Walter Bourne, esq.  
Deputy Clerk of the  
Crown in the Court  
of King's Bench.

QUERY 1st. Style of the office?—Answer. Deputy Clerk of Crown of Court of King's Bench.

2d. Name of the officer?—Walter Bourne and Peter Bourne.

3d. By whom appointed, and at what period, and how, and on what condition and consideration?—By the Honourable Henry Seymour Conway and the Honourable Robert Seymour Conway (commonly called Lord Henry Seymour and Lord Robert Seymour in England), the patentees of said office. The said Walter Bourne was first appointed in the year 1795, jointly with William Bradshaw, since deceased; afterwards, on the resignation of said William Bradshaw, in the year 1798, he the said Walter Bourne was appointed by deed, dated 3d November 1798, sole deputy, and on 16th day of July 1810, the said Peter Bourne (his son) was joined in said deputation, by deed of that date; on condition or consideration of paying 200*l.* British to the patentees annually, out of the fees of the office.

4th. Duration of interest?—During the pleasure of the patentees or grantors.

5th. If executed in person or by deputy?—By deputy; that is, the deputies named in N° 2 execute the duties of the office with the aid of clerks.

6th. Names of deputy and other assistants permanently employed in the office?—Walter Bourne and Peter Bourne deputies. Fergus Day, clerk. Occasionally additional clerks are obliged to be employed.

7th. The manner in which deputy and clerks are paid, whether by salary, or fees and gratuities, or both; and whether they or any of them pay or have paid any proportion of their fees and emoluments, or any sum, and to what amount, on account of the same, to any and what person or persons?—The deputies are paid by the fees and gratuities of the office, out of which they pay, as before stated in N° 3, the sum of 200*l.* British annually to the patentees. The clerk or assistant is paid by the deputies a salary of 52*l.* a year, besides certain small perquisites or allowances by the suitors, for making out writs, and copying papers and proceedings in the office. Neither said deputies or clerk pay or have paid any proportion of their fees or emoluments, or any sum on account of the same (save as aforesaid), to any person or persons whatsoever.

8th. Whether any tables of fees in the officer's possession or power, or in the possession of any and what person, to his knowledge, with dates thereof, and where they now are?—None, save the table printed by order of the House of Lords in the year 1733; and it is conceived that that list must have been formed at a period much anterior to that year, and that when a list was called for, the old, and in part obsolete, list was copied and returned, without noticing the alterations which time and practice had introduced: this observation is strengthened by referring to the last item in that list, where a fee is given for a "writ of execution of witchcraft."

9th. Duties and hours of attendance?—The principal duties are, daily attendance on the court during the terms, and in the office during vacations; to enter all the rules at the crown side of the court; to sign and deliver copies; to receive and file all pleadings and proceedings on the crown side; to make up and enroll records; prepare and issue all writs and process of the court; to administer the oaths of allegiance, abjuration and supremacy, as well as the oaths appointed to be taken by persons professing the Roman Catholic religion (though such oaths have been for many years administered by the officer at the civil side); to examine and report upon all matters referred to him by the court; to tax costs; also to swear the grand juries for the city and county of Dublin. Under the Acts for raising money by presentment, in the city and county of Dublin, a great variety of duties are imposed, viz. to keep and file all affidavits, &c.; to ground or account for presentments; to deliver copies of such presentments to the treasurers of the city and county of Dublin respectively; to form queries on such presentments, to deliver copies of all queries discharged to the treasurer, &c. &c. The foregoing are the principal duties of the office, but it is difficult to detail the whole with perfect accuracy.

The hours of attendance are, in term time, from eleven till four o'clock, and in the evening from six till eight. In vacation, daily attendance is required and given from eleven till three o'clock.

10th and 11th. The several acts, matters and things, on account of which fees are now, or at any time (within the knowledge of the officer) have been demanded taken, or accepted by the officer, or for his use; specifying each fee particularly?—

341.

F

1. For

Crown Office.	N <sup>o</sup>	£.	s.	d.
General Return of Walter Bourne, esq. Deputy Clerk of the Crown in the Court of King's Bench.	1.	For filing any warrant of attorney or other paper (not hereafter mentioned) required by law or the practice of the court to be filed, including 1 s. 1 d. to the clerk	-	4 5
	2.	For filing every affidavit (for each deponent) including as before	-	4 5
	3.	Copy thereof, if not more than five sheets	-	3 4
	4.	If more, then for each sheet containing seventy-two words	-	- 8
	5.	For entering every rule of the court	-	2 4
	6.	For a copy thereof and attesting same	-	4 4
	7.	For filing every criminal information, or information quo warranto (including 1 s. 1 d. to the clerk) besides the warrant	-	4 5
	8.	Copies thereof, and so of all other pleadings and proceedings thereon, by the sheet of sixty words	-	- 8
	9.	For entering the appearance of every one to such information, or to any indictment or process requiring appearance, including 1 s. 1 d. to the clerk	-	4 5
	10.	Copy thereof	-	3 4
	11.	Imparance in such cases	-	3 4
	12.	For filing every plea of traverse, or the general issue to any criminal information or indictment, including 1 s. 1 d. to the clerk	-	4 5
	13.	Copy thereof	-	4 5
	14.	For entering the plea, and enrolling any charter being pleaded, whereof allowance is required (of this, no instance)	1	- -
	15.	For the continuance of every matter upon any indictment, information, mandamus, or other matter in pleading, after issue joined, every term of each person named therein	-	2 -
	16.	Search for and taking pleadings off the file, preparatory to trial or marking judgment, including 1 s. 1 d. to the clerks	-	4 5
	17.	For enrolments upon all pleadings, and proceedings on indictments, informations, mandamus, and so forth; for every roll containing six hundred words	-	10 -
	18.	For every transcript of a record for trial by nisi prius, for each roll	-	10 -
	19.	For the exemplification of an enrolment upon quo warranto, or other pleading or proceeding, per roll	-	13 4
	20.	If any person plead a pardon to any indictment of felony, he is to pay for entering the plea, 6 s. 8 d.; for entering the pardon, 6 s. 8 d.; and for the entry of the allowance of it with the parties discharge, besides the process and record	1	- -
	21.	If it be in treason, then double	2	- -
	22.	Search for any indictment, information or other matter, if it be above three years, for every term	-	2 6
	23.	If it be within that time, it is seldom charged for, but whenever it is, the whole search never exceeds	-	2 6
	24.	For every search and certificate of no cause having been shown pursuant to any order or rule of the court, including 1 s. 1 d. to the clerk	-	4 5
	25.	For any certificate of conviction of outlawry or other special matter, including as before	-	7 9
	26.	For every summons to proceed under any order of the court, or to tax cost	-	3 9
	27.	For drawing and entering every engagement or undertaking to pay cost, where same is required by the order or practice of the court	-	5 5
	28.	For drawing and engrossing all pleas, replications and rejoinders in quo warranto, per sheet	-	- 8
	29.	For every writ of mandamus or exigent (only six exigents for last twenty years)	-	13 4
	30.	For every writ of certiorari, attachment, assistance to abate nuisance, procedendo, or writ of execution, (only three executions in last twenty years)	-	8 8
	31.	For every writ of habeas corpus, venire or capias, with a further fee of 2 s. for each person named in such venire or capias	-	4 4
	32.	For every subpœna, duces tecum, or distringas ad respondendum, venire facias, or dis. jurat., (with a further fee of 2 s. 6 d. for each issue or defendant in said venire facias or dis. jurat.)	-	5 -
	Jury process vary from 5 s. to 40 s. that sum appearing to have been charged in 1783, in the case of the corporation of Dundalk. In England the number of issues or number of defendants increase the fee in the proportion (as is thought) here stated.			
	33.	For every scire facias	-	6 8
	34.	For the examination of every person on interrogatories exhibited for contempt, for each hour occupied therein, (only three instances in the last twenty years; no case for ten years back)	-	6 8
	35.	For engrossing the answers taken thereon, as also for copies thereof, per sheet	-	- 8
	36.	Filing articles of the peace or interrogatories, including 1 s. 1 d. to the clerk	-	4 5
	37.	Copies thereof, per sheet	-	- 8

38. Drawing



N <sup>o</sup>	£.	s.	d.	Crown Office.
38. Drawing any warrant to be signed by any judge, or any recognizance to appear and answer, or for the peace, or to prosecute quo warranto, or other informations - - - - -	-	10	-	No. 1. General Return of Walter Bourne, esq. Deputy Clerk of the Crown in the Court of King's Bench.
This may be done by the party, as well as by the deputy, but when he is employed, this is the charge.				
39. For every recognizance to the King taken in court, including 1 s. 1 d. to the clerk - - - - -	-	7	9	
This is the same amount given by statute 49, Geo. 3, c. 101, for a recognizance at assizes.				
40. For filing and entering any recognizance certified into court to answer there, including as before - - - - -	-	7	9	
41. For filing and entering any postea, or any writ of mandamus, error or exigent, with their respective returns, including as before (only six exigents and six writs of error in the last twenty years) - - - - -	-	14	5	
42. Filing any other writ with the return, including as before - - - - -	-	7	9	
43. Filing any traverse to the return of a writ of mandamus, or any other pleading therein, or any plea to information in nature of quo warranto, or any suggestion or challenge to the array, or otherwise, or any petition to the court, including as before - - - - -	-	7	9	
44. Copies thereof, by the sheet - - - - -	-	-	8	
45. Entering any charter, when required to be produced or read - - - - -	-	6	8	
46. Marking and docketting any judgment, for want of a plea, replication or other pleading, or upon a postea or verdict, including 1 s. 1 d. to the clerk - - - - -	-	14	5	
47. If any person be outlawed upon an indictment for treason or felony, and is admitted to traverse the outlawry upon a writ of error, or otherwise avoid the indictment for insufficiency, then upon a special warrant he may have copies of the indictment and the process, for which he pays by the sheet - - - - -	-	-	8	
48. For entering every record in felony or trespass, where a writ of error is brought - - - - -	-	6	8	
49. If in treason, then double				
50. Filing any assignment of errors or other pleading, including 1 s. 1 d. to the clerk - - - - -	-	7	9	
51. For marking judgment of reversal of outlawry in felony or trespass, or other judgment on writ of error, including as before - - - - -	-	14	5	
52. If it be in treason, then double.				
53. Filing recording or entering any consent of the attorney-general - - - - -	-	5	-	
54. Filing any <i>noli prosequi</i> by same (rarely happens) - - - - -	-	7	9	
55. Entering same on record, and judgment thereon - - - - -	-	10	-	
56. Copy thereof by the sheet - - - - -	-	-	8	
57. For every writ of restitution of goods or lands, or writ of supersedeas (no instance for 20 years) - - - - -	-	6	-	
58. For every writ of seizure of liberties (no instance for 20 years) - - - - -	-	13	4	
59. For a writ of amoveas manus (no instance for 20 years) - - - - -	-	13	4	
60. For a writ of mittimus of a record sent into the Exchequer (no instance for 20 years) - - - - -	-	6	8	
61. For entering the allowance of clergy (no instance for 20 years) - - - - -	-	6	-	
62. For entering the discharge, where an indictment is avoided for insufficiency (no instance for twenty years) - - - - -	-	2	4	
63. If it be in felony (no instance for twenty years) - - - - -	-	6	8	
64. If it be in treason, then double (no instance for 20 years).				
65. For entering a plea of autre fois acquit. in felony (no instance for 20 years) - - - - -	-	6	-	
66. If it be in treason (no instance for 20 years) - - - - -	-	13	4	
67. For entering every cause returned on habeas corpus in the King's case - - - - -	-	2	4	
68. For entering the committitur of every person brought to the bar, or rendering himself for any matter concerning the King - - - - -	-	2	4	
69. For entering the discharge of any one committed for contempt or other matter, or of any recognizance of the peace - - - - -	-	3	4	
70. Poundage on money lodged in the officer's hands (which seldom occurs) for each pound - - - - -	-	1	-	
71. For entering a traverse to any presentment of any grand jury, or to any information under the Excise Acts, for a fine against any parish or place on account of any still, or other prohibited matter being found therein; and for entering same for trial, recording verdict, &c. (never more than six of the latter traverses) - - - - -	1	8	2	
72. Striking a special jury, and for attendances thereon (seldom occurs)	4	11	-	
73. Copy jury panel, according to the length, from 2 s. 2 d. to 7 s. 9 d. - - - - -	-	7	9	
74. Attending trials at bar, has been usually paid for according to the time and trouble; from one to three guineas a day.				
75. Bringing down and entering record for such trial - - - - -	1	2	9	
76. Copies of the issue for the judges, per sheet - - - - -	-	-	8	
77. Readings or exhibits under seal - - - - -	-	5	-	
78. Like of records - - - - -	-	10	-	
341.	F 2			79. All

Crown Office.	N <sup>o</sup>	£.	s.	d.
No. 1.	79. All other readings or exhibits - - - - -	-	2	6
	80. Entering verdict - - - - -	-	6	8
General Return of Walter Bourne, esq. Deputy Clerk of the Crown in the Court of King's Bench.	These trials seldom occur, and the fees do not appear to be clearly settled; when any doubt occurs, we are generally guided by the course at the civil side of the court			
	81. To clerk of the crown, or his deputy, for each person that shall be indicted and tried for high treason - - - - -	2	13	4
	82. To the same, for each person that shall be indicted and tried for felony or other offence - - - - -	1	6	-
	83. Like fees in case of submission to indictment, and on conviction on criminal information.	-	-	-
	84. Attendance before any of the judges in chamber, on any business relating to the office - - - - -	-	6	8
	These attendances were frequent in and previous to the rebellion in 1798, on giving bail, &c.			
	85. Attending on references from the court (seldom occur) - - - - -	-	6	8
	86. Filing the charge or discharge - - - - -	-	5	-
	87. Copies of either, per sheet - - - - -	-	-	8
	88. Drawing report - - - - -	-	6	8
	89. Signing same - - - - -	-	6	8
	90. For the plea of every pardon of course, and the entry of the pardon (no instance for twenty years) - - - - -	-	13	4
	91. For the entry of a fine upon information, for the King's part, when the informer compounds (no instance for twenty years) - - - - -	-	6	8
	92. For entering a licence to compound, upon an information (no instance for twenty years) - - - - -	-	1	-
	93. Drawing and engrossing a plea upon a writ of error in felony or treason, per sheet (no instance for twenty years) - - - - -	-	-	8
	94. For every copy of an indictment of felony made out by special warrant or by rule of court; if long, it is charged for by the sheet, 8d. per (no instance for twenty years) - - - - -	-	6	8
	95. For entering the special matter against any person committed by his own confession, or testimony of witnesses, of any deceit or misdemeanor against the court, and for his judgment - - - - -	-	-	-
	96. For taxing any bill of costs of proceedings in the court, not exceeding one attendance (formerly charged half a guinea) - - - - -	-	10	-

When the demand is large, and the items and vouchers numerous, then the charge for taxing varies according to the circumstances. In some few instances (not more than two or three,) where many attendances were required to enable the parties to vouch the different items, and the amount very considerable, the charge for taxing has been as high as five guineas, but never higher. No more is ever taken than what is set down against the party.

12th. Commencement thereof, (*id est*. of fees stated in N<sup>o</sup> 10 and 11, when in the officer's knowledge), and by what authority claimed, whether by usage, order of court, authority of Parliament, or otherwise?—From N<sup>o</sup> 1 to 13 inclusive, considered the established fee above twenty years, when the present deputy was appointed. N<sup>o</sup> 14, by printed list. N<sup>o</sup> 15, by ditto and custom. N<sup>o</sup> 16, by custom. N<sup>o</sup> 17 to 23, inclusive, by printed list and custom. N<sup>o</sup> 24 to 26 inclusive, as in N<sup>o</sup> 1. N<sup>o</sup> 27, required by rule of the court, 28th November 1748; and it is supposed the fee then first charged. N<sup>o</sup> 28, as in printed list. N<sup>o</sup> 29 to 32 inclusive, as in N<sup>o</sup> 1. N<sup>o</sup> 33, by printed list; no such within twenty years. N<sup>o</sup> 34 to 56 inclusive, as in N<sup>o</sup> 1. N<sup>o</sup> 57 to 69 inclusive, by printed list. N<sup>o</sup> 71, fee on traverse to presentment very ancient; that to an information is charged in analogy to the first, the Act of Parliament giving the traverse, saying, "it shall be tried as in the case of a traverse to a presentment;" and the duty and trouble of the officer being similar. N<sup>o</sup> 72, by custom. N<sup>o</sup> 73, by ditto. N<sup>o</sup> 81 and 82, appointed by statute 49th Geo. 3, c. 101, for assizes or sessions, and are supposed to apply to this court, when such cases shall occur. N<sup>o</sup> 84 to 89 inclusive, custom as long as the officer recollects. N<sup>o</sup> 90 to 94 inclusive, by printed list. N<sup>o</sup> 96, custom as long as the officer recollects.

13th. Whether any and what part of said fee is an increase, and when and under what authority originating; whether by usage, order of court, authority of Parliament, or otherwise?—No part of any of said fees is an increase, and on N<sup>o</sup> 96 a decrease.

14th. Salary of the officer?—The patentees are entitled to receive 7*l.* 10*s.* per annum at the Treasury.

15th. Gratuities and emoluments not comprised in the preceding columns, N<sup>o</sup> 10, 11 and 14, distinguishing the acts and services on account of which same are now, or at any time (within the knowledge of the officer) have been received, and the rates thereof respectively?—Shortly after the appointment of Walter Bourne to the office of deputy clerk of the crown in this court, the government of the country was pleased to confide to him the taxation of the costs on criminal prosecutions, carried on at the expense of the Crown on the different circuits in Ireland; and for the taxing and certifying each bill he has charged 10*s.* and no more, which has been always considered fair and reasonable, and was paid accordingly. Some years ago the costs of criminal prosecutions carried on under the



orders of the commissioners of the revenue, were also referred to him for taxation, as were also the proceedings under the Excise Acts against illicit distillation; these latter being numerous, and the amount of each bill being small, and the charge being left to his own discretion, he made it so low, that in his judgment no fair objection could be made to its amount. For taxing every bill where a fine was imposed, (which fine the statute directs to be divided between the seizing officer and the County Infirmary, first deducting the cost) he charged 2 s. 6 d., and where the prosecution failed and the fine was refused, the charge for taxing was on an average 1 s. 6 d. a bill. The emoluments arising from such taxations are considered as coming more properly under this head, than as fees payable to the clerk of the crown, and are classed accordingly. Various other bills of cost for criminal prosecutions for other public boards, as well as individuals, are also referred to said Walter Bourne for taxation, for which the charge varies from 10 s. to 20 s. or 30 s., according to circumstances, as before stated respecting the taxation of cost in the court: the gross amount of the whole is stated in N<sup>o</sup> 16.

The city of Dublin grand jury also pay, by presentment, twenty guineas a year to Walter Bourne for making out quere books for them, and copying and delivering copies of the grand jury's presentments to the treasurer, which is a very moderate allowance for the duty. These are the only matters not comprised in N<sup>os</sup> 10, 11 and 14.

16th. Receipts on account of fees, gratuities and emoluments (exclusive of salary), of the said office, for three years, ending 31st December 1814; distinguishing the amount in each year respectively?

	£.	s.	d.
Amount of fees in the year ending 31st December 1812	828	2	5
Ditto of gratuities and emoluments	276	4	1 ½
Amount of fees in the year ending 31st December 1813	1,200	4	6
Ditto of gratuities and emoluments	359	11	3
Amount of fees in the year ending 31st December 1814	1,061	16	10
Ditto of gratuities and emoluments	231	10	9

The foregoing years have been by far the most lucrative for the last twenty years, owing to occasional increase of business. In 1806, 1807 and 1808, the annual receipts over the salary and expenses did not exceed 400 l. a year.

17th. Deductions and allowances for three years, ending the 31st December 1814, particularizing the same, and the amount in each year respectively?

	£.	s.	d.
Paid to the patentees, pursuant to agreement, for the year ending 31st December 1812	216	13	4
Paid salary of permanent clerk	52	-	-
Other expenses for coals, candles, housekeeper, stationery, &c. about	48	-	-
	316	13	4
The like for the year ending 31st December 1813	316	13	4
The like for the year ending 31st December 1814	316	13	4

Exclusive of the time, labour, and services of the two deputies.

18th. Whether holding any and what other office or offices?—Walter Bourne holds the office of clerk of the crown for the north-east circuit of Ulster, and deputy clerk of the crown for the county of Louth, and county of the town of Drogheda. Peter Bourne has a deputation for the north-east circuit of Ulster, but has no concern in the fees or emoluments thereof.

19th. Whether any, and what change or changes has or have taken place in the proceedings of the office, or the court to which it belongs, or relating to the business thereof, which cause or induce any fees or expense, or increase of either; and when originating, and to whom payable, and by whom received?—Certain Acts of Parliament have operated in a great degree to alter the business and proceedings of the office, and the fees therein, since the printing of the list alluded to in N<sup>o</sup> 8, viz.

By the statute of 3d Geo. 2, c. 15, the court of Commission of Oyer and Terminer for the county and city of Dublin was carried out of the court of King's Bench, and thereby all proceedings on indictments for offences in the city and county Dublin were transferred to a new jurisdiction. It is true that the clerk of the crown of this court exercised the office of clerk of the crown of the new court of Commission of Oyer and Terminer for the city and county of Dublin, from the creation of that court in 1729, until the close of the year 1794, when John Pollock, esquire, laid claim to the office of clerk of the crown at the said commission court, on the ground that his patent (just then passed, granted to him the office of clerk of the crown within and throughout the province of Leinster, and in consequence thereof he was admitted to it; and from that period there has been a decrease in this office of the fees received in that court. Again, by the Act of Union abrogating the representative capacity of the great majority of corporate towns in Ireland, almost all corporation questions, which were the principal business of the Crown Office, have been extinguished.

When any new matter occurs, the course has been to assimilate it to that which it most resembles, and to charge the fees accordingly; thus, where a few informations were lately filed for fines, under the Excise Acts against illicit distillation, they were charged for as affidavits, and the rules thereon and copies as in other cases.

Dated 29th April 1815.

Walter Bourne,  
Peter Bourne.