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THE  
TWENTIETH REPORT  
OF THE  
COMMISSIONERS

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

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OFFICE FOR REGISTRY OF DEEDS, &c.

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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 received a communication from Your Majesty's Government in Ireland, transmitting to us a Memorial from the Irish Law Society, addressed to the Lords Commissioners of Your Majesty's Treasury, praying a revision of the Act of the 9th Geo. 4, c. 57, under which fees are granted to the Registrar of Deeds, &c., and requiring us to take the subject into our immediate consideration, and report our opinion with respect to the fees now taken under the Act referred to, and the present regulation of the Registrar's office; in obedience to that requisition, suspended our inquiry into the Consistorial Courts, and proceeded to the subject thus specially referred to us. We have deemed it necessary to examine several members of the Law Society, who, from their experience in business connected with the Registry office, were competent to afford us information as to its practice, and the charges which were made before and subsequent to the statute 9 Geo. 4, c. 57. We have also examined the present Registrar and his principal assistant on the result of the changes produced, as well to the public as the office; and have afforded them an opportunity of stating their opinions on the consequences of the modes of charge, and the regulations which have been by them adopted, under the provisions of the above-mentioned statute. From the information thus derived, together with the evidence annexed to a former Report of this Board made on the Registry office, and also from various official Returns relating to business done, and accounts and details of the receipts of fees therein, we have prepared the following Report, which we humbly beg leave to submit, as the result of the examination which we have made into the several matters referred to us.

Appendix,  
No 1.

The statute 9 Geo. 4, c. 57, was passed, as its title imports, "To provide for the Regulation of the Public Office for registering Memorials of Deeds, Conveyances and Wills in Ireland," and contains a schedule of fees to be taken for the performance of the duties in the public Registry in Dublin, in lieu of all former fees and emoluments. It is provided, that from and after the passing of the said Act, in lieu of any fees for the performance of any duty to be performed in said public Registry office in Dublin, claimed or payable under or by virtue of any Act in force before the passing of the said Act, or otherwise howsoever, there shall be paid the several fees in the schedule thereto annexed, and no others, on any account or

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pretext whatsoever. In the year 1820, previously to the passing of this statute, the Eighth Report of this Board (on the subject of the Registry office) was made and presented. That Report suggested several regulations for the future management of the office, and subjoined a list of fees, which are by it recommended to be taken in future for the performance of the duties therein by the Registrar and his deputies.

The statute has, in many particulars, adopted the suggestions and followed the recommendations contained in the Report, but has in several instances deviated from them, especially in the rates of fees contained in the schedule annexed to the Act, and established by it. This schedule, when compared with the list of fees recommended by the Report, will be found to differ from it in several items, the general effect of which has been to increase the charges to the public beyond what was contemplated by the framers of that Report. One difference exists which applies to all the fees in the schedule to the Act; that from the list annexed to the Report having been framed previously, and the schedule to the Act subsequently to the change of currency, the fees imposed by the latter are one-thirteenth higher than those suggested by the former. We shall have occasion hereafter to point out in detail some other differences that exist between the schedule to the Act and the list recommended by the Eighth Report.

Appendix,  
N° 1.

The evils complained of by the memorial referred to us, as affecting the public and the profession, from the operation of the statute 9 Geo. 4, c. 57, the fees thereby imposed, and the regulations of the office in consequence, may be classed under the following heads: 1st. Increased expenses of registering memorials. 2dly. Increased expense of searches; difficulties imposed on the public in making them; the prohibition of taking abstracts, and the imperfection of the form of those given under the statute. 3dly. The right, alleged to be assumed by the Registrar, of introducing into registry searches, copies of memorials unconnected with the property searched after, and not sought for by the requisition left for such searches. We shall consider the several objections in their order.

The following are the rates of charge prescribed by the statute 9 Geo. 4, c. 57, on registering memorials; viz.

	£.	s.	d.
For the entry of every memorial, except memorials of civil bill decrees, and giving certificate thereof on the deed or instrument produced, including the fee for inspecting the stamp:			
Where the contents of the memorial shall not exceed 1,000 words	-	10	-
If such memorial shall exceed 1,000 words, then for each 1,000 words	-	10	-
And where there shall be a fractional number beyond each 1,000 words, if such number shall not exceed 500, then for such fractional number	-	5	-
And if it shall exceed 500 words	-	10	-

Appendix to  
8th Report,  
N° 13, Q. 74.  
N° 14, Q. 136.  
N° 15, Q. 85.

Referring to the evidence on which the Eighth Report was grounded, it appears that the length of an ordinary memorial varies from 500 to 1,000 words; and in consideration of the number and variety of the entries necessary, and the great accuracy which was indispensable, as well as to ensure a fund for the establishment of the office, it was recommended by that Report that the rates above mentioned should be imposed, with this difference, that they should be received in the late Irish currency, which is one-thirteenth less.

Appendix,  
N° 9, Q. 37.  
N° 11, Q. 10, 11.  
N° 12, Q. 19.  
N° 14, Q. 19, 20

Though the present rate on registering memorials appears high, we yet are of opinion that is the most proper subject on which the fees necessary to support the establishment of the office should be imposed, and one on which the burden is the least felt by the public. We therefore cannot venture to recommend any diminution on the minimum fee of 10s. on registering each memorial not exceeding 1,000 words. But it appears that the rate of 5s. on a fractional number of words in a memorial, beyond 1,000, is felt as an inconvenience. This mode of charge may, we think, induce practitioners to curtail the length of a memorial, to bring it within the limited number of words on which the smaller fee is payable, and thus render it less perfect. To avoid this possible inconvenience, we are induced to recommend an alteration in the mode of charge on those memorials which exceed 1,000 words, by making it a rateable charge of 6d. per sheet of 72 words on the excess, whatever that should amount to; thus enabling the practitioners to extend the memorial as they shall deem expedient, at the above-mentioned rate; the contents of each memorial to be calculated on the number of words it contains, without including the affidavit

affidavit of perfection of it, and to be ascertained by the certificate of the person requiring it to be registered.

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We now proceed to consider the subject of searches, as already proposed. Previously to the passing of the statute 9 Geo. 4, three distinct classes of searches were in practice in the office: viz. Searches made by the public without the aid or intervention of any person employed in the office; searches made by the clerks in the office, on the requisition of any person, furnishing abstracts of all memorials found and signed by the officer, but without any certificate, which were known by the appellation of common or head clerk's searches; and searches to be followed by a negative certificate, giving full copies of all memorials, commonly called negative searches.

The general purposes of the institution of the Registry office, and the statute of the 6th Anne, c. 2, by which they are effected, are fully stated in the Eighth Report, and are not necessary to be detailed at length here. The 5th section of that Act declares all unregistered deeds or conveyances of lands, executed subsequent to the time mentioned therein, void and fraudulent, not only as against deeds or conveyances whereof memorials shall be registered in pursuance of that Act, but likewise against creditors by judgment, recognizance, statute merchant or of the staple, as or concerning any lands, &c. contained or expressed in such registered memorials. By the 10th section it is provided, that every Registrar or his deputy, as often as required, shall make searches concerning all memorials that are registered, and give certificates concerning the same under his hand, if required. By the concluding part of the 11th section of the same Act, a fee of 6*d.* and no more, is appointed to be paid to the Registrar for every search in the office.

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There is every reason to infer, from the practice which prevailed in the office before the passing of the Act 9 Geo. 4, and which existed as far back as the memory of any living witness can extend, that the public were admitted to make searches in the Registry without the agency of a clerk or person employed in the office, from the time of the statute of 6th Anne, c. 2. Whether this was grounded on a supposed right arising from the construction of the statute, or whether the usage arose from an indulgence afforded by the Registrar, is perhaps not now very material to inquire. The public were constantly in the habit of making such searches, and had, for that purpose, free access to the books in the office, and were at liberty also to take whatever abstracts they might think proper, on payment of a fee of 6*d.* as for the search, and 6*d.* for each abstract. In the schedule annexed to the Act 9 Geo. 4, c. 57, there is the following item: "For every search in the office books, which shall be made in one day by any person not employed in the office, 2*s.* 6*d.*" and no reference is made therein to taking abstracts. By the 18th section of the same Act, it is provided and enacted, that "nothing in said Act contained shall extend, or be construed to extend, to give to any person whatever a right of access to any of the books in the office, except under such regulations as should be established therein, to be approved of by the Lord Chancellor and the Master of the Rolls, for the due preservation of the same, nor any right whatsoever to any persons whatsoever, except an officer or clerk employed in said office, to take a copy or copies, or extracts of or from the memorials registered in the said office, or of or from any of the entries contained in any of the books." Under the authority of this statute, certain rules and regulations were prepared, and received the approbation of the Lord Chancellor and the Master of the Rolls, a copy of which we insert in the Appendix. By these rules it is provided, that no person shall have access to any of the books, unless same be handed to him by the clerk in charge thereof: That every person requiring permission to search in or inspect any of the office books, shall first state the object of such search and pay the search fee, and thereupon receive an order to the clerk, who shall thereupon hand him the books; and that, to avoid obliteration or injury to the books, no person shall be allowed the use of pen or ink, but that every memorandum necessary and authorized by the statute may be made in pencil. Under these rules, and subject to these restrictions, searches are made at present by the public. The effect of these restrictions, arising from the statute and the construction given to it in the office, which is, that no person but those employed in the office shall be at liberty to take extracts from memorials, has been to render these searches so expensive, troublesome, and of so little benefit, as to induce many persons to relinquish them altogether.

Appendix,  
N<sup>o</sup> 3, Q. 48 to 55.  
62.

N<sup>o</sup> 2.

N<sup>o</sup> 3, Q. 58 to 62.  
N<sup>o</sup> 11, Q. 12 to 15.  
N<sup>o</sup> 12, Q. 5 to 9.  
N<sup>o</sup> 14, Q. 16 to 18.

Adverting to the purposes for which the Registry Office was instituted, and the consequences



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Appendix,  
N° 3, Q. 66 to 68.  
71 to 73.<sup>3</sup>  
N° 9, Q. 40.  
N° 10, Q. 16. 61.

consequences of the 5th section of the Act of the 6th of Anne, which gives priority to registered deeds, as before stated, any limitation of access to the books of the office, beyond what is absolutely necessary for their preservation, appears to us inconsistent with its great object, which is to afford the fullest information to the public on titles to property, the subject of the memorials which are registered. And as the indexes and transcript books are not original records, and as we do not find that for 120 years, during which the public have had access to the books, they have suffered any injury, other than is inseparable from the use of them for a long period, or that the office experienced any other inconvenience, we see no ground for withdrawing from the public the privilege they formerly enjoyed of access to the books, and of taking abstracts, and therefore recommend that it shall be restored to them, under such superintendence as may be thought necessary for the due preservation of the books. We have the less hesitation in making this recommendation, as it accords with the Eighth Report, which contemplated the continuance of the ancient practice; and the schedule of fees, annexed to that Report, recommended to be established for the performance of the duties of the office, contains a fee of 2*s.* 6*d.* for every search in the "office books, which shall be made by any person not employed in the office, in lieu of all charges as for search or abstracts."

The objections made to allowing to the public the same right of access to the books in the Registry, with liberty to take sufficient abstracts therefrom, which they formerly enjoyed, are grounded on an apprehension of injury which the books might sustain from careless and improper persons, and also from the possibility that the clerks of the office employed in searching might be interfered with and interrupted in the discharge of their duties; but, in point of fact, no such inconvenience has been experienced from the usage which has hitherto prevailed, and we think that the apprehension that such evils might arise, when opposed to the experience of above a century, was not a sufficient ground to abolish the practice. We think, however, it would be expedient to vest a power in the superior Courts, or any of the Judges, of hearing complaints in a summary manner, and punishing any person who shall be guilty of any misconduct in the Registry, either by injuring the books or in any other way.

N° 9, Q. 8.  
N° 11, Q. 13. 28.  
31. N° 12, Q. 4. 5.

N° 3, Q. 23.  
9, Q. 3 to 6.  
N° 10, Q. 20. 36.

Another branch of the second head, which we proposed to consider, relates to the imperfection of certified searches prescribed by the late statute, and the expenses attending them. Previous to that Act, common or head clerk's searches, which have been already described, were made by the clerks in the Registrar's office, and were not considered as made on official responsibility, though they were signed by the Deputy Registrar. These searches were the most frequent, and were attended with great benefit to the profession and the public. They were resorted to by solicitors to furnish materials for abstracts of title, for ascertaining the necessary parties to bills filed in Courts of Equity, and for various other purposes. Immediately before the statute the official charges on these searches were regulated in the manner following; viz. at the rate of 3*s.* 4*d.* for every 10 years comprised in the search for each surname, if the search were made on names; and if the search were made on lands, at the rate of 3*s.* 4*d.* for each period of 10 years for each denomination of land beginning with a different initial letter, and 1*s.* 6*d.* for each abstract. These searches it appears were made either on the index books of the lands, or on that of the parties' names, according to the instructions of the party seeking the search, but seldom if ever on both.

It was recommended by the Eighth Report, that in future all searches delivered from the office should be formally certified and authenticated by the signature of the officer, so as to give the party in every such search the security of a direct official responsibility; and that every certificate, unless otherwise limited by the instruction, should express the number of each memorial, the date of its registry, the nature of the instrument, the names of the parties, and of the lands or premises, and the number and page of the registry book where it is entered, but that it should be optional with the party to require such portion only of the above particulars as might suffice for the purpose of his application.

It is further recommended by the same Report, that in future the charge for searches which the officer should be required to make, should be regulated by the number of references occurring in the progress of such search, taken down by the searching clerk from the indexes, instead of being ascertained by periods of time, as had

had been formerly done. And the following rates were suggested as proper to be established for this service, in late Irish currency ; viz.

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If the number of references occurring in the progress of each search	s.	d.
should not exceed 20, the fee to be - - - - -	6	8
If exceeding 20, and not exceeding 40 - - - - -	10	-
If exceeding 40, for each additional reference - - - - -	-	2
And for each abstract of a memorial contained in the certificate of each such search - - - - -	-	6

The principle of charging for searches by references instead of periods, was adopted by the Act 9 Geo. 4, but at increased rates. According to the Table annexed to the Act, they are as follows, in British currency :

Where the number of references shall not exceed 10 - - - - -	s.	d.
If exceeding 10, and not exceeding 20 - - - - -	6	8
If exceeding 20, and not exceeding 40 - - - - -	10	-
If exceeding 40, then for each additional reference - - - - -	15	-
And for every abstract of a memorial contained in the certificate of each such search - - - - -	-	2
	1	-

This increase beyond the rate mentioned in the Eighth Report, would itself tend to augment considerably the gross charge on searches estimated by references. The mode of its application, under the construction given in the office to the words of the statute, contributes in a still greater degree to the increase of the charge.

By the 16th section of the Act, it is prescribed, that the proper officer in the Registry office, whenever required in writing by any person, shall make searches for the memorials of all or any acts done by any person named, either concerning any lands, tenements or hereditaments generally, within any specified period, or concerning any specified lands or premises within any specified period ; or for all or any acts affecting any lands or premises named, within any specified period. Under the construction of this section, the officer, in all cases of requisitions for acts by specified persons affecting specified lands, which is the search almost universally in use, considers every individual named in the requisition as the subject of a separate search, and his acts are to be searched for in the index books of parties' names, and in those of lands, by different clerks ; and every reference, occurring in the progress of both, is to be taken down and charged for, although the same should appear repeatedly.

Appendix,  
N<sup>o</sup> 3, Q. 19 to 23.

Before the passing of the statute 9 Geo. 4, c. 57, it was the practice to entrust every common or head clerk's search to one clerk, and every negative search to two clerks ; one to search in the index books of parties' names, and the other in those of lands ; and had that practice been continued, it would have been obviously unnecessary to take down the same references more than once in common searches, and twice, at most, in negative searches. But on that statute coming into operation, it was held necessary to employ a separate clerk to search for the acts of each individual in the index books of lands, and to entrust the search in the parties' names indexes to one clerk, for all the parties in the requisition. Thus, if a search were required for acts by five persons, affecting specified lands, six clerks would be employed, one in searching the parties' names indexes for all acts there entered by all the individuals, and one in searching the lands' indexes for acts by each individual. In order to render the multiplication of references arising from this system more apparent, and to show more clearly the expense and inutility of it, it will be necessary to describe the nature of the different indexes. That of parties' names contains the christian and surname of the grantor and that of one or more grantees, with a reference to the book and page in which the memorial is copied, and the number of the memorial. The lands' indexes contain the names of the denominations of lands in each county, classed in baronies, and arranged, as far as the initial letters, in alphabetical order, the surname of each grantor and one grantee in every act affecting that denomination, and a reference, as already described, to the book, page and number of the memorial. Now it is plain, that if the requisition for a search seeks to discover acts of two or more persons of the same surname, all the references to memorials of acts by any person of that name would appear on the first search in the lands' indexes ; and therefore employing distinct clerks to go over the same search for the other individuals of the same name is only a waste of the time of so many clerks, at a considerable additional

N<sup>o</sup> 9, Q. 9.  
N<sup>o</sup> 10, Q. 19. 21.

N<sup>o</sup> 3, Q. 19 to 23.  
N<sup>o</sup> 9, Q. 23 to 25.  
N<sup>o</sup> 10, Q. 23 to 38.  
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expense both to the office and the public, without affording any corresponding advantage. Another result from this construction of the statute is, that the charge made to the public for searches is calculated, not on the gross number of references occurring in the progress of the search, but on the number occurring in the search against each individual, as if each were a separate search made on a distinct requisition. Thus, if there were 10 names to be searched against, and that 140 references were found for each, making in the entire 1,400 references, the calculation of the charge would be made not of 15*s.* for the first 40, and 2*d.* for the remaining 1,360, making altogether 12*l.* 1*s.* 8*d.*, but each name being considered as the subject of a separate search, a charge of 15*s.* each would be made for the first 40 references, for each of the 10 names, and 2*d.* each for the remaining 1,000 references, making in the whole 15*l.* 16*s.* 8*d.*

Appendix,  
N° 10, Q. 39 to 45.  
N° 12, Q. 26 to 29.

N° 3, Q. 85, 86.  
N° 9, Q. 26.

One search has been furnished to us, which affords a striking illustration of the increased expense arising from the present mode of searching and calculating the fees; it was founded on a requisition for a search against sixteen denominations of land, for the acts of twenty parties named, and extended for a period of 70 years. The gross official charge amounted to 63*l.* 2*s.*, including 1*l.* 9*s.* for 29 abstracts; the number of references which occurred in it are 6,399; and there being three persons of one surname, three of another, two of a third, two of a fourth, two of a fifth, and two of a sixth; this produced on each of the names a repetition of the references found in the books of lands' indexes, whereby in this search alone there were in point of fact 2,291 references charged for; being more than one-third of the whole number, which, on the admission of the officers themselves, were wholly unnecessary, and had no other effect than to increase the expense. And independently of the additional references, the mode of calculating the fees, as for a separate search against each individual, in this instance, had the effect of increasing the expense 8*l.* 13*s.* 2*d.* Had this been a common or head clerk's search before the statute, made against the parties' names, it would have cost only 8*l.* late currency, for the search, exclusive of the abstracts. Had it been a common search in the lands' indexes, the charge would have been 12*l.* late currency, exclusive of the abstracts. Had it been a negative search, that is to say, a double search, both against names and lands, with an additional charge formerly made on such searches for official responsibility, it would have amounted to only 24*l.* late currency, exclusive of the expense of the copies of the memorials. Thus the charge for this one search, under the present system, is more than double the expense of two searches before the statute, viz. a common or head clerk's search against the parties' names, and a negative search, exclusive of the charge for copies of the memorials. We do not however infer, from this example, that in every case the expense of a certified search will exceed the charge which would have been made for a common or head clerk's search before the statute. We are aware that cases may occur in which the expenses of the former will be less: for example, if the name of the townland is very peculiar, as well as that of the person the subject of the search, there would probably be few references, though the period of it extended to a great length of time. We can however refer to a document, distinctly showing that the expense of certified searches, on an average of two years since the statute, exceeds the expense of common or head clerk's searches on an average of two years before it. From this it appears that the number of head clerk's searches, during the period referred to, was 3,520, and the charge thereon was 3,721*l.* 16*s.* 5*d.*; while the number of certified searches under the statute, in two years subsequent, were 2,979, and the charge for the same amounted to 5,902*l.* 5*s.* 8*d.* Thus the number of searches since the statute is nearly one-sixth less than in the corresponding period before, while the revenue resulting to the office from them is more than one-half greater.

N° 5.  
N° 9, Q. 46, 47.

The recommendation in the Eighth Report, of charging by references, was adopted on an opinion that it would reduce the amount of charge in most instances, and was considered, in that Report, as the most equitable mode of remuneration for this service, as the trouble of the search depended on the number of references; but it was contemplated that the then existing mode of search would have been continued, and that the references occurring would have been only once taken down. The change of practice, consequent upon the adoption of this mode, could not have been anticipated. In its consequences, however, under the construction given to the statute, it has proved very unsatisfactory to the public and to legal practitioners; and many objections have been urged against it, from which the following



following have been selected: first, the expense of a search cannot be, in any manner, estimated before it is actually made; and consequently a party might require a search the subject matter of which might not be worth the expense. In cities and places where, from the more frequent transfer of property, references are more numerous, this objection will more peculiarly apply. Another is, that the correctness of the charge made, according to the present system, can only be ascertained by the party examining the indexes and other books himself, or employing an agent for that purpose, and thus repeating the search at a considerable additional expense, and much loss of time.

Added to the increased expenses of certified searches, which we consider has already been shown, there is another evil arising from their imperfection. The form of the abstract given by the statute to be certified is not so full as was usually given on a common or head clerk's search, and is deficient by the omission of many particulars which those searches contained. The following are the defects complained of: it is not required by the statute that the abstract should set forth the date of the instrument, the date of the registry, the consideration, the parties' names and their descriptions in full, the habendum, whether the conveyance is in trust or subject to conditions; or in case of a lease, the rent reserved, the fine paid, or term; all of which particulars were in general contained in the abstracts formerly supplied on common or head clerk's searches: in fact, unless the abstract comprises these several details, it does little more than supply information that there are memorials of deeds registered relating to the lands and parties searched after, without giving any insight as to their contents; and it becomes necessary to take copies of the memorials referred to, in order to ascertain whether they are material or not.

The present Registrar has been so sensible of the defects in the form of the abstract required by the statute, on a certified search, that he has given directions in the office to introduce into the abstracts several particulars omitted in that form. We are, however, of opinion that such an important matter should not be left to the courtesy or discretion of the officer, and therefore recommend that the duty should be imposed on him by law. We also conceive that it would be attended with more convenience if the form were not limited by statute, but left to the officer to complete, according to the practice which prevailed previously; merely stating the substance which it is required to contain.

One of the great objects of a search in the first instance, whether made with or without the intervention of the officer or clerks, being, as stated in evidence, to supply materials for an abstract of title to lands, by ascertaining what memorials are on record affecting such lands; we are of opinion that a search furnishing only abstracts, even if more perfect than it is required to be under the statute, will not supply the place of a negative search and certificate, which may afterwards be demanded by a purchaser, and thus two official searches will frequently be necessary; we are still persuaded that under any system of search that may be devised, this necessity will continue. A purchaser has a right to demand copies of all memorials affecting the lands purchased; and in many cases it would not be safe for him to accept the title without such precaution. And in all cases it is prudent to require a negative certificate; for though the party purchasing may be himself satisfied that such a document is not material to his title, it will often happen, when he has occasion to sell, a more scrupulous purchaser will require it. We therefore adopt this conclusion, that negative searches and certificates cannot be dispensed with; but that a modification, of them, which we propose to recommend, will be attended with advantages. It therefore becomes indispensable to reduce the present high rate of charge on searches; and for this purpose, we conceive that the system of charging by periods of time should be restored. And further we would recommend, that the party requiring the search should be at liberty to limit it to be made in the index books of parties' names, or in those of lands, or to extend it to both; the requisition to be in all cases copied at the beginning of the search, which is to be concluded by a certificate signed by the officer in the following words, viz.:

" Upon diligent search in the Registry office, I do not find any memorials there entered, coming within the terms of the foregoing requisition, of which abstracts are not hereinbefore given. Which I certify, this                      day of                      ."

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Should

Appendix,  
N° 3, Q. 24.  
N° 10, Q. 52.  
N° 11, Q. 12 to 17.  
N° 12, Q. 5 to 9.  
15 to 19.  
N° 14, Q. 6 to 13.

N° 3, Q. 30 to 32.  
N° 10, Q. 56 to 59.  
N° 11, Q. 15, 16.  
N° 12, Q. 19.  
N° 13, Q. 4.  
N° 14, Q. 11.

N° 3, Q. 33 to 35.  
N° 10, Q. 56 to 59.

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Should the search be directed to be made in the index books of parties' names only, or in the lands' indexes only, for acts by specified parties, the fee we conceive should in either case be 3 s. 4 d. for every 10 years or fractional part of 10 years, for each surname required to be searched against. Should it be required to be made in both those indexes, the fee should be doubled accordingly. And in case a search should be desired for acts affecting specified lands, without naming the parties, the fee should be 3 s. 4 d. for every 10 years or fractional part of 10 years, for each denomination of land commencing with a different initial letter.

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

With respect to negative searches, the rate of charge by references under the statute is applicable to them, and is equally objectionable with those on certified searches. It appears that the number of negative certificates which issued from the office in the two years next before the statute was 323, and the amount of fees thereon 3,172 l. 1 s. 8 d., while those which issued in two years subsequent were 310, and the fees thereon were but 1,763 l. 14 s.; there being but a difference of 13 in the number, while the diminution of the charge was 1,408 l. 7 s. 8 d., showing a great reduction in amount in the latter period. From this it appears that the statute has operated to produce a saving in this description of search. It is to be observed, however, that the fees on copies, which form a great part of the expense of negative certificates, were reduced by the statute from 1 s. per sheet to 6 d.; therefore the diminution of the fees on copies has tended to produce in great part this reduction. We however conceive that the same objections already mentioned as applying to the charges by references on certified searches, apply to negative searches; and that the mode of estimating the charge by time for them, at the rate already recommended for a double search, viz. 6 s. 8 d. for every 10 years or fractional part of 10 years, for each surname required to be searched against, would be more beneficial and satisfactory to the public; and this rule, if adopted, will be at least one-third less than that in use before the statute, and probably will not render such searches more expensive than they have been since its enactment.

N<sup>o</sup> 3, Q. 39 to 41.  
N<sup>o</sup> 10, Q. 63.  
N<sup>o</sup> 11, Q. 38.  
N<sup>o</sup> 12, Q. 34.

On the subject of the third head which we proposed to consider, namely, the alleged right assumed by the Registrar of introducing into searches copies of memorials unconnected with the property searched after, and not sought for by the requisition left for such searches, we have not discovered any facts to justify the complaint under this head. Mr. Butler, a clerk of considerable experience in the office, states that he has known complaints of the introduction of copies into the search to have been made by professional men, who had in consequence brought back their searches; but in most cases the memorials were found to have been properly introduced therein, and when otherwise they have been redressed in the office. As the officer, in making negative certificates, acts under a known responsibility, he is bound to furnish all memorials coming within the scope of the instructions, and it will occur sometimes that lands of the same name, or acts by persons of the same name, may be included in the search; but as there does not appear any instance in which the complaint, if well founded, has not been redressed by the officer, we consider the statement of the Law Society on this subject is without sufficient foundation.

Another evil is complained of in the memorial referred to us, which does not arise under the late statute, but is occasioned by the construction generally given to the statute 8 Geo. 1, c. 15, and the statute 25 Geo. 3, c. 47, which prescribe the mode of requiring negative searches, and give the forms of the requisition and of the negative certificate; and the inconvenience and expense which result, in consequence, to the public. The first of those statutes was passed in consequence of a doubt which existed at the time, whether, under the statute of the 6 Anne, c. 2, the officer was bound, on the requisition of a party, to make negative searches. By this statute, therefore, it was made imperative on the Registrar or his deputy, upon the written requisition of the party, in a form the terms of which are thereby prescribed, to make such search, and to give a certificate in the terms mentioned therein; whereby he certifies that he, on diligent search in the Registry, has not found any memorial of any deed, &c. of the lands named, except the memorials thereafter mentioned, copies of which are therein set out in the certificate. By the same statute, the Registrar and his deputy were expressly declared liable, in case of any fraud, collusion or wilful neglect in making such certificate, in damages and full costs to the person damnified, his heirs, executors or administrators. The inconvenience

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inconvenience attending such certificates, by reason that they embrace the whole period during which the Registry had subsisted, and the enormous expenses arising in consequence of the number of copies of memorials necessary to be annexed, led to the statute 25 Geo. 3, by which a new form of requisition was given, the principal object of which was to enable the party seeking it to limit the extent of a search within a certain definite period, instead of extending it over the whole time of the Registry; and consequently to diminish the number of the copies of memorials to be annexed to the certificate, to those occurring within the period mentioned. It contained a further provision, by which the requisition should be engrossed on parchment, and signed by the party making it. This Act, though it has diminished the evils complained of, has not removed them. The profession complain that still, under the form of the requisition and certificate prescribed by that Act, they are not at liberty to except from the requisition any memorials they may deem unnecessary, either from the party being possessed of the original deeds of which these are the registered memorials, or from any other cause. The necessity of having the requisition engrossed on parchment, and signed by the party, is attended (as is thought) with inconvenience; these requisites have been generally considered by the profession indispensable, with a view to fix responsibility on the officer, and are objected to. In point of fact, the Registrar, feeling the inconvenience of a party being compelled to accept, as part of a negative certificate, voluminous copies of unnecessary memorials, has been in the habit of receiving requisitions for negative searches containing exceptions, and framing the certificate according to the terms of the requisition; but these certificates, as not being in the form prescribed by the statute, are considered by the profession in general as extra official, and such as the Registrar is not responsible for under the provisions of the Act referred to. It would, therefore, in our opinion, be attended with considerable advantage to the public, if the parties were allowed to frame their requisition according to their own discretion, with liberty to introduce exceptions of such memorials of deeds as they thought proper; the form of the certificate to be the same as we have already recommended, substituting only the word "copies" for the word "abstracts."

Appendix,  
N<sup>o</sup> 3, Q. 42 to 44.  
89, 90.  
N<sup>o</sup> 9, Q. 14.  
N<sup>o</sup> 10, Q. 53 to 55.

Before concluding, it becomes necessary to consider the receipts of the office, and the present expenses of the establishment, with a view to ascertain that the reduction recommended by us, in the fees to be received in future, will leave a sufficient fund for its support. The amount of fees, on an average of two years, ending 5th January 1831, appears to have been 8,904*l.* 10*s.* 3*½d.*, under the following heads:

	£.	s.	d.
1. Registering deeds	3,740	15	-
2. Negative searches	896	4	3
3. Certified ditto	3,141	4	3½
4. Attested copies of memorials	470	6	-
5. Searches by the public	608	9	-
6. Miscellaneous	47	11	9
	£.	8,904	10 3½

N<sup>o</sup> 6.

On an average of the same years, the annual number of deeds registered appears to have been 6,203, of which the memorials of 4,742 did not exceed 1,000 words, and were consequently subject to the minimum charge of 10*s.*; 912 contained over 1,000 and under 1,500 words, and were subject to a fee of 15*s.*; and the remaining 549 memorials exceeded 1,500, and were charged for at different rates, from 20*s.* to 90*s.*, according to their length, at the rate specified in the Table annexed to the statute. Now, leaving the numbers in the first class at the minimum rate of 10*s.*, and estimating the remaining memorials, being 1,461, at the rate of six office sheets more than 1,000 words, (and a calculation of the number of words charged 365.

N<sup>o</sup> 4.



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for in the memorials registered in the two years referred to has proved this estimate to be a very low one), they would amount to 949 *l.* 13 *s.*, making the entire receipt from this head of service 3,320 *l.* 13 *s.*; so that the annual amount of the receipts on account of memorials would not, even at that low estimate, be diminished more than 420 *l.* 2 *s.*; and it is probable that an increase in the number of memorials registered will progressively lessen that decrease.

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

The charges on negative searches will not, we conceive, be materially affected by the changes we have recommended with respect to them; we therefore assume this head as yielding the same amount as it did before. On the next head, viz. certified searches, which, on an average of the two years ending 1830, produced 2,951 *l.* 2 *s.* 10 *d.* annually, there will probably be a reduction; but although we calculate that the cost of searches will be less than one-half of their present charge, yet, from the circumstance of these searches having diminished nearly one-sixth, in the two years subsequent to, compared with the number of head clerk's searches before the statute, we do not think that the diminution of the gross receipts will exceed, at the most, one-half, or 1,476 *l.* 15 *s.* 4 *d.* per annum.

On the fourth and sixth heads, as no change is suggested in relation to the fees payable thereon, there is no ground to infer any diminution on them.

On the fifth head, namely, searches made by the public, there is every reason to presume there will be an increase from the alterations we recommend with respect to them; but as it would be difficult to estimate to what extent, we will assume it to produce only the same. The whole deductions therefore to be expected are confined to two heads:

	£.	s.	d.
Registering memorials about - - - - -	420	2	-
Common searches - - - - -	1,476	15	4
	£.	1,896	17 4

If the business of the office does not decline, which, for reasons already mentioned, is improbable, the annual receipts under the proposed rates may fairly be estimated at 7,000 *l.* per annum.

N<sup>os</sup> 7 and 8.

	£.	s.	d.
The present expenses of the establishment of the Registry office, as adjusted by the Treasury Minute of the 27th day of July 1830, amounts, in salaries to the Registrar, his deputy and clerks, to - - - - -	2,950	-	-
The maximum of charge for clerks, who are paid according to the business done in the office, is stated to be - - - - -	2,900	-	-
Expenses for parchment and other incidental charges, taken on an average of three years, ending February 1830 - - - - -	510	1	11
	£.	6,360	1 11
The actual charge for the year ending the 15th February 1830, including the payment of the deputies, amounted to the sum of -	5,342	13	6

The increase in official expense beyond its amount in the years mentioned in the Eighth Report has arisen from an augmentation of the number of clerks, occasioned in a great measure by the practice adopted in making searches, already mentioned.

We have already stated that the employment of so many clerks in making searches appeared unnecessary; and consequently, should our recommendation in this respect be adopted, considerable reduction of expense may be expected under that head. Taking this into consideration, we conceive the surplus revenue of this office above the expense cannot fall short of 1,000 *l.* per annum, and we confidently anticipate that it will much exceed that sum.



The present Registrar, Mr. George Moore, has suggested various improvements in the books of the office, the making of which would be attended for some years with a certain annual expense; and should it be deemed expedient to employ any part of this surplus income in such a manner, his evidence in this respect, to which we refer, will be found well deserving consideration. We shall only add on this subject our recommendation, that should it be determined to frame any new or amended indexes or books of reference, such should be made in duplicate, one set to be kept locked up, to supply the deficiencies which time, accident or frequent use may occasion in that which is left accessible to the public or the clerks in the office.

We subjoin a Table of the Fees which, under the recommendations contained in this Report, should, in our opinion, in future be received for the performance of the duties of the Registrar's office.

	£.	s.	d.
For the entry of every memorial (except memorials of civil bill decrees,) and giving certificate of registry thereof, on the deed or instrument produced, including the fee for inspecting stamps :			
Where the contents of such memorial shall not exceed 1,000 words - - - - -	-	10	-
If such memorial shall exceed 1,000 words, then for every office sheet consisting of 72 words, or fractional part of an office sheet, after 1,000 words, an additional fee of - -	-	-	6
For the entry of every memorial of a civil bill decree, and giving certificate of registry - - - - -	-	2	6
For each entry of dissolution of anonymous partnership - -	-	5	-
For the entry of certificate of satisfaction of a mortgage, and giving certificate thereof, the same fee as for the entry of the memorial of any deed or other instrument.			
For each copy that shall be required of any memorial or certificate entered in the Registrar's office, such copy to be certified by the officer :			
If not exceeding three sheets, of 72 words each - - -	-	1	6
If more, then per sheet - - - - -	-	-	6
For every search in the office books, which shall be made in one day, by any person not employed in the office, in lieu of all claims as for search or abstracts (to be paid in advance) - -	-	2	6
For every search which the officer shall be required to make, and for the certificate upon such search :			
If the search be limited by the requisition to be made in the index books of parties' names only, or for acts generally by any person or persons named, for every 10 years or fractional part of 10 years, for each surname* - - -	-	3	4
If the search be limited to be made in the lands' indexes only, for acts by persons specified, for every 10 years or fractional part of 10 years, for each surname* - - -	-	3	4
If the search be required to be made in both index books, as well of parties' names as of lands, then for every 10 years or fractional part of 10 years, for each surname* - - -	-	6	8
* N.B.—If any of the foregoing searches be required for acts by individuals, two or more of whom have the same surname, the fees to be charged only on the number of different surnames.			
If the search be required to be made for acts affecting specified lands, without naming the parties, for every 10 years or fractional part of 10 years, for each denomination or alias denomination of land, beginning with a different initial letter - - -	-	3	4
For every abstract of a memorial contained in the certificate of each such search - - - - -	-	1	-

(continued)

14. (IRELAND.)—TWENTIETH REPORT of COMMISSIONERS on

Office for Registr  
of Deeds, &c.

For the copies of memorials contained in searches requiring them, for every office sheet of 72 words which shall be contained in such copies, exclusive of the requisition and certificate - -	£. s. d. - - 6
Production of memorial in Dublin, for each day's attendance -	- 10 -
At any place out of Dublin, as for two days' actual attendance -	1 - -
And for every day's actual attendance beyond a second day -	- 10 -
For the expense of travelling to and from any place at which such attendance shall be required, for every mile travelled - -	- 1 -
The amount of the attendance and expense of travelling, for the production of any memorial at any place out of Dublin, to be deposited with the Registrar or Assistant Registrar, on his demand thereof.	

All which we submit to Your Majesty's most gracious consideration.

Dated the 6th day of }  
April 1831. }

HENRY KEMMIS, (L. s.)  
BERTRAM MITFORD, (L. s.)  
WM WYNNE, (L. s.)  
PETER LOW, (L. s.)  
CONWAY E. DOBBS, (L. s.)

(A true Copy.)

*Godfrey Fetherston H.*  
Secretary to the Commissioners.

A P P E N D I X

TO THE

TWENTIETH REPORT.

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## A P P E N D I X.

### Appendix, No. 1.

#### MEMORIAL of the IRISH LAW SOCIETY.

To the Right Honourable and Honourable the Lords Commissioners of His Majesty's Treasury.

The Memorial of the Irish Law Society ;

Sheweth,

THAT immediately after the death of Lord Kilwarden, the late registrar of deeds in the public Registry office of Ireland, the Irish Law Society, through their chairman, had the honour of addressing a letter to your Lordships, under the date of 22d May last, respecting the constitution of that office, as regulated by the Act of the 9th late King, c. 57; and with ulterior views on that subject, requested that a return of all fees received in that office for the last five years, would be ordered by your Lordships, and laid before them, and with which the Society have been since duly favoured by your Lordships.

Office for Registry  
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No. 1.  
Memorial of the  
Irish Law Society.

The Society having investigated those returns, again take liberty of addressing your Lordships, and pointing out the injuries to the public arising from the operation of that Act.

The injuries to which the Society alludes, are reducible to the following heads, viz.: 1st. That of increased expense to the public.—2dly. The increased difficulty to individuals in obtaining access to and sufficient extracts from the public office books, which contain copies merely of the original memorials of deeds registered.—3dly. The deprivation of the right to take full abstracts from same, exercised under the former system from the foundation of the office.—4thly. The right assumed by the registrar of introducing into registry searches, and forcing on the public, copies of memorials of deeds wholly unconnected with the property searched after, and not sought for by the requisition left for such searches.—5thly. The utter uselessness of the searches (not negative) made in the office, by the abstracts not containing sufficiently the real import or short contents of the deeds.

That according to the Act of Anne before mentioned, the registrar is not held answerable for the correctness of a negative certificate, if any exception be contained in the requisition for a negative search; the result of which is that the public are compelled to take copies of all memorials in the Registry office affecting the lands enquired after, frequently at an enormous expense, although the party requiring the search may be in possession of all or many of the deeds affecting the property to be transferred.

With respect to the increased expenses to the public, the Irish Law Society conceive them to be exorbitant and oppressive, and in no manner called for with reference to an ample remuneration for the due execution of the duties of the office, nor are they recognized by any former Acts of Parliament, or sanctioned by the Report of the Commissioners of Inquiry on that subject; on the contrary they almost entirely arise from an increased scale of fees charged by the registrar, and of comparatively modern date.

In support of this opinion the Irish Law Society respectfully refer your Lordships to the Eighth Report of the Commissioners of Inquiry on the Duties, Salaries and Emoluments in the Courts of Justice in Ireland, p. 178 of Appendix. And it will appear on calculation, that from the 12th of August 1814 to the 12th of August 1819, the average annual receipts of the office amounted to the sum of 5,905 *l.* 4 *s.* 10 *d.* late currency, or 5,450 *l.* 19 *s.* 2 *d.* British; and the annual average shares of Lord Kilwarden, as registrar (a complete sinecure), and of George Moore, esquire, as deputy (virtually a sinecure officer also), including in the average the annual amount of an annuity payable thereout to a third person, amounted to the sum of 3,583 *l.* 3 *s.* 11 *d.* late currency, which, if deducted from the annual average receipts, proves that the sum of 2,322 *l.* 1 *s.* of late currency, was sufficient to pay the real and substantial annual expenses of the office for the same period.

By referring to the returns furnished by your Lordships' order to the Society, it appears, on the like calculation, that the average annual receipt of the office for the three years immediately preceding the operation of the present Act, and ending in August 1828, amounted to the sum of 6,886 *l.* 17 *s.* 2 *d.* sterling, British, which shows an increased annual receipt in the office of 1,435 *l.* 18 *s.* over and above the average annual receipts ending in 1819, and which increase was not necessarily applicable to, nor does it appear to the Society to have been applied in furtherance of the duties of the office.

By a further reference to the returns, on an average for the year and a half since the passing of the Act, and ending February 1830 (inclusive), it appears that the annual receipt

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Irish Law Society.

of the fees of the office amounted to 8,751 *l.* 15 *s.* 2 *d.* sterling, showing an increase over the year immediately preceding the passing of the Act, of a sum of 1,864 *l.* 17 *s.* 4 *d.*, and an increase over the year 1819 of 3,300 *l.* 16 *s.* sterling; in which latter year it appears, as already stated, that a sum of 2,322 *l.* 1 *s.* of the then currency of Ireland, or 2,143 *l.* 8 *s.* 7 *d.* British, was considered sufficient for payment of the two attendant deputy registrars, and of the clerks requisite for the necessary performance of the duties of the office, and all other office expenses (excepting the salaries of the registrar and deputy), leaving in that year an excess of 6,608 *l.* 6 *s.* 6 *d.* for payment of those sinecure officers and the annuitant. Therefore the Society respectfully represent to your Lordships, that the fees created by the new Act are excessive and highly injurious to the public, and by no means required with regard to an ample remuneration for the due execution of the duties of the office; and submit that the table of fees annexed to the present Act should be revised and modified.

In reference particularly to the second and third points, namely, the increased difficulty in obtaining access to the books containing transcripts of memorials, and being deprived of the right to take extracts therefrom, as was theretofore the practice, the Society respectfully submit that the 15th and 18th sections of the Act are quite in collision; for although the 18th section purports to empower the Lord Chancellor and Master of the Rolls in Ireland to grant access to those books, under such regulations as they may approve, yet the public are virtually excluded by the 15th section from taking extracts or obtaining information from said books of any memorial registered in said office, otherwise than by paying for a search in manner provided by said Act, although no extract or memorandum of any sort will be permitted by the registrar to be taken; and the Society therefore submit, that the right to access without the right of taking abstracts is quite nugatory for any useful purpose, and that such restriction is incompatible with the principle of the Act and constitution of the office as originally established.

That the public at present pay five times as much for merely inspecting the books as they formerly paid for both investigating and taking abstracts, although, as stated, they are deprived of the privilege of taking any abstracts to enable the solicitors of the seller and purchaser to ascertain what memorials of deeds should be introduced and what excluded from the negative search, and thereby save great and unnecessary expense to the vendor; they therefore submit that the public should have access to the books, on payment of the same fees and subject to the same regulations as are prescribed by the Act of the 6th of Anne, section 11, with the liberty of taking such extracts as they may deem necessary, at all times during office hours, from those books which contain merely copies of the original memorials.

Your memorialists further beg leave to state, that the Act of the 9th Geo. 4 does not make it imperative upon the registrar to transcribe memorials into books, as was done previously to its enactment, and which they humbly submit should be compulsory upon him to do.

In the foregoing statement, the Society have merely suggested what they consider material and necessary alterations, without going into the detail of the increase of fees, and the injury and inconvenience to the public, arising from the present system; and although conscious of the necessity of a reduction of the fees payable under the present Act, the Society have not presumed to submit any particular scale. However, if your Lordships shall be pleased to call upon them, they will not only submit such a scale as they hope will appear to your Lordships to be reasonable and ample (for salaries for efficient officers, and to meet the other exigencies of the office), but will also point out how, and where, and in what respect, the fees of the Register office have been increased to their present excessive standard.

Kildare-street, Dublin,  
30th Nov. 1830.

*Josias Dunn,*  
President of the Irish Law Society.

## Appendix, No. 2.

### Copy RULES and REGULATIONS by the LORD CHANCELLOR and MASTER of the ROLLS.

Rules and Regulations under which Persons not employed in the Registry office are permitted to have access to the Office Books; approved of by the Lord Chancellor and Master of the Rolls, in pursuance of the 9th Geo. 4, c. 57, s. 18.

No. 2.  
Rules and Regula-  
tions by the Lord  
Chancellor and  
Master of the Rolls.

THAT no person be permitted to have access to any of the office books, unless same be handed to him by the clerk in charge thereof.

That every person requiring permission to search in or inspect any of the office books, shall state in a docket the object of such search or inspection, and on payment of the search fee, that he should receive from the clerk or officer appointed for the purpose, an order to clerk in charge of such books, and the same shall be thereupon handed to him.

That every person receiving a book for the purpose of searching or inspecting, shall return the same to the clerk in charge thereof, before he shall receive another.

That