position, wealth, or character, of either of the parties, or any special desire on his part to ensure success. We think also that such extraordinary costs as an attorney would not be justified in incurring without distinct and special instructions from his client, ought not to be allowed, nor the costs of purely collateral proceedings, upon which a party has failed, nor those which may have been occasioned by his default, negligence, or mistake :" *Southampton* case, L. R. 5 C. P. 182. I will first take the petitioner's notice and his objections to the taxation. The first item of importance contained in the affidavit of Mr. Concannon, the petitioner's agent, was the retainers to counsel. The petitioner retained two leading counsel, giving them each ten guineas before the petition was filed, in order to secure their services. There was much discussion on the principle of these retainers. We cannot see the principle on which the master took five guineas off one, and allowed no retainer to the other counsel. I think there is some doubt as to whether this retainer did not retain the services of the counsel for life. We were referred to the rules of the bar which were adopted at a meeting of the bar held on May 3rd, 1864, and by them it appeared that a fee of five guineas was sufficient to retain any member of the bar for a particular court or circuit where he ordinarily practised, but the retaining fee to retain a counsel in every case was understood and there laid down to be ten guineas. This is necessary to retain a counsel before a suit is instituted. This jurisdiction did not exist at all at the time these rules were passed. These inquiries are almost invariably held in a remote part of the country. We do not think that this retainer comes at all within the descriptive particulars "court or circuit where the member of the bar usually practised," and, therefore, we think that the attorney for the petitioner was perfectly justified in securing the services of these counsel, whom he, in the exercise of his discretion, thought necessary for the proper conduct of his case, and he was quite entitled to give them ten guineas each. We are of opinion that this item should be allowed, and we will send it back for re-taxation. The next item is the case laid before the senior counsel to advise proofs. Twenty guineas were paid for this, which was cut down by the master to fourteen guineas; we cannot see on what principle. If there ever was a case, the magnitude and importance of which justified a liberal payment to counsel, this was one. It was not a very large fee, but the master has reduced it. It is a question of principle, of grave and great importance, not only to the bar, but to the public; it is conceded that the attorney for the petitioner was acting for the benefit of his client, and that being conceded, I think it of the last importance to the public that when a solicitor thinks fit to give a proper remuneration to a counsel, his authority should not be treated with levity and set aside. I think no taxing-master, whether of this or any other court, can be as good a judge as a respectable solicitor acting *bona fide* for his client. He has the means of knowing what is just to the bar, taking into account the merit of the counsel he thinks fit to employ. We think this was a most proper fee, both in amount and principle. As to the item of the subpœnas, which is an item of very considerable magnitude, we see no reason to doubt the statement of Mr. Concannon, that it would be dangerous to serve subpœnas with more names than one. But it is stated by the master that there was an agreement that subpœnas should be allowed for each two witnesses; the matter was quite in his discretion and we decline to interfere.

As to the item of fees on the briefs of counsel, I apply all I said before to this. 150 guineas were given to each of the leading counsel; bu this was cut down. I will again refer to the judgment of Bovill, C.J., in the *Southampton* case. The first question argued there was as to the fees allowed to the leading and junior counsel. "If these fees were allowed as being a uniform standard allowance without reference to the particular case, we think this course would be wrong, and that the master ought to exercise his judgment in each case, but at the same time we see no objection to the master adopting such a scale as average for ordinary cases." This was an extraordinary case. The master allowed 100 guineas as the usual fee. He should have exercised his discretion. There should be no uniform rule in a case of such magnitude. As to the consultation fees and refreshers, we do not think they should have been reduced, but we decline to interfere with the discretion of the master as to the number of consultations. As to the short-hand writers' notes, nothing delays the case so much as taking down the evidence. The machinery for taking down the evidence by means of short-hand writers, was provided by the Legislature. During the whole of this case there was constant reference made to the short-hand writers' notes which were in the possession of counsel, and after all this are we to come to the conclusion that short-hand writers are not to be paid