

1880

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MINUTES AND PROCEEDINGS.

where the allowance would extend beyond this, the Nisi Prius brief should be used as far as it will go, unless it was in the hands of a counsel who used it at the Assizes and who is different from the counsel who acts in Term, and the Assize brief is beyond the control of the attorney, so that it is not in his power to hand it to the counsel in term.

In Chamber applications, can the successful party tax the costs of enlargements which he has requested—for instance, the costs of the first enlargement, when he had sufficient time to answer the material on which the summons was moved, or when his agent had to write him acquainting him of the service of the summons and at the same time ask for an enlargement, or where he asks an enlargement to answer affidavits. In any, or either of these cases, should the attendance be allowed?

The successful party in chamber applications made in the course of a cause, is entitled to the costs of attending on all enlargements granted either to himself or the opposite side, if no provision is made as to the costs of such enlargements. If either party desires any enlargement, which his opponent thinks unreasonable, he should request the Judge, if he grants it, to make it only on payment of costs; costs to be costs in the cause to the party opposing it &c. &c., and then the costs will go according as ordered; otherwise, they will be costs in the cause.

When Fiats granted to 1st and 2nd counsel, what length of Brief should be taxed to 2nd counsel, should it be a copy of the pleadings only, or should it include a copy of the original matter on the 1st counsel's Brief, or independent, original matter. If anything additional, what?

Two dollars is always allowed to a counsel at the assizes as a matter of course for Brief, and this without production of any brief. On production of a proper brief additional amounts may be allowed, as provided by the tariff at pages 8 and 9. If, as in the first case, only the two dollars are allowed without the production of the brief, then no brief is allowed to the second counsel. If a brief is produced and a copy also produced for a second counsel, the copy for the second counsel can only be allowed at ten cents a folio.

When judgment is reserved in chamber applications, is it absolutely necessary that the attendance to hear judgment should be noted by the clerk at the time, or can the clerk tax the attendance when he knows that judgment was reserved, and that there was an attendance to hear judgment. Is this rule requiring notices at the time is strictly adhered to, it leads to considerable inconvenience and loss in County Court applications, as invariably the clerk has not time to attend arguments in Judge's Chambers?

The part of the tariff requiring attendances to hear judgment to be noted by the clerk is on page 9, and is as follows: "Fee on attendance by counsel or attorney to hear judgment of Court when attendance is noted by the clerk at the time." This it will be seen applies to judgment of Court only and has no application to proceedings in Chambers.

Has the Deputy Clerk the power to tax a 1st and 2nd counsel fee (together with their briefs) not exceeding \$20 to senior counsel and \$10 to junior, and if so, how should he be guided, and supposing a fee is granted to counsel for say \$25, can the Deputy Clerk tax an additional counsel fee to junior of \$10?

The Deputy Clerk has power to tax fees of \$20 and \$10 on a trial at Nisi Prius. In doing so he must exercise his own judgment as to the importance

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