

1976.

ACCOUNTS of EXPANSES

In causa

SM v. TM

and

CM against JM.

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The Accounts of Expenses against the Law Society by Messrs. Courtney Crawford & Co. are the subject of a Submission to the Auditor basically in connection with e point of principle.

The Table of Fees of Solicitors in the Court of Session contains in the General Regulations as to the preparation and taxation of accounts for Judicial proceedings in paragraph (e) thereof the following:- "It shall be in the option of the Solicitor to charge an account either on the basis of the Table of Fees Chapter I hereof or on the basis of the Alternative Table of Fees Chapter III hereof, In accounts as between husband and wife in consistorial cases, however, it shall be competent to charge an account partly on one basis or partly on the other, but so however that if an inclusive fee is charged under the Alternative Table of Fees Chapter III hereof no work falling thereunder shall be charged again under the Table of Fees Chapter I hereof".


The two accounts in question are charged partial under Chapter I and partially under Chapter III. There is, however, a peculiarity in the framing of the account in that where an alternative fee is charged the permission fee is not charged, and instead entries are inserted for communications with Counsel and the client, Chapter III, part 2, under the heading "undefended consistorial actions" provides the alternative fees,

and paragraph 5 of Part II provides that the charges under Part IV, Section 21, are applicable and so may be charged. This Section deals with the session fee and in a note attached to Section 21 it is stated that the session fee is to be charged only on that part of the account charged under Chapter III.

It was contended by the Solicitors that the method which they had adopted in making up the account was perfectly permissible in respect that instead of charging the session fee they had charged in detail the items which the session fee is intended to cover. The Law Society took the view that these items were representing work which fell under the particular alternative fees which had been charged.

The Auditor, having considered the matter, is of the opinion that these various items in dispute represent work falling under the inclusive fee, and are accordingly not validly chargeable in an account, and that, if the Solicitors wish to take advantage of charging the inclusive fees, then they should take advantage of the session fee which is permitted to them in terms of the Table.

As an example of this, the Auditor refers to the case of [REDACTED], page 5 of the account, where a fee is charged for an opposed Motion to vary an Interlocutor at £6, which is the inclusive alternative fee. There is no charge for the session fee, but there is a charge for writing the correspondents reporting the position and enclosing a copy Interlocutor, and a charge for making a copy of the Interlocutor to send. The Table of Fees provides that a miscellaneous Motion where the attendance of Counsel is required, inclusive of the instruction of Counsel, /



Counsel, should be charged at £6. The Auditor takes the view that informing the correspondent and sending the client a copy of the Interlocutor is included in the charge.

In the same account there is a fee for adjustment of the Record on the inclusive basis and no session fee, but there is charged writing the correspondents enclosing prints of the Record and writing the correspondents confirming the position regarding prints of the Record. The Auditor is of the view that this is work covered by the inclusive fee.

He has accordingly allowed session fees in the case of each inclusive fee and has taxed off the work which in his opinion is covered by the inclusive fee.

The Taxations in both accounts are basically in connection with these matters, and the Auditor does not deal with each of them in detail, having decided the matter on the basis of the General Regulations, paragraph (e).

Auditor of the Court of Session.