

NOTE ON TAXATION OF ACCOUNT IN CASE OF:-

[REDACTED] - 37/03/011924/77

[REDACTED] RC. v. PC

The main point concerning the taxation of this account relates to the local agents (Mr. Cameron of Messrs. Stewart and McIsaac) attendance at a Consultation in Edinburgh. After due consideration of the facts the Auditor of Court did not deem it unreasonable for a prudent man of business to attend the Consultation in this particular case.

There were however certain points worthy of note in this case.

The Edinburgh agents requested a note on the line of evidence in July 1978, however same was not forthcoming until 31st October 1978. The agent in attendance at the taxation maintained that late receipt of the note did not give the local agent much time to precognize the witnesses as the Proof was set down for 14th November 1978. Accordingly the local agent decided to attend the Consultation along with the defender and witness. The Auditor stated that had the note been obtained from Counsel earlier then there would have been no need for panic and the local agents attendance at the Consultation. Furthermore the Auditor stated that when the note was not forthcoming the Edinburgh agents, who had sent several reminders to Counsel, should have changed his Counsel. The Auditor was of the opinion that the work obtaining the evidence, as requested in the note, should have been conducted in Elgin.

The Auditor stated that the pleadings were straight forward and that this was not a complicated action to deal with. The agent drew the Auditors attention to his letter of 20th November 1978 informing his local agent that the Lord Ordinary had difficulty in making a decision with regard to custody. However the Auditor stated that the difficulty only arose because of the evenly balanced evidence and he did not consider that to be of any relevance.

The agent raised the point that the attendance of local agents at Consultations had been allowed on many occasions when they travelled from places such as Kirkcaldy etc. He suggested that this matter was purely being raised because of sum involved and not because of necessity. The Auditor stated that the attendance by any local agent should always be looked at on a necessity basis.

The Auditor also mentioned that such attendances by local agents may be a good charge in an agent and client account, however must be considered differently in agent and client, third party, fund paying basis. The agent was unable to advise as to what the local agent contributed to the Consultation. The Auditor was of the opinion that the local agent just turned up at Consultation and that had he fallen ill prior to same the Consultation would have proceeded and concluded in same manner.

After approximately 50 minutes discussion on this point the Auditor decided to allow agents charges for attendance at Consultation. Certain deductions were made to the agents travelling time as he apparently travelled from Aberdeen to Edinburgh via Stirling.