

DUNFERMLINE 17 June 1986. The Auditor of Court, having considered the fee note submitted by Mr Daiches in the case of HMA v [redacted], Taxes same at the sum of Three Thousand Four Hundred and Forty Seven Pounds 50p (£3447.50) exclusive of value added tax.

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AUDITOR OF COURT
SHERIFF COURT

DUNFERMLINE

Note

At this diet of taxation I heard argument from [redacted] representing the Legal Aid Committee and Mr J Y Simpson, Advocate, in support of Mr Daiches' fee note.

[redacted] indicated that an offer had been made to Mr Daiches but rejected. He objected to the item claimed under consultation on 9 February 1986 (because no Solicitor was present) and the special preparation fee (not allowable). In the course of further discussion it became apparent that the consultation on 3 February 1986 occurred during the trial and fell to be disallowed. Mr Simpson argued that this was a wholly exceptional case, was very complex, and there were an enormous number of productions. He submitted that the daily rate offered by the Legal Aid Committee of £300 was too low, and should be substantially increased, or that a special preparation fee be allowed. He also very fairly admitted that he had never seen such a fee being allowed, and if I was not in favour of it, he argued that a considerably higher daily rate, which would take account of the special preparation, be allowed.

In my view, no special preparation fee is allowable. In terms of Schedule 3 of the Legal Aid (Scotland) (Fees in Criminal Proceedings) Regulations 1984, Note 3, an Auditor has power to increase any fee set out in the Table of Fees where he is satisfied that because of the particular complexity or difficulty of the work, such an increase is necessary to provide reasonable remuneration for the work. There is no authority to fix a fee for an extra item not included in the schedule. I am aware of the volume of productions in this case and the length of time the case took and consider that Mr Daiches is entitled to an increase in his daily rate of 25% to cover the complexity and difficulty aspects. The consultations on 3 February and 9 February 1986 are disallowed. Accordingly the fee is taxed at Three Thousand Four Hundred and Forty Seven Pounds 50p (£3447.50) being 3½ hours consultation at £85 per hour and ten days trial at £315 per day.

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