

PART II.—CRIMINAL AND QUASI-CRIMINAL PROCEEDINGS.

(1) *Supreme Court Trials.*

26. Preliminary investigations of indictable offences before Justices of the Peace will be conducted by the private prosecutor or the police save in exceptional cases in which it is considered desirable that the Crown Solicitor should conduct the case on behalf of the police.

27. In private prosecutions the committing Justices shall ascertain from the prosecutor, as soon as a committal for trial takes place, whether he intends to take charge of the conduct of the prosecution or authorize the Crown Solicitor to act on his behalf. In all other cases the conduct of the prosecution after committal for trial shall be left to the Crown Solicitor. If the prosecution is left to the Crown Solicitor, the committing Justices shall make a memorandum on the depositions to that effect.

28. On receipt of the depositions the Registrar shall, if the prosecution is left to the Crown Solicitor, cause a copy thereof to be made without delay and transmit the same to him.

29. It shall be the duty of the Crown Solicitor carefully to consider the depositions and prepare the case for the Supreme Court, taking special care that any additional witnesses that can be obtained in support of the case are subpoenaed.

30. If the Attorney-General or Solicitor-General is of opinion that any prosecution instituted by a private prosecutor and left to the Crown Solicitor is such that it ought not to be conducted by the Crown Solicitor, notice thereof shall be given to the private prosecutor.

31. Such notice shall, where possible, be given to such private prosecutor not later than seven days in cases in which the committing Justices shall have sat at a distance of more than ten miles from the place at which the trial is to be held, and not later than three days in other cases, before the first day of the sittings at which the trial is to be held. If the committal shall have taken place within the said periods, then such notice shall be given with all reasonable despatch.

32. Notice sent by post to the usual or last-known place of abode of the person to whom notice is given shall be deemed a sufficient service thereof.

33. In all cases where such notice has been given, the Crown Solicitor shall not conduct the prosecution, these regulations shall not apply, and no costs or expenses will be paid by the Crown.

34. In proceedings on trials of indictable offences, other than trials of offences punishable by sentence of death, fees and costs to Crown Solicitors will be allowed as follows:—

As solicitor—preparing case for and attending trial,—

(a) For each separate trial, £3 3s.

(b) The fee above prescribed will cover all charges for preparing indictment, issue of subpoenas, procuring and issue of process to bring up witnesses in custody, entry of *nolle prosequi*, and all other proceedings directly connected with or incidental to the trial.

As counsel,—

(c) For each separate trial, £3 3s.

(d) Where accused pleads guilty after indictment, £1 1s.

(e) If the Crown declines to offer any evidence or enters a *nolle prosequi* without evidence being given in support of the indictment, £1 1s.

(f) On a new trial by reason of disagreement of the jury or for any other reason, no additional solicitor's fee will be allowed, but counsel's fees will be allowed according to scale.

35. The foregoing fees will not be paid in respect of indictments that might properly have been included with others presented. Any question arising as to the applicability of this regulation shall be referred to the Solicitor-General, whose decision shall be final.

36. The Crown Solicitor engaged in trials of offences punishable by sentence of death will be allowed, in lieu of the solicitor's and counsel's fees prescribed by Regulation 34 hereof, an inclusive fee of £7 7s. for each day occupied at the trial and at the preliminary investigation, and a like fee of £7 7s. will be paid for each full day necessarily occupied in preparing for trial or for the preliminary investigation. The provisions of paragraphs (b), (d), and (e) of Regulation 34 hereof shall apply to such cases.

37. Counsel assigned for the defence of accused in trials of offences punishable by sentence of death will be allowed an inclusive fee of £5 5s. for each day occupied at the trial, and a like fee of £5 5s. for each full day (not exceeding five days in all) occupied in preparing for trial, and (if appearing at the preliminary investigation) a like fee of £5 5s. for each day necessarily occupied at the preliminary investigation, and such fees shall be deemed to include the charges mentioned in paragraph (b) of Regulation 34 hereof.

38. For appearance when prisoners committed for sentence under section 181 of the Justices of the Peace Act, 1927, are brought before the Court for sentence, the Crown Solicitor

will be allowed £1 1s. for each prisoner, irrespective of the number of charges; but when more than one prisoner is committed for sentence on one information or as a result of one preliminary hearing, a fee of only £1 1s. will be allowed.

39. Vouchers in favour of Crown Solicitors are to state, in reference to each case in which costs are charged, whether or not the case went to trial, whether or not the accused pleaded guilty, whether a *nolle prosequi* was entered, or with what other result the proceedings terminated.

40. The Registrar at the place at which the trial is held will examine such vouchers, and, subject to any directions given by the presiding Judge, certify that the amounts claimed are in accordance with these regulations, and that the services charged for have been duly performed. Such vouchers are to be forwarded by the Registrar to the Department of Justice for payment.

41. Costs and expenses upon the trial of indictable offences when conducted by or on behalf of private prosecutors, except those cases to which Regulation 33 hereof applies, may be allowed by the presiding Judge and paid on the same scale and in the same manner as if conducted by the Crown Solicitor.

42. Fees to be allowed to solicitors or counsel in a case reserved for the consideration of the Court of Appeal, or on an application for new trial, or an appeal against sentence, shall be such as shall be fixed by the Minister of Justice in each case.

(2) *Proceedings before Justices and Coroners.*

43. Costs will be allowed to solicitors employed by the Crown in conducting cases before Magistrates, Justices of the Peace, or Wardens, under any Act, ordinance, regulation, by-law, or other authority, as follows:—

(a) For each case, including drawing information or complaint, preparing case for hearing, conducting proceedings in Court, and drawing conviction or order (if so required), £3 3s.

(b) Where the proceedings extend beyond one day, then for each subsequent day, if the period occupied does not exceed one hour, £1 1s.; if it exceeds one hour, £2 2s.

(c) Where there are more informations or complaints than one arising out of the same or similar circumstances, so that in the opinion of the Department directing the proceedings the work done in preparing and conducting one of them reduces materially the work of preparation and conduct of the other or others, whether they be against the same defendant or defendants or against several defendants, and whether heard separately or together, then the above fees will be allowed on one information or complaint only, and on each information or complaint after the first there will be allowed an additional amount, not exceeding £3 3s., to be agreed upon between that Department and the solicitor employed.

(d) When for any reason the case is not taken into Court, or where the information or complaint is withdrawn or the defendant pleads guilty, a fee not exceeding £2 2s. will be allowed for drawing information or complaint and preparing case for hearing, with an additional fee of 10s. 6d. in respect of each additional information or complaint, if more than one.

(e) The costs allowed shall, in preliminary investigations of indictable offences, cover all proceedings up to commitment for trial, including a general supervision over all formal matters necessary to make the case complete.

(f) The foregoing provisions shall not apply where party and party costs exceeding the above amounts are allowed by the Court to the Crown and recovered from the defendant.

44. The costs to be allowed under this head shall, so far as applicable, extend to matters of any kind which may be heard and disposed of before a Stipendiary Magistrate or a Justice or Justices of the Peace, where the Court may make an order or give any direction to or in respect of any party affected, although no information or complaint may be laid or made.

45. A solicitor employed to conduct an inquest before a Coroner will be allowed a fee of £3 3s. in respect of such inquest. Where inquests on two or more bodies are conducted together, only one fee will be allowed.

(3) APPEALS AND OTHER PROCEEDINGS UNDER OR RELATING TO THE JUSTICES OF THE PEACE ACT, 1927.

46. If a case or matter is removed by certiorari or otherwise to a superior Court, the conduct of proceedings will in general be assigned to a solicitor practising in the town where the superior Court holds its sittings. In cases where the conduct of the proceedings remains with the solicitor who commenced them, no further costs will be allowed (except under exceptional circumstances) than those prescribed by these regulations.