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THORNYCROFT CARTAGE CO v BEIER & CO (PTY) LTD AND ANOTHER 1962 (3) SA 26 (N)

Citation	1962 (3) SA 26 (N)
Court	Natal Provincial Division
Judge	James J, Fannin J and Henning J
Heard	March 22, 1962
Judgment	April 19, 1962

A

Flynote : Sleutelwoorde

Costs - Taxation between party and party - Taxing master not entitled to treat tariff as a guide - Tariff to be rigidly applied. B - Fees properly incurred must be allowed - Proper for an attorney to keep a copy of power of attorney - Perusal charges - Stage at which can be properly claimed - Perusal of same documents cannot be charged more than once - Taxing master lumping together documents for purposes of calculating a perusing fee - Not permitted C where tariff provides a fee for perusing each document.

Headnote : Kopnota

Regard being had to the Notes preceding the tariff contained in the First Schedule to Rule 24 of the Rules of Court for all Divisions promulgated by *Government Notice* 2835 on 12th December, 1952, the use of the tariff simply as a guide is restricted to non-litigious matters and does not confer a discretion on the taxing master to treat the tariff D simply as a guide when taxing a party and party bill of costs. The discretion conferred in Note III to depart from the tariff is only to be exercised 'in extraordinary or exceptional cases' (relating in particular to attorney and client bills of costs). In general, therefore, the tariff must be rigidly applied. If an expenditure provided for in the tariff has been reasonably incurred it must be paid for strictly in accordance with the tariff. The taxing master has the E right in terms of Note I to disallow costs which appear to him 'to have been incurred or increased through over-caution, negligence or mistake' but, once he has decided that they have been properly incurred, he must apply the tariff strictly to them.

It is proper for an attorney to keep a copy of the power of attorney, as the opposing party is entitled to challenge the authority of the attorney to act on behalf of his client, and he may require it to meet such an eventuality.

As regards charges for perusal, each case must be decided on its own facts. In some cases it may be necessary to peruse certain letters and F documents in order that instructions to defend may properly be taken, in other cases it may be unnecessary to do so. It depends to a large extent on the type of claim made by the plaintiff. A fee for perusing documents may be proper at the stage of taking instructions to defend or for purposes of specification, but it would not be proper to charge a fee at both stages in respect of the same documents. When the first occasion on which it is necessary to peruse documents is for the G purposes of specification, then a perusal fee calculated on the tariff provided under item B.I without the limitation provided by the Note to item B should be allowed.

The taxing master is not entitled to lump together documents for the purpose of calculating a perusing fee when the tariff in fact provides a fee for perusing each document. Thus, as the fees to

which a defendant's attorney is entitled for perusing the plaintiff's specified documents and his discovered documents are laid down in the present tariff under item 1 *(b)*, the taxing master has no discretion to adopt a different H method of calculating the fee by treating the documents as a batch, even if he is of the opinion that it would be equitable to do so. The tariff is in general inelastic. The decision in the Durban and Coast Local Division in *Thornycroft Cartage Co v Beier & Co. (Pty.) Ltd. and Another*, 1962 (2) SA 23, reversed.

Case Information

Appeal from a decision in the Durban and Coast Local Division (CANEY, J.). The facts appear from the reasons for judgment.

D. J. Shaw, Q.C. (with him *D. L. L. Shearer)*, for the appellant.

No appearance for the respondents.

JAMES, J., FANNIN, J. and HENNING, J.

Cur. adv. vult.

Postea (April 19th).

Judgment

A JAMES, J., FANNIN, J. and HENNING, J.: The present appellant was one of two successful defendants in an action brought by the first respondent. In due course the appellant presented his bill of costs for taxation and the taxing master, second respondent in these proceedings, disallowed certain items. The appellant then took the taxing master's decision on review. The first respondent did not oppose the application to review B and abided by the decision of the Court. The taxing master filed a report. After hearing argument on behalf of the appellant CANEY, J., upheld the decision of the taxing master.

Before CANEY, J., the appellant requested an order in the following terms:

'1. That the bill of costs allocated on the 26th September, 1961, be C and is hereby remitted to the second respondent as taxing master, who is directed:

(a) To tax the following items on the basis that the note to item B of the First Schedule to *Government Notice* 2835 dated 12th December, 1952, is inapplicable to such items and that each item perused is subject to the 50 cents minimum set out in item B (1) *(b)* of the said tariff.

D	(i) Jan. 1960	-	Perusing client's documents for defendant's specification.....	R5.55
	(ii) Jan. 25 1960	-	Perusing and considering plaintiff's specified documents as per annexure 'A'	50.87
	(iii) Sept. 8 1960	-	Perusing and considering plaintiff's discovered documents as per annexure 'B' ...	35.00
E	(iv) Mar. 29 1961	-	Perusing and considering documents as per annexure 'C'	27.00
	(v) To allow the fee claimed in the said bill in respect of: August 25, 1959, Copy (of power to defend) to keep.....			0.30'

CANEY, J., refused to grant any such order and that refusal is now the subject of the present appeal. During argument before us Mr. *Shaw* who F appeared for the appellant abandoned the appeal in respect of item *(a)* (iii) set out above because the appellant is now satisfied with the amount allowed on taxation. It will not be necessary to refer to it again. There was no appearance before us on behalf of either respondent.

G The taxation in the present matter is governed by Rule 24 of the Rules promulgated for all Divisions of the Supreme Court, this Rule having been promulgated by *Government Notice* 2835 on 12th December, 1952. Rule 24 provides that

> 'the tariff of fees for attorneys and notaries . . . shall be the tariff set forth in the first schedule hereto'.

H The tariff contained in the first schedule is preceded by a number of notes, the first three of which are relevant and are as follows:

> 'Note I - With a view of affording the party who has been awarded an order for costs a full indemnity for all costs reasonably incurred by him in relation to his claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been awarded, the taxing master shall on every taxation, allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same no costs shall be allowed which appear to the taxing master to have been incurred or increased through over-caution, negligence or mistake,

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> or by payment of a special fee to counsel, or special charge and expenses to witnesses or other persons or by other unusual expenses.
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> Note II - It shall be competent for any taxing master to tax all bills of costs for work actually done by an attorney of the Court in his capacity as such attorney, whether such work is connected with suits pending in Court or not, and the taxing master shall be guided as far as A possible by the scales of fees fixed by this tariff for work done in connection with judicial proceedings, but he shall not proceed to the taxation of any bill of costs unless he is satisfied that the party liable to pay the same has received due notice as to the time and place of such taxation and notice that he is entitled to be present thereat.
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> Note III - The taxing master shall be entitled in his discretion at any time, to depart from any of the provisions of this tariff in extraordinary or exceptional cases, and in particular in the taxation of B attorney and client bills of costs, where strict adherence to such provisions would be inequitable.'

Mr. *Shaw* submitted that Note I clearly made provision for party and party taxation, and Note II for the taxation of bills of costs in respect of work done other than in judicial proceedings. In the latter case the taxing master was to be guided as far as possible by the scale C of fees laid down for work done in connection with judicial proceedings. He submitted, and we agree with him, that the use of the tariff simply as a guide is restricted to non-litigious matters and does not confer a discretion upon the taxing master to treat the tariff solely as a guide when taxing a party and party bill of costs. The discretion conferred in Note III to depart from the tariff is only to be exercised 'in D extraordinary or exceptional cases' (relating in particular to attorney and client bills of costs). As was said in *Greenblatt and Another v Wireohms South Africa (Pty.) Ltd.*, 1960 (2) SA 527 (C) at p. 529: 'Elasticity is therefore confined to extraordinary or exceptional cases'.

In general therefore the tariff must be rigidly applied.

E In our view we must approach the disputed items in the present bill on the basis that the tariff must be applied strictly and that if an expenditure provided for in the tariff has been reasonably incurred it shall be paid for strictly in accordance with the tariff. It seems to us that the taxing master has the right in terms of Note I to disallow F costs which appear to him 'to have been incurred or increased through over-caution, negligence or mistake' but that once he has decided that they have been properly incurred he must apply the tariff strictly to them.

The first disputed item with which we propose to deal is item 1 *(a)* (v) relating to taking a copy of the power of attorney for the attorney to G keep. The appellant claimed that he was entitled to charge for such a copy by virtue of Item F.1 of the tariff read with Item D.6. Item D.6 provides for a charge to be made for drawing powers of attorney to sue or defend and Item F.1 provides a charge 'for making copies for the Court, for counsel or for attorney'. The taxing master disallowed this H item. His reasons for so doing are set out in his report in the following terms:

> 'The fee for a copy to keep of the power of attorney to defend is an item which to my knowledge has never been allowed in any of the Provinces. The power primarily affects the relation between the attorney and his own client and charges arising out of any disputes in this regard cannot be brought up in a party and party bill. The original power, which alone has validity can always be inspected at Court, and in any event is stereotyped in form. If the attorney desires to keep a copy for his own convenience, the cost thereof would constitute an attorney and client charge.'

CANEY, J., supported the taxing master for the following reasons:

'It appears that the basis of allowing charges for copies of documents is

that they be material for the attorney's use for the proper conduct of the case. *Van Hulsteyn & Feltham v Wills Ltd. and the Acme Cigarette Co.*, 1902 T.S. 176 at p. 177; *Cape Provincial Administration v Black, N.O. and Another*, 1935 CPD 36 at p. 37. It does not appear to me that the power of attorney falls within this. The filing of it is a necessary preliminary step to the attorney being entitled to take part thereafter in the conduct of the case; if his authority is challenged, a separate A and different issue is raised, outside the issues in the case in which he has purported to enter appearance. In *Indents (Pty.) Ltd v Raghavjee and Another*, 1937 (2) P.H. F. 87, this Court decided that a copy of the Court's order for the attorney to keep was not chargeable as between party and party; the order concluded the case and was not necessary for the attorney's use in the conduct of the case. As that was after the end of the conduct of the case, so the power of attorney is before the beginning of the conduct of the case. For this reason, and B also because the taxing master says in his experience such a charge has never been allowed in any of the Provinces, I consider I should not disturb his decision to disallow it.'

Mr. *Shaw* criticised this aspect of the report and the judgment. He submitted that the taxing master misdirected himself when he said that the power of attorney primarily affects the relation between the attorney and his client. In fact, so the argument went, the client may C make any type of agreement with his attorney independently of a power of attorney to sue or defend but the power of attorney is required by the Rules for the issue of summons or the entering of appearance. (See Order VI Rule 1 and Order XI Rule 21 of the Natal Rules of Court.) The power of attorney is a document necessary for the proceedings in Court and is not a document which regulates the relationship between the D attorney and his client. Mr. *Shaw* further submitted that CANEY, J., was not strictly correct in saying that the issue of a power of attorney was a necessary preliminary step to the attorney being able to take part in the conduct of the case. An attorney is, in our view, taking part in a case on behalf of his client when he takes instructions to sue or E defend. Both these matters take place before the power of attorney is filed, and they are provided for in the tariff.

We agree with Mr. *Shaw's* submissions on these matters. The opposing party is entitled to challenge the authority of the attorney to act on behalf of his client and the scope of that authority. It seems to us F that it is proper that the attorney should retain a copy of the power of attorney to meet such an eventuality. In our view the fact that the practice in the past has been to disallow a charge for making a copy of a power of attorney is no reason for refusing to allow it now. If the tariff makes provision for the item then the taxing master must allow the charge.

G We now turn to deal with Item 1 *(a)* (i)

'Jan. 1960. Perusing client's documents for defendant's specification.'

The appellant claimed that the charge for this is governed by Item B (1) *(b)* of the tariff - that is to say that the attorney is entitled to a perusal fee for any letter, record or other material document at a rate H of 1s. 3d. per folio with a minimum fee of 5s. (for each separate letter, document etc.). The taxing master contended that this charge was governed by the note to Item B which provides that in computing the fees chargeable for perusal of documents in connection with instructions to defend the number of words in all documents to be perused shall be added together and divided by 100. A folio consists of 100 words and the effect of the taxing master's ruling was that the perusing fee was to be calculated by bundling all the defendant's documents

together and making an overall calculation of the folios they contained. This ruling denied the appellant the right to claim that the folios in each letter and document should be calculated separately with a minimum A fee of 5s. per letter or document. In the result the charge of R5.55 was reduced on taxation by R4.48.

The taxing master defended his decision in the following passage in his report:

'I do not think the question whether it was necessary for the attorney to have perused these documents of his client for the taking of instructions to defend, is relevant. No doubt it was possible to give B instructions orally but as the documents were in existence at the time the instructions were given, and sufficiently important to have to be specified, they should have been handed to the attorney and perused as part of the instructions.

(ii) The general principle, in my submission, is that the client should take to his attorney all relevant documents and other information when giving instructions to sue or defend. He should not do so 'by instalments' or at a

series of subsequent interviews. If he does do so to suit his own convenience or that C of his attorney, the opposite party should not be penalised by allowing the additional costs thus incurred in a party and party bill of costs. The facts that certain documents are only submitted at a later stage does not by itself change the nature of such documents. They remain documents connected with instructions, and as such they have to be taxed in accordance with the note appended to sec. (B) of the tariff.'

D CANEY, J., upheld the taxing master's contention. He came to the conclusion that

'the documents which a party includes in his specification are within the contemplation of those he hands his attorney as part of his instructions, whether to institute or to defend proceedings; they are the documents he intends to use at the trial and surely must (or ought to) be in his attorney's possession from the inception or an early stage of the litigation. In principle, it appears to me that perusing E documents for specification is a perusal contemplated by the note to sec. B.'

Mr. *Shaw* submitted that the taxing master was not correct in enunciating the principle that the defendant should take all relevant documents and other information to his attorney when giving instructions to defend. He pointed out that when instructions are given to defend the defendant F would be in possession of a summons and would not know precisely how the plaintiff's case would appear until he received the declaration when the case would be pleaded in full. If he were to place in this attorney's hands all the documents which he felt might conceivably have some bearing on the case at the time he gave instructions his claim for G perusal fees might be disallowed if the case were settled, on the basis that these costs had been incurred at too early a stage. See *de Kock and Voster v Meyer and Pickard*, 1903 T.S. 558.

Furthermore, so the argument ran, when called upon to specify in terms of Order XVI Rule 1 of the Natal Rules a party is obliged to specify all H documents which he intends to use at the trial, and he must specify them whether they are in his possession or not, and independently of whether or not he had them in his possession in the early stages of the proceedings.

Both these submissions appear to us to be valid. In our judgment each case must be decided on its own facts. In some cases it may be necessary to peruse certain letters and documents in order that instructions to defend may be properly taken, in other cases it may be unnecessary to do so. It depends to a large extent on the type of claim

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made by the plaintiff. In the present case, according to the affidavit filed on behalf of the appellant, the claim arose out of alleged loss caused by damage to certain bales of wool and it was contended that at the instructions stage all that the appellant's (i.e. the first defendant's) attorneys would reasonably be concerned with would be a A broad enquiry into the circumstances of the mishap and with the details of what wool was damaged and the manner of its disposal. It was contended that such an enquiry would involve a consideration of whether negligence could be imputed to the defendant. At that stage it was B unnecessary to consider the correspondence which had passed between the parties, but at a later stage when the defendant was called upon to specify it became necessary to do so to decide whether any portion of this correspondence advanced the first defendant's claim. This recitation of the facts does not appear to have been disputed by the plaintiff at the taxation and the taxing master appears to have come to his decision solely by applying the principle enunciated in his report C and referred to earlier herein. In our view had it been necessary, as a matter of fact, to peruse the correspondence when taking instructions in the present case, then only a fee for perusing documents in connection with the taking of instructions should have been allowed. Mr. *Shaw* D conceded that in such a case no further perusal fee for the purposes of specification would have been proper. In the present case, however, no perusal took place at the time when instructions were taken and no charge was at that stage made. A charge was, however, made for perusal at this stage when a specification of documents had to be furnished. This was the first occasion upon which it was necessary to peruse and E consider these documents and in these circumstances a perusal fee calculated on the tariff provided under Item B.1 without the limitation provided by the note to Item B should have been allowed.

The remaining items which fall for consideration are:

'1 *(a)* (ii)	Jan.	25, 1960	- Perusing and considering plaintiff's specified documents as per annexure 'A'.

1 *(a)* (iv) March 29, 1961 - Perusing and considering documents as F per annexure 'C'.'

(This latter charge related to a perusal of the documents discovered by the second defendant to the action).

The appellant submitted that the charges for both these matters were governed by Item (B) (1) *(b)* that is to say that the attorney is entitled to a perusal fee for any letter, record or other material G document at the rate of 1s. 3d. per folio with a minimum fee of 5s. (for each separate letter, record, etc.). The taxing master, however, grouped the specified documents and the discovered documents together into two bundles and calculated a perusal fee by making an overall H calculation of the folios each contained. As a result he reduced the fee of R57.87 claimed for 1 *(a)* (ii) above by R32.50 and the fee of R27 claimed for 1 *(a)* (iv) by R17.75. In his report the taxing master gave the following reasons for adopting this method:

> '(i) The practice of taxing masters in their discretion to group together certain documents and apply the minimum or maximum rates to the group collectively, instead of each item individually, was well known even before *Government Notice* 2835 dated 12th December, 1952 made that practice obligatory in the case of documents connected with instructions under Item A1 and Item A6.

JAMES, J., FANNIN, J. and HENNING, J.

> (ii) Previously the relevant item in the Transvaal tariff under *G.N.* 698 of 1908 read as follows:
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> 'for perusing and considering an important letter or other document: 3s. 4d. to £3 3s.'
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> In Natal the corresponding item was worded:
>
> A 'perusal of any document: 3s. 4d. to £3 3s.'
>
> Although no express provision was made in these tariffs for lumping together batches of documents, this was, in fact, frequently done.
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> (iii) *In Rosenberg v Standard Bank of SA Ltd.*, 1940 W.L.D. 119, a batch of cheques were grouped together and taxed as a unit. In *Gundelfinger v Norwich Union Assurance Society Limited*, 1916 T.P.D. 341, the record of evidence taken on commission *de bene esse* was held to constitute one document for the purpose of B perusing. In *Oshry and Lazar v The Taxing Master and Another*, 1947 (1) SA 657 (T), it was held inadmissible to split up the evidence of different witnesses included in the record of the insolvency enquiry, and to charge a separate perusal fee for the evidence of each witness. In *S.A. Pharmacy Board v Sachs*, 1948 (1) SA 556 (T), it was held that a petition and the annexures thereto are separate documents, but that if an annexure is made up of several documents, the annexure should still be regarded C as only one document. On p. 559 of the last-mentioned report, the learned Judge states:
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> 'If the petition and annexures, which form the subject matter of the bill of costs under consideration in the present issue, were to be used in future proceedings as an annexure to a petition, then on the principle in *Gundelfinger's* case they will form one document as a record of proceedings used as evidence in such future proceedings.'
>
> (iv) The reason for this practice of grouping together documents is D probably the consideration that it would be inequitable to allow one attorney, who has to peruse say 20 letters or reports of less than one folio each, to charge R10 (on the new tariff) whereas another who peruses exactly similar information contained in one letter or report of 20 folios should only be allowed R2.50. The attorney's work consists of considering the information contained in the documents and weighing its legal implications. The difficulty of this work is not increased by E the fortuitous circumstance that the information is contained in several separate documents instead of in one.
>
> (v) Since the new tariff came into operation, the matter was again considered in *East London Municipality v S.A.R. & H.*, 1953 (1) SA 433 (E). In this case it was held that the taxing master was not *obliged* by the tariff to allow costs of perusal of documents disclosed by the defendant on a time basis. I submit that this decision is no authority for the proposition that the F taxing master s obliged to allow perusal of the documents individually. It is merely authority for the proposition that he is not obliged to do the converse, i.e. to group them together. By implication it appears that the Court agreed that he could have adopted the other method if he wished to do so.'

Mr. *Shaw* submitted that what the case of *Rosenberg v Standard Bank of* G *S.A. Ltd.*, 1940 W.L.D. 119, and the other cases referred to by the taxing master make plain was that where a fee is

provided in the Transvaal tariff for perusing and considering an important letter, such a letter may *not* be included in a batch with other documents which the taxing master plans to tax collectively as if they were a single unit. This appears to be clear from *Rosenberg's* case, *supra* at p. 129 read H with *Bramley v Leonard*, 1913 T.P.D. 494 at p. 497. What the taxing master was obliged to do under the Transvaal Rule was to separate the important letters from the unimportant letters and allow a perusing fee for the important letters in terms of the explicit tariff laid down. He could then in a proper case, although the tariff made no precise provision for this to be done, lump all the unimportant letters and documents together in a batch and allow an overall fee for perusing them. See *Oshry and Lazar v Taxing Master and Another*, 1947 (1) SA 657 (T). What the Transvaal practice did not in fact allow is the practice

contended for by the taxing master i.e. to lump together documents for the purpose of calculating a perusing fee when the tariff in fact provided a fee for perusing each document.

In our judgment the fees for perusing the plaintiff's specified documents and his discovered documents are laid down in the present A tariff under Item 1 *(b)* and the taxing master has no discretion to adopt a different method of calculating the fee by treating the documents as a batch, even if he is of the opinion that it would be equitable to do so. The tariff is in general inelastic. If in respect of any particular item it is intended that the taxing master should have a B discretion, the tariff makes express provision therefor. See e.g. the attorney's travelling allowances under Item E.1 and for the procuring of evidence under Item E. 6.

CANEY, J., in considering this matter held that the perusal and consideration of the plaintiff's specified and second defendant's discovered documents was in effect a re-perusal in respect of which the C taxing master was justified in grouping the documents together in a batch for the purpose of arriving at a charge. In the case of the charge for perusal of the plaintiff's specified documents the bill of costs revealed that on the 25th January, 1960, the appellant's attorneys charged for

> 'attending plaintiff's attorneys inspecting documents. Time engaged 2.15 - 4.55'.

D This was on the same day on which a charge was levied for perusing and considering the plaintiff's specified documents. Although the point was not raised in the taxing master's report or in argument before him, CANEY, J., came to the conclusion that there was in fact a reperusal following after an inspection of the documents at the plaintiff's attorneys' offices which justified the taxing master's method of E treating this item.

In dealing with this aspect of the judgment Mr. *Shaw* contended that the act of perusing or considering a document or letter should be held to mean the application of a trained legal mind to the contents of the F document in question. See *Rosenberg v Standard Bank of SA Ltd. and Another*, 1940 W.L.D. 119 at p. 126. He also referred to the case of *Bettis v Cleaver*, (1872) 7 Ch. Ap. Cases 513 at p. 516, where it is said that the fee for perusing is paid

> 'for the professional consideration which is required to determine what step ought to be taken for the client'.

G He submitted further that the tariff clearly contemplates that once a document has been perused and considered it is perused and considered once and for all and that no further charge can be made for a subsequent perusal, save in extraordinary or exceptional circumstances. He further submitted that there can be no perusal whatsoever save a full perusal achieved by the full application of a trained legal mind to the H document. Mr. *Shaw* pointed out that for attending on the 25th January, 1960, at plaintiff's attorneys to inspect documents an amount of R6.65 was claimed in payment for work which took two hours and twenty minutes. This work was charged for in terms of Item B.5 of the tariff at the rate of 13s. 4d. per half hour which clearly shows that that charge was not intended to pay for the application of a trained legal mind to the documents. Mr. *Shaw* submitted that the attendance at the plaintiff's attorneys' office was an attendance required to check

the documents in the attorneys' possession to see if they agreed with the list disclosed. There is nothing on the record to explain why it took over two hours to do this work, and, as the matter was first raised by CANEY, J., in his judgment, this can now only be a matter for A speculation. If in fact

the defendant's attorneys perused and considered the documents specified in the plaintiff's attorneys' office it may well be that the charge for perusal should have been allowed and the charge for the attendance should have been disallowed. The taxation, however, did not proceed on these lines and we do not know what happened. Mr. *Shaw* submitted that there is nothing to show on these B papers that the defendant's legal advisers perused the specified documents in the plaintiff's attorneys' office or that he combined an attendance to check the documents with a perusal and consideration of the documents. On the face of the bill the attendance and the perusal related to entirely different matters for which distinct charges have C been properly made. We agree with him.

Precisely the same reasoning applies in the case of the perusal and consideration of the documents discovered by the second defendant. These were an entirely different batch of documents and there was also an attendance at the second defendant's attorneys' office to inspect the documents discovered. A fee was also claimed for perusing and D considering them. In our view CANEY, J., was incorrect in holding that the perusal and consideration of the documents specified by the plaintiff and discovered by the second defendant were re-perusals.

For these reasons we are satisfied that the appeal must be allowed. The E appellant did not ask for costs so this matter does not arise for consideration.

The order we make is as follows.

The appeal is allowed and the judgment of the Court *a quo* is altered to read as follows:

That the bill of costs allocated on the 26th September, 1961, be and is F hereby remitted to the second respondent as taxing master, who is directed:

(a) To tax the following items on the basis that the note to Item B of the First Schedule to *Government Notice* 2835 dated 12th December, 1952, is inapplicable to such items and that each item G perused is subject to the 50 cents minimum set out in item B (1) *(b)* of the said tariff.

(i) Jan. 1960 -	Perusing client's documents for defendant's specification	R 5.55
(ii) Jan. 25, 1960 -	Perusing and considering plaintiff's specified documents as per annexure "A"	50.87
(iii) Mar. 29, 1961 -	Perusing and considering documents as per annexue "C"	27.00

(b) To allow the fee claimed in the said bill in respect of:

Aug. 25, 1959, copy (of power to defend) to keep.

Appellant's Attorneys: *Goodricke & Son*, Durban; *Shaw & Co.*, Pietermaritzburg.
