

custom; and although it would seem, that no petty pecuniary charge should be permitted to intercept an extension of mercy, intended to save the life of a fellow-creature, yet it is said, that in England, if a person pleads his pardon, the Judges may insist on the usual fee of gloves to themselves and officers before they allow it. *Co. Litt.* 368; 2 *Inst.* 209; 3 *Jac. L. Dict.* 24. Before * the Revolution, the judicial and ministerial officers of the Government, here as well as in England, were allowed to **145** take fees; 1763, ch. 18, s. 87, &c. But the Constitution has declared, that no Chancellor or Judge shall receive fees or perquisites of any kind. *Dec. Rig. Art.* 30.

The fees of all regularly constituted ministerial officers have been regulated by law; November, 1779, ch. 25; 1826, ch. 247; and it is declared, "that the Chancellor shall have full power and authority to allow any guardians, trustees, agents, or factors, who shall make disposition or sale of either real, personal, or mixed property, for the purpose of paying the debts of deceased persons or others, under and in virtue of any order or decree of the Chancery Court, a commission from one per cent. to seven and a half per cent. for their trouble in selling and disposing thereof, and paying the same way in pursuance of such order or decree as the Chancellor shall, on consideration of all circumstances think just and right." April, 1787, ch. 30, s. 5; 1816, ch. 154, s. 2 and 4. By a rule of this Court of the 14th of June, 1797, it was declared, that "the standing order of this Court relative to the commission of trustees for the sale of real estates having been lost or mislaid, ordered, that in future the following allowances shall be made:— On the first hundred pounds seven per cent., on the second hundred pounds six per cent.," and so on, as in the existing rule, to the tenth hundred pounds, and then it is further declared, that "all above £1,000 at the rate of two per cent. This allowance is to be clear of all necessary, except personal expenses; and it is intended for cases where the sale is for ready money or to satisfy one debt only. Where the sale is on credit, or to satisfy more than one creditor, the Chancellor will make a further allowance from a half to one and a half per cent. on the whole amount of sales, according to the circumstances of the case."

From which it may be inferred, that the lost standing order, of which this is a renewal, had been made in conformity to the Act of Assembly, and soon after it was passed. It appears, however, that although fees, which have been settled by the ancient course of the Court, cannot be altered, but by an Act of the Legislature; *Ex parte Jephson, Prec. Chan.* 551; yet this standing order, for regulating the commissions of trustees, has been frequently departed from; for, there are many cases in which a commission, not thus graduated, and varying from two and a * half to seven and a half per cent. on the whole amount has been **146**