

became very plain, and a remedy was sought in a provision giving the judge power to award a lump sum in addition to the fixed fee. This was a complete abandonment of the principle of certainty upon which the block tariff was based, besides introducing in its worst forms the evils of the personal equation. When the amount allowed for costs is discretionary, there are as many different standards as there are judges, and chaos reigns. It was found that Mr. Justice A. said: 'You are lucky to have a verdict, and should not ask for extra costs from the unfortunate defendant;' whilst Mr. Justice B. would have said in the same case, 'It is a close case, won by the skill of your advocate, and I shall give you a handsome increased fee.'

"Another objection to a block tariff is that the same allowance must be made for a case that is very simple, and for a case that is of necessity long and complicated. The doctrine of averages might be applied if all litigation were between the same litigants instead of between different parties; but there is no justice in making A. pay, in his litigation with B., part of the costs in a suit between X. and Y.

"In the tariff here proposed, a modified form of block tariff has been adopted, giving a lump sum from stage to stage of the action; some of the allowances being made subject to increase in the discretion of the taxing officer or judge. Regarded as a grouping of items now charged separately, this seems to be defensible; and an endeavour has been made to secure uniformity in the exercise of the discretion given, by providing, as now, that most of the increased fees are to be in the discretion of the taxing officers at Toronto. Where discretion has been given to local officers it was found that individual discretion varied to an extraordinary degree. Only by reference to some central authority can any uniformity be secured.

"The adoption of this system will do away with the present itemized bill, and it is believed will meet with acceptance, as there is no encouragement given for unnecessary and useless proceedings.

"W. E. MIDDLETON."