

given: 'that he may be indemnified for the costs occasioned by his unjust vexation.'

"At the same time, such safeguards must surround the taxation of costs as to avoid costs being made an instrument of oppression. The temptation is ever present, not only to the solicitor, but to the client, to incur costs in the hope that the opponent will in the end have to pay. This sometimes is from malice or greed; more often with the idea that the client's interest will be served by making it plain that litigation can be made so burdensome that an opponent had better accept any compromise offered.

"The proposition has been repeatedly made that in the interest of the public and the solicitor the costs of litigation should be definitely fixed and ascertained, so that the parties might know in advance exactly how much is risked in litigation. The experiment has been tried by limiting the amount to be awarded as party and party costs, and has been found to be a failure. The solicitor for the successful party must be paid for the services actually rendered; and his opponent, knowing this and knowing that he incurs no additional risk, deliberately sets himself to increase the burden of the excess of solicitor and client costs over and above the party and party costs than can be awarded. Similarly, when the costs of an appeal have been fixed at a sum not adequate to indemnify, some litigants appeal every case, so as to discourage litigation with them; the verdict being sadly cut into by the excess costs. It must not be forgotten that litigation is war, that large corporations have much litigation, and that some frame their policy in dealing with litigants in such a way as to make litigation so full of terror, by reason of expense and delay, as to bring about the settlement of the majority of claims at much smaller sums than the claimants are really entitled to receive.

"When any so-called 'block tariff' is devised, if it is not to be in itself burdensome it must be based upon the actual costs of litigation conducted on economical lines. Then it becomes an easy matter, when the extra expense has to be borne by the opponent, to make the actual cost exceed the amount fixed. In some jurisdictions where the experiment has been tried, this defect