Canada Law Journal.

VOL. XXXIII. OCTOBER 15, 1897. NO. 17.

It cannot be said that the efforts to simplify legal procedure by means of the numerous rules of practice, etc., have been as successful as had been hoped. There are many cases in which, when brought before counsel, a suggestion is made for a settlement, the amount in dispute, or the damages recoverable, being comparatively small. It is then seen that there have been numerous motions on side issues which render the question of costs of great importance. It is in effect found that the question of costs becomes a more important factor than the claim for the debt or damages, and, if the case goes to trial, it is more to determine the question of costs than the original demand. This certainly is not as it should be, and the remedy seems yet to be found. The chief trouble consists in the incurring of costs of purely interlocutory and in most instances, wholly unnecessary proceedings. There is too much thought devoted to the determination of some point of practice at the expense of the litigants and to keeping as far away from the settlement of the material issue as possible.

THE LEGISLATIVE TINKER.

A case has recently arisen in Ontario illustrating the perils attending the dealing with lands passing by descent or devise. A testator died leaving a large estate; his executors registered a caution in general terms under the Act, which was duly recorded in the general registry, under the names of the executors, and also under the name of the testator. One of the specific devisees of part of the testator's land applied to a loan company to borrow money on the security of the devised land. The solicitor of the loan company searched the title and found it perfectly straight and unencumbered.