

It is a pity that there is no proper tariff for such charges. It places all parties in a very awkward position. That there is power to fix such a tariff, see the Solicitors Act, 1912, secs. 46, 47. And it may be worth while to note the various clauses (a) to (e) of the latter section, as to what should guide in framing such a tariff, these being indirectly some guide even in the absence of a tariff or until one is provided.

We were asked to interfere with the order heretofore made as to costs by the Taxing Officer. The clients might very well, under the circumstances, have been given their costs, considering the very large amount struck off the bills; but it was, I think, a matter within the discretion of the Taxing Officer, with which we ought not to interfere.

As to the other costs, if the parties had produced the evidence before the Taxing Officer which I think might have been obtained, we should have been able to deal with the whole matter here. For that omission both parties are, it seems to me, somewhat to blame. We are reversing the result in the Divisional Court, in so far as concerns the solicitors' cross-appeal; but, on the other hand, are not allowing the clients' appeal otherwise than by a reference back to the Taxing Officer; in other words, giving them another opportunity, on further evidence, still further to reduce the bills, if they can, so that the final result is still uncertain.

Conditions such as these lead me to think that a fair order as to costs is to direct that the order of Britton, J., as to the costs of the proceeding before him, should stand, and that there should be no costs to either party of the appeal or cross-appeal to the Divisional Court or to this Court. The costs upon the reference back will, of course, be in the discretion of the Taxing Officer.

MACLAREN and MAGEE, J.J.A., and LENNOX, J., concurred.

MEREDITH, J.A., for reasons stated in writing, concurred in allowing the clients' appeal and dismissing the solicitors' cross-appeal; but dissented as to the costs of the appeals here and below.

*Judgment as pronounced by GÄRROW, J.A.*

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