

MARITIME LAW ASSOCIATION

New York, March 15, 1930.

COMMITTEE ON LEGAL COSTS.

To the Members of the Maritime Law Association:

The undersigned have been appointed a Committee by the President of the Association to consider the question of whether it would be advisable to adopt a system of taxing legal fees as a part of the costs in all cases in admiralty.

We have made a preliminary study of the English system which imposes such charges on the unsuccessful litigant. This system is the outgrowth of centuries of practice and depends to a large extent upon a fixed schedule of charges for solicitors' services, which are regulated by statute, and the fact that barristers mark their fee on the brief in each case before they undertake the litigation. It has been suggested that the principle of including in the costs chargeable against an unsuccessful litigant the counsel fees of his adversary might be accomplished by providing a sliding scale of costs depending upon the amount of money actually involved in each case.

Before proceeding further your Committee would be pleased to have your views as to whether

- (1) the principle that the unsuccessful litigant should pay the legal fees of his adversary in admiralty courts is worthy of adoption;
- (2) if the practice is to be adopted, whether you favor taxation of such items upon an ad valorem basis, or the British system of taxing the legal fees for the actual service involved.

Your Committee considers that the following circumstances especially should be considered by each member of the Association and invites a full expression of views on these topics. In making this request the Committee does not mean to limit the topics which any member may desire to discuss.

(1) Unfounded suits would not be brought so readily, nor would unmeritorious defenses be interposed merely for purposes of delay.

(2) The successful party would be reimbursed for the expenses which he had been put to by his opponent in prosecuting or defending actions.

(3) Settlements before litigation would be encouraged.

(4) Unnecessary appeals would be reduced.

(5) Unless a similar system were simultaneously adopted for the Federal Courts at Common Law and in the State Courts, the system of fixing legal fees as costs would tend to drive unfounded claims into Common Law Courts.

(6) Unless the system of basing the fee on the amount involved were adopted, a taxing master would have to be appointed for each court. It would be difficult to secure a man with the necessary experience to act as taxing master except at a high salary.

(7) Unless the system of basing the fee on the amount involved were adopted, secondary litigation as to the amount of the fees in each case would be involved.

Will you kindly send your views on the above questions to Harold S. Deming, Secretary of the Association, 27 William Street.

GEORGE DEFOREST LORD,
Chairman,
T. CATESBY JONES,
CHARLES F. DUTCH.