

the presumption of law that the wife in ordering the goods was acting as her husband's agent, and that, as the plaintiffs knew that the wife was living with her husband, and there was no evidence of any special contract by which the wife made herself personally liable, the verdict against her must be set aside with costs.

Paquin v. Beauclerk (1906) A.C. 160 distinguished.

Dennistown, K.C., and *Hannison*, for plaintiffs. *Fillmore*, for defendant.

KING'S BENCH.

Mathers, J.]

[March 27.]

RE CANADIAN NORTHERN RAILWAY CO. v. ROBINSON.

Costs—Arbitration under Railway Act—Taxation of costs—Arbitrator's fees—Counsel fees—Fees of expert witness.

The sum awarded by the arbitrators having exceeded the amount offered by the company, the owner applied, under section 199 of the Railway Act, R.S.C. 1900, c. 37, for taxation of the costs of the arbitration by the judge. Following the practice in Ontario: *In re Oliver v. Bay of Quinte Ry.*, 7 O.L.R. 567, the judge referred the bill to the senior taxing master. The parties afterwards applied to the judge for directions to the taxing officer as to whether the costs should be taxed as between party and party or as between solicitor and client.

Held, following *Malvern Urban District v. Malvern*, 83 L.T. 326, that, under sub-section (5) of section 2 of the Act, interpreting the word "costs" as including "fees, counsel fees and expenses," the costs mentioned in section 199 should be taxed as between solicitor and client.

Held, also, that where, in the opinion of the taxing officer, the costs fixed by the tariff for ordinary litigation are inadequate compensation for the services necessarily and reasonably rendered, he is not bound by it and should not follow it.

After the taxing officer had completed his taxation, it was brought to the judge for confirmation, when the following rulings were made:—

1. For the purposes of the taxation of costs, the arbitration began when the company served notice upon the owner offering an amount which they were willing to pay, and naming its arbitrator, and items for work done even before that date should