

SMITH v. ONTARIO AND MINNESOTA POWER CO.—MASTEN, J., IN CHAMBERS—JAN. 19.

Costs—Taxation—Adjournment of Trial—Several Actions—One Motion to Adjourn—Copies of Affidavits—Rule 193—Costs Thrown away—Preparation for Trial—Correspondence—Counsel Fees—Discretion of Taxing Officer—Appeal—Witness Fees.—Appeal by the defendants from the certificate of taxation by the local officer at Fort Frances of the plaintiffs' costs of the above and several other actions brought against the same defendants. MASTEN, J., in a written judgment, dealt with the objections to the taxation seriatim as follows:—(1) There was only one motion to adjourn—not four motions. Costs of one Chambers motion, begun before the Master and completed before LATCHFORD, J., in Chambers, should be allowed, and no more; counsel fee of \$20. As to the costs thrown away in consequence of the adjournment, each action was to be treated separately and costs allowed accordingly.—(2) Objection as to copies of affidavits allowed—the local practice in Fort Frances cannot be taken to abrogate the express provisions of Rule 193.—(3) The costs of "preparation for trial" are not, in the circumstances, covered by any item in the tariff. The block item of \$25 relates to costs of preparation where an action is actually tried. What the plaintiffs got under the order of LATCHFORD, J., were the costs thrown away by reason of the postponement. Some of the "preparation" will be of use when the cases are tried. Item reduced from \$100 to \$50.—(4) As to correspondence, the respondents being entitled to all costs thrown away by the postponement, it could not be said that \$3 allowed in each case was not a proper allowance for the correspondence occasioned by the postponement. The fee on the Chambers motion included all profit costs for correspondence, but not disbursements for postage and telegrams.—(5) As to the counsel fee at the trial, the appeal should be dismissed. The discretion of the taxing officer on a matter of quantum only could not be interfered with.—(6) There should be allowed costs of one motion to adjourn, but separate bills were properly taxable for the ascertainment of the costs thrown away in each action.—(7) There should be no interference as to the allowance of witness fees.—Order referring the cases back to the local officer to revise the taxation in accordance with these directions. Costs of the appeal, fixed at \$15, to the appellants—to be set off against the costs taxed to the respondents. Glyn Osler, for the appellants. F. Denton, K.C., for the respondents.