

drawn as to avoid the use of the word "penalty" or "forfeiture," while it leaves default to operate as a forfeiture of this sum. The words are: "If defendant should fail to make payment of the said balance within the time limited therefor, as aforesaid, by the said judgment, then plaintiffs shall not be bound to give credit to defendant for the \$500, and that in this respect time shall be of the essence of the contract." To give effect to this would be to regard the form, and ignore the substance. . . . The plaintiffs are seeking relief. I think it would not be equitable to defendant to compel the payment of the additional \$500 under the agreement in question, and also compel him to accept the land purchased.

Appeal dismissed with costs.

BRITTON, J.

MAY 4TH, 1903.

KINGSTON v. SALVATION ARMY.

Parties—Unincorporated Voluntary Association—Service of Process on—Religious Body Holding Property in Ontario.

Appeal by the defendants "The Salvation Army" from order of Master in Chambers (ante 314) dismissing application by appellants to set aside the service on them of the writ of summons and to strike out their name as defendants.

A. E. Hoskin, for appellants.

D'Arcy Tate, Hamilton, for plaintiff.

BRITTON, J.—While not wholly free from doubt, I agree with the learned Master. It was contended by Mr. Hoskin in his very able argument that this case is on all fours with *Metallic Roofing Co. of Canada v. Local Union No. 30, Amalgamated Sheet Metal Workers' International Association*, ante 183. The Salvation Army in this case is sued as a quasi-corporate body just as defendants in the *Taff Vale Case*, [1902] A. C. 429. . . . The Salvation Army is a large and most important association and organization. It has not been defined or created a corporation by any Act of Parliament. . . . This association has the distinctive name given to it by its founder and head, General Booth. The Army is at work in Canada, and in the declaration of trust by General Booth he says "that the name, style, and title by which the said religious community or society hereinbefore described is to be known and recognized is The Salvation Army." . . . Then, this is a "religious community or society," within the meaning of and with the