

purchase of and possession by a railway company of the portion of the plaintiff's land required by the company but did not fix the price. The company having, pursuant to s. 131 of the Railway Act, 51 Vict., c. 29 (D.), deposited a profile plan and book of reference of the land required in the County Registry office which was approved by the railway committee shewing the plaintiff's land, entered and completed the work. The purchase money not having been agreed upon or paid plaintiff brought an action against the town and railway company for damages to the land and with interference with his business.

Held, that the defendants were not liable and that the plaintiff's remedy against the railway company was by arbitration proceedings under the Railway Act and not by action.

Per FALCONBRIDGE, C.J.K.B. (at the trial): Expected increased profits from enlargement of plaintiff's buildings and plant are too speculative and uncertain to form a true measure of damage.

Judgment of FALCONBRIDGE, C.J., varied.

Watson, K.C., and *Grayson Smith*, for plaintiff's appeal. *Clute*, K.C., for Town of Meaford; and *Shepley*, K.C., for railway company, contra.

Falconbridge, C.J.K.B.]

[Sept. 23.]

IN RE BLACK EAGLE MINING CO.

Sheriff's fees—Poundage—Money paid before sale—Possession money.

Where a sheriff made a seizure under writs of fieri facias of property of the judgment debtor and a few hours before the sale the judgment debtor came to the sheriff and paid the full amount of the judgment debts,

Held, that the sheriff was entitled to poundage on the full amount of the judgment debts, and not merely on the value of the property seized.

Held, also, that under the circumstances of this case \$2.25 per day was not too much to allow for possession money.

Douglas, K.C., for sheriff. *Newell*, K.C., for judgment debtors.

Falconbridge, C.J.] KINGSTON v. SALVATION ARMY.

[Oct. 7.]

Parties—Unincorporated association—Salvation Army.

The Salvation Army is an unincorporated religious society, and an action cannot be maintained against it for torts committed by its officers.

The judgment in this action on the motion to set aside the writ, reported 5 O.L.R. 585, considered and not followed.

D'Arcy Tate, for plaintiff. *A. Hoskin* and *Lynch-Staunton*, K.C. for defendants.