

MANITOBA.

COURT OF QUEEN'S BENCH.

DUBUC, J.]

[July 30.]

LATTA v. OWENS.

Public officer—Action against—Neglect to execute warrant—Sheriff's bailiff not a public officer.

The plaintiff claimed damages for the defendant's failure to execute a warrant of distress issued by two justices of the peace under the Masters and Servants Act. The warrant was addressed to all or any of the constables or other peace officers in the district of Carberry, and was handed to the defendant, a bailiff of the sheriff. He at first undertook to execute it, but afterwards, on taking advice, he refused to go on with it, and returned it to the plaintiff's attorney. The plaintiff contended that under the provisions of the statute 56 Vict. (M.), c. 32, distress warrants issued under the Masters and Servants Act must be executed by any person who is a peace officer or bailiff within the meaning of s-s. 8 of s. 3 of the Criminal Code of Canada, 1892, ss. 839 to 909, which are made applicable to all prosecutions and proceedings before police magistrates or justices of the peace under the Statutes of Manitoba, and that the defendant was therefore bound to execute the warrant handed to him.

The learned judge of the County Court of Carberry entered a verdict in favour of the defendant.

The plaintiff then appealed to a judge of the Court of Queen's Bench.

Held, that a sheriff's bailiff is not a general, but a special agent of the sheriff who employs him, and cannot be treated as a public or as a peace officer within the meaning of s-s. 8 of s. 3 of the Criminal Code, 1892, and that the defendant had no right to execute the warrant intrusted to him, and could not be made liable for refusing to do so.

Appeal dismissed with costs.

Pitblado for the plaintiff.

Smith for the defendant.

TAYLOR, C.J.]

[Aug. 14.]

COLQUHOUN v. DRISCOLL.

Sale of lands for taxes—Defective assessment—By-law to levy rate ambiguous—Court of Revision—Sale of two parcels may be good for one, although bad for the other parcel.

This was a suit in equity to have a tax sale deed of the west half of section 22-7-8 W. declared void and set aside as a cloud on the plaintiff's title. The northwest quarter was only granted by the Crown on the 29th October, 1888, but it and the other quarter were sold together in 1890 for arrears of taxes for 1888 and 1889.