

# The Ontario Weekly Notes

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## HIGH COURT OF JUSTICE.

BOYD, C., IN CHAMBERS.

FEBRUARY 8TH, 1910.

RE HOPE AND CENTRAL ONTARIO R. W. CO.

*Sheriff—Poundage — Rule 1190 (2) — Writs of Fi. Fa. against Equity of Redemption in Railway Lands—Settlement Satisfying Judgments and Executions—No Benefit Obtainable from Execution—First Charge on Lands beyond Value — Appointment of Receiver.*

Motion by the sheriff of Hastings for an order for payment of his fees and poundage, in the circumstances stated below.

A. C. McMaster, for the sheriff.

C. A. Moss, for the Bank of Ottawa, execution creditors.

T. P. Galt, K.C., for other execution creditors.

BOYD, C.:—Claim for poundage on executions is made under the following peculiar state of facts. Writs of fi. fa. lands were put into the sheriff's hands in 1893 in respect of actions brought to recover interest represented by coupons due on first mortgage bonds in the Central Ontario Railway Company. The sheriff duly advertised for sale the equity of redemption in the railway lands, and the day of sale was adjourned more than 33 times. The railway extended through parts of the counties of Hastings, Northumberland, and Prince Edward.

In 1902 the bonds matured, calling for over four millions of dollars, and proceedings were taken to sell the road. Judgment to that effect was pronounced in March, 1903. On the 14th October, 1902, a receiver of the railway was appointed, and that officer was continued through all the subsequent proceedings.

In 1906 the Master reported (under reference in the sale proceedings) that the mortgage bonds formed a first charge on and covered all the property belonging to the railway. Early in 1907 the sheriff was notified to do nothing upon the executions, and the writs were all withdrawn in August, 1907.