

of what is called a good working rule, that the injury to plaintiff is small and one which is capable of being estimated in money and which can be adequately compensated by a small money payment. The case is one in which it would be somewhat oppressive to grant the injunction in its full measure, notwithstanding the risk assumed by defendants in completing the building after notice. I therefore give defendants a right, instead of removing the building they have erected, to allow the same to remain, plaintiff to have the right to use the way as heretofore up to the line of the building, and that the right of way shall be freely used, not only for the 90 feet, but for the whole 120 feet. Doubtless plaintiff will suffer some slight inconvenience by closing the door through which he now receives goods, but from the evidence I am satisfied that the inconvenience will be very slight, and that it has been more than compensated for by his having heretofore used the right of way in question for the 30 feet as well as for the 90 feet lot. Defendants are to signify their election within 30 days; otherwise the mandatory order to go for the removal of the building, and in that case the order is to contain a clause limiting the use of the way to the 90 feet as used heretofore.

I do not think there should be any order as to costs. Plaintiff claimed more than he was entitled to by insisting that he had the right to use the way for the 30 feet lot . . . Defendants denied that plaintiff was entitled to any right of way. Each having succeeded in part and failed in part, there should be no costs.

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MABEE, J.

JULY 5TH, 1906.

WEEKLY COURT.

RE SINCLAIR AND TOWN OF OWEN SOUND.

*Municipal Corporations—Local Option By-law—Motion to Quash—Vote of Ratepayers—Town Divided into Wards—Right of Persons Owning Property in Different Wards to Vote more than once—Voters Deprived of Right—Confusion from Colour of Ballot Papers—Persons Voting without Right—Irregularities in Voting—Effect on Result—Municipal Act, sec. 204.*

Motion to quash a local option by-law of the town of Owen Sound.