

mortgagor, who mortgaged to Irwin. This grant contains only the usual exceptions as to waters, access thereto, etc., and there is no reservation as to any right of the Crown to the mortgage mentioned or to any right, present or future, to the land or in any way as to the alleged right, either of John Irwin or of the Crown, to John Irwin's estate. I am of opinion that this grant cut out the mortgage as between James Raycraft and the Crown. The petitioner . . . is a purchaser for value from James Raycraft.

Appeals dismissed with costs.

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DIVISIONAL COURT.

MARCH 14TH, 1910.

WARD v. TOWN OF OWEN SOUND.

*Municipal Corporations — Local Option By-law — Repealing By-law—Submission to Electors—Voting on—Form of Ballot—Directions to Voters—Action to Compel Council to Submit another By-law—Change in Territorial Limits of Municipality.*

This action was brought by the plaintiff, a ratepayer of Owen Sound, on behalf of all other ratepayers of that place, to have it declared that a certain by-law which the council introduced and submitted to the electors was not validly dealt with or submitted or voted upon, and for an order compelling the municipal council to submit to the electors another by-law for the repeal of the existing local option by-law.

The action was tried at Owen Sound by CLUTE, J., without a jury, and was dismissed.

The plaintiff appealed, and asked to have judgment entered in his favour.

Counsel consenting thereto, the appeal was heard by BRITTON and SUTHERLAND, JJ.

J. B. Mackenzie, for the plaintiff.

A. G. MacKay, K.C., for the defendants.

BRITTON, J.:—On the 15th January, 1906, the council passed local option by-law No. 1172, prohibiting the sale by retail in the town of Owen Sound of spirituous liquors. This by-law is now in force.

In December, 1908, the council, without any petition, and of their own mere motion, introduced a repealing by-law, being by-law No. 1321, and gave this a first and second reading. The votes of the electors of the municipality were ordered to be taken on this by-law "by the same deputy returning officers and polling clerks