

the Master's Office, in pursuance of the leave given them by the former order, releases to them of any claims to a right of way over any part of block A., except the portion of it lying immediately north of the easterly 40 feet of lot 1, north of Queen street and west of Sorauren avenue in the city of Toronto. The releases were executed by Amelia M. Cowan, Samuel Clare, B. McQuillan, and the executors of Edward Hickson's will. The appellant is one of the persons interested in the estate of Eyre Thuresson. She gave evidence to shew that by reason of an alleged dedication by the owner of the equity of redemption to the public, and of user by the public, the whole of block A. had become and remained a public highway at the time of the part discharge executed by Samuel Clare, who then owned the mortgage in question, to the executors of Hickson, on 20th January, 1893, mentioned in the former decision; and that it has ever since been and still is a public highway.

J. D. Montgomery, for appellant. By reason of this part discharge, the rights of the public have intervened, and are no longer subject to the mortgage, and these rights cannot be taken away from the public and restored to the mortgagee by any act of any private person.

R. U. McPherson and J. E. Jones, for respective mortgagees.

THE COURT (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.) held that the effect of the instruments produced would be to vest in the present mortgagee, Miss Abercrombie, the rights which had been improperly released by Clare, under which she claimed to be entitled to prove; and the Master was right in holding that these instruments removed the cloud on the title created by the part discharge, and that they are entitled to prove under the mortgage. Appeal dismissed with costs.

JUNE 28TH, 1902.

C. A.

MCCREADY v. GANANOQUE WATER POWER CO.

Waters and Watercourses—Dam—Diversion of Waters—Riparian Proprietor—Order of Judge under R. S. O. 1877 ch. 114 (R. S. O. 1897 ch. 141)—Notice.

Appeal by defendants from judgment of LOUNT, J. Action for injunction restraining defendants, the owners of a water-power at the town of Gananoque, fed by Wiltsie creek and Gananoque river, from opening their dam and letting water flow down on plaintiffs' lands, and for damages. Up to 1900 defendants compensated plaintiffs for