

discretion to pass a by-law for the purposes therein set out; while sub-sec. 4 makes it compulsory upon the council to pass such a by-law when an application therefor has been presented to it, and the council is satisfied that such application is signed by the proper and requisite number of occupiers of shops within the municipality to which such application relates; and in the latter case the council is also empowered, by sub-sec. 7, to make regulations by by-law as to the form of the application and as to the evidence to be produced respecting the proportion of persons signing the same, etc. This part of sub-sec. 7 applies to the procedure under sub-sec. 4, and not to a case where the council, in the exercise of its discretion, passes a by-law under sub-sec. 3.

The learned Judge referred to the decision of Osler, J.A., in *Re Reddock and City of Toronto* (1900), reported but not fully in 19 P.R. 247, as supporting the view that valid objection cannot be taken to the action of the council in passing this by-law without a petition or an application.

Except as to what may be said of the amendment made to sub-sec. 3 by the Act of 1920, the applicant's other objections are met by previous decisions. It is not questioned that the Legislature had power to confer upon the municipal council authority to pass these by-laws; and, if the council has kept within the authority, the fact that the by-law attacked operates severely upon persons affected by it is not necessarily a valid ground of attack.

Reference to *Re Boylan and City of Toronto* (1887), 15 O.R. 13, 14; *In re Smith and City of Toronto* (1860), 10 U.C.C.P. 225; *Regina v. Flory* (1889), 17 O.R. 715; *Regina v. Levy* (1899), 30 O.R. 403 (distinguishing the last two cases).

Under the authority of sub-sec. 7 the council had the power to make regulations as to the classification of shops for the purposes of that section; and, by by-law 8140, it classified grocers' shops and fruit-shops together.

The applicant contended that the 1920 amendment invalidated the whole of by-law 8140. It was not contended and could not be successfully contended that it was beyond the power of the Legislature to make the amendment. The modification so made in the operation of the by-law has legislative sanction just as effectively as if the Legislature had expressly delegated to the council the power so to modify the operation and effect of the by-law and the council had done that which the Legislature expressly said it might do.

The by-law was not open to attack on the grounds set forth.

*Motion dismissed with costs.*