

CLUTE, J.

SEPTEMBER 28TH, 1910.

## BRUNDLE v. CITY OF TORONTO.

*Municipal Corporations—Contract for Construction of Pavement on Highway—Petition of Frontagers—Signatures—Authority of Husband to Sign for Wife—Names Struck off by County Court Judge—Finality of Decision—Right of Court to Inquire into—Signatures Obtained by Misrepresentations—Evidence—Awarding of Contract by City Council—Powers of Board of Control—Municipal Act, 1903, sec. 277—Guarantee of Life of Pavement—9 Edw. VII. ch. 73, sec. 35—Monopoly—Absence of Fraud—Contract Let without By-law—Opposition to Petition—Rights of Property-owners.*

Action to restrain the defendants, the Corporation of the City of Toronto and John McGuire, contractor, from proceeding with the construction of a pavement upon the portion of College street between Manning avenue and Dovercourt road.

In November, 1909, the city engineer recommended, on the "initiative," sheet asphalt pavement for that part of College street. On the 20th December, 1909, a petition for an asphalt block pavement was deposited with the city clerk. On the 14th January, 1910, the clerk certified that the petition was signed by two-thirds in number of the owners of property fronting on that part of College street, according to the last revised assessment roll, and that the two-thirds in number represented at least one-half in value of the properties, and that there was a majority of two over and above the two-thirds. On the 4th February, 1910, the report of the city engineer recommending an asphalt block pavement was passed by the committee of works and the board of control, and on the 14th February, 1910, the report of the board was adopted by the city council. On the 19th February, 1910, the petition was examined by the County Court Judge, and two names removed; and on the 2nd March, 1910, the Court of Revision confirmed the report and assessment. On the 14th July, 1910, the defendant McGuire was awarded the contract for laying the pavement; and on the 19th July this action was begun by owners of land fronting on the part of College street in question.

F. E. Hodgins, K.C., and D. C. Ross, for the plaintiffs.

H. L. Drayton, K.C., and H. Howitt, for the defendant corporation.

W. C. Chisholm, K.C., and Eric N. Armour, for the defendant McGuire.