

longing to certain classes named, should be closed and remain closed between seven o'clock in the afternoon of every business day (excepting Saturdays. etc.), and five of the clock in the forenoon of the next following day. Several petitions were presented to the council for the passage of such by-law; and this motion was made to quash the by-law, on the ground of the insufficiency of these petitions.

J. G. Farmer, K.C., for the applicant.

H. Arrell, for the Corporation of the Village of Caledonia.

RIDDELL, J.:—R.S.O. 1897 ch. 257, sec. 44, is the statute under which the by-law was passed; and it will be seen that sub-sec. 2 gives the local council power to pass such a by-law as this without petition, *i.e.*, to close shops between 7 p.m. and 5 a.m. By sub-sec. 3, it is made obligatory on the council to pass a by-law giving effect to petitions, where such petitions are properly signed, and requiring shops to be closed "at the times and hours mentioned in that behalf in the application." This is quite different from the power given in sub-sec. 2, which is wholly optional with the council—and does not limit or modify that power.

The case of *Re Halladay and City of Ottawa*, 14 O.L.R. 458, 15 O.L.R. 65, differs from the present. There the by-law ordered the closing at six o'clock; and, consequently, it could not have been made under sub-sec. 2. The Court held that the proper number of persons had not signed the petition; that such a petition properly signed was a prerequisite; and the by-law could not stand.

But here the by-law is one which the council could pass without petition at all. (The by-law does not purport to be in pursuance of petition). I cannot think that the power given by the statute is diminished by the fact that wholly unnecessary petitions have been filed.

While the acts of councils which interfere with the freedom of the subject to trade when and where he will must be closely scrutinised, and found to be justified by legislation in order to be sustained; on the other hand, no attempt should be made by the Court to interfere with the exercise by these legislative bodies of their constitutional functions. We have no more right to interfere with them, when they are within their powers, than with any other legislating body, parliament or legislature.

The motion should be dismissed with costs.