

thereof to give effect to a petition presented to the council, by submitting a local option by-law to the vote of the municipal electors.

R. T. Harding, for the applicant.

J. C. Makins, K.C., for the respondents.

MIDDLETON, J., said that a petition for the submission of a by-law, signed by a large number of ratepayers, was presented to the city council in September, 1915; on the 11th November, the City Clerk reported that the petition contained the names of more than 25 per cent. of the persons named in the list of voters; at a meeting of the council held on the 15th November, a motion that the by-law be read a first time was negatived. Only one more meeting of the council is to be held before the 10th December, the last day for advertising if the by-law is to be submitted on the January municipal election polling-day.

It was argued that the motion was premature, and that the council had until the last possible moment to determine whether it would pass the by-law or not. If that were so, it would follow logically that the Court could never grant a mandamus, because, after that critical moment had passed, it would obviously be too late, for the Court cannot dispense with the advertising stipulated by the Act.

It must be taken as reasonably established that it was the intention of the majority of the council to defeat the petitioners, and to avoid discharging the duty imposed upon the council by the statute, if that end could be accomplished.

There was nothing to suggest that the petition was not sufficiently signed; and the finding should be that the petition was sufficiently signed.

The statutory provision governing the matter is sec. 137, subsec. 4, of the Liquor License Act, R.S.O. 1914 ch. 215: "If a petition in writing signed by at least 25 per cent. of the total number of persons . . . qualified to vote at municipal elections is filed . . . it shall be the duty of the council to submit the same to a vote of the municipal electors." There is no provision, as in *Re Halladay and City of Ottawa* (1907), 15 O.L.R. 65, requiring that the council shall be satisfied that the petition is sufficiently signed.

The mandamus should be granted, with costs to be paid individually by those members of the council who voted against the by-law, and who are parties to this motion.