

result of the voting. It did not take away the right to demand a scrutiny; and it is not conceivable, and it is not alleged, that the result would have been different had the final passing been delayed for a few hours until the full month had elapsed from the first publication.

The essential thing in the submission and passing of what is known as a local option by-law is the expression of the will of the persons entitled to vote thereon; and when, as in this case, at least three-fifths of the qualified voters who have voted have expressed themselves in favour of the passing of the by-law, the statute makes it plain that it is the duty of the council finally to pass the by-law; and, on neglect or refusal to do so, they may be compelled by mandamus to take that action. Their duties in that respect are of the most formal kind.

If what the applicant characterises as a premature passing of the by-law had in any way affected the merits of the vote or deprived persons entitled to object thereto of any of their rights, a different conclusion might be reached; but, under the present circumstances, I see no reason for giving effect to this objection.

Objection 6. The facts sworn to, to substantiate this objection, are: that Wallace, a deputy returning officer, was a strong and active worker in endeavouring to procure the passage of the by-law; that he was largely instrumental in obtaining signatures to the petition for its submission to the electors; that it was presented by him to the municipal council; and that he held the position of secretary in the local option organisation which carried on active propaganda for the passing of the by-law. There is no evidence, nor has it even been hinted, that, in the performance of his duties as deputy returning officer, Wallace committed any act which could be considered illegal or which would have had the effect of invalidating any vote or votes or frustrating the will of the voters. It is well known that at times persons appointed as deputy returning officers and poll clerks entertain strong views in favour of one or the other side of the question voted on; but I know of no express prohibition against such persons holding such positions. This objection is not sustained.

Objection 4. The facts relied upon in support of this objection are: that three voters were incapacitated from marking their ballots—two, Rushelean and Trimble, through illiteracy, the other, Pettapiece, by reason of blindness—and that their ballots were marked for them by the deputy returning officer without his requiring them to make the declaration required by sec. 171 of the Consolidated Municipal Act. This objection is