

It was further urged . . . that secs. 336 and 337 of the Municipal Act, 1903, did not apply, as they have relation to by-laws only, and, as no by-law was . . . passed at the time the contract was let, there was no opportunity to oppose it. It was stated that in cases such as the present contracts are awarded and the work proceeded with before the by-law authorising the imposition of the rate to be levied is passed, and that the practice is to oppose the granting of the petition—as, if the petition does not pass, no by-law will be introduced in pursuance of it. . . . Opposition was made to the petition, and application under sec. 688 was made to the Judge to strike off certain names which were alleged to be improperly upon the petition. . . . There is nothing, I think, to prevent any property-owner from appearing before the council and opposing the passing of the by-law . . . As a matter of convenience, it would appear that this is done at the stage when the petition is before the council, and this was in fact what was done on the present occasion. . . . In my opinion, a convenient remedy for ascertaining the number of names and value of property upon the petition is provided by the statute, and, in the absence of fraud, appeal ought not to be made to this Court to reconsider such action.

In the present case there was, as I find, the required majority in number and value to entitle the petitioners to ask for the asphalt block pavement. By sec. 628, a name having been first affixed to the petition, the signer is not entitled to have the same removed without the consent of the Judge of the County Court. . . . His decision in such case is, I presume, final. It may be that, the contract not having been signed . . . by the city corporation, it is still open to other signers of the petition to apply to the County Court Judge to have their names removed; but upon that point I express no opinion. See *In re Robertson and Township of North Easthope*, 16 A. R. 214; *Gibson v. Township of North Easthope*, 21 A. R. 504, affirmed 24 S. C. R. 707. The present case is, I think, distinguishable from either of those cases. At all events the amendment requires that no name shall be removed without the consent of the County Court Judge.

This is a case where the property-owners appear to have been induced to sign the petition upon the representation of proposed contractors who desired to do the work; and the opposition to the petition was commenced, no doubt, by other contractors who desired another kind of pavement to be put down to enable them to compete. I doubt very much if there would have been any trouble or delay in this matter if the city corporation had been permitted by the property-owners to proceed under the first recommendation