

MEREDITH, C.J., held that the order to continue the proceedings should be allowed to stand, on the original plaintiff giving security for the payment of such of the costs as were incurred before the order if the plaintiffs should be ordered to pay costs; the costs of the motion and this appeal to be costs in the cause to the defendants. Order not to issue for two weeks to enable the defendants, if they so desire, to examine the original plaintiff and the substituted plaintiff, and if after such examination they desire the appeal to be brought on again it may be reargued.

MEREDITH, C.J.C.P.

OCTOBER 20TH, 1909.

RE MCGLOGHLON AND TOWN OF DRESDEN.

Municipal Corporations — By-law Authorising Borrowing of Money for Erection of School Building—Site of School House —Determination by School Board—Foundation for By-law—Application of School Board.

Motion by a ratepayer of the town of Dresden to quash so much of by-law No. 357, passed by the council of that municipality on the 14th June, 1909, and intituled "A by-law for the purpose of raising by way of loan the sum of \$20,000 for the erection of a public school building in the town of Dresden," as provided "that a certain site shall be the site upon which a proposed school house be erected," or to quash the whole by-law, upon the ground that the municipal council by the by-law "assumes to fetter the power of the school board" of the municipality "in the selection of a site for a school house."

E. Bell, for the applicant.

A. M. Lewis, K.C., for the town corporation.

MEREDITH, C.J.:—I am of opinion that the by-law must be quashed in its entirety; to quash that part of it which provides that the money to be raised under the authority of the by-law shall be paid over to the school board for the purpose of building "a school house on the site now occupied by the present school building," would be to bind the corporation of the town as to an expenditure which has not been sanctioned by the ratepayers or