

D. L. McCarthy, K.C., for the appellants.
C. M. Colquhoun, for the city corporation.

MIDDLETON, J., in a written judgment, said that the motion was not an interlocutory motion in an action, and perhaps was not an ordinary motion upon originating notice. It was an attempt to purge the records of the Court from what was regarded as an interloping judgment, which had been placed upon the record without sufficient warrant, as it was thought.

While difficult to classify—having regard to the provisions of Rule 2—the motion referred to may not have been strictly a motion upon originating notice, but had such “analogy thereto” as to justify the taxation.

Appeal dismissed with \$10 costs; the present motion, by way of appeal from a taxation, was interlocutory.

MIDDLETON, J., IN CHAMBERS.

MARCH 23RD, 1918.

*GOUGH v. TORONTO AND YORK RADIAL R.W. CO.

Costs—Taxation—Injury to Vehicle Insured by Insurance Company—Negligence of Street Railway Company—Loss Paid by Insurance Company to Owner of Vehicle—Action Brought by Insurance Company in Name of Owner against Railway Company—Recovery of Judgment for Damages and Costs—Right of Insurance Company to Tax Costs of Action against Railway Company—Indemnity.

Appeal by the plaintiff from a ruling of the Senior Taxing Officer that the plaintiff was not entitled to tax any costs of the action, though he recovered judgment therein against the defendants with costs.

J. P. Walsh, for the plaintiff.
W. Lawr, for the defendants.

MIDDLETON, J., in a written judgment, said that the plaintiff's automobile was injured by the negligence of the defendants' employees, and this action was brought, and there was judgment for the plaintiff for \$600 and costs.

Before the Taxing Officer it was shewn that the plaintiff was insured by an insurance company against an injury by such an