RIDDELL, J., also read a judgment. He said that the sole power given to the Court to quash a by-law or resolution is found in the provisions of secs. 282 and 283 of the Municipal Act, R.S.O. 1914 ch. 192, and the power is to quash for illegality. There was nothing illegal in serving a notice asserting an ill-founded claim: Ball v. Carlin (1908), 11 O.W.R. 814, at pp. 816, 817, and cases cited.

Moreover, the motion could not be made upon originating notice under Rule 605; and the provisions of Rule 606 (1) were not applicable.

The motion to quash should have been dismissed; but not upon the ground that dedication had been proved.

There should be no costs here or below.

KELLY, J., was of opinion, for reasons stated in writing, that the resolution could not be quashed for illegality, and that the motion should have been dismissed on that ground. The question whether the locus was a public road was not before the Court for determination; and he would have difficulty on the evidence in arriving at a conclusion favourable to the respondents. No costs here or below.

MASTEN, J., read a short judgment in which he said that the appeal should be dismissed, but he desired to guard himself against expressing any view that such a resolution as that in question could not properly be attacked by originating notice (see Rule 10 (2)). Neither did he desire to express any opinion on the question whether a determination pro or con respecting the validity of the resolution in question would operate as a final and conclusive judgment on the issue as to whether the lands in question had become a public highway by dedication.

MEREDITH, C.J.C.P., said that the appeal was in substance allowed, but the motion to quash the by-law was dismissed on other grounds, and there were to be no costs in either Court.