

Province of Ontario.

COURT OF APPEAL.

Full Court.]

EMBREE v. McCURDY.

[June 5.]

Jurisdiction—Appeal pending—Application for injunction or receiver after security for costs given.

On an application to the Court of Appeal, in a partnership action in which the plaintiff had a judgment in his favour, but an appeal to the Court of Appeal was pending, the security for costs having been given, for an order for an injunction to prevent the defendant from dealing with partnership moneys, or for a receiver. On objection taken that there was no jurisdiction in the Court to make such an order,

Held, that a single judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any party pending an appeal, and that what may be done by a single judge during vacation can be done by the Court at any other time; and that the Court of Appeal for the purposes of appeals, etc., has all the power, authority and jurisdiction by the Judicature Act vested in the High Court and the order was granted.

B. N. Davis, for the motion. F. E. Hodgins, K.C., contra.

HIGH COURT OF JUSTICE.

Meredith, C.J.C.P., MacMahon & Teetzel, JJ.]

[April 2.]

CUFF v. FRAZEE STORAGE & CARTAGE CO.

Evidence of witness at a former trial—Reception of at subsequent trial—Absence of witness—Diligent search for.

Where a witness has given oral testimony under oath in a judicial proceeding in which the adverse litigant had the power to cross-examine, the testimony so given will, if the witness himself be incapable of being called, be admitted in any subsequent suit between the same parties or those claiming under