

obtained from a local judge an interim injunction restraining them from so doing.

The plaintiff also gave due notice of and set down for hearing a motion to the Divisional Court by way of appeal from the judgment of the trial judge.

Upon motion to continue the injunction,

*Held*, that an undertaking to refrain from doing such an act as the court would restrain by injunction should be as implicitly observed as an injunction, and the court, on application, will adopt the undertaking and give it the effect of an injunction, so far that the party relying on it will be enabled to make any infringement the subject of an application to the court.

Injunction continued until the final disposition of the action.

*Peini v. Gray*, 12 Ch.D. 438; *London & Birmingham R.W. Co. v. Grand Junction Canal Co.*, 1 Eng. Ry. Cas. 224; and *Carroll v. Provincial Natural Gas and Fuel Co. of Ontario*, ante p. 388, followed.

*Justin* for the plaintiff.

*T. J. Blain* for the defendants Blain and McMurchy.

BOYD, C.]

[June 4.

OLIGNY v. BEAUCHEMIN.

*Writ of summons—Service out of jurisdiction—Rules 271 (e), 1309—Malicious prosecution—Arrest in Ontario.*

The plaintiff was arrested in Ontario, under a warrant issued in the Province of Quebec, upon an information there laid, and was taken to Quebec, where he was ultimately discharged.

*Held*, that service of the writ of summons upon the defendants in Quebec in an action for malicious prosecution begun in Ontario could not be permitted under Rule 271 (e), as amended by Rule 1309.

The action was one and entire; apart from some contribution as to the total damage, all the matters required to be proved by the plaintiff were localized in Quebec; and proof of some damage in Ontario, which was a continuation of the original tort, was not sufficient to attract the whole cause of action to Ontario.

*F. C. Cooke* for the plaintiff.

*F. A. Anglin* for the defendants.

BOYD, C.]

[June 6.

BROOKS v. GEORGIAN BAY SAW-LOG AND SALVAGE CO.

*Evidence—Foreign commission—Jurisdiction of referee—R.S.O., c. 44, s. 102—Rules 34-37, 52, 58, 59, 73, 441, 442, 552, 590.*

A referee upon a reference under s. 102 of the Judicature Act, R.S.O., c. 44, has jurisdiction to order the examination of foreign witnesses under a commission; he is in the position of a judicial officer, and can, like the Master or trial judge, regulate the proceedings, and provide for the attendance of witnesses, and the examination of those who are outside of the Province.

Rules 34-37, 52, 58, 59, 73, 552, considered.