

THE
ONTARIO WEEKLY REPORTER

(TO AND INCLUDING MARCH 17TH, 1906.)

VOL. VII. TORONTO, MARCH 22, 1906. NO. 10

HODGINS, LOC. J. IN ADMIRALTY. FEBRUARY 12TH, 1906.

EXCHEQUER COURT OF CANADA.

TUCKER v. THE "TECUMSEH."

*Costs—Interlocutory Motion—Reservation to Trial Judge—
No Disposition Made at Trial—Application for Costs
after Appeal.*

After this case had been appealed to the Exchequer Court and decided in favour of plaintiff, plaintiff applied to be allowed the costs of an interlocutory Chambers motion heard on 15th October, 1905, the costs of which were reserved to be disposed of at the trial of the cause, but which costs were not then brought up for consideration or disposed of.

J. H. Rodd, Windsor, for plaintiff.

J. W. Hanna, Windsor, for defendant.

THE LOCAL JUDGE:—In the Encyclopædia of Pleading and Practice, vol. 2, p. 327, it is stated: "Where an appeal has been perfected, the jurisdiction of the appellate court over the subject matter and the parties attaches; and the trial court has no power to render any further decision affecting the rights of the parties in the cause, until it is remanded." The appellate court has affirmed the judgment of the trial court, and there is therefore no remand back.

And in *British Natural Premium Provident Association v. Bywater*, [1897] 2 Ch. 531, Byrne, J., while he allowed certain reserved costs of interlocutory motions—there having