

same period as its agent, the plaintiffs, were ordered to elect as against which defendant they would proceed and the action was dismissed with costs as against the other.

*J. B. O'Brian*, for defendants. *S. Casey Wood*, for plaintiffs.

Boyd, C.]

IN RE WAGNER.

[Dec. 8, 1903.

*Distribution of estates—Devolution of estates Act—Relations of the half-blood.*

In the distribution under the Devolution of estates Act of the real and personal estate of an intestate, brothers and sisters of the half-blood share equally with those of the whole blood.

*W. S. McBrayne*, *H. E. Rose*, *Armour*, K.C., and *Aylesworth*, K.C., for the various parties.

Osler, J.A.]

CENTRE BRUCE PROVINCIAL ELECTION.

[Dec. 9, 1903.

STEWART v. CLARK.

*Election petition—Fixing time for trial—Rota judges' obligation—Application by petitioner—Extending time.*

While there is nothing to prevent a petitioner from making an application to fix the time and place of trial he cannot be said to be in default for not having done so. The obligation and invitation in that respect are cast upon the Rota Judges, the only penalty (if so called) upon the petitioner being that if three months lapse after the presentation of the petition until the day for the trial being fixed any elector may on application be substituted for the petitioner on proper terms. And in such cases as when the judges' other engagements are such as to make it difficult for them to try the petition an application to extend the time for proceeding to trial will be granted almost as a matter of course.

*R. A. Grant*, for petitioner.

Cartwright, Master,]

PHERRIL v. PHERRIL

[Dec. 10, 1903.

*Alimony—Interim—Inability of defendant to pay—Order refused.*

An order for interim alimony, will not be made against a defendant where it is not shewn that he has the means to comply with such an order if made.

*Godfrey*, for the motion. *McNab*, contra.