

King's Bench, Quebec.—No. 80 of 1819.—DARVAULT,
 plaintiff, vs. FOURNIER, defendant.

A tutor must be superseded in the manner directed by the statute 41, Geo. III, c. 7 Sec. 18, but an appeal is the proper remedy if the appointment of the tutor has not been regularly made. The action *en destitution* lies for subsequent misconduct in the tutor.



Per Curiam.—The appointment of a tutor, if it is not regularly made may be set aside, and that must be done upon a *requête* filed by the next of kin according to the provisions of the provincial statute 41, Geo. III, c. 7, sec. 18. The court will not maintain an action *en destitution de tutelle*, if the case is so circumstanced as to allow an appeal to the court for irregularity or error in Chambers. The action *en destitution* is the proper remedy for misconduct in the tutor after his appointment. (1)

(1) L. C. Den. v. 5. p. 716.—Curatelle sec. 7 N. 5
 Bourjon 1st. 69, sec. 6 art. 1.
 Ed. et ordce. 11, 202.
 Prov. Stat. 41, Geo. III, c. 7 sec. 18.
 Pigeau 2d. p. 307.