but for his consenting to it, and he had now the price of the cow in his pocket. When his Honor came to look at the proceedings it was apparent that the plaintiff wished to build up a case on a pure technicality. He came before the Court with allegations that were not true. The plaintiff, in fact, had not a particle of equity on his side. He had no real grievance. The Court would not under the circumstances condemn the defendant to pay any damages. The action would be dismissed with costs, on the ground that plaintiff had failed to prove his allegations; was shown to have retarded the execution by opposition, false and frivolous; that he had no right to make claim from the mere fact of filing an opposition, however false and frivolous, &c.

Action dismissed.

D'Amour & Dumas for plaintiff.

Trudel & Co. for defendants.

SUPERIOR COURT.

MONTREAL, May 21, 1880.

GINGRAS v. BRILLON et al.

Testamentary Executor—Causes for removal from office.

The action was brought by one of thirty-five legatees under the will of the late M. Senecal to deprive of their office four executors appointed by the testator for the administration of his succession. The reasons alleged were:—1. Incapacity of certain defendants; 2. Refusal to act by Mme. Senecal and M. Cadieux; 3. Negligence; 4. Bad administration.

TORRANCE, J. The action is brought under C. C. 917. The evidence would require to be very plain which would justify the destitution of the executors from their office, only a few months after they had entered upon the administration. There was certainly too much delay in beginning the inventory, and the time necessary for deliberation by Mme. Senecal does not justify it. Further, the terms attached to the sale of the property were peculiar, but the proceedings were approved of by the legatee now complaining. At any rate, the powers given to the executors under the will are large, and the grievances alleged by the plaintiff are not of a character which would justify the conclusion taken by him. The evidence rather shows capacity and a good administration as well as harmony in the prosecution of the administration by the executors. Action dismissed.

Gingras in person.

C. C. Delorimier for defendant.

COURT OF REVIEW.

MONTREAL, May 31, 1880.

JOHNSON, MACKAY, RAINVILLE, JJ.

FAIR es qual. v. CASSILS et al.

[From S. C., Montreal.

Interlocutory judgment—Judgment ordering plaintiff to make option between two incompatible causes of action.

JOHNSON, J. The defendant moves to reject the inscription by plaintiff, on the ground of the judgment being an interlocutory one, and not, therefore, susceptible of review. The judgment orders the plaintiff to make option within fifteen days between two incompatible causes of action. This is interlocutory merely. It would only become final if after the expiration of the time given to make option, the other party were to move to dismiss the action in consequence of non compliance with the order.

Motion to dismiss inscription granted with costs.

R. & L. Laflamme for plaintiff.

L. N. Benjamin for defendant.

JOHNSON, MACKAY, RAINVILLE, JJ.

DORION v. MARSIL.

[From C. C., Terrebonne.

Appeal from Circuit Court—C. C. P. 1074—Evidence where there was no demand that it be taken in writing.

JOHNSON, J. In this case we have nothing before us in the way of evidence, but the private notes of the Judge, and not in the form required by law. The inscribing party had the right to bring the case here on any point of law; but none is raised, and the judgment therefore being properly before us, and the case having been tried in the Circuit Court, we must presume the evidence was taken as the law directs in such a case, i.e., without written notes, unless there is a demand in writing that it be taken otherwise. Judgment confirmed.

C. L. Champagne for plaintiff.

Prevost & Co. for defendant.