appeal. The authorisation to a tutor or a curator stood on a totally different footing from the authorisation to the wife to sue. The appellant would have one month to produce an authorisation.

The respondent also moved for leave to execute the judgment, notwithstanding the appeal. The argument was that the judgment for aliments was executory notwithstanding the appeal. If so, it was unnecessary for this court to interfere, and if not, the Court did not think this was a case in which it was desirable to make any special order as to aliments, if the Court of Appeals has authority to do so, as to which the Court expresses no opinion.

Motion to reject appeal granted, and take nothing by motion for leave to execute judgment.

Pagnuelo, Q.C., for appellant.
Geoffrion, for respondent.*

COURT OF QUEEN'S BENCH.

MONTREAL, September 24, 1883.

DORION, C. J., MONK, RAMSAY, TESSIER and BABY, JJ.

McCRAKEN et al. (plaintiffs below), Appellants, & LOGUE (defendant below), Respondent.

Procedure—Order of Judge appointing sequestrator—Appeal.

The Court of Queen's Bench sitting in appeal has jurisdiction to grant leave to appeal from an order of a judge in Chambers, where the judge is given the jurisdiction of the Court.

A judgment appointing a sequestrator is a final judgment, and may be appealed from de plano.

RAMSAY, J. This is an appeal from the decision of the Court of Review, setting aside an order of a Judge establishing a *séquestre*. (See L. N., 90.)

The first ground taken by appellants is that the Court of Review had no jurisdiction to set aside the order of the judge; 1st, because the order of a judge in Chambers is not appealable. 2nd, that even if appealable it is an interlocutory judgment which cannot be revised by the Court of Review, or by this Court *de plano*.

The first of these objections has presented itself in different forms before this Court within the last nine years, and I regret that I have not my notes by me at present, for I am disposed to believe that a question analogous to the present one has been already decided by this court. In the absence of my notes I must trust to memory. I know we have decided that we had not jurisdiction to give leave to appeal from a ruling of a judge at *enquête*, but generally, I think, we have said that where the Judge was given the jurisdiction of the Court, that then we had jurisdiction to grant leave to appeal from his order or judgment, for then it was a judgment of the Court. If that proposition be conceded, then we have only to enquire what words will convey this jurisdiction. The words relied on here are to be found in article 876 C. C. P:—"All demands for sequestration are made by petition to the Court (or to a Judge)." It is contended that if the Judge decides, it is not the decision of the Court, and that the party dissatisfied with the order must have it revised by the Court. Such a decision would be in effect to override the Statute, and to say, that the Court and the Judge had not concurrent jurisdiction. Plainly if they have concurrent jurisdiction the one cannot set aside the decision of the other. The Superior Court has already decided the point in a sense adverse to the appellant, and I think, unless there was a conflict of opinion among the Judges in the Superior Court, it would be very unwise of this Court to interfere with the practice of that Court unless it could be shown to be clearly unlawful. In the case of the *Heritable Securities and Mortgage Association & Racine*, the plaintiffs applied in Chambers for, and obtained, the order of a Judge for the appointment of a sequestrator. Some days after the defendant applied to another Judge in Chambers to set aside the order, which was granted. Plaintiffs then applied to another Judge in Chambers to annull the second order, and the Judge referred the parties to the Practice Court. There the question came before Mr. Justice Rainville, who after full argument decided that "the Court had no jurisdiction to revise the order of Mr. Justice Johnson," that is, the first order. In other words Mr. Justice Johnson's power acting in Chambers under article 976 C. C. P. was equal to that of the Court.

But it may be said that this is not conclusive, for that although equal to that of the Court, it is not that of the Court, and consequently that there is nothing to justify an appeal. It seems

* See 16 L. C. J., 224.