did not arise in the district of Montreal the action was wrongly brought there.

The Superior Court dismissed the declinatory exception.

Sir A. A. DORION, C. J., said this point had been decided by Chief Justice Meredith in the case of *Wurtele & Lenghan.** A very similar point had been raised in the case of *Conroy & Ross*,† but this Court, confirming the judgment of the Court below, had decided that the declinatory exception was unfounded. The case was this. A merchant in Ottawa had contracted with a merchant in Quebec (Ross) to sell timber for him in Quebec. Part of the timber was sold there, and the market being unfavorable Ross sent the rest of the timber to Liverpool, and it was sold there. The proceeds were not sufficient to pay expenses, and Ross sued Conroy in Quebec. We held that within the meaning of the code the whole cause of action had arisen in Quebec.

RAMSAY, J., said that the difference between the present case and the case of *Ross & Conroy* was that the latter case arose directly on the contract, whereas in the former the action was for damages. He thought, nevertheless, that where the action arose on a failure to perform a contract there was really no difference. This was the only point before the Court, and he did not think it necessary to enter into the old question of what was the "whole cause of action." The attempts to define had not been very successful.

Leave to appeal refused.

Lunn, for defendant moving.

Butler, for the plaintiff.

COURT OF QUEEN'S BENCH.

MONTREAL, September 27, 1882.

DORION, C. J., MONK, RAMSAY, CROSS & BABY.

DORION, appellant, & DORION, respondent.

Security for costs—Notice.

It is necessary to give notice to the opposite party before putting in security for an appeal to the Queen's Bench from a judgment of the Superior Court.

DORION, C. J. A motion has been been made in this case that the appeal be dismissed, the security bond having been entered into without notice to the opposite party. It was also alleged that the sureties were insolvent. On the other side it is contended that no notice is necessary. The Court is of opinion that it was the duty of appellant to give notice. Notice was required when the Court ordered security to be given in a case. In appeals from the Circuit Court the law provided, for obvious reasons, that the security might be given without previous notice; the article providing for appeals from the Superior Court makes no mention of notice. It was therefore to be presumed that notice was required, that being the general rule. Appellant had suggested no excuse for his not following the ordinary and proper procedure, and therefore his appeal would be dismissed with costs. He was still in time to renew his appeal.

Motion granted, and appeal dismissed with costs.

Barnard, Q. C., for respondent.

Pagnuelo, Q. C., contrà.

COURT OF QUEEN'S BENCH.

MONTREAL, September 26, 1883.

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

CLEMENT & FRANCIS.

Curator—Appeal from judgment—Execution.

The curator to a person interdicted cannot appeal from a judgment until he is authorized by the judge, or the prothonotary, on the advice of a family council.

In such case the Court of Appeal will not grant leave to execute a judgment for aliments, notwithstanding the appeal.

This case came up on a motion to reject the appeal taken by a curator to an interdicted woman without the authorisation of a family council as required by Arts. 306 & 343 C. C.

DORION, C. J., said that the Court in a previous case had already allowed the tutor to file the authorisation obtained but not produced, and he thought that the appellant was also entitled to delay to obtain the authorisation. This was the rule in France, and it was reasonable. If the Court were to hold absolutely that the appeal could not be brought until the authorisation was obtained, the minor or interdicted person might readily be cut out of his rights where there was a short delay to institute the

* 1 Q. L. R. 61. † 6 L. N. 154.