

1910

GÉNÉREUX *et al.* v. BRUNEAU *et al.*

\*Nov. 4, 7, 8.

\*Dec. 9.

ON APPEAL FROM THE COURT OF KING'S BENCH,  
APPEAL SIDE, PROVINCE OF QUEBEC.*Will—Extension of powers of executors—Universal legatee—Special legacy—Appeal—Jurisdiction—Amount in controversy—Order to take accounts—Interlocutory judgment—Costs.*

APPEAL from the judgment of the Court of King's Bench, appeal side(1), by which, Archambeault and Carroll JJ. dissenting, the judgment of Charbonneau J., in the Superior Court, District of Montreal, was varied.

On the 15th of February, 1910, a motion was made on behalf of the respondents to quash the appeal for want of jurisdiction on the grounds:—that the judgment appealed from merely ordered that there should be a taking of accounts; that there was in controversy simply a sum of money which could not be shewn to amount to or exceed the sum of \$2,000, being merely a dispute in regard to collection of the rents of buildings by the testamentary executors (respondents) which, at the time of the action, were less than \$800; that no title to lands or future rights could be affected, and that the judgment appealed from was interlocutory only.

The hearing of the motion was ordered to stand over until the hearing of the appeal upon the merits, and, on the appeal coming on for hearing, during the following session of the Supreme Court of Canada, the motion was renewed.

After hearing counsel on behalf of both parties, the court decided that it had no jurisdiction to hear

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\*PRESENT:—Sir Charles Fitzpatrick C.J. and Girouard, Davies, Idington, Duff and Anglin JJ.

(1) Q.R. 19 K.B. 507.

the appeal and an order was made quashing the appeal with costs to be taxed as if the appeal had been dismissed on the merits.

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*Appeal quashed with costs.*

*Baudin K.C. and Mignault K.C. for the appellants.  
Bastien K.C. and Duclos K.C. for the respondents.*