Montreal, March 11, 1878.

TORRANCE, J.

BOURGOIN et al., v. THE MONTREAL, OTTAWA & OCCIDENTAL RAILWAY; and Hon. A. R. ANGERS, *Pro Regina*, intervening.

Inscription for Enquête and Hearing—Conflict of Options—C. C. P. 243.

Held, that a party inscribing for *enquête* and hearing at the same time will be sustained in his option under C. C. P. 243, although the other side has on the same day inscribed for *enquête* in the ordinary way.

J. Doutre, Q. C., for plaintiffs.

E. L. de Bellefeuille for defendants.

CIRCUIT COURT.

Montreal, March 4, 1878.

MACKAY, J.

PATENAUDE v. GUERTIN, and GUERTIN, Opposant.

Execution—Reduction of amount.

If execution issues for more than the amount due under a judgment, the defendant is entitled by opposition to ask that the execution be reduced to the sum really due, and he is not obliged to tender with his opposition such balance nor to deposit it in Court. The costs of such opposition must be borne by the plaintiff. (Vide *Fournier* v. *Russell*, 10 L. C. R. 367.)

Mousseau & Co. for plaintiff.

J. G. D'Amour for opposant.

COMMUNICATIONS.

QUEBEC JURISPRUDENCE.

To the Editor of THE LEGAL NEWS:

Sir,—A week or two ago I ventured a few remarks under the above somewhat comprehensive heading, and, having an hour to spare, would like, with your permission, to extend them a little further.

I ventured then to assert that there was a greater degree of uncertainty about the decisions of our courts in this Province than there was any valid reason for—greater than is to be found in the courts of many other countries, and much greater than is conducive either to the interests of justice or the standing of the profession in the Province.

And when I make this assertion, I do so I think with a pretty clear consciousness of the difficulties which surround the question. I do so at least with a perfect consciousness that law, in common with all other purely metaphysical sciences, can never attain to that degree of certainty which will entitle it to rank as an "exact science;" that the multitude of questions which it involves must always be subject to a certain amount of "change;" that principles which are regarded as "settled" by one generation may be reversed by the next, as we find to be the case in other sciences, both physical and metaphysical—both practical and speculative.

In pathology, for instance, plants and flowers which are now known to be decidedly antiseptic in their influence on the atmosphere, and therefore a valuable auxiliary in the treatment of disease, and are recommended and used by the faculty as such, were not long since universally banished from the sick room as detrimental to the health of the patient.

And chemistry, although elevated by the labours of *Lavoisier* and others almost to the rank of an exact science, is still subject to a certain amount of "change" in many important particulars.

But, notwithstanding this, I am forced to believe that the jurisprudence of this Province, with proper treatment, might and should be brought to a greater degree of exactness in its application than it at present possesses. It would not at least be too much, I think, to assert that though one generation, basing its conclusions on additional experience, may reasonably be led to reverse a principle of law or practice which by a former one was regarded as settled, there ought to be, in a department of science of such immensely practical everyday importance as that of the law, a sufficient degree of certainty to permit of the same question being decided in the same way at least two weeks or even two months following.

But you have a case in which a question of practice, for instance, arises, concerning which you are in doubt. You consult the code, but the code throws no light on the subject. You look at the decisions of the past, but scarcely any two of them can be found which are in harmony with each other. You confer with your brother advocate, who, it may be, possesses a larger experience, and he tells you that