

that the evidence presented considerable difficulty, the contradictions being very positive.

Judgment confirmed.

Doutre & Doutre for Appellant.

Trudel, Taillon & Vanasse for Respondent.

SUPERIOR COURT.

MONTREAL, January 26, 1880.

HUGHES v. REES.

Inscription for enquête by defendant foreclosed from pleading.

The defendant, after being foreclosed from pleading, inscribed for *enquête ex parte*.

The plaintiff moved to reject the inscription, on the ground that he alone, as *dominus litis*, could inscribe.

TORRANCE, J. In a contested case either party may inscribe for *enquête*;—C.C.P. 234. By C.C.P. 317, the plaintiff, after obtaining a foreclosure against the defendant, may inscribe for *enquête ex parte*. No such right is given to the defendant who has allowed the plaintiff to proceed *ex parte* by failing to plead. I have never known of such a proceeding by a defendant, and none of my brother Judges have known of it. The motion of the plaintiff is, therefore, granted, and the inscription by defendant rejected.

W. H. Kerr, Q.C., for plaintiff.

W. W. Robertson for defendant.

CIRCUIT COURT.

MONTREAL, December, 1879.

LIGHTHALL v. JACKSON.

Attorney—Right to fee for writing a letter demanding payment of debt.

The defendant was indebted to the plaintiff in a sum under \$25, and payment of the debt had frequently been demanded. Finally, the account was placed in the hands of Mr. Butler, advocate, who addressed to the defendant the usual letter, intimating that legal proceedings would be taken for the recovery of the debt, unless the amount thereof, and \$1.35, costs of letter, be forthwith paid.

The defendant then tendered the debt, without costs of letter, which was refused.

Suit being entered, the tender was pleaded by defendant, and admitted by plaintiff, who claimed

that the defendant should also have tendered the fee for the letter.

RAINVILLE, J., maintained the action, holding that payment having been demanded of defendant before the lawyer's letter was written, the defendant should have tendered the costs of the letter in addition to the debt.

Judgment for plaintiff.

T. P. Butler for plaintiff.

W. S. Walker for defendant.

NOTE.—As a note to the above report, the correctness of which we have taken pains to verify by communication with the learned Judge and with the counsel on each side, it is proper to give the following extract from a letter received by the editor:—

"Sous le titre "Lawyer's Letters," vous rap-
portez une décision de Son Honneur le Juge
Rainville, jugeant que l'avocat avait droit à
\$.1.35 d'honoraires pour une lettre écrite à un
débitur, lorsque le demandeur lui avait déjà
demandé le paiement de sa dette. Vous ajoutez
que le Juge Rainville a consulté ses collègues
avant de rendre son jugement. Permettez-moi
de vous informer que Son Honneur le Juge
Mackay, a rendu une décision contraire le 15
janvier 1880, dans une cause de *Gervais v. Denis*.
(St. Pierre & Scallon, pour le demandeur, et
Martineau & St. Jean pour le défendeur.) L'Ho-
norable Juge, tout en le regrettant, a décidé
que l'avocat ne pouvait pas se faire payer une
lettre, attendu que le tarif ne lui donne pas ce
droit. Si vous croyez pouvoir vous servir de
ce renseignement en avertissant les confrères,
que tous les juges de la Cour Supérieure de
Montréal ne partagent pas la même opinion
sur cette question, je serai très-heureux de vous
avoir communiqué la présente espèce. Veuillez
me croire, votre dévoué serviteur,

PAUL G. MARTINEAU."

CIRCUIT COURT.

[In Chambers.]

MONTREAL, January 23, 1880.

CRUICKSHANK es qual. v. LAVOIE.

Security for Costs—Notice.

TORRANCE, J., held that notice of application for security for costs from non-resident plain-
tiff must be given within four days after return of writ. *Rousseau v. Trudeau et al.*, 13 L.C.J.