

# THE LEGAL NEWS.

---

VOL. XVIII.

MARCH 1, 1895.

No. 5

---

## CURRENT TOPICS AND CASES.

Article 1102 of the Code of Procedure would seem to be perfectly clear in its terms: "Judgments for sums not exceeding forty dollars can only be executed upon the movable property of the debtor, except etc." The French version, in the singular, is perhaps still clearer: "L'exécution des jugements pour *une* somme n'excédant pas quarante piastres etc." Nevertheless the article has caused some difficulty, and various interpretations have been put upon it. In *Jenckes Machine Co. v. Hood*, M. L. R., 7 S. C. 208, Justices Mathieu, Wurtele and Tellier, sitting in Review at Montreal, held that even where distraction of costs is not awarded by the judgment, they cannot be added to the principal, in order to form the sum of \$40. The letter of the Code certainly supports this interpretation. In the district of Quebec it seems that the practice has been different, and that if interest and costs, added to the principal, form a total sum exceeding \$40, execution against real estate may issue. *Moore v. Keane*, 6 Q. L. R. 378, is not quite in point, but in giving the judgment of the Court of Review Chief Justice Meredith pointed out that the general rule is that the whole of a man's property is subject to the payment of his debts, and the Courts have no right to extend the exception made to that rule by the legislature. In a recent case, *Gagnon v.*