

MEREDITH, C.J.]

[Nov. 29.]

MACDONALD v. WORLD NEWSPAPER COMPANY OF TORONTO.

*Security for costs—Libel—Newspaper—R.S.O., c. 57, s. 9—Criminal charge—
"Blackmail"—Criminal Code, s. 406—Trivial or frivolous.*

Upon an application under R.S.O., c. 57, s. 9, for security for costs in an action for libel, in which the words complained of, published in the defendants' newspaper, accused the plaintiff of attempted "blackmail";

Held, that the words might bear such a meaning as to charge the indictable offence defined by s. 406 of the Criminal Code, and the question whether they did so, when read with the context, was for the jury, and one which should not be determined upon this application; and the Master in Chambers having held that they "involved a criminal charge," his decision should not be interfered with.

An action cannot be considered "trivial or frivolous," within the meaning of s. 9, merely because the existence of a good defence on the merits is shown by the defendant's affidavit, and not contravened by an affidavit of the plaintiff. The latter may properly consider that, upon an application for security for costs, a denial on oath of the truth of the charges against him is unnecessary.

A. W. Bailantyne for the plaintiff.

J. Baird for the defendants.

MEREDITH, C.J.]

[Nov. 29.]

GEORGIAN BAY SHIP CANAL AND POWER AQUEDUCT CO. v. WORLD NEWSPAPER COMPANY OF TORONTO.

*Security for costs—Libel—Newspaper—R.S.O., c. 57, s. 9—Criminal charge—
Incorporated company—Publication in good faith.*

The words "involves a criminal charge," in R.S.O., c. 57, s. 9, s.s. (1) (a), mean "involves a charge that the plaintiff has been guilty of the commission of a criminal offence."

And where the words published by the defendants in their newspaper, of which the plaintiffs, an incorporated company, complained in an action of libel, alleged that the plaintiffs had tried to bribe aldermen by issuing to them paid-up stock in the company;

Held, upon an application for security for costs under the above section, that the words did not involve a criminal charge, for a corporation cannot be charged criminally with a crime involving malice or the intention of the offender.

Mayor, etc., of Manchester v. Williams, (1891) 1 Q.B. 94, followed.

Journal Printing Co. v. McLean, 25 O.R. 509, distinguished.

And where the defendants, by affidavit, showed publication in good faith, and other circumstances sufficient, under the above section, to entitle them to security for costs, and the case made was not disclosed by the cross-examination of the deponent on his affidavit, an order was made for such security.

J. F. Edgar for the plaintiffs.

J. Baird for the defendants.