

furor des puissants, mais elle ne devient jamais complice de la haine et du ressentiment. Elle ne prête son ministère que pour contraindre les rebelles ; et lorsqu'ils se rendent d'eux-mêmes à leur devoir elle les applaudit, et ne permet pas de passer à leur égard les bornes d'une sage discrétion. Le repentir de l'offenseur est un motif pour excuser l'injure.' Rep. de Guyot, vo. Justice.

Does not this plainly show that defendant may have free defence, make apologies, or plead apologies made, and plead to excuse himself? Whether the apologies be sufficient is another question ; I take it that this would be for the jury, and that with their finding there would not be interference by the courts. Damages may be, but are discretionary. With whom? The jury, in this case. But if material looking facts be excluded and proof of important circumstances, how could a fair discretion be exercised? Notwithstanding all apologies pleaded, mistakes, or absence of malice, damages may be allowed by the jury to the plaintiff; but before sending defendants to jail, they shall be heard, and though they may be to be condemned to damages, they may show that \$40,000 would be unfair.

Dareau goes further, saying later that justices sometimes "indignées des poursuites du plaintiff pour une satisfaction ultérieure," etc., and that he may be left to the expense of his own costs, according to circumstances. *i.e.* according to what the courts may finally rule (as a jury in jury cases.)

His conclusion is this: " Dès qu'une fois l'offensé a reçu tout ce qu'il pouvait raisonnablement espérer, ou qu'il n'a dépendu que de lui de le recevoir, il doit demeurer satisfait." p. 421. This is for the jury, they *may* find insufficient satisfaction and that money damages ought to be.

I used to hear judge Rolland and other judges state our law of libel in civil cases, I have trained myself to judge Rolland's notions, and decided case after case according to them. I cannot see that the plea of defendant is objectionable, and I overrule the demurrers.

Here is what judge Rolland said in the case of Gagy and