piration du terme fixé pour l'exercice du droit de réméré, un paiement partiel ne lui donnant pas le droit d'exiger la résolution, mais un simple recours en répétition;

"Considérant que le dit acte du 31 janvier 1877, a bien réellement opéré une vente entre les parties, et transféré au défendeur la propriété du dit bassin flottant, et que le fait que le demandeur serait resté en possession d'icelui après la vente ne change pas le caractère du dit acte ni n'affecte les droits des parties;

"Maintient la défense, et renvoie l'action avec dépens, etc."

Girouard & Co., for plaintiff.
Robertson & Co., for defendant.

THE LAW OF LIBEL.

To the Editor of the LEGAL NEWS:

SIR,—Allow me to offer, through the columns of your journal, some remarks on the Bill recently introduced by Mr. Irvine. In my opinion, the remedy which that Bill sought to apply, already exists, if not in the eye of the civil law, at least in the eye of the public law.

That the constitutional law of England, which forms part of the law public, has been introduced into, and is still in force in Canada, most clearly appears by the preamble of the Union Act, 1840, and the preamble of the British North America Act, 1867. The constitution acknowledges the right of the people to self-government, and the people entrust representatives with the power of making laws, and a certain number of those representatives are selected by the Governor General, or the Lieutenant-Governor, for the purpose of executing those laws. The latter, as well as the former, are responsible to the people for the discharge of their duties. In order, therefore, that the people may continue their confidence in members of Parliament and Ministers of the Crown or withdraw it, it is necessary that they should be made aware of all acts of members and Ministers relating to public affairs, and also of those acts which, though private in character, may affect their qualifications as public men. It is one of the attributions of the press to convey that information. Then the press partly derives its existence from the constitution, and its liberty, within constitutional limits, covers as wide a field as the liberty of the people, to whose interest it is devoted. Some disadvantage may, it is true, be imposed upon the individual whose character is attacked, but a greater advantage accrues to the people and more than counterbalances the particular wrong. The circumstances of the case repel the imputation of malice, which is the gist of the libel. But here malice is not to be taken in the vulgar or ordinary acceptation of the word, as meaning "wickedness"; it must be taken in its legal acceptation as meaning "an intent to do wrong." In the main the editor's action is not wrongful. The public interest prevails over the particular interest, and, consequently, public law prevails over private—*i. e.* civil law.

Thus do I mean to show that, under the circumstances contemplated by Mr. Irvine's bill, when truth is published for the benefit of the public, a newspaper editor is not actionable for damages on account of the wrong or tort which an individual is thereby made to suffer.

It may be objected that after Mr. Justice Ramsay's judgment in *R.* v. *McDougall et al.*, (18 L. C. J. 87), it was deemed necessary to enact 37 Vict., chap. 38, D., to enable defendants in criminal prosecutions for libel to plead truth as a justification, and that the same course must be followed with regard to the relevancy of the same plea in a civil suit. But it seems the positions are not the same. On the civil side, redress is sought for the wrong, while on the criminal side, the prosecution is for a liability to cause a breach of the peace. And in the latter connection only may we repeat the maxim, "The greater the truth, the greater the libel." However superior the public advantage may be to the particular disadvantage, it will not prevent a tendency to disturb the peace. The feelings of a certain individual have been injured, and he may be led to revenge. The principle governing the civil and criminal actions is quite different in each.

The position I take, and which, I humbly contend, cannot be easily assailed, is greatly strengthened by the late Chief Justice Rolland's ruling and direction to the jury in Gugy v. Hincks, in 1848, reported by Mr. Justice Mackay in the course of his judgment in *Mousseau* v. *Dougall et al.* (5 R. L. 446). There that learned judge gave it full and entire adhesion.

WILLIAM A. POLETTE, B.C.L.

Montreal, June 7, 1881.