

my mind of the evidence is to show that all was fair and above board, and done with the perfect knowledge of the plaintiff himself. There is not a shadow of reason for imagining that any higher tender than Moisan's would have been made. The others were lower, not because of any deceit on the part of the liquidators that I can perceive. They were lower because nobody could see his way to giving anything more than Moisan gave; and the reason he gave so much was undoubtedly because the liquidators had heavy interests to protect—being owners of five-sixths of the stock. But if he had not tendered, and if his tender had not been accepted, it is obvious that the shareholders and creditors must have got less, however the unsuccessful bidders may be disappointed at not making the profit they expected by getting the assets at a lower figure.

On no apparent ground, then, has the plaintiff here any interest, or any right to bring this action. He never owned a single share, and he never could have suffered the slightest injury to his interests, if he had. The question of the proper and precise effect of the prohibitions of the law as regards persons not charged to sell, but buying, under the circumstances that these liquidators did, is no doubt a very interesting question. Whether it reaches those who have no control over the terms of sale, and who acted as the officers merely of the proprietary, who themselves settled the terms of sale, all that, I say, is very important, no doubt; but it will be time enough to discuss it when some one shall present himself having an interest and a right to bring these questions before the Court.

Action dismissed.

Longpré & Dugas for plaintiff.

Pagnuelo & St. Jean for defendants.

COURT OF REVIEW.

MONTREAL, May 31, 1882.

MACKAY, JETTÉ, BUCHANAN, JJ.

MONTAGUE V. THE GAZETTE PRINTING CO.

Libel—Jury trial—New trial for misdirection.

MACKAY, J. The plaintiff sues for \$5,000 damages, for an alleged libel, printed in the *Gazette* on the 26th July, 1881. The article is set out in the declaration. It is headed "The Rinfret Swindling Case," and stated that an

arrest had been, the day before, of a man surmised to be an accomplice of Rinfret in his nefarious schemes, the name of the accused being John Montague (meaning the plaintiff.) Montague, the article said, "was arrested at the suit of Mr. John Watkins, &c. He is charged with having given bogus orders, and obtained from Mr. Watkins a commission thereon, to which, of course, he was not entitled. The accused, it appears, has been engaged in several occupations, amongst them being that of canvasser for the Sovereign Life Assurance Company, from which position he was suspended on Wednesday last on account of suspicions entertained by the officials. He was also, it is said, formerly employed by Messrs. Rothschild & Brothers, of New York. After a short service he was discharged on account of alleged irregularities much similar to that of which he is now charged. The extent of his operations with Watkins as yet known are small, but it is probable that further developments may increase them to a considerable extent. After being locked up for some time, bail was offered and accepted in his behalf."

The declaration alleged that plaintiff was discharged by the magistrate on the day fixed for the preliminary examination, the charge being unfounded. That the Rinfret swindling case was the case of a man who had been arrested on charges of forgery and of extensive swindling transactions, and looked upon as a forger and swindler, of all which he pleaded guilty, but with which plaintiff was not connected, nor did he know Rinfret, and defendant's article was headed so as to lead people to believe that plaintiff was an accomplice and confederate of Rinfret.

The defendants plead, first, the general issue, and a special plea alleging that the publication was made without malice and solely in the public interest; that the defendants obtained the matter referred to from the public court records and from other sources deemed trustworthy; that on being threatened by plaintiff with this suit the defendants immediately published an apology, begging him to consider the offending article as never having been written; that, notwithstanding the apology, the plaintiff on the next day instituted the present suit. The defendants did think that, perhaps, they had caused plaintiff an injury which they were