

COUR SUPÉRIEURE. Montréal, 24 Mai 1871

Coram :—MACKAY, J.

J. A. MOUSSEAU vs. JOHN DOUGALL *et al.*

Jugé :—Qu'un défendeur poursuivi en dommages pour libelle peut plaider excuse, etc., sinon comme fins de non-recevoir, du moins comme mitigation des dommages.

In this case, Mr. Justice Mackay delivered judgment, on plaintiff's demurrer to defendants' plea. The grounds of the demurren were :

1st. That whether the writer of the articles complained of believed them to be true, was no answer or defence in law to this action.

2nd. Because that plaintiff was wholly unknown to defendants as alleged, was no answer, etc.

3rd. Because the existence of a wide spread rumour, as alleged, that plaintiff was connected with the causes which had led the said Lorimier to attempt suicide, affords no justification in law for the publication of said articles complained of.

4th. Because the circumstances alleged, that plaintiff was a member of the House of Commons, and that the said rumour was believed in, affords no justification in law for the publication of the article complained of.

5th. Because the alleged retractations, stated to have been published on the 18th and 20th of February last, were no answer or defence to this action.

6th. Because the institution of a criminal proceeding for libel by plaintiff, is no bar or answer in law to plaintiff's civil remedy. His Honor's judgment is as follows :—

Plaintiff sues for damages, \$40,000, for libel, and he concludes for *contrainte par corps*, against the defendants, jointly and severally. The libel is charged to have been contained in two articles in the *Witness*, following an attempt at suicide made by a young Frenchman named