had reasonable and probable cause for making said allegations and committed no fault in so doing.

"After a very careful examination of the pleadings in this case, I am of opinion that plaintiff has no right to recover from the defendants the amount of the disbursements and counsel fee which he alleges he has incurred in defending the action brought against him by present defendants, inasmuch as after the discontinuance of the said suit the present plaintiff's bill of costs was duly taxed and paid by the present defendants.

"Further, I do not find any libel in the allegation of the declaration of which the present plaintiff complains, and, moreover, it appears to me that no damages have been proved under this head."

"I am, therefore, of opinion that the judgment of the Superior Court, condemning the defendants to pay the sum of $500, with interest and costs, be reversed and plaintiff's action dismissed with costs."

Maréchal & Landry, avocats du demandeur.

Beaudin, Loranger, St-Germain & Guérin, avocats des défendeurs.

* * *

NOTES.—Le demandeur appuyait sa demande des autorités suivantes: *Tissier-Darras, Code de procédure civile, Ed.* 1901; *Louiche Desfontaines, sous l'article* 130.

No 251.—"La partie qui succombe ne peut être condamnée, en dehors des dépens, à des dommages-intérêts envers l'autre partie, qu'autant que celle-ci a souffert un *préjudice matériel ou moral.*" *Cass., nov.* 1874, *Sirey*, 1875-1-453.

No. 255.—"Mais, si, en principe, la partie gagnante n'obtient contre son adversaire que les frais de l'instance, elle peut obtenir des dommages-intérêts lorsque les attaques de celui-ci ont été injustes ou abusives et constituent une faute ayant causé un préjudice." *Cass.*, 24 *juillet* 1882, (*S.* 85, 1, 371, *P.* 85, 1, 906, *D. P.*, 84, 1, 185).