

*Broom*, 20 L. J. Exch. 196, 6 Exch. 314, a question was raised whether trespass for assault and battery would lie against a corporation; and it was argued that it could not; for that a corporation could neither beat nor be beaten. But the court were all clearly of opinion that such an action would lie against a corporation whenever the corporation can authorize the act done and it is done by their authority.

A few years later, in *Stevens v. The Midland Railway Company and Lander*, 23 L. J. 328, Exch., 10 Exch. 352, which was an action for malicious prosecution, in which a verdict was recovered for the plaintiff, it was argued in support of a rule for a new trial that such an action would not lie against a corporation. Baron Alderson, in the course of his judgment, said: "It seems to me that an action of this description does not lie against a corporation aggregate, for in order to support the action, it must be shown that the defendant was actuated by a motive in his mind, and a corporation has no mind." The other learned judges, Barons Platt and Martin, did not think it necessary to give any opinion on the point, as they thought there was no evidence against the company, and that what the other defendant did was done by him as principal and not as agent. Baron Platt, however, refused to say that a case might not arise in which a motive might be assigned, upon which the action could be maintained.

In *Goff v. The Great Northern Railway Company*, 30 L. J. 148, Q. B., decided in 1861, it was held, that an action for false imprisonment would lie against a railway company, if the imprisonment were committed by the authority of the company, and that it was not necessary that the authority should be under seal. In 1858 the case of *Whitfield v. The South-eastern Railway Company*, E. B. & E. 115, came before the Court of Queen's Bench, and it was there held that an action for malicious libel can be brought against a corporation aggregate where the publication takes place by the authority of the corporation. Lord Campbell, in giving judgment, said: "Considering that an action of tort or of trespass will lie against a corporation aggregate, and that an indictment may be

preferred against a corporation aggregate, both for commission and omission, to be followed up by fine, although not by imprisonment, there may be great difficulty in saying that, under certain circumstances, express malice may not be imputed to and proved against a corporation aggregate." In 1859 *Green v. The London General Omnibus Company Limited*, 2 L. T. Rep. N. S. 95; 7 C. B. N. S. 290, was decided, and judgment was given for the plaintiff, who sued the defendants for wrongfully and maliciously obstructing him in his business of an omnibus proprietor. The doctrine relied on by the defendants—that a corporation, having no soul, cannot be actuated by a malicious intention—was said by Chief Justice Erle, who delivered the judgment of the court, to be "more quaint than substantial." The next case on the subject is *Edwards v. The Midland Railway Company*, 43 L. T. Rep. N. S. 694; 6 Q. B. Div. 287, where Lord Justice (then Justice) Fry reviewed the previous decisions, and distinctly held that an action for malicious prosecution can be brought against a corporation aggregate. Last in order of time is *Abrath v. The North-eastern Railway Company*, 11 Q. B. Div. 79, 240; on appeal, 49 L. T. Rep. N. S. 619; in House of Lords, 11 App. Cas. 247, to which we have already referred. It will therefore be seen that, notwithstanding the current of recent authorities, the defence that an action for malicious prosecution does not lie against a corporation aggregate may be held good in the House of Lords.

As a set-off to the apparent hardship which would result from such a doctrine, Lord Bramwell says that if ever there was a necessity for protecting persons, it is in an action for malicious prosecution, for, in the first place, a prosecutor is a very useful person to the community, and, secondly, it is notorious that in actions of the kind under discussion it is difficult to get the jury to go right. As we all know, where a man brings an action for malicious prosecution, and gives evidence to prove his innocence, the jury may be told by judge and counsel that that is not the question, but they can very rarely be got to understand it, and as they think that a man ought not to be prosecuted when he is innocent, they pay him for it by mulcting the defendant.—*Law Times* (London.)