

Eng. Rep.]

ODGER V. MORTIMER.

[Eng. Rep.]

ENGLISH REPORTS.

ODGER V. MORTIMER.

Libel—Fair comment on public men—Function of jury.

In actions for libel, it is only on the very strongest grounds that the court will set aside, as against evidence, a verdict for the defendant on the question of fair comment upon the conduct of public men.

The plaintiff, a well-known public character, in addressing meetings held to protest against a Bill recently introduced into Parliament, had burnt the Bill, and predicted much popular irritation in event of its being passed. Thereupon the defendant published of him (amongst other things) that he was a political cheap Jack, half booby and half humbug, and had defied the Government and threatened civil discord, and that he was only seeking by agitation to obtain a Government appointment:

Held, a question for the jury, whether this was fair comment or not, and a rule to set aside, as, against evidence, a verdict for the defendant refused.

[April 18, 1873,—28 L.T. N.S. 472.]

Action for libel against the publisher of the *Figaro* newspaper.

The declaration set out the alleged libel, of which the following are the principal passages:—"Odger victorious. Know all men by these presents, that Odger the cobbler rules the Government of England. . . . We do not like the cobbler, we abhor his principles, we regard him as an enemy of order, we hold him to be a demagogue of the lowest type, half booby and half humbug, a political cheap Jack, who would be a political sharper if he had brains enough. . . . He defied Parliament and the Government. . . . He threatened an unprecedented demonstration and civil discord. Odger is victorious. The Government have modified their Bill. . . . What may be Odger's next fancy it is impossible to guess. Perhaps he may assert the right of the Odgerites to refresh themselves in West-end pantries and wine-cellar, or he may demand the release of all convicts who are so nearly connected with that section of the people which Odger the cobbler commands." . . .

A second count charged the defendant with publishing in his newspaper the following words:—"I have any quantity of bottled-up abuse, treason, and riot. I will exchange the whole lot for any permanent appointment with 250*l.* per annum and upwards. George Odger."

The defendant pleaded, first, not guilty; secondly, that the alleged defamatory matters were true in substance and in fact; and, thirdly, that the alleged defamatory matters were "fair and *bona fide* comments upon the acts and pro-

ceedings of the Government, and the several matters and premises therein referred to, and the acts and conduct of the plaintiff in reference thereto and as a public character," and were published as such comments, and "without any malicious intent or motive whatever."

The action was tried before Brett, J. and a special jury, at the Guildhall Sittings in Hilary Term. The defendant was the publisher of the *Figaro* newspaper, and had admitted publication of the alleged libels. The plaintiff, and other persons on his behalf, gave evidence that he had given his political services without remuneration, and had never applied for any Government appointment. He admitted that he had publicly burnt the Parks Regulation Bill, and used words to the effect that if it passed, the people would meet (but not in the parks) to assert their right of public meeting, and that the Bill would produce much popular irritation if it should become law. The plaintiff had attended and spoken at various meetings, at which the nationalisation of the land and other kindred topics were discussed, both in Trafalgar-square and in the public parks, and was a well-known advocate of advanced democratic opinions. The chief object of the Parks Regulation Bill was to regulate the delivery of public addresses in the parks.

The jury having found a general verdict for the defendant,

Simon, Serjt., now moved to set the verdict aside, as being against the weight of evidence, arguing that the private honour and honesty of the plaintiff had been attacked in the alleged libels.

BOVILL, C.J.—I am clearly of opinion that the questions in this case were questions for the jury, in whom the law has placed the power of deciding the question of libel or no libel. It is only in cases where the court can see that the jury are clearly wrong that the court should interfere. Mr. Odger complains that his honour and honesty have been attacked, and if we could see clearly that this has been done, we might interfere for his protection; but, as a matter of fact, we see nothing of the kind. The jury, in considering their verdict, would look at all the circumstances, and the circumstances point to this—that Mr. Odger is essentially a public man. This being so, editors of public newspapers may comment in the strongest possible way upon what he says and does in that character. As for the ridicule complained of, that is often the strongest weapon in the hands of a public writer, and if it be used fairly, the presumption of malice which would otherwise