

DRUGGISTS.

special damage than was presented to the judge in this case." No pecuniary loss, or special damage in the usual sense, had been proved. After an elaborate judgment he answers these questions thus, at p. 693:—"I think that the action will lie, for the reason that special damage is involved in the very institution of the proceedings (which *ex hypothesi* are unjust and without reasonable or probable cause), for the purpose of winding up a going company." He explains his meaning to be that no petition to wind up a company can be presented and advertised in the newspapers without striking a blow at its credit. He shows that in this respect presenting such a petition differs from bringing an ordinary action, as to which he says:—"It seems to me that no mere bringing of an action, although it is brought maliciously and without reasonable or probable cause, will give rise to an action for malicious prosecution. In no action, at all events in none of the ordinary kind, not even in those based upon fraud where there are scandalous allegations in the pleadings, is damage to a man's fair fame the necessary and natural consequence of bringing the action. Incidentally matters connected with the action, such as the publication of proceedings in the action, may do a man an injury; but the bringing of the action is of itself no injury to him. * * Therefore the broad canon is true, that in the present day, and according to our present law, the bringing of an ordinary action, however maliciously, and however great the want of reasonable and probable cause, will not support a subsequent action for malicious prosecution. * * It is unnecessary to say that there could not be an action of that kind in the past, and it is unnecessary to say that there may not be such an action in the future, although it cannot be found at the present day. The counsel for the plaintiff com-

pany have argued this case with great ability; but they cannot point to a single instance since Westminster Hall began to be the seat of justice in which an ordinary action, similar to the actions of the present day, has been considered to justify a subsequent action on the ground that it was brought maliciously and without reasonable and probable cause."

BREACH OF COVENANT FOR QUIET ENJOYMENT—DEED OF LAND.

The next case of *Howard v. Maitland*, p. 695, is an interesting decision on the question of what amounts to a breach of a covenant for quiet enjoyment. In a conveyance of land by the defendant to the plaintiff, the defendant covenanted for title and quiet enjoyment notwithstanding any act or thing done or suffered by him, or by any of his ancestors or predecessors in title. After a conveyance a decree was made in a suit in Chancery in which the plaintiff, though not a party, was represented as being one of a class of persons against whom the suit was brought, and by the decree the land so conveyed by the defendant was declared to be subject to a general right of common over it. The Court of Appeal held that the decree alone, without any entry or actual disturbance of the plaintiff in his possession, was no breach of the defendant's covenant for quiet enjoyment. The M. R. says at p. 701:—"I adopt that which is laid down in 1 Shepard's Touchstone, p. 171—'And in all cases where any person hath title the covenant is not broken until some entry or other actual disturbance be made upon his title.' It is clear that there was no entry here, and it seems to me that there was no actual disturbance even supposing that a decree against the plaintiff would be an actual disturbance."

EASEMENT—RIGHT OF WAY—CONTINUOUS ENJOYMENT.

The case of *Hollins v. Verney*, at p. 715, raises the question what is such a continuous enjoyment of a right of way for