

mon law power sought to be conserved would in his case at any rate, consist of nothing beyond the right to exclude for unseemly behaviour, either directly or mediately by commitment as for contempt in face of the court.

It may be a question how far the compact between the parties hereinbefore referred to is an agreement to violate a statute, and legally a conspiracy. Of late there have been tentative casts of the judicial plummet in these waters, but there is some doubt whether bottom has been reached. In the case before us the principal actor is a lawyer, and, apart from any question as to the propriety of such a compact, he entirely misunderstood, according to our view, his position in the premises. It is quite true that the Attorney-General in answer to a question in the House, when the matter was brought to its attention, made an off-hand statement that the magistrate had the right to act as he did, but we venture to think that the Attorney-General did not take time to look into the matter.

ACTIONS FOR MALICIOUS PROSECUTION.

To what extent does opinion of counsel protect in actions of malicious prosecution?

For many years the respective functions of judges and juries as to the questions of the existence or non-existence of reasonable and probable cause, and the presence or absence of malice, in actions of malicious prosecution, have been definitely settled. Sometimes the judge lays down the factors that must co-exist in order to support the action, and directs a general verdict, either for plaintiff or defendant, in accordance as the evidence establishes on the one hand, or fails to establish on the other, the issues submitted for determination by the parties to the suit; in other words, that the finding of certain facts would or would not constitute reasonable and probable cause, and would or would not indicate malice, and that their verdict should be in accordance therewith. Or the judge directs specific findings on questions submitted by him, and on these findings will order judgment to be entered either for defendant or plaintiff, as he finds there was, or was not, reasonable and probable cause for instituting proceedings.