examine into the whole case, in its evidential as well as in its legal aspects. The protective value of his opinion, then, seems to depend not so much upon his professional character as upon the fact that the investigation was carefully and thoroughly carried out by a person to whom his client was warranted in delegating his own duty in that regard. Thus, it was laid down by Brett, M.R., in a leading case, that, where the question is whether the defendant was reasonably careful in the investigation which preceded the prosecution, the facts that a solicitor was employed, witnesses examined, and the opinion of counsel taken, are conclusive in defendant's favour. (*o*)

A distinction is also taken between a case where the defendant took the proceedings in person and a case where they were instituted at a distance by someone in his behalf. Thus, it has been held that there is not an absence of reasonable cause for a principal's allowing a prosecution to proceed so far as the hearing of the summons, and attending the hearing himself, where the summons was issued without his knowledge, and they knew nothing of the circumstances except that the charge had been instituted by his agent, with the advice of attorneys. (*p*)

(*c*) *Professional advice not a protection, unless based upon full statement of facts*—To secure such protection as the opinion of counsel affords, it is of course necessary for the defendant to shew that the statement of the case with reference to which the advice was given, was a correct and honest presentment of all the facts, so far as they were known to him. (*q*)

(*o*) *Abrath* v. *North Eastern R. Co.*, (1883) 11 Q.B.D. 440; see per Brett, M. R. p. 455 So also it has been held that a judge should nonsuit the plaintiff where he was prosecuted on a charge of embezzling money received by him for the defendant, after the defendant's solicitor, upon a careful examination into the truth of the statement of a passenger by whom he had been accused of having received double the amount for which he had given a receipt, had come to the conclusion that the charge was well-founded: *Kelly* v. *Midland* &c., R. Co. (1872) Ir. Rep. 7 C.L. 8.

(*p*) *Weston* v. *Beeman* (1857) 27 L.J. Exch. 57,

(*q*) *Hewlett* v. *Cruchley* (1813) 5 Taunt. 277: *Larocque* v. *Willett* (1874) 23 L. C. Jur. (Q.B.) 184, per Taschereau, J. (p. 188): *Fellowes* v. *Hutchinson* (1855) 12 U.C.Q.B. 633: *Wilson* v. *Winnipeg* (1887) 4 Man. L.R. 193: *McGill* v. *Walton* (1888) 15 Ont. R. 389 [advice of magistrate]. In *Millner* v. *Sanford* (1893) 25 Nov. Sc. 227, Wetherbe, J., considered that a charge to the effect that the prosecution was not justified if the defendant "had not fully stated everything to his counsel, when he advised a prosecution" tended to mislead the jury, where there was no suggestion that he had concealed anything. Whether the omission to disclose something could be fatal to the defendant's case depended, he said, on its materiality and upon the question of his motives.