

true or not? What grounds, if any, had you for supposing that the plaintiff had committed the offence charged? Did you before you commenced the said prosecution take any and what precautions, or make any, and what inquiries, as to the truth of the said charge, and what was the result of each such inquiry? (5) What are the facts and circumstances on which you rely as shewing that you had reasonable and proper cause for the said prosecution? Both interrogatories were disallowed by the Master, and judge in Chambers, and the Court of Appeal (Cozens-Hardy, M.R., Williams, Moulton, Farwell, and Buckley, L.J.J., Kennedy, L.J., dissenting), held rightly so, and all but Kennedy, L.J., also held, that, in the absence of special circumstances, such an interrogatory as the 4th ought not to be allowed in an action for malicious prosecution, in which cases there were special reasons for caution in allowing interrogatories to be administered to a defendant, as, if defendants were compellable to disclose all information given, it might deter persons from doing their duty to the public in the prosecution of crime. Williams, L.J., expressed regret that there is not some rule making the decision of a judge in Chambers on such questions of discretion final.

SHERIFF'S FEES—EXECUTION—LIABILITY OF EXECUTION CREDITOR FOR SHERIFF'S FEES—"PERSON AT WHOSE INSTANCE SALE IS STOPPED"—STAY OF EXECUTION ON APPLICATION OF LIQUIDATOR.

*Montague v. Davies* (1911) 2 K.B. 595. By the English rules of court it is provided that in every case where an execution is withdrawn, satisfied, or stopped, the fees the sheriff is entitled to under the rule "shall be paid by the person issuing the execution, or the person at whose instance the sale is stopped, as the case may be." In this case the plaintiff issued an execution against the defendant company, which subsequently went into voluntary liquidation, and on the liquidator's application the sale under the execution was stopped. The execution creditor contended that the liquidator was bound to pay the sheriff's fees under the rule above referred to, but Bankes, J., held that the rule had not altered the common law liability of the execution creditor who had issued the execution, and that he was liable for the sheriff's fees and not the liquidator: and that "the person at whose instance the sale is stopped" refers to a trustee in bankruptcy, who under the Bankruptcy