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At a recent trial in France, before the Cour d'assises de la Marne, one of the jurors named Arnoult refused to be sworn. The Court imposed a fine of 500 francs, and adjourned the case to the next session of the tribunal. The *Gazette du Palais* says the three defendants propose to institute a civil action against the recalcitrant juror.

Applications of a curious nature are sometimes made to English magistrates. On a recent occasion, a young woman, whose husband some months ago was sentenced to penal servitude for ten years, appeared before the magistrate and asked permission to marry again, on the ground that she had not received any communication from her husband since his sentence. The magistrate condoled with the fair petitioner, but was compelled to inform her that he could not hold out any encouragement to her to commit the offence of bigamy.

Another applicant for relief appeared at the Lambeth Police Court, August 22, and stated that he was in the employ of a wine merchant and manufacturer of cordials, and for some days he had been almost unable to attend to his work, owing to swarms of bees coming to the place, and he wanted to know what he could do to prevent it. Mr. Chance (the magistrate): Where do the bees come from?—The applicant: From a place not far off, where hives are kept. Mr. Chance: Why do they come to where you are?—Sergeant Underwood: The bees, no doubt, your Worship, are attracted by the cordials and spirits.—Mr. Chance: I suppose they prefer that kind of thing to flowers.—The applicant: I do not know, but I do know that I am often stung and unable to get any rest from the pain. I could not get on with my work to-day owing to the bees.—Mr. Chance: I am afraid I cannot assist you. The bees are not included in the new order to be muzzled or kept under control. They can scarcely be described as ferocious.—The applicant: But they sting very sharply.—Mr. Chance: I am sorry for it, but I do not see how I can help you. There have been no regulations at present to keep bees under control. Perhaps you might trap them or kill them.—The applicant: I have killed large numbers of them, but others seem to come.—Mr. Chance: Perhaps you would protect yourself by putting on a wire mask and wearing gloves.—The applicant: I do not know what to do. I have had to go to a doctor in consequence of the stings.—The applicant thanked his Worship and withdrew.

With reference to this case the *Law Journal* has an interesting note, showing that the subject is not free from difficulty, while the protection held out by the law is not very consolatory. Our contemporary says: "The cellarer of Lambeth who applied to the magistrate for protection against the bees which invaded his sugary quarters and stung him, put his hand on a swarm of interesting questions of law and natural history which he little suspected. Justinian in the Institutes (lib. ii. tit. i. xiv.), after describing bees as *ferœ naturœ*, unless hived, in which case, if they escape, they may be followed while kept in sight, naively lays it down that a man has the right to prevent them entering his land. A dweller in sweetness, like the victim in question, will find small consolation in this legal right, but English law, while adopting the Roman as far as it goes, probably also provides a salve for wounds inflicted by one's neighbours' bees. Hived bees are personal property, and the subject of larceny at common law (*Tibbs* v. *Smith*, T. Raym. 33), in this respect being of superior consideration to dogs. The owner of a dog accustomed to bite mankind is liable for the dog's bites. Bees do not, like dogs, 'delight to bark and bite,' but it is their nature to sting, and their owner is liable for the consequences. Even the irresistible attraction of the contents of a wine merchant's shop will not excuse the owner of bees which trespass and sting, at all events

if notice has been given to him that his bees collect there in numbers amounting to a nuisance. Victims should apply to the County Court, and not to the Police Court, and in the meanwhile it must be remembered that if bees have liabilities they have also rights. A bee cannot be killed unless he is actually attacking his victim. The utmost that can be done by analogy from great things to small is to impound the bee busy with its prey as a farmer impounds a stray cow in his cornfield. With this *pulveris exigui jactus* the law appears to dispose of bees."

CIRCUIT COURT.

MONTREAL, Sept. 8, 1886.

Before TORRANCE, J.

CHEVALIER *v.* LA MUNICIPALITÉ DE LA PAROISSE DE ST. FRANCOIS DE SALLES.

Quasi-contract—C.C. 1046—*Obligation incurred by Mayor in a matter of urgency.*

Where the Mayor of a Municipality, acting with prudence and from necessity, in a matter of urgency, contracts an obligation on behalf of the Municipality, the latter should be held liable.

PER CURIAM. This claim arises out of the small-pox epidemic of 1885. The plaintiff acted as constable. The Mayor appointed, the Board of Health approved, their minutes have the words "gardien actuel" applying to Chevalier. I make no difficulty as to the value of the work. Who is to pay? The municipality says, the Mayor. The work was a necessary work in the interest of the entire municipality. C. C. 360, says that the powers of the officers may be determined by the nature of the duties imposed. The matter was urgent; death was stalking about; there was no time to be lost. We may liken the obligation here to one arising out of a quasi-contract. C. C. 1041 says that a person by his voluntary act may bind another to him without the intervention of any contract between them. C. C. 1046: "He whose business has been well managed, is bound to fulfil the obligations that the person acting for him has contracted in his name, to indemnify him for all the personal liabilities which he has assumed and to reimburse him all necessary or useful expenses." There is an old and familiar maxim: *Salus populi suprema lex.* The safety of the public is the highest law. That safety required the immediate appointment by the Mayor of plaintiff as guardian. The municipality should pay.

Lafortune for plaintiff.

Beausoleil for defendant.

CIRCUIT COURT.

MONTREAL, Sept. 8, 1886.

Before TORRANCE, J.

DANGERFIELD *v.* CHARLEBOIS.

Husband and wife—Goods charged to wife in vendor's books—Circumstances under which wife is liable.

The action was brought for the recovery of $48.50, amount of an account for boots bought by the female defendant (*séparée de biens*) for herself and children. In buying she said to charge to her, and this was always done, the account standing in the plaintiff's books against the female defendant. There had been several purchases at different times. The accounts were sometimes rendered in her name and sometimes in her husband's name, and a copy of the account sued upon had been sent to the husband in his name. The husband had always previously paid the accounts, but now (since the date of the purchases) was in pecuniary difficulties. It was admitted that the debt was a just one. The question submitted was whether the female defendant was liable personally.

PER CURIAM. The case of *Hudon v. Marceau*, 23 L. C. J. 45, fully explains the jurisprudence, and in a case like the present the female defendant should be held liable.

Judgment for plaintiff.

F. McLennan for plaintiff.

A. E. Merrill for defendant.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

FEBRUARY 19 and MARCH 5, 1886.

Present: The Right Hons. the LORD CHANCELLOR (Herschell), Lords BLACKBURN, MONKSWELL and HOBHOUSE.

On appeal from the Supreme Court of the Colony of Natal.

DAVIS *v.* SHEPSTONE.

Libel—Criticism on Public Acts—Privilege.

The principle that acknowledged or proved acts of a public man may lawfully be made the subject of fair comment or criticism, does not extend to allegations of particular acts of misconduct said to have been committed by him. Defamatory matter thus published is not the subject of any privilege.

Statements made to a reporter in the employment of the proprietor of a newspaper, for the purposes of the newspaper, are not privileged.

This was an appeal from a judgment of the Supreme Court of the Colony of Natal, refusing an application made by the appellants for an order to set aside the verdict of the jury in an action for libel in which the respondent was plaintiff, and the appellants defendants, and for a new trial on the ground of misdirection.

The facts appear sufficiently from the judgment of their Lordships.

H. Matthews, Q. C., and *Cock*, appeared for the appellants.

They cited *Henwood* v. *Harrison*, L. Rep. 7 C. P. 606; 26 L. T. Rep. N. S. 838; *Campbell* v. *Spottiswoode*, 32 L. J. 185, Q. B; *Kelly* v. *Tinling*, L. Rep. 1 Q. B. 699; 13 L. T. Rep. N. S. 255; *Wason* v. *Walter*, L. Rep. 4 Q. B. 73; 19 L. T. Rep. N. S. 409; *Davis* v. *Duncan*, L. Rep. 9 C. P. 396; 30 L. T. Rep. N. S. 464; *Purcell* v. *Sowler*, 2 C. P. Div. 215; 36 L. T. Rep. N. S. 416.

Sir R. Webster, Q. C., and *Arbuthnot*, who appeared for the respondent, were not called upon to address the committee.

MARCH 5]. Their Lordships' judgment was delivered by the Lord Chancellor (HERSCHELL) as follows: This is an appeal from a judgment of the Supreme Court of the colony of Natal, refusing a new trial in an action brought against the appellants in which the respondent obtained a verdict for 500*l.* damages. The action was brought to recover damages for alleged libels published by the appellants in the *Natal Witness* newspaper in the months of March and May, 1883. The respondent was, in December, 1882, appointed resident commissioner in Zululand, and proceeded in the discharge of his duties to the Zulu reserve territory. In the month of March, 1883, the appellants published in an issue of their newspaper, serious allegations with reference to the conduct of the respondent whilst in the execution of his office in the reserve territory. They stated that he had not only himself violently assaulted a Zulu chief, but had set on his native policemen to assault others. Upon the assumption that these statements were true, they commented upon his conduct in terms of great severity, observing: "We have always regarded Mr. Shepstone as a most unfit man to send to Zululand, if for no other reason than this, that the Zulus entertain toward him neither respect nor confidence. To these disqualifications he has now, if our information is correct, added another which is far more damnatory. Such an act as he has now been guilty of cannot be passed over, if any kind of friendly relations are to be maintained between the colony and Zululand. There are difficulties enough in that direction without need for them to be increased by the headstrong and almost insane imprudence and want of self-respect of the official who unworthily represents the government of the Queen." In the same issue, under the heading "Zululand," there appeared a statement that four messengers had come from Natal to Zululand, from whom details had been obtained of the respondent's treatment of certain chiefs of the reserve territory who had visited Cetewayo, and what purported to be the account derived from these messengers, of the assault and abusive language of which the respondent had been guilty, was given in detail. On the 16th May, 1883, the appellants published a further article, relating to the respondent, which commenced as follows: "Some time ago, we stated, in these columns, that Mr. John Shepstone whilst in Zululand, had committed a most unprovoked and altogether incomprehensible assault upon certain Zulu chiefs. At the time the statement was made, a good deal of doubt was thrown upon the truth of the story. We are now in a position to make public full details of the affair, which the closest investigation will

prove to be correct. A representative of this journal, learning that a deputation had come to Natal to complain of the attack, met five of the number, and in the presence of competent interpreters, took down the stories of each man." The article then gave at length the statements so taken down, which disclosed, if true, the grossest misconduct on the part of the respondent. It was in respect of these publications of the appellants that the action was brought by the respondent. The appellants by their defence averred that the conduct of the plaintiff as resident commissioner, was a matter of general public interest affecting the territory of Natal, and that the alleged libels constituted a fair and accurate report of the information brought to the governor of Natal and published in the colony by messengers from Zululand and its king as to the conduct of the plaintiff in the discharge of the duties of his office, and a fair and impartial comment upon the conduct of the plaintiff in his public capacity published *bona fide* and without malice. The case came on for trial before Wragg, J., and a jury, on September 4, 1883, when it was proved that the allegations of misconduct made against Mr. Shepstone were absolutely without foundation, and no attempt was made to support them by evidence. It appeared that the messengers from whom the statements contained in the issue in March were derived, had come from Zululand to see the bishop of Natal, and that their statements had been conveyed to the editor of the newspaper by a letter from the bishop. The statements contained in the issue of May were communicated by a Mr. Watson, who was connected with the staff of the newspaper, and who had sought and obtained an interview with certain Zulus when on their way to convey a message from the king to the governor of Natal. At the close of the evidence, the learned judge summed up the case to the jury, who returned a verdict for the plaintiff, the present respondent, for 500*l*. Application was afterward made to the Supreme Court to grant a new trial, but this application was refused, and the present appeal was then brought. The appellants rested their appeal upon two grounds: first, that the learned judge misdirected the jury in leaving to them the question of privilege and in not telling them that the occasion was a privileged one; the second ground insisted upon was that the damages were excessive. Their lordships are of opinion that the contention that the learned judge ought to have told the jury that the occasion was a privileged one, and that the plaintiff could only succeed on proof of express malice, is not well founded. There is no doubt that the public acts of a public man may lawfully be made the subject of fair comment or criticism, not only by the press, but by all members of the public. But the distinction cannot be too clearly borne in mind between comment or criticism and allegations of fact, such as that disgraceful acts have been committed, or discreditable language used. It is one thing to comment upon or criticise, even with severity, the acknowledged or proved acts of a public man, and quite another to assert that he has been guilty of particular acts of misconduct. In the present case, the appellants, in the passages which were complained of as libelous, charged the respondent, as now appears without foundation, with having been guilty of specific acts of misconduct, and then proceeded, on the assumption that the charges were true, to comment upon his proceedings in language in the highest degree offensive and injurious; not only so, but they themselves vouched for the statements, by asserting that, though some doubt had been thrown upon the truth of the story, the closest investigation would prove it to be correct. In their lordships' opinion there is no warrant for the doctrine that defamatory matter thus published is regarded by the law as the subject of any privilege. It was insisted by the counsel for the appellants that the publications were privileged, as being a fair and accurate report of the statements made by certain messengers from King Cetewayo upon a subject of public importance. It has, indeed, been held that fair and accurate reports of proceedings in Parliament and in courts of justice are privileged, even though they contain defamatory matter affecting the character of individuals. But

in the case of *Purcell v. Sowler*, 2 C. P. Div. 215; 36 L. T. Rep. N. S. 416, the Court of Appeal expressly refused to extend the privilege, even to the report of a meeting of poor-law guardians, at which accusations of misconduct were made against their medical officer. And in their lordships' opinion it is clear that it cannot be extended to a report of statements made to the bishop of Natal, and by him transmitted to the appellants, or to statements made to a reporter in the employ of the appellants, who, for the purposes of the newspaper, sought an interview with messengers on their way to lay a complaint before the governor. The language used by the learned judge in summing up the present case to the jury is open to some criticism, and does not contain so clear and complete an exposition of the law as might be desired. But, in their lordships' opinion, so far as it erred, it erred in being too favorable to the appellants, and it is not open to any complaint on their part. The only question that remains is as to the amount of damages. The assessment of these is peculiarly the province of the jury in an action of libel. The damages in such an action are not limited to the amount of pecuniary loss which the plaintiff is able to prove. And their lordships see no reason for saying that the damages awarded were excessive, or for interfering with the finding of the jury in this respect. They will, therefore, humbly advise Her Majesty that the judgment appealed against should be affirmed and the appeal dismissed with costs.

TRIBUNAL CORRECTIONNEL DE LA SEINE.

(IIe CHAMBRE.)

27 août 1886.

Présidence de M. LEPELLETIER.

Le Vampire de Saint-Ouen.

[Concluded from p. 287.]

Henri Blot est un grand individu à figure blême. Il porte une petite moustache blonde. Il est coiffé à la chien. L'ensemble de sa physionomie a quelque chose du "chat sauvage."

Le prévenu est vêtu d'un pantalon gris et d'une longue blouse blanche.

M. le président Lepelletier procède à l'interrogatoire de l'inculpé, qui donne d'une voix claire les explications suivantes:

Le 12 juin j'ai bu beaucoup.. Après la fermeture des brasseries, je me suis rendu au cimetière de Saint-Ouen, que je connais parfaitement, car mon père a habité longtemps la maison abandonnée qui se trouve dans le vieux cimetière... J'ai franchi le mur d'enceinte par derrière le cimetière de la côte des Prisonniers. Je me suis rendu à la fosse commune, je suis descendu dans le fond, j'ai déplacé les planches qui tenaient le dernier cercueil inhumé... J'ai ouvert avec mes mains le couvercle du cercueil, et j'ai dû enlever le cadavre et le transporter dans la maison... J'ai pénétré à l'intérieur par une fenêtre qui était restée ouverte. J'ai déposé l'enfant sur le plancher... J'ai dû avoir des rapports intimes avec cet enfant, mais je ne me rappelle pas bien ce qui s'est passé. A ce moment, je me suis endormi... Je venais à peine de me réveiller lorsque, ayant trouvé une clef à une serrure intérieure, j'ai voulu voir si elle n'ouvrait pas la porte d'entrée. Au moment où j'essayais, les gardiens sont survenus, j'ai fermé le verrou de la porte et j'ai essayé de m'enfuir par une fenêtre...

Le prévenu cessant de parler et faisant mine de s'asseoir, M. le président Lepelletier:

Parlez maintenant de la profanation du cadavre de Fernande Méry.

Le prévenu alors:

Quant à l'autre affaire, je vais vous dire toute la vérité.

C'est moi qui, le 25 mai dernier, ai profané le cadavre de Fernande Méry. Entre onze heures et minuit, j'ai escaladé la petite porte noire qui donne sur le chemin de la Procession. J'ai mis mon pied, pour descendre de l'autre côté, sur une borne de fer, puis j'ai sauté. Je me suis dirigé aussitôt vers la fosse commune, et, agissant comme pour le cercueil de la petite fille, j'ai enlevé la cloison qui retenait la terre sur la dernière bière de la rangée, bière que je savais renfermer le corps d'une femme dont le sexe et l'âge étaient indiqués par la croix piquée au-dessus. J'ai déplacé le cercueil que j'ai ouvert près de son lieu de repos, et j'en ai extrait le corps d'une

jeune fille que j'ai transporté à l'extrémité de la tranchée, pour l'y déposer dans le coin sur le remblai. Là j'ai assouvi mes désirs.....

Henri Blot ne paraît éprouver aucune émotion.

D. Sur quoi aviez-vous posé vos genoux? —R. Sur du papier blanc qui avait servi à envelopper des bouquets de fleurs. C'était pour ne pas salir mon pantalon...

D. N'est-ce pas vous qui, dans la nuit du 12 juin, avez satisfait vos besoins dans la fosse où était inhumé le corps de la petite fille de onze mois que vous vouliez souiller?

R. Oui, monsieur, j'étais pressé... (Mouvement).

D. N'avez-vous pas commis d'autre violation de sépulture?

R. Jamais en dehors de ces deux fois là!

D. Et quand vous étiez fossoyeur?

R. Jamais, je vous dis.

D. A quels sentiments avez-vous obéi en accomplissant ces actes monstrueux?

R. Je ne m'en rends pas compte moi-même. J'étais ivre, j'ai agi sans avoir conscience de ce que je faisais.

On entend ensuite les dépositions des témoins.

Les gardiens de cimetière Lemaire et Duquesne sont entendus les premiers. Ils racontent dans quelles circonstances ils ont arrêté Blot après avoir constaté la disparition du cadavre de la petite Pauline Chaillet.

Le témoin Duquesne, au cours de sa déposition, fait la curieuse déclaration suivante:

Fréquemment avant l'arrestation de Blot, on trouvait dans le cimetière de Saint-Ouen des cercueils décloués. On attribuait cette dislocation à l'humidité, mais depuis l'arrestation de Blot on n'a plus jamais constaté ces dislocations. On en a conclu que c'était Blot qui, autrefois enlevait les cadavres des cercueils, les violait et les replaçait ensuite. Pendant les quinze mois qu'il a été fossoyeur à Saint-Ouen on a constaté très-fréquemment ces dislocations de cercueil. Si Blot n'avait pas été aperçu le jour de la profanation de la petite fille, il aurait pu remettre le cadavre de l'enfant dans le cercuil et alors on ne se serait aperçu de rien...

Blot. Tout cela n'est pas possible. Un homme tout seul ne peut pas facilement déplacer les cercueils et les replacer ensuite.

M. Senet, terrassier, raconte qu'au mois de janvier dernier il a été victime des brutalités de Blot qui voulait lui voler son porte-monnaie.

Blot. Vous êtes un menteur! Monsieur le président, Senet m'en veut. Du reste, il n'a pas toujours la conscience de ses actes. Je reconnais cependant que je l'ai un peu frappé.

Mme. Martin, logeuse, a vu Blot frapper Senet.

Le prévenu discute très habilement avec le témoin. Il fait preuve d'une réelle intelligence.

M. le docteur Motet, reproduit les opinions qu'il a émises, dans son rapport, sur la responsabilité de Henri Blot.

M. le président donne lecture de la déposition faite par Mme. Blot à l'instruction.

Eugénie Carrez, femme Blot, âgée de dix-neuf ans, a fait la déposition suivante devant M. le juge instructeur:

Je fis la connaissance de Blot, au mois d'avril 1884, à une époque où j'étais employée chez un marbrier à la vente des couronnes. Blot était alors fossoyeur du cimetière Saint-Ouen. Nous nous aimâmes... Je l'ai épousé en 1884, après trois mois de fréquentation.

Pendant les six premières semaines de notre mariage, je fus à peu près heureuse. Mais bientôt mon mari s'adonna à l'absinthe et devint brutal. Le fond de son caractère était sournois. Ainsi, quand nous étions hors de chez nous, il m'embrassait devant le monde et me donnait des coups de pied sous la table. Chez nous, il me frappait à coups de poing et à coups de pied n'importe où.

Pendant ma grossesse il me brutalisait chaque jour pour me faire avorter. C'est à cette époque que, poussé par des passions honteuses, il voulut se livrer sur moi à des actes contre nature. Je lui résistai... Très surexcité il me menaçait de son couteau qu'il tenait toujours, tout ouvert, sous son oreiller.

Un jour que je ne voulais pas satisfaire ses goûts contre nature, il entra dans une rage folle et avec des cordes m'attacha sur le ventre sur un matelas... A ce moment il était comme fou et me menaçait de son couteau. Je pus enfin échapper à son étreinte ignoble grâce au sommeil qui le surprit. C'est ce jour

là, qu'il me dit : "Tu ne veux pas que je te possède comme cela, mais je t'aurai tout de même, car un jour je te tuerai et après je te prendrai comme je voudrai."

J'étais une épouse résignée et jamais je n'ai refusé à mon mari ce que le mariage lui permettait d'exiger. Un jour est venu où, de dégoût, je l'ai quitté pour me réfugier chez ma mère. Je ne l'ai revu qu'involontairement le jour de son arrestation. On criait dans la rue : "On vient d'arrêter le vampire!" Je descendis pour voir... En reconnaissant Blot, je suis tombée évanouie et c'est depuis ce jour que je souffre d'une affection au cœur.

28 *août* 1886.—M. le substitut Allard soutient énergiquement la prévention.

Puis Me Signorino présente avec un grand talent la défense de Henri Blot.

Le Tribunal se retire pour délibérer.

Au bout d'une demi-heure, il rentre en séance.

Blot est acquitté sur le chef d'outrage public à la pudeur, le viol, qu'on lui reproche, n'ayant pas été commis dans un lieu *public*, puisqu'à deux heures du matin, le cimetière de Saint-Ouen est fermé.

Henri Blot est condamné pour violation de sépulture et coups à deux ans de prison.

ACTION FOR MALICIOUS PROSECUTION AGAINST A CORPORATION AGGREGATE.

It is rather startling to find, at this time of day, that, notwithstanding the number of cases taken up to the House of Lords by railway companies, it should still be a matter of doubt whether an action for malicious prosecution will lie against a corporation aggregate. That such doubt does exist, may be seen from the judgment of Lord Bramwell, in the case of *Abrath* v. *The North-eastern Railway Company*, 49 L. T. Rep. N. S. 619; 11 App. Cas. 247. In that case, where an action had been brought to recover damages for an alleged malicious prosecution, his Lordship said : "I am of opinion that no action for a malicious prosecution will lie against a corporation. I take this opportunity of saying that, as directly and as peremptorily as I possibly can; and I think the reasoning is demonstrative. To maintain an action for a malicious prosecution, it must be shown that there was an absence of reasonable and probable cause, and that there was malice or some indirect and illegitimate motive in the prosecutor. A corporation is incapable of motive or malice. If the whole body of shareholders were to meet and in so many words to say : "Prosecute so and so, not because we believe him guilty, but because it will be for our interest to do it," no action would lie against the corporation, though it would lie against the shareholders who had given so unbecoming an order." Lord Fitzgerald and the Earl of Selborne declined to express any opinion on the important question raised by Lord Bramwell, as no argument had been addressed to the House upon it, and as the House had arrived at the conclusion, upon other grounds, that the judgment of the Court of Appeal should be affirmed. But when one bears in mind the strong terms of Lord Bramwell's judgment, it may be anticipated that at no very distant date some railway or other company will be courageous enough to challenge in the House of Lords the contention that an action will lie against them for malicious prosecution. Considering the number of actions of that kind which have been brought against companies, it is difficult to say that the weight of authority is not against the statement of the law laid down by Lord Bramwell, but at the same time it must be remembered that the question has never before been raised before the highest tribunal.

One of the earliest cases bearing on this subject is *Yarborough and others* v. *The Governor and Company of the Bank of England*, 16 East, 6, where Lord Ellenborough delivered an elaborate judgment, holding the defendants to be liable to an action of trover, and laying down that a corporation can be guilty of a trespass or a tort. "Whenever," said his Lordship, "they can competently do or order any act to be done on their behalf, which as by their common seal they may do, they are liable to the consequences of such act, if it be of a tortious nature, and to the prejudice of others." Again, in 1851, in the *Eastern Counties Railway and Richardson* v.

Broom, 20 L. J. Exch. 196, 6 Exch. 314, a question was raised whether trespass for assault and battery would lie against a corporation; and it was argued that it could not; for that a corporation could neither beat nor be beaten. But the court were all clearly of opinion that such an action would lie against a corporation whenever the corporation can authorize the act done and it is done by their authority.

A few years later, in *Stevens* v. *The Midland Railway Company and Lander*, 23 L. J. 328, Exch., 10 Exch. 352, which was an action for malicious prosecution, in which a verdict was recovered for the plaintiff, it was argued in support of a rule for a new trial that such an action would not lie against a corporation. Baron Alderson, in the course of his judgment, said: "It seems to me that an action of this description does not lie against a corporation aggregate, for in order to support the action, it must be shown that the defendant was actuated by a motive in his mind, and a corporation has no mind." The other learned judges, Barons Platt and Martin, did not think it necessary to give any opinion on the point, as they thought there was no evidence against the company, and that what the other defendant did was done by him as principal and not as agent. Baron Platt, however, refused to say that a case might not arise in which a motive might be assigned, upon which the action could be maintained.

In *Goff* v. *The Great Northern Railway Company*, 30 L. J. 148, Q. B., decided in 1861, it was held, that an action for false imprisonment would lie against a railway company, if the imprisonment were committed by the authority of the company, and that it was not necessary that the authority should be under seal. In 1858 the case of *Whitfield* v. *The South-eastern Railway Company*, E. B. & E. 115, came before the Court of Queen's Bench, and it was there held that an action for malicious libel can be brought against a corporation aggregate where the publication takes place by the authority of the corporation. Lord Campbell, in giving judgment, said: "Considering that an action of tort or of trespass will lie against a corporation aggregate, and that an indictment may be preferred against a corporation aggregate, both for commission and omission, to be followed up by fine, although not by imprisonment, there may be great difficulty in saying that, under certain circumstances, express malice may not be imputed to and proved against a corporation aggregate." In 1859 *Green* v. *The London General Omnibus Company Limited*, 2 L. T. Rep. N. S. 95; 7 C. B. N. S. 290, was decided, and judgment was given for the plaintiff, who sued the defendants for wrongfully and maliciously obstructing him in his business of an omnibus proprietor. The doctrine relied on by the defendants — that a corporation, having no soul, cannot be actuated by a malicious intention — was said by Chief Justice Erle, who delivered the judgment of the court, to be "more quaint than substantial." The next case on the subject is *Edwards* v. *The Midland Railway Company*, 43 L. T. Rep. N. S. 694; 6 Q. B. Div. 287, where Lord Justice (then Justice) Fry reviewed the previous decisions, and distinctly held that an action for malicious prosecution can be brought against a corporation aggregate. Last in order of time is *Abrath* v. *The North-eastern Railway Company*, 11 Q. B. Div. 79, 240; on appeal, 49 L. T. Rep. N. S. 619; in House of Lords, 11 App. Cas. 247, to which we have already referred. It will therefore be seen that, notwithstanding the current of recent authorities, the defence that an action for malicious prosecution does not lie against a corporation aggregate may be held good in the House of Lords.

As a set-off to the apparent hardship which would result from such a doctrine, Lord Bramwell says that if ever there was a necessity for protecting persons, it is in an action for malicious prosecution, for, in the first place, a prosecutor is a very useful person to the community, and, secondly, it is notorious that in actions of the kind under discussion it is difficult to get the jury to go right. As we all know, where a man brings an action for malicious prosecution, and gives evidence to prove his innocence, the jury may be told by judge and counsel that that is not the question, but they can very rarely be got to understand it, and as they think that a man ought not to be prosecuted when he is innocent, they pay him for it by mulcting the defendant.—*Law Times* (London.)

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