

There is no reasonable and probable cause for prosecuting on a charge of theft a person who had purchased a horse at an open sale from a servant with whom the prosecutor had, upon his removal to another place, left the horse with a view to his selling it. (s) Nor where the plaintiff, a carter, had received the property in question, a small piece of tarpaulin, from an agent of the defendant, a whole year previously, and had since then repeatedly used it as a cover for his cart, without any concealment, while carrying goods to and from the defendant's station. (t) Nor are the facts that plaintiff showed a knowledge of the projected movement of an absconding thief, and that he was seen, early in the morning after the robbery, coming from a public entry leading to the back door of the plaintiff's house, sufficient to warrant an arrest. (u)

(i) *Publication of false accounts by officer of company* (24 & 25 Vict., ch. 96, sec. 847)—The mere fact that a report and balance sheet prepared and published by the secretary of a public company contains errors and misstatements, does not afford "reasonable and probable cause" for prosecuting him under this statute. (v)

(j) *Arrest on mesne process in actions of debt [under the old law]*—Arrest for a larger sum than was due was held to show ipso facto want of probable cause. (w)

of stealing]: *Broad v. Ham* (1839) 5 Bing. N.C. 722 [plaintiff was an apprentice who had absconded]: *Wilkinson v. Foote* (1856) 5 W.R. 22 [plaintiff was an employee who had no opportunity in the normal course of his employment to acquire a knowledge of the condition of certain goods in a warehouse, and pointed out that some of them have been stolen]: *Joint v. Thompson* (1867) 26 U.C.Q.B. 519 [new-made path found leading from place where missing timber had been piled to where it was found on plaintiff's premises]: *Rice v. Saunders* (1876) 26 U.C.C.P. 27 [re-arrest after discharge upon discovery of reasons pointing to the conclusion that the testimony which induced the magistrate to discharge the plaintiff had been given to screen him]: *Lucy v. Smith* (1852) 8 U.C.Q.B. 518 [issue of search-warrant justifiable, where a canary believed by the defendant to be his was seen on plaintiff's premises, and the latter, while admitting it not to be his property, refused to give it up]: *Pinsonnault v. Sebastien* (1887) 31 L.C. Jur. (Q.B.) 167 [information repeatedly received that plaintiff had been stealing various articles from him]: *Lefebvre v. Beauharnois, & Co.* (1879) 2 L.C. Leg. News (S.C.) 269. [Plaintiff went about bragging that he knows the thief, that he has got rich, and that he is in search of the thief, the last statement being wholly false.]

(s) *Stewart v. Beaumont* (1866) 4 F. & F. 1034.

(t) *Stevens v. Midland, &c., R. Co.* (1854) 10 Exch. 352.

(u) *Busst v. Gibbons* (1861) 30 L.J. Exch. 75.

(v) *Ayres v. Elborough* (1870) 22 L.T.N.S. 106, per Blackburn, J.

(w) *Gilding v. Eyre* (1861) 10 C.B.N.S. 592: *Savil v. Roberts* (1800) 1 Ld. Raymond 374; 1 Salk. 13: *Wetherden v. Embden* (1808) 1 Camp. 295: *Goslin v. Wilcock* (1766) 2 Wilson 302.

The estimate of a surveyor was taken as *prima facie* evidence of the value of work and materials in *Silversides v. Bowley* (1817) 1 Moore 92. There is a want of reasonable and probable cause for arresting a debtor for an amount greater than that which he owes, if a set-off is deducted: *Mitchell v. Jenkins*