

to prove that the railway company did not take reasonable care to inform themselves. The meaning of that is, if you are not satisfied whether they did or not, inasmuch as the plaintiff is bound to satisfy you that they did not, the railway company would be entitled to your verdict on that point. Then there is another point, and that is, when they went before the magistrates, did they honestly believe in the case which they laid before the magistrates? If I go before magistrates with a case which appears to be good on the face of it, and satisfy the magistrates that there ought to be a further investigation, while all the time I know that the charge is groundless, then I should not have reasonable and probable cause for the prosecution. Therefore I shall have to ask you that question along with the others, and according as you find one way or the other then I shall tell you presently, or I shall direct you whether there was or was not reasonable and probable cause for this prosecution. If you come to the conclusion that there was reasonable and probable cause, or rather that those two questions should be answered in the affirmative—that is, that the defendants did take care to inform themselves of the facts of the case, and they did honestly believe in the case which they laid before the justices—then I shall tell you, in point of law, that this amounts to reasonable and probable cause, and in that case the defendants will be entitled to your verdict; if, on the other hand, you come to the negative conclusion, if you think that the defendants did not take reasonable care to inform themselves of the facts of the case, or that they did not honestly believe the case which they laid before the magistrates, then in either of those cases you will have to ask yourselves this further question: Were they in what they did actuated by malice—that is to say, were they actuated by some motive other than an honest desire to bring a man, whom they believed to have offended against the criminal law, to justice? If you come to the conclusion that they did honestly believe that, then they are entitled again to your verdict; but if you come to the conclusion that they did not honestly believe that, but that they were actuated by some indirect motive other than a sincere wish to bring a supposed guilty man to justice, then the plaintiff is entitled to your verdict, and then it will become necessary to consider the question of damages."