A finding that there was reasonable and probable cause for prosecuting a physician on a charge of conspiring to defraud a railway company by misrepresenting the nature of the injuries received by a passenger who had sued for damages is amply sustained where the directors had before them statements of certain persons which, if they were true, clearly shewed a conspiracy, and also the evidence of doctors of the highest skill that the case of the passenger was a sham, and that the wounds upon him were produced by improper means. (*c*)

On the one hand, therefore, a judge is not bound to say that there was reasonable cause, merely for the reason that the defendant believed there was reasonable cause. (*d*) On the other hand, it is error for him to rule that there was probable cause where the jury have found that the defendant had no reasonable ground for his belief. (*e*)

(*e*) *Duty of the moving party to obtain accurate information before he takes action*—In determining whether there was probable cause, it is always a material question whether the defendant took proper pains to ascertain the true state of the case. (*a*) An omission to verify information is always competent, though not conclusive, evidence of a want of probable cause. (*b*)

The question whether the defendant discharged his obligation to make due inquiries is resolved in one of its aspects by an

(*c*) *Abrath* v. *North-Eastern R. Co.* (C.A. 1883) 11 Q.B.D. 440: 11 A.C. 247. In *Gowan* v. *Holland* (1896) 11 Que. Off. R. (S.C.) 75 it was laid down that, to establish the existence of probable cause, the evidence relied upon must be such that, if it had been true, it would have supported the criminal charge. But the above cases shew that this enunciates a doctrine much more favourable to the plaintiff than is warrantable. In one Irish case, it was laid down that, if the defendant honestly believes that his charge was well founded, the mere fact that his belief was not reasonable will not render him liable on the ground of a want of probable cause: *Lowe* v. *Collum* (1877) 2 L.R. Ir. 15. But this ruling, which at first sight seems to be in conflict with the general current of authority, loses most of its significance when we find that it was made in an action for malicious prosecution on a charge of sending a threatening letter, and that the specific point determined was that it was error to direct a verdict for the plaintiff where one of the findings was that the belief of the defendant that the letter was in the plaintiff's handwriting was not honest *and* reasonable.

(*d*) *Shrosbery* v. *Osmaston* (Q.B.D. 1878) 37 L.T.N.S. 792, per Denman, J. Compare the remark of Lindley, J., in the same case, that if the defendant is found to have believed in the existence of probable cause, the question remains: Did he believe it rashly and hastily, or were there reasonable grounds.

(*e*) *McGill* v. *Walton* (1888) 15 Ont. R. 389.

(*a*) *Abrath* v. *North-Eastern R. Co.* (C.A. 1883) 11 Q.B.D. 440 (p. 450): *Quartz Hill, &c., Co.* v. *Eyre* (1884) 11 Q.B.D. 674: *Harrison* v. *National, &c., Bank* (Q.B.D. 1884) 49 J.P. 390: *Shaw* v. *McKenzie* (1881) 6 Can. S.C. 181.

(*b*) *Lister* v. *Perryman* (1870) L.R. 4 H.L. 521: *McGill* v. *Walton* (1888) 15 Ont. R. 389.