(*c*) *Existence of bona fide belief in truth of charge, a conclusive justification*—That the existence of a bona fide belief on the defendant's part that the plaintiff was amenable to the proceedings complained of negatives conclusively the absence of probable cause as not disputed, and in fact is necessarily implied in the general principle stated in sec. 4, supra (*a*) If the trial judge leaves the question of the defendant's liability as a whole to the jury, it is proper for him to direct them to find a verdict for the defendant, if they think he believed the matters sworn to in his information ;(*b*) while, if he asks for a special finding as to the existence of a bona fide belief on the defendant's part, he should enter judgment for the defendant if the jury finds that there was such a belief. (*c*)

(*d*)—*provided such belief is based on reasonable grounds*—The rule stated in the last sub-section is subject to the qualification necessarily implied in the fact that the standard which the law constantly keeps in view is the course of conduct which, under the circumstances, would presumably have been pursued by a "discreet man." (*a*) In other words, the defendant's suspicion that the offence charged had been committed by the plaintiff is not enough to justify the laying of the charge ; there must be reasonable grounds for his suspicion. (*b*)

(*a*) In an action for malicious prosecution of the plaintiff on a charge of perjury, a charge is not open to exception which declares that, although the jury may believe that a certain event, [here the delivery of a key to the defendant,] had really occurred in the manner stated by the plaintiff, yet, if they also believed that the defendant, in instituting the prosecution, had acted under the honest impression that the event had not so happened, and that the plaintiff had sworn falsely and corruptly, no jury would be justified in saying that there was a want of reasonable and probable cause : *Hicks* v. *Faulkner* (1881) 8 Q.B.D. 167, affirmed by Ct. of App. without any lengthy arguments (1882) 46 L.T.N.S. 127. See also *Rice* v. *Saunders* (1876) 26 U.C.C.P. 27, per Galt, J.: *Reid* v. *Maybee* (1880) 31 U.C. C.P. 384.

(*b*) *Winfield* v. *Kean* (1882) 1 Ont. R. 193.

(*c*) *Loog* v. *Nahmaschinen, &c., Gesellschafft* (1884) 4 Times L.R. 268, per Stephen, J., at nisi prius.

(*a*) See secs. 1, 4, ante. The supposed "discreet" man, in these cases, is assumed to be one without legal training : *Kelly* v. *Midland, &c., R. Co.* (1873) Ir. Rep. 7 C.L. 8.

(*b*) *Broughton* v. *Jackson* (1852) 18 Q.B. 378 : *Douglas* v. *Corbett* (1856) 6 El. & Bl. 511 : *Young* v. *Nichol* (1885) 9 Ont. R. 347, per Cameron, C.J.: *Patterson* v *Scott* (1876) 38 U.C.Q.B. 642 : *Webber* v. *McLeod* (1888) 16 Ont. R. 609: *Gunn* v. *McDonald* (1850) 6 U.C.Q.B. 596 : *Laidlaw* v. *Burns* (1866) 16 L C.R. (Q.Q.B) 318 : *Lajeunesse* v. *O'Brien* (1874) 5 Revue Legale (S.C.) 242. The knowledge of the defendant that the plaintiff had denied his guilt on oath is evidence from which a jury may infer the defendant's want of belief : *Millner* v. *Sanford* (1893) 25 Nov. Sc. 227.