

defendant's belief relates to the reliability of his own recollection or to the accuracy of information received from others. (e)

A reasonable belief that goods were stolen does not furnish probable cause for a charge of felony against a person in possession of the goods; but the other facts may be such that this is the sole circumstance wanting to complete the reasonable and probable cause, and, when such a case arises, the trial judge acts correctly in taking the opinion of the jury on the point whether there was reasonable ground for the defendant's belief as to the identity of the property. (f)

Where the defendant took the opinion of counsel, the questions whether the facts were fully and honestly laid before him, and also whether he acted bona fide on the opinion given, are for the jury. (g)

(d) *Defendant's knowledge of material facts*—The question whether the defendant possessed an actual knowledge of certain facts presents an appropriate issue for the jury in two cases: (1) where the point in dispute is his knowledge of the existence of the circumstances which tend to shew reasonable and probable cause, for unless he knew them he cannot be said to have acted on them; (h) (2) where the evidence raises the question whether the defendant was aware of exculpatory circumstances when he instituted the proceedings complained of. (i)

(e) *Whether defendant exercised reasonable care in verifying his information, how far a question for the jury*—As we have already seen (sec. 7, e, ante), it is material, under certain circumstances, to determine whether the defendant was justified in proceeding without verifying the information on which he acted. Sometimes that question may be appropriately put to

(e) *Hicks v. Faulkner* (1881) 8 Q.B.D. 167.

(f) *Douglas v. Corbett* (1856) 6 El. & Bl. 611, per Coleridge and Crompton, JJ. Erle, J., dissented, on the ground that the judge had made the question of the existence of probable cause depend upon the one fact whether the defendant had reasonable ground for believing the property to be his. He could not think this sufficient, as, if it were, he did not see what would hinder many questions of civil right being tried in criminal prosecutions. The particular facts of the case were these: Certain sheep, offered for sale at a market, were claimed by the defendant as his own, stolen from him some months previously. The plaintiff asserted that they were part of a lot belonging to him, which he had had for several months, and invited the defendant to come to his farm and see the rest of the lot. The defendant did so and claimed one of those he saw, and proceeded to lead it away. The plaintiff appealed to a neighbour, who, after examining the sheep, said it did not belong to the lot which he said he knew the plaintiff had purchased. The defendant then took away the sheep, and, upon being sued for conversion, laid an information against the plaintiff for theft. The opinion of the majority of the court is supported by *Darling v. Cooper* (1869) 11 Cox Cr. Cas. 533; *Goodge v. Sims* (1884) 1 Times L.R. 35.

(g) *Martin v. Hutchinson* (1891) 21 Ont. R. 388; *Fellowes v. Hutchinson* (1855) 12 U.C.Q.B. 633.

(h) *Turner v. Ambler* (1847) 10 Q.B. 252.

(i) *James v. Phelps* (1840) 3 Perry & D. 231; 11 Ad & E. 483.