the Judge to say whether there was reasonable and probable cause, though the jury should be asked to find every fact in dispute which may assist him or he may consider necessary in determining that question. There may perhaps be uncontradicted facts other than these left to the jury, and the Judge no doubt may take these uncontradicted facts into consideration, but it was argued for the plaintiff that, where the defendant undertakes to bring forward facts for the purpose of satisfying not the jury but the Judge that there was reasonable and probable cause for prosecuting, the onus of proving these facts is upon the person who brings them forward. On consideration I am satisfied that this contention is founded upon a right view of the law. The existence of these facts is presumably known only to the defendants. It is impossible for the plaintiff in an action for malicious prosecution to know what course the defendant took to satisfy himself, or by what means he did satisfy himself, of the probable truth of the information conveyed to him, upon which he determined to prosecute. I think, therefore, that the general rule of law should be followed here, which is that the onus rests on the person affirming—the person who for his own purposes asserts facts to the truth of which he pledges himself."

CONVERSION—STATUTE OF LIMITATIONS.

*Spackman* v. *Foster*, p. 99, which must now be noticed, was a somewhat strange case on Statute of Limitations. Title deeds of the plaintiffs were fraudulently taken from them and deposited by a third party, without their knowledge, with the defendant in 1859, who held them without knowledge of the fraud, to secure the repayment of a loan. The plaintiff on discovering the loss of the deeds in 1882, demanded them of the defendant, and upon his refusal to give them up brought an action to recover them, to which the defendant pleaded the Statute of Limitations. The Court now held that until demand and refusal to give up the deeds to the real owners they had no right of action against which the statute would run. Grove, J., with whom the other judges concurred, said—"Several points were raised in argument, but the only one material to our decision is whether the plaintiff could have brought an action for the detention of the deeds without previously having demanded them. The defendant when he received these deeds had no knowledge that the person who pledged them had no title to them. He kept them as depositee or bailee, bound to return them on payment of the money he had advanced. He held them against the person who had deposited them, but not against the real owner, and *non constat* that he would not have given them up if the real owner had demanded them. This does not seem to me to be conversion. There was no injury to the property which would render it impossible to return it, nor claim of title to it, nor claim to hold it against the owner. . . . On the whole, I think that there was no conversion, and consequently no right of action against which the statute would run till the demand and refusal to give up the deeds."

STATUTE OF FRAUDS, S. 4—PART PERFORMANCE OF PERSONAL CONTRACT.

Next has to be noticed the case of *Britain* v. *Rossiter*, p. 123, which was decided as far back as 1879, though it does not appear how it is that it only now appears in the *Law Reports*. That case is authority for the proposition that (1), a contract which is not enforceable by reason of the provisions of section 4 of the Statute of Frauds is not therefore void altogether, but is an existing contract; (2), where there is an existing contract, a fresh contract cannot be implied from acts done in pursuance of it; (3), that the doctrine as to part performance, whereby a contract not enforceable by an action at law, owing to the provisions of section 4 of the Statute of Frauds was rendered enforceable in equity, was confined to suits as to the sale of interests in land, and its operation has not been extended by