reasonable ground can be suggested for a belief that any particular act was done than the conviction of the person believing that he remembers it as having been done in his presence before his own eyes." . . . . . A person who acts upon the information of another trusts the veracity, the memory and the accuracy of that other, in each of which he may be completely deceived. His informant's veracity may be questionable, his memory fallacious and his accuracy unreliable. Yet it does not follow that it was unreasonable to believe in his information if he never had cause to doubt him. In like manner a man may be deceived by his own memory, yet it does not follow that it was unreasonable to trust it, if he never knew it to be defective" (*p*).

(*f*) *Defendant's knowledge of exculpatory circumstances*—The weight of authority supports the view that, even if a party has a prima facie case, he cannot be said, as to have reasonable and probable cause for instituting proceedings, where he knows of facts which constitute a perfect defence.

Thus, where the plaintiff had been inducted (under 7 & 8 Geo. 4, c. 30), for unlawfully obstructing the air-way of a mine, it was held to be error to direct a verdict for the defendant, where evidence was given upon the trial that, before the obstruction was put in place, the defendant had been informed by the plaintiff that the latter, in setting up the obstruction, had done so by order of his employer in the assertion of a bona fide claim of right. (*a*) So, in an action for maliciously procuring the plaintiff to be indicted for an assault, reasonable and probable cause is not established in such a sense as to justify a nonsuit, where the plaintiff's testimony is to the effect that the purpose of the assault was to remove the defendant from his premises, after he had refused to leave them. (*b*)

On the other hand, it has been laid down, though not in very positive terms, that the undisputed commission of an act of disobedience by a naval officer furnishes his superior with reasonable and probable cause for

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(*p*) In *Wilkinson* v. *Foote* (1856) 5 W. R. 22, the fact that the prosecutor himself had actually given to the plaintiff the article which the latter was charged with stealing was assumed not to be incompatible with the existence of probable cause.

(*a*) *James* v. *Phelps* (1840) 11 Ad. & D. 483; 3 Perry & D. 231. To the same effect, see *Fellowes* v. *Hutchison* (1855) 12 Upp. Can. Q.B. 633 [accusation of felony where defendant took possession of property under a claim of right].

(*b*) *Hinton* v. *Heather* (1843) 14 M. & W. 131. This case and *Fellowes* v. *Hutchinson*, supra, were followed in *Routhier* v. *McLaurin* (1889) 18 Ont. R. 112, where, in a similar action, it was held to be error to tell the jury that, if they found an assault to have been committed, that would end the case, as there was reasonable and probable cause for the prosecution. The plaintiff was entitled to have the circumstances relied upon as justification for the assault submitted to the jury; and also to have their finding as to the defendant's consciousness when he laid the information that he had been in the wrong.