

An Act to protect Justices of the Peace in Upper Canada from vexatious Actions.

WHEREAS it is expedient to protect Justices of the Peace in Upper Canada in the execution of their duty : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That every Action hereafter to be brought against any Justice of the Peace in Upper Canada for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, shall be an action on the case as for a tort ; and in the declaration it shall be expressly alleged that such act was done maliciously, and without reasonable and probable cause ; and if at the trial of any such action, upon the General Issue being pleaded, the Plaintiff shall fail to prove such allegation, he shall be non-suit, or a verdict shall be given for the Defendant.

Preamble.

Action for things done within jurisdiction of the Justice to be on the case as for a tort. Malice and want of probable cause must be alleged and proved.

II. And be it enacted, That for any act done by a Justice of the Peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any Conviction or Order made or Warrant issued by such Justice in any such matter, may maintain an action against such Justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the Act complained of was done maliciously, and without reasonable and probable cause : Provided nevertheless, that no such Action shall be brought for any thing done under such Conviction or Order until after such conviction or order shall have been quashed, either upon appeal or upon application to one of the Superior Courts of Common Law for Upper Canada ; nor shall any such Action be brought for any thing done under any such Warrant which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a Conviction or Order in the same matter, until after such Conviction or Order shall have been so quashed as aforesaid ; or if such last mentioned Warrant shall not have been followed by any such Conviction or Order, or if it be a Warrant upon an information for an alleged indictable offence, nevertheless if a Summons were

Actions when the Justice shall have exceeded his jurisdiction may lie without such allegation.

But not for an act done under a Conviction or Order until the same be quashed.

Nor for an act done under a Warrant to compel appearance, if a Summons were previously served and not obeyed.