

while carrying out the corporation directions, are entitled to notice, that the corporation must equally be entitled to notice as those whom they employ.

The cases in the Queen's Bench are: *Brown v. The Township of Sarnia*, 11 U. C. Q. B. 215; *Snook v. The Town of Brantford*, 13 U. C. Q. B. 621; *McKenzie v. The City of Kingston*, 13 U. C. Q. B. 634; *McGrath v. The Township of Brock*, *Id.* 629. And those in the Common Pleas are: *Croft v. The Town of Peterborough*, 5 U. C. C. P. 141; *Reid v. The City of Hamilton*, 5 U. C. C. P. 269; *Barclay v. The Township of Dorlington*, *Id.* 432; *Allen v. The City of Toronto*, 6 U. C. C. P. 334.

A corporation may have a place of abode, which is presumed to be its place of business, as in the direction of the process of summons in commencing action—C. L. P. Act, section 1. *Mason v. The Birkenhead Improvement Commissioners*, 6 H. & N. 72; and corporations are held responsible in a variety of actions, which treat them as persons; they are liable for slander, for assault and battery. *Addison on torts*, 714. 762; *Stevens v. The Midland Counties R. Co.*, 10 Exch. 352; *Whitfield v. The South Eastern R. Co.*, 1 E. B. & E. 115; *Denton v. The Great Northern R. Co.*, 5 E. & B. 860.

*C. Robinson, Q. C.*, contra.

The reasons are given in *Snook v. The Town of Brantford*, before cited, why chapter 126 does not apply to municipal corporations, and he could add nothing further; there was a direct conflict on the point between the two courts, and all the cases bearing upon the question has been already cited.

The six months here were no bar, for there was a case of continuing damage, and cannot therefore be governed by such a case as *Turner v. The Town of Brantford*, 13 U. C. C. P. 109.

DRAPER, C. J.—The 14th & 15th Victoria, ch. 54, annulled all previous enactments, giving certain privileges and protection to justices of the peace, and other officers or persons fulfilling any public duty and acting *bonâ fide* in the execution thereof, and it put all such privileges and protections as to notice of action, limitation of time for bringing such action, costs, pleading the general issue and giving the special matter in evidence, venue, tendering amends, and payment of money into court, upon a uniform footing.

The 16th Victoria, chapter 180, (passed the 14th of June, 1853,) by sec. 15, which is not very accurately penned, repealed, so far as regarded Upper Canada, so much of the 14th & 15th Victoria, chapter 54, in respect to actions against justices of the peace, together with all other acts, or parts of acts, inconsistent with the 16th Victoria, except as to statutes by such previous acts repealed. The 14th & 15th Victoria had, however, repealed all preceding statutes on that subject.

But though the 14th & 15th Victoria was repealed only as to justices, the 16th section of 16 Victoria, chapter 180, enacts that the last act shall apply for the protection of all persons for anything done in the execution of their office, in all cases in which by the provisions of any act or acts, the several statutes or parts of statutes by this act repealed, would, but for such repeal, have been applicable.

The last act, and the Consolidated Statutes of Upper Canada, chapter 126, superseding it, enact, that every action to be brought against a justice for any act done in the execution of his duty, with respect to a matter within his jurisdiction, shall be an action on the case as for a tort, and it must be expressly averred in the declaration, and proved at the trial, that the act was done maliciously, and without reasonable or probable cause.—(Section 1.)

But, for an act done by such justice in which the law gives him no jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under any conviction or order made, or warrant issued by such justice, an action may be maintained by the person against such justice, just as before the act was passed—(Section 2); but no action shall be brought for anything done under such conviction or order until it has been quashed, nor for anything done under a warrant issued by such justice to procure the appearance of the party, and which has been followed by a conviction or order in the same matter until such conviction or order has been quashed—(Section 3); nor for any act done, if such last mentioned warrant has not been followed by a conviction or order, or if the warrant be to compel appearance; if a summons to appear were previously served but not obeyed—(Section 4). The 5th, 6th and 7th sections apply exclusively to justices. The 8th gives power to a judge of the court in which an action is brought, where the act declares no action shall be brought, to set aside the proceedings. This must allude to the actions prohibited in the 3rd, 4th, 5th and 7th sections; actions either against justices of the peace or against persons acting under a conviction or order made by a justice. Then the limitation of time, the notice of action, the venue, pleading the general issue, and giving the special matter in evidence, are all provided for; although, as expressed, in favor of justices only; but the 20th section extends the application for the protection of every officer and person fulfilling any public duty. It may be doubted whether the 12th section was intended to apply to any others than justices; I think it was not, for it cannot be said to be applicable within the meaning of section 20.

On comparing the first and last sections an obvious difference presents itself. The cases for the application of the first section are plainly defined by the statute; whether any person not being a justice can claim the protection and privilege accorded by the last, is a matter of judicial interpretation. All the privileges given by the act belong to justices; but, excepting those in the first section, the question as to whether the remaining privileges created by subsequent sections are applicable to others than justices is left to be determined by the courts, for they are given to such others only "so far as applicable." It has been held that they are not applicable to sheriffs, though they are public officers, when sued for acts done in the execution of their duty.

The language of this act, whether with or without aid, never could be held to include corporations. This result is deduced from the interpretation acts. The first of these applicable to the statutes, passed since the union, is 12 Victoria, chapter 10, which recited that it was desirable to avoid, by the establishment of some general rules for the interpretation of our acts, the repe-