

of doing so unless she was frightened into making a confession of guilt of a crime that had never been committed. The defence was that the defendants were peace officers, and that all that was done by them was done in the due execution of their duties as such officers.

In the first place, the defendants were charged with trespass to land—breaking into the plaintiff's house; and, as they did not go there to apprehend the woman, but only to get evidence against her, it was not possible that that was done in the performance of any duty. According to the testimony of one of the defendants, they went away satisfied that she was not guilty.

In the next place, they were charged with trespass to the woman's goods—searching her house; and, as there was no suggestion that this, or that anything else done by the defendants, was done under a warrant authorising it, they could not be aided by their official capacity.

For the trespass to the plaintiff's person the defendants were in the same position as in regard to the trespass to land: they did not act or intend to act under the provisions of sec. 30 of the Criminal Code—they intended to arrest the woman only if and after she had admitted or shewn that she was guilty, and that time never came.

In respect of the charge of slander, it was difficult to understand what justification the defendants' office, or the law, could afford, or protection give.

The things which a defendant must prove to entitle him to an order for security for costs under sec. 16 of the Public Authorities Protection Act, are: (1) that the things which the plaintiff complains of were done by the defendant in pursuance or execution or intended execution of a statute or of a public duty or authority; and (2) that the defendant has a good defence to the action on the merits or that the grounds of it are trivial or frivolous.

The first requisite was entirely wanting: no statute, public duty, or authority required or justified the defendants' conduct; it could be excused only if leave and license were proved. It is not what a defendant may imagine or believe some statute, duty, or authority justifies: the "intended execution" is of a real, not an imaginary, statute, duty, or authority.

No defence specially applicable to a peace officer had been shewn to any of the plaintiff's four causes of action.

Section 16 is permissive, and means that the Court should in a proper case make the order; and so the real question is, what is a proper case? Applying general principles, and looking into and dealing with the merits so far as necessary to determine