

Example. have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively; for example, in charging an offence under the twenty-sixth section of the Act passed in the Session held in the thirty-second and thirty-third year of Her Majesty's reign, intituled: "*An Act respecting Malicious Injuries to Property*," it may be alleged that "the defendant unlawfully and maliciously did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub;" and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. 5 10

Protection of justices by order of court quashing conviction. 5. If an application is made to quash a conviction or order made by a justice of the peace, the court or judge to which or whom the application is made may, as a condition of quashing the same, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice of the peace who made the conviction, or against any officer acting under any warrant issued to enforce such conviction or order. 15 20

Recognizance to be given for prosecution of *certiorari*. 6. No motion to quash any conviction order or other proceeding by or before a justice of the peace, and brought before any court by *certiorari*, shall be entertained unless the defendant is shown to have entered into a recognizance with sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge of a superior court, in the sum of two hundred dollars, with a condition to prosecute the same at his own costs and charges, with effect, without any wilful or affected delay, and to pay the person in whose favor the conviction, order or other proceeding is confirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is confirmed. 25 30

No *certiorari* where appeal is taken. 7. No writ of *certiorari* shall be allowed to remove any conviction or order had or made before any justice of the peace if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. 35 40

On application to quash, court shall allow evidence of Act being in force by proclamation. 8. Whenever any provision of a statute is in force in Canada, or is in force in any locality, by virtue of a proclamation or order of the Governor General in Council, and upon an application to quash a conviction, order or other proceeding, or to discharge a defendant, the objection is taken that evidence of such proclamation or order was not given, the court or judge shall allow evidence of the issue of such proclamation or the making of such order to be supplied by affidavit in answer to the application. 45

*Procedendo* not necessary to return proceedings not quashed. 9. If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of *procedendo*, but the order of the 50