

the Public Authorities Protection Act, 1 Geo. V. ch. 22, on the ground that the action was brought against the moving defendant as a Justice of the Peace or Police Magistrate, and that the grounds of action were trivial and frivolous. By the statement of claim the plaintiff alleged that the defendant Jelfs maliciously advised and procured the landlady of the plaintiff to eject him from the premises held by him under a lease: that, in pursuance of this object, he wrote a letter to the plaintiff on the 20th June, 1912, advising him that, if he did not leave within two days, "I shall have to assist Mrs. Bell in forcibly ejecting you;" that six days thereafter this threat was repeated by a detective of the Hamilton police force; and the following day two constables in their uniforms, "pursuant to instructions received from the defendant Jelfs, forcibly ejected the plaintiff and put his goods and chattels on the street." For these alleged torts, the plaintiff claimed \$3,000 damages from the defendant Jelfs. It was not denied that the defendant Jelfs was the Police Magistrate. But he made an affidavit on the motion, to which his letter of the 20th June was an exhibit. In this he said that what he did was not in any way as such magistrate; and that he was only acting as a friend to Mrs. Bell, as he does constantly when poor people come and ask his advice, which is given free. Even without this affidavit, the Master said, it was clear that all that the plaintiff charged against the defendant Jelfs was in no way connected with his office, so as to bring him within the protection of the Act 1 Geo. V. ch. 22, sec. 16. This point was dealt with in *Parkes v. Baker*, 17 P.R. 345, and very recently in *Meredith v. Slein*, ante 885. Here there was no pretence that what the defendant Jelfs did was in any way within the scope of his official duties. The defendant himself expressly denied that it was; and this disposed of the motion for security. It was said by Boyd, C., in *Kelly v. Barton*, 26 O.R. at p. 621: "If the officer, in discharge of a public duty, acts irregularly or erroneously, he is entitled to the qualified protection of the statute; but, if he volunteers or assumes to do something which is not imposed upon him as an official duty, then he is outside" of the statute.—As to the other branch of the motion, the Master said that it could not be entertained except under Con. Rule 261. This was so decided by Street, J., in *Knapp v. Carley*, 7 O.L.R. 409. See too *Harris v. Elliott*, ante 939.—The motion failed on all grounds, and must be dismissed with costs to the plaintiff in the cause; without prejudice to any motion that the defendant Jelfs might be advised to make under Con. Rule 261 or otherwise. S. F. Washington, K.C., for the defendant Jelfs. L. E. Awrey, for the plaintiff.