

CAP. CXXXI.

An Act to protect Justices of the Peace from Vexatious Actions.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Actions 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.

1. Every Action brought against any Justice of the Peace for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction, 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 pleaded, the Plaintiff fails to prove such allegation, he shall be non-suit, or a verdict shall be given for the Defendant. (16 V. c. 180, s. 1.)

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

2. 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 has exceeded his jurisdiction, or for any act done under any Conviction or Order made or Warrant issued by such Justice in any such matter, any person injured thereby 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. (16 V. c. 180, s. 2.)

But not for an Act done under a conviction or order until the same be quashed.

3. No such Action shall be brought for any thing done under such Conviction or Order until the Conviction or Order has 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 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 the Conviction or Order has been quashed as aforesaid. (16 V. c. 180, s. 2.)

Nor for an Act done under a Warrant to compel appearance if a summons were previously served and not obeyed.

4. If such last mentioned Warrant has not been followed by any such Conviction or Order, or if it be a Warrant upon an information for an alleged indictable offence, if a Summons was issued previously to such Warrant, and such Summons was served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such Summons, in such case no such Action shall be maintained against such Justice for any thing done under such Warrant. (16 V. c. 180, s. 2.)