

## CHAPTER 80.

## MAGISTRATES PROTECTION.

AN ORDINANCE TO PROTECT MAGISTRATES AND JUSTICES  
FROM VEXATIOUS ACTIONS FOR ACTS DONE BY THEM IN  
THE EXECUTION OF THEIR OFFICE.

*Ordinance  
No. 34 of 1917.*

[17th December, 1917.]

1. This Ordinance may be cited as the Magistrates Protection Ordinance. Short title.
2. In this Ordinance, the term "Magistrate" includes a Justice. Interpretation.
3. Every action to be brought against any Magistrate for any act purporting to have been done by him in the execution of his office shall be brought in the Supreme Court. Action to be brought in Supreme Court.
4. The endorsement of the writ of summons in every such action shall allege either that such act was done maliciously and without reasonable and probable cause, or that it was done in a matter not within the jurisdiction of the Magistrate, otherwise the writ shall be set aside on summons; and if the plaintiff shall fail at the trial to prove such allegation, a verdict shall be given for the defendant. If plaintiff fail to prove malice or want of jurisdiction he shall be non-suited.
5. (1) Any person injured by any act done by a Magistrate in a matter not within his jurisdiction, or in excess of his jurisdiction, or by any act done in any such matter under any conviction or order made or warrant issued by him, may maintain an action against such Magistrate without alleging that the act complained of was done maliciously and without any reasonable and probable cause. Where act is done without jurisdiction, malice need not be alleged, but no action shall be brought until conviction is quashed.
- (2) No such action shall be brought for anything done under such conviction or order, or for anything done under any warrant which shall have been issued by such Magistrate to procure the appearance of such party and which

shall have been followed by a conviction or order in the same matter, until after the conviction or order shall have been quashed by the Supreme Court.

No action to be brought unless there has been a conviction or if there has been a summons.

6. No action shall in any case be brought against any Magistrate for anything done under any warrant which shall not have been followed by a conviction or order, or if, being a warrant upon an information for an alleged indictable offence, a summons was issued previously thereto, and served upon such person personally, or by its being left for him with some person at his usual or last known place of abode, and he shall not have appeared in obedience thereto.

Nor against a Magistrate for warrant granted by him upon the conviction of another Magistrate.

7. Where a conviction or order shall be made by a Magistrate and a warrant of distress or of commitment shall be granted thereon by some other Magistrate *bonâ fide* and without collusion, no action shall be brought against such last mentioned Magistrate by reason of any defect in such conviction or order, or for any want of jurisdiction in the Magistrate who made the same, but the action may be brought against the Magistrate who made such conviction or order.

Nor for granting warrant for enforcing rate.

8. No action shall be brought against any Magistrate who shall have granted a warrant of distress against any person for enforcing the payment of any rate made, allowed, and published, by reason of any irregularity or defect in such rate, or of such person not being liable to be rated.

Nor for exercise of any discretionary power.

9. No action shall be brought against any Magistrate for the manner in which he shall have exercised any discretionary power given to him by law.

Remedy where Magistrate shall refuse to do his duty.

10. Where any Magistrate refuses to do any act relating to his duties as a Magistrate, the party requiring such act to be done may apply to the Supreme Court, upon an affidavit of the facts, for a rule calling upon such Magistrate, and also the party to be affected by such act, to show cause why such act should not be done; and if, after due service of such rule, good cause shall not be shown against it, the Court may make it absolute, with or without costs, and such Magistrate, upon being served with such rule absolute, shall obey it, and do the act required, and no

action or proceeding whatsoever shall be brought against him for having obeyed such rule and done such act so required.

11. Where a warrant of distress or of commitment shall be granted by a Magistrate upon a conviction or order, which either before or after the granting of the warrant shall have been or shall be affirmed upon appeal, no action shall be brought against him for anything which may have been done under it, by reason of any defect in such conviction or order.

No action on warrant where conviction or order affirmed on appeal.

12. In all cases where by this Ordinance it is enacted that no action shall be brought under particular circumstances, if any such action is brought it shall be lawful for a Judge of the Supreme Court, on the application of the defendant and on an affidavit of facts, to set aside the proceedings in such action, with or without costs, as to him may seem meet.

Setting aside action.

13. Where the plaintiff in any such action shall be entitled to recover, and he shall prove the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such conviction or order and shall seek to recover damages for such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond one farthing as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and that he had undergone no longer imprisonment than that assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay.

In what case plaintiff shall not recover substantial damages.