

Laws of His Majesty's Province of Upper Canada, passed in the year 1832. York: Robert Stanton, 1832.

2 William IV – Chapter 4

An Act to facilitate Summary Proceedings before Justices of the Peace, and to afford to such Justices reasonable protection in the discharge of their duty. Passed 28th January, 1832.

Whereas great inconvenience often arises in Summary Proceedings before Justices of the Peace, from the want of a General Form of Conviction:—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'*" and by the authority of the same, That in all cases wherein a Conviction shall take place, and no particular form for the Record thereof hath been directed, the Justice or Justices duly authorised to proceed Summarily therein, and before whom the offender or offenders shall have been convicted, shall and may cause the Record of such Conviction to be drawn up in the manner and form following, or in any words to the same effect, mutatis mutandis, that is to say:—

District to wit:

Be it remembered, that on the ____ day of ____ in the year of our Lord ____ at ____ in the District of ____ A. B. of ____ in the District of ____ Labourer, (or as the case may be) personally came before me, (or before us) C. D. one (or more, as the case may be,) of His Majesty's Justices of the Peace for the said District of ____, and informed me, (or us, as the case may be) that E. F. of ____ in the District of ____, Labourer, (or as the case may be) on the ____ day of ____ in ____ the year of our Lord ____ at ____ in the said District of ____ did, (here set forth the fact for which the information is laid) contrary to the form of the Statute in such case made and provided, whereupon the said E. F. after being duly Summoned to answer the said charge, appeared before me, (or us, as the case may be) on the ____ day of ____ in the year of our Lord ____ at ____ in the said District of ____, and having heard the charge contained in the said information, declared that he was not guilty of the said offence, (or as the case may happen to be) did not appear before me, (or us) pursuant to the said Summons, or did neglect and refuse to make any defence against the said charge, whereupon I, or we, (as the case may be) or nevertheless I or we, (as the case may be) the said Justice or Justices, did proceed to examine into the truth of the charge contained in the said information, and on the ____ day of ____ aforesaid, at ____ in the District of ____ aforesaid, one credible Witness, to wit, A. W. of ____ in the District of ____ Labourer, (or as the case may be) upon his oath deposeth and saith, (if E. F. be present, say in the presence of the said E. F.) that on the ____ day of ____ in the year of our Lord ____ the said E. F. at ____ in the said District of ____ (here state the Evidence, and as nearly as possible in the words used by the Witness; and if more than one Witness be examined, state the Evidence given by each; or if the Defendant confess, then instead of stating the Evidence say, and the said E.

F. acknowledged and voluntarily confessed the same to be true,) therefore it manifestly appearing to me, (or us, as the case may be) that he the said E. F. is guilty of the offence charged upon him in the said information, I, or we, (as the case may be) do hereby convict him of the offence aforesaid, and do declare and adjudge, that he the said E. F. hath forfeited the sum of ____ of lawful money of this Province for the offence aforesaid, to be distributed, or paid, (as the case may be) according to the form of the Statute in that case made and provided. Given under my Hand, or our Hands, (as the case may be) and Seal, (or Seals) the ____ day of ____ in the year of our Lord ____.

II. And be it further enacted by the authority aforesaid, That in all cases in which two or more Justices of the Peace are authorised and required to hear and determine any complaint, one Justice shall be competent to receive the original information or complaint, and to issue the Summons or Warrant requiring the party to appear before two or more Justices of the Peace, as the case may require, and after examination upon oath into the merits of the said complaint, and the adjudication thereon, by any two or more such Justices being made, as the case may require, all and every the subsequent proceedings to enforce obedience thereto, or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing now enacted, or to be hereafter enacted, may be enforced by either of the said Justices, or by any other Justice of the Peace for the same District, having before him or them a Record of such conviction, certified by the Justice or Justices who adjudged the case, in such and the like manner as if done by the same two or more Justices who so heard and adjudged upon the said complaint; and where the original complaint or information shall have been made to any other Justice than him, or them, before whom the same shall be afterwards heard and determined, the form of conviction shall be made conformable to the fact in that respect.

III. And be it further enacted by the authority aforesaid, That in all cases in which it shall appear by the conviction, that the Defendant has appeared and pleaded, and the merits have been tried, and that the Defendant has not appealed against the said conviction where an appeal is allowed, or that the conviction, if appealed against, has been affirmed, such conviction shall not afterwards be set aside, or vacated in consequence of any defect of form whatever.

IV. And whereas, in cases of Summary convictions, or the proceedings thereon, it may sometimes happen that Justices of the Peace, may by some irregularity or defect in the form of their proceedings render themselves liable to actions of trespass, when there was no disposition on their part to oppress the party, and where the guilt of the Defendant may have been manifest, and it is reasonable to protect Justices, wherever it shall appear that their proceedings have been grounded upon good causes, and where they have acted without malice; Be it therefore enacted by the authority aforesaid, That in all actions whatever, which shall at any time after the passing of this Act, be brought against any Justice or Justices of the Peace in this Province, for, or on account of any conviction by him or them, had, or made under or by virtue of any Statute in force in this Province, or for, or by reason of any Act, matter or thing whatsoever, done or commanded to be done by such Justice or Justices for the levying of any penalty, apprehending of any party, or otherwise carrying such conviction into effect, in case such conviction shall have been quashed, the Plaintiff or Plaintiffs, in such action or actions, besides the value and amount of such penalty or penalties which may have been levied upon the said Plaintiff or Plaintiffs, in case any levy thereof

shall have been made, shall not be entitled to recover any more or greater damages than One Shilling, nor any costs of Suit, unless it shall be expressly alleged in the declaration in the action wherein the recovery shall be had, and which shall be in an Action on the case only, that such Acts were done maliciously and without any reasonable or probable cause.

V. And be it further enacted by the authority aforesaid, That such Plaintiff shall not be entitled to recover against such Justice, any penalty which shall have been levied, nor any damages or costs whatever, in case such Justice shall prove at the trial that such Plaintiff was guilty of the offence whereof he had been convicted, or on account of which he had been apprehended, or had otherwise suffered, and that he had undergone no greater punishment than was assigned by law to such offence.