

utory protection is given to persons acting under the authority or in execution of a Statute, they are entitled to the protection, if they believe *bona fide* and with colour of reason, as distinguished from caprice, that they are acting in pursuance of the Statute, though the facts be such as that the Statute affords no justification, *Booth v. Clive*, 10 C. B. 827; *Cann v. Cliperton*, 10 A. & E. 582; but in a case of *Hopkins v. Crowe*, 4 A. & E. 774, where, under a Statute authorizing the owner of a horse to give in charge a person guilty of cruelty towards it, the son of the owner had given a party in charge, he was held not to be protected, because he could have had no reasonable ground to believe himself the owner, and see *Kine v. Evershed*, 10 Q. B. 143. Hence a justice, or other, who, with some colour of reason and *bona fide* supposing that he is acting in execution of his rightful authority, exceeds his jurisdiction or proceeds illegally, is nevertheless protected, the question of *bona fides* and reasonable belief being for the jury under all the circumstances, *Hazeldine v. Grove*, 3 Q. B. 997.

"Justices of the peace are not punishable civilly for acts done by them in their judicial capacity, but if they abuse the authority with which they are entrusted, they may be punished criminally at the suit of the King by way of information. But in cases where they proceed ministerially rather than judicially, if they act corruptly, they are liable to an action at the suit of the party ~~as well~~ as to an information at the suit of the King." "If it clearly appears that justices have been partially, maliciously or corruptly influenced in the exercise of their discretion, and have consequently abused the trust reposed in them, they are liable to prosecution by indictment or information, or even possibly by action, if the malice

*Friend v. Hamill*, 34 Md. 298. But see as to malice, *Roth v. Shupp*, 94 Md. 59.

Nor can a justice of the peace be held civilly liable for the irregular or erroneous disposition of a case within his jurisdiction. In *Roth v. Shupp*, 94 Md. 55, a magistrate found a person guilty in a proceeding of forcible entry and detainer, imposed a fine on him and committed him to jail for non-payment of it. In an action for false imprisonment brought against the magistrate it was held that since he had jurisdiction of the case and acted in good faith, he could not be held liable, even though he erred in disposing of it by refusing to allow the defendant therein to produce testimony in his own defense, or to be heard by counsel. It was also held that the counsel for the complainant therein who advised the justice was likewise not liable if he acted in good faith.

It seems, however, that a magistrate is liable, in a civil suit for attempting to act in a matter in which he has no jurisdiction. See *Thomas' Procedure in Justice Cases*, sec. 19, note 70. Cf. *Kane v. State*, 70 Md. 552.

A constable who seizes property under a void distress warrant, or who takes on an execution the goods of a stranger, is liable as a trespasser, but not his sureties, since these acts are not done *virtute officii*; but levying an execution in an illegal and oppressive manner on property which is subject to the execution is an act done *colore officii* for which both a sheriff and his sureties are liable. *State v. Timmons*, 90 Md. 10; *State v. Fowler*, 88 Md. 601; *State v. Brown*, 54 Md. 318.