

**SAVENIA E. BROWN, Appellant, vs. MARY A. L. BROWN,
Appellee.**

[1861] LRSC 1; 1 LLR 1 (1861) (1 January 1861)

[January Term, A. D. 1861.]

Trespass—Proof—Magistrate.

1. When the injury complained of in trespass is unaccompanied by force, or the damage sustained consequential, the suit is technically termed Trespass on the Case.
2. Proof required to show damage sustained consequent upon conduct of person against whom action is brought.
3. Magistrates not responsible for damages arising from writs issued by them while acting within the scope of their authority.

The law consists in reason, for reason is the life of the law. The entire statutes are made of reason and are held to be consistent in their bearings and cannot or ought not to be construed from their pure intent by mysterious movements to effect mysterious ends, not clearly demonstrated by the rules provided to establish facts and intentions. The case submitted by appeal from the court below is styled "trespass on the case." In practice the technical name of that species of action of trespass which was for injuries unaccompanied with force, or where the damages sustained are only consequential, sometimes termed case, and so called from the circumstances.

Proof is required in all cases to show the damages sustained to be consequent upon the conduct of persons against whom the complaint is filed. The right to sue out the warrant is unquestionable, i. e., the search warrant. The judicial officer issuing the writ cannot be held responsible for his acts, except he goes beyond his jurisdiction. Magistrates acting within their limits in the law by administering it as such, cannot be sued by parties who may be grieved, but may appeal; and no court ought to entertain suits brought by parties against magistrates when acting within their jurisdiction. The principle is founded upon law and reason: the law found on the 10th page, sec. 49, of the statute, places the responsibility, if any, growing out of the action, upon the parties procuring the writ. But be assured if parties receive injuries by an action arising from the principles above cited, they must establish it upon evidence to be such as the law would not warrant upon such rights as are guaranteed.

The case, from its appearance on the records, does not establish by evidence the detriment, and establishes upon its face the acquittal of the party accused, which puts her in the very same position where she was at first. We dwell upon proof which must be given in evidence to show the injury. By this special mode alone can we arrive at just conclusions.

After due reflection, having searched carefully the proceedings, the court has arrived at the conclusion that the judgment of the court below must be sustained. Therefore, it is the opinion and judgment of this court that the judgment of the Court of Common Pleas in this suit "trespass on the case," be confirmed, with cost of suit.