

the better opinion, that in a case where the time was unreasonable the commitment is void from the beginning. The duty of a magistrate is to commit for a reasonable time, and if he commits for an unreasonable time, he thereby does an act which he is not authorized by law to do. In *Day v. Day*, *supra*, the plaintiff had anchored his boat in the stream of the Gunpowder; the defendants, one of whom, Gorsuch, was a justice, went out in a boat to him when a scuffle followed, which the plaintiff appeared to have begun, though the first violence was used by one of the defendants, and the plaintiff was taken and brought on shore, whereupon Gorsuch committed him, the commitment being to answer a charge of obstructing the navigation of the river, but it was not delivered to the constable until his arrival two hours afterward, nor did Gorsuch at the time of the arrest profess to act as a justice, nor did he act as such, nor had the plaintiff any knowledge of his being a justice until the arrival of the constable two hours afterwards. And the Court holding that granting a justice has a right on the view to order an arrest by parol in cases of misdemeanor, yet, if Gorsuch assumed to act in his official capacity, he should have notified the plaintiff thereof, it followed that Gorsuch was properly joined with the other defendants in trespass. And besides, a magistrate forfeits the protection of the law in the execution of his office by beginning a breach of the peace, see *R. v. Symonds*, Ca. temp. Hardw. 240. On the other hand, in *Deal v. Harris* *supra*, it was assumed that trespass was not, in any event, the proper remedy. Indeed, where a justice has general jurisdiction over the subject matter, and a party comes before him and prefers a complaint, upon which he makes a mistake and grants a warrant which in point of law is not justifiable, *the party complaining* is not liable as a trespasser, but the only remedy against him is by an action on the case if he has acted maliciously, *West v. Smallwood*, 3 M. & W. 420.

Tender of amends.—The second section of the Stat. of 24 Geo. 2, c. 44, gives the justice one calendar month after the notice of action required by the first section, within which to tender amends. The first section provided that no writ should be sued out against, nor any copy of any process at the suit of a subject be served upon any justice, for any thing *by him done in the execution of his office, until notice in writing of **442** such intended writ or process should have been delivered, &c., at least one calendar month before the suing out or serving the same. The second section alone as before observed is said to extend. And it must be taken here, therefore, to allow a tender of amends generally before action brought, and a plea of the same in bar of the action. It might probably be advisable also to include the 4th section, which provides, that in case such justice shall neglect to tender any amends, or shall have tendered insufficient amends, before the action brought, it shall be lawful for him, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall see fit, whereupon such proceedings, orders and judgments shall be had, made and given in and by such Court, as in other actions where the defendant is allowed to pay money into Court; for the Code, Art. 75, sec. 19,² does not extend to actions

² Code 1911, Art. 75, sec. 20, (as now amended); *Gamble v. Sentman*, 68 Md. 71.