

SEMMES ET UX. V. SHERBURNE.

{2 Cranch, C. C. 534.}¹

Circuit Court, District of Columbia. Dec. Term, 1824.

PLEADING AT
LAW—TROVER—DECLARATION—CONCLUSION.

In trover by husband and wife for a conversion of the wife's goods before marriage, the declaration must conclude ad damna ipsorum.

Trover by husband and wife for the wife's slave. The declaration averred the trover and conversion to have been before the intermarriage, and concluded to the damage of the husband alone.

After verdict for the plaintiffs [Jesse M. Semmes and wife], with \$300 damages, at April term, 1824, Mr. R. S. Coxe, for the defendant [J. H. Sherburne], moved in arrest of judgment that the declaration should have concluded ad damna ipsorum; and cited 1 Chit. Pl. 60, 61, 398; 2 Chit Pl. 49, 50, 59, 374; *Nelthrop v. Anderson*, 1 Salk. 114.

Mr. Morfit, contra, cited 2 Esp. N. P. 186; *Blackborne v. Greaves*, 2 Lev. 107; Esp. N. P. 201; *Countess of Rutland's Case*, Cro. Eliz. 377; 2 Bl. Comm. 433; *Bloxam v. Hubbard*, 5 East, 407.

This objection had become important, as the husband had died before verdict and his death had been suggested upon the docket at October term, 1823.

THE COURT (THRUSTON, Circuit Judge, absent) arrested the judgment. The surviving plaintiff had leave to amend, and a venire de novo was awarded, at May term, 1825 [Case No. 12,656].

{See Case No. 12,760.}

¹ [Reported by Hon. William Cranch, Chief Judge.]

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