

Case No. 230.

ALLEN v. MAGRUDER.

{3 Cranch, C. C. 6.}<sup>1</sup>

Circuit Court, District of Columbia.

Dec. Term, 1826.

ESTOPPEL BY RECORD—PLEADINGS—AMENDING ANSWER.

1. In an action upon a prison-bonds bond the defendant is estopped to deny that there was such a judgment as that recited in the bond; and the plaintiff is not bound to produce the record of the judgment.
2. The court will not, at the trial, permit the defendant to amend his pleadings unless they are satisfied of the justice of the defence intended to be made by the new pleas.

At law. Debt on a prison-bonds bond. Breach, that the defendant departed, &c. Plea, payment. Replication, non-payment, and issue.

R. S. Coxe, for defendant, objected to the bond, because he said that there was no such judgment as that recited in the bond.

THE COURT (nem. con.) was of opinion that upon this issue the defendant was estopped by his bond to deny that there was such a judgment; and that the plaintiff was not bound to produce the record of the judgment.

Mr. Coxe then moved to amend the pleas.

But THE COURT said that they must be satisfied of the justice of the defence intended to be made by the new pleas.

Mr. Coxe did not show that the proposed amendment was necessary to the justice of the case.

Verdict for plaintiff. Motion for new trial, and in arrest of judgment, overruled.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]