

Case No. 1,018.

BARNES v. LEE.

{1 Cranch, C. C. 471.}<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1807.

RECORDS—AMENDMENT.

A clerical error in the record may be amended after the term.

{At law. Action by John Barnes against David Easton. A writ of scire facias against E. J. Lee, as special bail for Easton, was adjudged defective. Barnes v. Lee, Case No. 1,017. Heard on Lee's motion to quash the writ. Granted. Also, heard on plaintiff's motion for leave to amend the record. Granted.}

After THE COURT had given an opinion on the law, upon the issue of nul tiel record, [Barnes v. Lee, Case No. 1,017,] but before the judgment thereon was entered on the minutes,—

Mr. Jones, for the plaintiff, moved to quash the scire facias, which THE COURT granted, on payment of all costs. Mr. Jones then moved the court to direct the clerk to amend the record by the minute-book. On certiorari upon suggestion of diminution, the court below will order a clerical mistake to be corrected.

Mr. E. J. Lee, contra. Errors in the office can only be corrected at the next succeeding term. The court cannot correct even a clerical error after the term. The minutes of the district court of Virginia, are full and complete records at length.

Mr. Jones, in reply. This is a misprision of the clerk. The record is not made up during the term. The clerks make them up in vacation from the minutes, hence the minutes are directed by law to be signed. Laws Va. Dec. 12, 1792, § 40, p. 51; Id. § 28, p. 78; Laws Va. Dec. 3, 1792, § 35, p. 89; Norton's Case, Style, 110; Lovell v. Natchford, Id. 120; Frazier v. Crosbie. [Gordon v. Frazier,] 2 "Wash. (Va.) 130; Poynes v. Francis, Style, 191; Saunderson v. Raisin, Id. 207; Dawkes v. Payton, Id. 218, 219; Pinder v. Dawkes, Id. 232; Freind v. Baker, Id. 339; Kitchin-man's Case, Id. 374; Barker v. Elmer, Id. 412.

Mr. E. J. Lee. The minute-book, in this case, does not describe the form of the recognizance, so that there is nothing to amend by.

THE COURT gave leave to amend.

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