

Case No. 8,177.

EX PARTE LEE.

[4 Cranch, C. C. 197.]<sup>1</sup>

Circuit Court, District of Columbia.

April Term, 1832.

CLERK OF COURT—FEES—FOR CONTINUANCE.

If a case in equity be set for hearing as to some of the defendants, and, as to them, brought upon the docket of the court, and continued at the rules as to other defendants who are absent and who have not answered, the clerk has a right to charge his fees for the continuances at the rules.

Mr. Hewitt objected to the clerk's bill of fees in a chancery attachment, in which he charged continuances at the rules, after the cause was set for hearing as to the resident defendants, and common order of publication as to the absent defendants, and before the order of publication was executed. The cause as to the resident defendants was transferred to the court docket, but as to the absent defendants it remained at the rules.

THE COURT said it was a question of practice, and requested information as to the practice in the courts of Virginia. Mr. R. J. Taylor said the practice was as stated by Mr. [E. J.] Lee. Precedents were also produced in the time of Colonel Deneale; and on this day (3d May, 1832) a letter from Mr. Phillips, the clerk of the court at Fauquier, Virginia, was produced, confirming Mr. Lee's statement of the practice.

THE COURT (THRUSTON, Circuit Judge, absent) decided the point in favor of the clerk.

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