

Procedure—Indictments—Amendment.

P. G. L., (1860,) art. 30, sec. 79. 1852, ch. 176, sec. 1.

283. Whenever the misnomer of any defendant or defendants is pleaded in abatement to any indictment in any of the courts of this State having criminal jurisdiction, it shall be lawful for the State's attorney prosecuting the same, or other person prosecuting for the State, on application to the court, to amend the said indictment by inserting in the place of the name or names so erroneously set forth in the said indictment, the true name or names of such party or parties, as disclosed in the said plea of abatement, and it shall be the duty of the clerk of the court to endorse the amendment, and to enter the said case upon the docket of the court, according to the true name or names of the party or parties so indicted.

Hammond v. State, 14 Md. 147

Ibid. sec. 80. 1852, ch. 176, sec. 2.

284. Whenever it shall appear after a jury is sworn on any indictment, in any of the courts of this State having criminal jurisdiction, that the name or names of any person or persons other than the defendant and defendants has or have been erroneously set forth in the said indictment, it shall be lawful for the State's attorney, or other person prosecuting for the State, on application to the court, to amend the said indictment according to the proof in the said cause; and it shall be the duty of the court in which such trial shall be had to proceed with the trial of the said indictment so amended, unless oath shall be made by the party or parties so charged that the said amendment or amendments has or have disclosed a fact or facts to him heretofore unknown, or that the immediate proceeding with the trial of the said indictment would tend to his prejudice; and in such case it shall be the duty of the court to discharge the jury sworn in the said case without a verdict, and to postpone the trial thereof for such reasonable time as the court shall determine; or in case the said indictment is submitted to the court without the intervention of a jury, it shall be lawful for such amendment to be made as aforesaid, and also to postpone the hearing of the said case for such time as it shall determine to be necessary.

Hammond v. State, 14 Md. 147.