

at any time hereafter, be legally convicted, by confession or otherwise, of wilfully or corruptly embezzling, impairing, razing or altering any will or record within this province, whereby the estate of inheritance or freehold of any person whatsoever shall be defeated, injured, or any ways altered, such person so convict shall forfeit all his goods and chattels, lands and tenements, the one-half to our Sovereign Lord the King, his heirs and successors, for the support of government, the other half to the party grieved, and shall also be set in the pillory for the space of two hours, and have both his ears nailed thereto, and cut off from his head. This Act is incorporated in the Code, Art. 30, sec. 46,¹ with some alterations, but the punishment provided for the offence is confinement in the penitentiary for not less than three nor more than seven years.

Scope of statute.—These Statutes enlarge the power of amendment of the Courts over that given them by Stat. 14 E. 3, but, just as by that Statute, only the misprisions of the clerks or other officers are to be corrected under them, and in affirmance of the judgment. Consequently any *jeofail*, insufficient pleading, or any default of the party or his counsel is not remedied thereby. And two general rules are also laid down: 1°, that there is a difference between the negligence and the ignorance of the clerk that makes out writs, or as it is commonly put, between his mistake in matter of fact and his mistake in matter of law; and therefore where the original writ wants legal form, as for instance where a writ of debt was brought against executors for a debt due by the testator in the *debet et detinet*, and by the form in the Register it ought to be in the *detinet* only, it was held not to be amendable, Hatley's case cited in Blackamore's case, 8 Rep. 159a. But where the misprision of the clerk is in matter of fact in not pursuing the note or instruction delivered to him, as where the original writ claimed a presentation to a *parsonage* instead of a *vicarage*, though this was a matter of substance, yet it appearing that the cursor's instructions were right, the writ was amended in Court, Turner v. Palmer, Cro. Car. 74. And 2°, there must be something to amend by, Tidd Prac. 722.

Record of judgments in Maryland—Correction of docket entries.—It would be manifestly impossible in a note to give an extended account of the amendments permitted under this Act. The right of the Courts, however, to amend clerical errors² at any time was affirmed in the case of Duvall v. Wells, 4 H. & McH. 164; and from our practice, in which much greater laxity has been allowed than in England, it is essential that such a power should exist. Before the Act of 1817, ch. 119,³ said the Court in Boteler and Belt v. the State, 8 G. & J. 359, it was the duty of the clerks to record the judgments, &c., of their Courts, not, as in England, by engrossing them upon the parchment, and delivering them into Court as the permanent rolls of Court, but by transcribing them into books, to be kept in their respective offices for that purpose, *from the minutes of the Court, the docket entries, and the original papers and documents filed in the cause;*

¹ Code 1904, Art. 27, sec. 100.

² See note 2 to 14 Edw. 3, St. 1, c. 6.

³ See Code 1911, Art. 17, sec. 21.