Barnes, 6, where a verdict was taken generally by mistake for plaintiff against two defendants, instead of finding one not guilty, and the return on the *postea* was amended by the Judge's notes; Petrie v. Hannay, 3 T. R. 659, where the defendant pleaded the general issue and limitations, and a verdict was found for the plaintiff on the first issue, but no notice taken of the other, and an amendment was allowed according to the Judge's notes after joinder in error, by adding a verdict for the plaintiff on the second plea, and so the verdict in Hatton v. McClish, 6 Md. 407, might have been amended if the jury had in fact found on the second issue. And in Hardy v. Cathcart, 1 Marsh. 180, 5 Taunt. 2, S. C. a penal action, the jury found for the plaintiff with one shilling damages, which was irregular because damages cannot be given for the detention of a debt in a penal action, and it was amended after judgment and error brought, the plaintiff's counsel relying altogether on this Statute. And so where larger damages were given than laid in the declaration and judgment entered for the whole, and error brought, the judgment and transcript were amended by entering a *remittitur* for the excess, Usher v. Dansey, 4 M. & S. 94; Pickwood v. Wright, 1 H. Black. 643. These cases are within the Act of 1811, ch. 161, sec. 3, Code, Art. 29, sec. 39,[16] which permits the plaintiff to enter a *remittitur* of the excess in the Appellate Court, *but not in the Court below after judgment entered and the term passed*,[17] and thereupon the Court of Appeals may amend the record and enter the
239 judgment for the damages laid in the declaration, Harris v. *Jaffray, 3 H. & J. 543; Marburg v. Marburg, 26 Md. 8. And see Smith v. Morgan, 8 Gill, 133, where the Court of Appeals corrected an informal verdict, and Mitchell v. Smith, 4 Md. 430. And it has been held that a special verdict may be amended by the minutes taken by the Clerks of assize, notes of counsel, Bull. N. P. 320, the memory of the judge though he have no note of the evidence, Marianski v. Cairns, 1 Macq. H. L. 212, (see also this case as to the time within which the application is to be made,) or even by an affidavit of what was proved on the trial, Mayhoe v. Archer, 8 Mod. 46; see also Richardson v. Mellish, 3 Bing. 334, S. C. 7 B. & C. 819; 1 Cl. & F. 224, in error; Bowers v. Nixon, 12 Q. B. 546.[18] The power of amendment in cases of clerical misprision extends also to judgments, which are

[16] Code 1911, Art. 5, sec. 19; Attrill v. Patterson, 58 Md. 226; Frank v. Morrison, 55 Md. 399.

[17] But see Post v. Bowen, 35 Md. 232.

[18] If the jury deliver an improper verdict, the court or even the clerk may, before it is recorded, desire them to reconsider and correct it; but the jury can make no material alteration in it after it has been recorded and *a fortiori* no such alteration can be made by the court. Gaither v. Wilmer, 71 Md. 361; Williams v. State, 60 Md. 402; Wilson v. Kelso, 115 Md. —. See especially the case of Diamond Co. v. Blake, 105 Md. 570, where the power of the court to amend and correct a verdict is discussed at length.

As to the correction of sealed verdicts, see Hechter v. State, 94 Md. 429, 442; Farmers' Packing Co. v. Brown, 87 Md. 1.