

CHAPTER 176.

CHAP. 176.

AN ACT for the Correction of Misnomers in Criminal Cases. Passed May 22, 1852.

SECTION 1. Be it enacted by the General Assembly of Maryland, That 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 and may be lawful for the State's Attorney prosecuting the same, or other persons 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 or pleas of abatement as aforesaid; and it shall be the duty of the Clerk of the Court to endorse the amendment or amendments so made upon the said indictment, 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.

State's attorney may amend indictment.

SEC. 2. And be it enacted, That whenever it shall appear after jury 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 or defendants, have been erroneously set forth in the said indictment, it shall and may be lawful for the State's Attorney, or 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 or affirmation should 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, her or them, heretofore unknown, or that the immediate proceeding with the trial of the said indictment would tend to his, her or their prejudice; and in such case, it shall be the duty of the said Court, before which said indictment shall be pending, to discharge the jury sworn in the said case of the said indictment without a verdict, and to postpone the trial thereof for such reasonable time as the said Court shall determine to be necessary; or in case the said indictment is submitted to the Court, without the intervention of a jury, it shall and may be lawful for such amendment to be made as aforesaid, and for the Court, also, to postpone the hearing of the said case for such time as it shall determine to be necessary.

Indictment may be amended after jury sworn.