directed him to issue a Scire facias on that Judgment against the terretenants of James Prather generally; and being also satisfied, by said affidavit, that said William Smith is such principal deputy clerk, and the person to whom applications are usually and ordinarily made for writs of Scire facias and other process issuing from the office of the clerk of Washington County Court. It is thereupon on motion of the plaintiff by Daniel Weisel and William Schley his attornies ruled that the defendants shew cause by the first day of the next term, at the opening of the Court why the said plaintiff shall not be permitted to amend the Scire facias aforesaid by reciting said original judgment according to the fact, so as to make the same conform to said record in reciting the same as obtained against James Prather and Elie Prather. Whereupon further proceedings of and upon the premises aforesaid between the parties aforesaid by consent of the said parties and their attornies aforesaid, and by order of Court here thereon is further continued until the fourth Monday of March next. At which said fourth Monday of March being the twenty third day of the same month in the year of our Lord one thousand eight hundred and thirty five, come again into Court here as well the said Alexander Manro, by his attornies aforesaid as the said Isaac Nesbitt, George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes terretenants as aforesaid by their attornies as aforesaid. Whereupon further proceedings in the premises aforesaid between the parties aforesaid by consent of the said parties and their attornies aforesaid, and by order of Court here thereon is continued until the third Monday of November next. At which said third Monday of November being the sixteenth day of the same month in the year of our Lord one thousand eight hundred and thirty five come again into Court here as well the said Alexander Manro by his attornies aforesaid as the said Isaac Nesbitt George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes terretenants as aforesaid by their attornies as aforesaid. Whereupon further proceedings in the premises aforesaid between the parties aforesaid by consent of the said parties and their attornies aforesaid, and by order of Court here thereon is continued until the fourth Monday of March next. At which said fourth Monday of March being the twenty second day of the same month in the year of our Lord one thousand eight hundred and thirty six, come again into Court here as well the said Alexander Manro by his attornies aforesaid as the said Isaac Nesbitt, George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes Terretenants as aforesaid by their attornies as aforesaid. Whereupon further proceedings in the premises aforesaid between the parties aforesaid by consent of the said parties and their attornies aforesaid and by order of Court here thereon is continued until the third Monday of November next. At which said third Monday of November in the year of our Lord one thousand eight hundred and thirty six, come again into Court here as well the said Alexander Manro by his attornies aforesaid as the said Isaac Nesbitt George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes terretenants as aforesaid by their attornies as aforesaid. and the said Isaac Nesbitt George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes Terretenants as aforesaid by their attornies aforesaid for reasons why the said Alexander Manro should not be allowed to

amend his Scire facias as aforesaid files in Court here the following to wit.

Alexander Manro use of George H. Mearfield. vs. James Prathers' Terretenants.

Scifa. on a Judgment in Washington County Court November Term 1836. Isaac Nesbitt, George Keifer William H. Grimes and Susan Grimes wife of the said William H. Grimes defendants in the above cause by D. G. Yost and R. M. Tidball their attornies come into Court here, and in compliance with the exigency of a rule Nisi, laid by Washington County Court, at the last November term of said Court at the instance of Alexander Manro plaintiff in the above cause, shew cause as hereinafter set forth why the said plaintiff shall not be permitted to amend the Scire facias mentioned in the said rule, by reciting an original Judgment obtained by said plaintiff against James Prather and Elie Prather as set forth in said rule. 1st Because the directions given by the attorney for the plaintiff to the deputy clerk as set forth in the Suggestions on which said rule was found did were to issue a Scire facias on the Judgment as No. 112 trials at November Term 1823 against the terretenants of James Prather generally without naming or giving any directions as to the terretenants of Elie Prather, were erroneous directions by said attorney the Judgment on which the said Scire facias was issued being a joint Judgment and the direction being to issue a several Scire facias on said judgment and the error was that of the party by his attorney and was not the mere inadvertence misapprehension of the law, nor mere mistake of the deputy clerk named in the said Suggestions as set forth in the said suggestions.

2d. Because a Scire facias is an original proceeding, the bringing of a new suit or action; and there is no letting nor any writing filed with the Clerk at the suing out of the said Scire facias by which the same may be amended.

3d. Because the said Scire facias if amended as suggested by the plaintiff would shew error in this, that the proper Scire facias had not been issued as the said amended Scire facias would recite a joint judgment against James Prather and Elie Prather on which the same issued when the said Scire facias does not require the same to be made known to the terretenants of James Prather and Elie Prather but to the terretenants of James Prather alone which said error is an error in law and not amendable.

4th. Because the Scire facias aforesaid did not require it to be and it was not made known to the defendants that there was a joint Judgment against James Prather and Elie Prather.

5th. Because the attornies for the said defendants offered to enter the plea of nul tiel record to the said Scire facias before the motion was made for the said rule by the plaintiff by his attornies as appears by the suggestions aforesaid and which said plea was rejected by Court.

6th. Because the said judgment, if not revived by means of the said Scire facias against the said defendants would not be good and pleadable nor admitted in evidence against these defendants the said judgment being of more than twelve years standing if these defendants availed themselves of a certain act of Assembly of the then province now State of Maryland made at a session of Assembly held at the city of Annapolis the 26th day of April in the year 1715, entitled, "an act for limitation of certain actions for avoiding suits at law

R. M. Tidball, D. G. Yost, Attornies for Defendants.

And now the Court here grant to the said Alexander Manro leave to