

West v. Barnes.

do solemnly swear, that I will demean *myself as an attorney (or counsellor) of the court, agreeably and according to law; and that I will support the constitution of the United States."

4. Ordered, That (unless, and until, it shall be otherwise provided by law) all process of this court shall be in the name of "the PRESIDENT of the UNITED STATES."

The court adjourned, *sine die*.

AUGUST TERM, 1790.

THE COURT being met, a commission appointing JAMES IREDELL one of the justices, bearing date the 10th of February 1790, was read; and he was qualified according to law.

The court adjourned, *sine die*.

FEBRUARY TERM, 1791.

THE COURT being met at Philadelphia, the seat of the Federal government, it was—

ORDERED, That the counsellors and attorneys, admitted to practise in this court, shall take either an oath, or, in proper cases, an affirmation, of the tenor prescribed by the rule of this court on that subject, made in February term 1790.

After qualifying a number of counsellors and attorneys, the court adjourned, *sine die*.

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*AUGUST TERM, 1791.

WEST, Plaintiff in error, v. BARNES *et al.**Writ of error.*

Writs of error can only issue from the clerk's office of the supreme court.¹

ON the first day of the term, *Bradford* presented to the court a writ, purporting to be a writ of error, issued out of the office of the clerk of the circuit court for Rhode Island district, directed to that court, and commanding a return of the judgment and proceedings rendered by them in this cause: and thereupon, he moved for a rule, that the defendant rejoin to the errors assigned in this cause.

¹ The act of 8th May 1792, § 9 (1 U. S. Stat. the supreme court; and this has been incorporated 278), provided, that the clerks of the circuit rated in the Revised Statutes, § 1004. courts might issue writs of error, returnable in

Oswald v. New York.

Barnes, one of the defendants (a counsellor of the court), objected to the validity of the writ, that it had issued out of the wrong office : and after argument—

THE COURT were unanimously of opinion, that writs of error to remove causes to this court from inferior courts, can regularly issue only from the clerk's office of this court.

Motion refused.

VANSTOPHORST *et al.* v. STATE OF MARYLAND.

Commission.

A commission for the examination of witnesses will not be awarded, even by consent, until commissioners are named.

THE Attorney-General (*Randolph*) moved, on behalf of the plaintiffs, that a commission should issue to examine witnesses in Holland ; to which the opposite counsel assented, although the commissioners were not named. But—

BY THE COURT.—We will not award the commission, until commissioners are named.

This being done, the motion was granted.

FEBRUARY TERM, 1792.

OSWALD, administrator, v. STATE OF NEW YORK.

SUMMONS. In this case, the marshal had returned the writ served ; and now, *Sergeant* moved for a *distringas*, to compel an appearance on the part of the state.

*While, however, the court held the motion under advisement, it was voluntarily withdrawn, and the suit discontinued. (a) [*402

AUGUST TERM, 1792.

THE COURT being met, a commission, appointing THOMAS JOHNSON one of the justices, bearing date the 7th of November 1791, was read ; and he was qualified according to law.

(a) But see s. c. *infra*, and *Grayson v. Virginia*, 8 Dall. 320.