
Opinion of the court.

Theory of the objection is unfounded in fact, and upon that ground it is overruled. The judgment of the Circuit Court is, therefore,

AFFIRMED WITH COSTS.

EX PARTE DUGAN.

On a mere petition for a *certiorari*, the court, according to its better and more regular practice, will decline to hear the case on its merits, even though the counsel for the petitioner produce a copy of the record admitted on the other side to be a true one. It will wait for a return, in form, from the court below.

On a petition for a *certiorari* to the Supreme Court of the District of Columbia to send up the record of their proceedings upon a *habeas corpus* issued from that court upon the application of the petitioner, it was stated by *Mr. J. H. Bradley*, *counsel of the petitioner*, that a copy of the record had been obtained; and he asked this court, upon the admission of the Attorney-General that the copy was a correct one, to hear the case without a return from the court below. *The Attorney-General, on the other hand*, while admitting the copy of the record produced to be correct, moved the court, for reasons which he laid, to continue the case.

BY THE COURT. We think it the better, as well as the more regular practice, to await the return of the court below before taking any action on the merits. The *certiorari* will, therefore, be now awarded. Upon the coming in of the return the case will be regularly before us; and the motion for continuance made by the Attorney-General will then be disposed of.

ACTION ACCORDINGLY.