

Case No. 7,229.

JASPER ET AL. V. PORTER ET AL.

{2 McLean, 579.}<sup>1</sup>

Circuit Court, D. Michigan.

Oct. Term, 1841.

PRACTICE—DEPOSITIONS—ADMINISTRATION OF STATE LAWS BY FEDERAL COURTS.

1. The courts of the United States are presumed to know the laws of the respective states and they will determine who, under the laws of the state, have a right, by the act of congress, to take depositions.

{Cited in U. S. v. Tilden, Case No. 16,520.}

2. The official character of the person taking a deposition will be presumed, without further proof.

{Cited in Crane v. Thayer, 18 Vt. 167.}

{This was an action at law by Jasper and Tibbits against Porter and others.}

OPINION OF THE COURT. In this case an objection being made to the admission of certain depositions, on the ground that it did not appear that the officer, taking the same, was authorized to do so. The courts of the United States are presumed to know the laws of the several states. It is, therefore, unnecessary to set them out in a plea, as foreign laws; but the court will notice them without plea, and can determine whether the person taking the depositions, under the laws of the state, comes within the act of congress, which authorizes depositions to be taken. The court will receive the certificate of such person, as prima facie evidence of his right to take the depositions, without the certificate of the clerk and seal of court, or any other evidence of his official character. Under the 61st rule, all objections to the form of taking depositions are waived, unless indorsed on the depositions before the cause, in which they were taken, shall be called for trial.

<sup>1</sup> {Reported by Hon. John McLean, Circuit Justice.}