

Case No. 7,742.

KETLAND v. BISSETT.

{1 Wash. C. C. 144.}<sup>1</sup>

Circuit Court, D. Pennsylvania.

Oct. Term, 1804.

PRACTICE AT LAW—DEPOSITIONS—INCOMPLETE ANSWERS—GENERAL INTERROGATORY.

1. The character of the defendant not being impeached, evidence to support it cannot be admitted. [Cited in *Fahey v. Crotty*, 63 Mich. 388, 29 N. W. 878.]
2. It seems that depositions sworn to, but not signed by the witness, may be read in evidence.
3. Each interrogatory in a commission should be answered separately, at least in substance; and the omission of such answers is fatal to the whole commission; although the witness in answering the general interrogatory, says that he knows nothing further material to either party.

The plaintiff directed defendant to ship for him good Madeira wine, for the Bombay market; he shipped the wine, and the only question was, whether he had shipped such wine as was directed; the plaintiff alleging that it was unsound, would not sell at Bombay, and was necessarily carried to Calcutta, where it was sold for one hundred rupees less, than a cargo of indifferent wine, carried to Bombay, at the same time, was sold for.

On the trial, the following points of evidence were decided: (1) That the defendant's character not being impeached, evidence by the defendant to support his character was improper. (2) Depositions were offered, and objected to, because not signed by the witnesses. Evidence being given that the opposite counsel had waived the objection, WASHINGTON, Circuit Justice, admitted the depositions, and observed, that he was inclined to think, that without the waiver, the objection was not good, but gave no opinion. (3) The depositions are in answer to interrogatories, but many of them are not answered or noticed. The answer to the general interrogatory, is in the usual way, that the witness knows nothing farther, &c. The whole commission was objected to, for this reason. THE COURT thought the objection good; each interrogatory should be answered, at least in substance, and not to have examined the witnesses to each, is fatal to the whole commission.

<sup>1</sup> Originally published from the MSS of Hon. Bushrod Washington, Associate Justice of the Supreme Court of the United States. Under the supervision of Richard Peters, Jr., Esq]