

Case No. 8,002.

LAMALERE v. CAZE.

{1 Wash. C. C. 413.}¹

Circuit Court, D. Pennsylvania.

April Term, 1806.

EVIDENCE—DEPOSITION—IMMATERIAL STATEMENTS—CONTRADICTORY
STATEMENTS IN ANOTHER CASE—DISCREDITING WITNESS.

1. If a witness, in a deposition, on his cross-examination, states as facts circumstances not pertinent to the cause, which he has said or sworn in another cause, in which these circumstances were pertinent; the statement cannot be read to discredit him.
2. Aliter, if he has, on a former occasion, said or sworn differently from what he now deposes, in a matter relative to the cause, in which his deposition is read.

{Cited in Howland v. Conway, Case No. 6,793.}

{Cited in Lightfoot v. People, 16 Mich. 514.}

3. The captain's protest may be read, to contradict what he states in his examination in this cause, in order to discredit him.

In this case, it was ruled, that if a witness, in a deposition on cross-interrogatories, states, as facts, circumstances not pertinent to the cause, what he has said, or sworn in another case, where those circumstances were pertinent, cannot be read to discredit him. Aliter, if he has on a former occasion, said or sworn differently from what he now deposes, in a matter relative to the cause in which his deposition is read. Secondly. That the captain's protest may be read, to contradict what he states in his examination in the cause, in order to discredit him.

{For another case between the same parties, see Case No. 8,003.}

¹ {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.}