

PARKER v. NIXON.

{1 Baldw. 291.}¹

Circuit Court, E. D. Pennsylvania. April Term, 1831.

COMMISSION TO TAKE EVIDENCE—NAMES OF WITNESSES.

A party taking out a commission to take evidence in relation to pedigree, is not bound to name the witnesses he intends to examine.

In this case a rule had been entered for a commission to take testimony in England, on which the party obtaining it, was called on to name the witnesses he intended to examine. After an argument, the court decided that it was not a matter of course, to compel the party to name the witnesses to be examined on a commission, but depended on the discretion of the court, to be exercised on the circumstances of the case. This being a case of pedigree the commission ought to issue without naming them.

¹ [Reported by Hon. Henry Baldwin, Circuit Justice.]

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