

Case No. 16,089.

UNITED STATES V. PRICE.

{2 Wash. C. C. 356.}¹

Circuit Court, D. Pennsylvania.

Oct. Term, 1809.

DEPOSITIONS—VACATING COMMISSION.

A commission, which had been executed and returned, was set aside because it had been opened by one of the officers of the government, before it came into the hands of the clerk.

{Suit by the United States against Price's administrator.}

Rule to show cause why the commission for taking depositions should not be accepted as duly returned, or be sent back for a more regular return. The commission, in consequence of a misdirection of it by the commissioners, had been opened first by the secretary of war, and afterwards by some other officer of the government, before it came to the hands of the clerk of the court

BY THE COURT. This rule was granted on account of the irregularity in opening the commission, as to which there is no doubt. If the objection had been to the execution of it, the rule would not have been granted. Let it be set aside. Issue a new commission, to which the original papers attached to the old commission, may now be annexed.

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.]