

Case No. 17,905.

WISE V. BOWEN.

[2 Cranch, C. C. 239.]<sup>1</sup>

Circuit Court, District of Columbia.

April Term, 1821.

COMPETENCY OF WITNESS—INTEREST—OFFICER JUSTIFYING UNDER EXECUTION.

The defendant in replevin, who justifies under an execution directed to him as a constable, if indemnified by the plaintiff in the execution, and having no other interest than the possibility of receiving commissions and fees upon an execution which may be issued again in the same cause, is a competent witness for the defendant.

[Cited in *Dixon v. Waters*, Case No. 3,936; *Hilton v. Beck*, Id. 6,509.]

Replevin. The defendant pleads property in one Bellmyer, and justifies the taking, as constable, under an execution, to him directed, in the cause of *Holtzman v. Bellmyer* [unreported]. Holtzman, the real defendant, had indemnified the defendant Bowen, who, upon voir dire, stated that he was indemnified by Holtzman, and did not think himself interested, unless to the amount of his fees on an execution which might be issued in the case of *Holtzman v. Bellmyer*, in case the property should be found to be in Bellmyer.

THE COURT (CRANCH, Chief Judge, doubting) thought this interest too remote, and permitted the defendant to be sworn as a witness.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]