THE COQUITLAM.

EARLE et al. v. UNITED STATES.

(Circuit Court of Appeals, Ninth Circuit. November 4, 1895.)

No. 200.

Appeal from the District Court of the United States for the District of Alaska.
Before McKENNA and GILBERT, Circuit Judges.
Questions of law certified to the supreme court of the United States. For prior report, see 57 Fed. 706.

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THE ELIZABETH.

NILSSON v. SWINDELL et al.

(Circuit Court of Appeals, Fifth Circuit. November 2, 1895.)

No. 440.

Appeal from the District Court of the United States for the Northern District of Florida.
John A. Henderson and Geo. P. Raney, for appellees.
Docketed and dismissed, pursuant to the sixteenth rule.

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NOYES v. SILVER QUEEN MIN. CO.

(Circuit Court of Appeals, Ninth Circuit. November 4, 1895.)

No. 228.

In Error to the District Court of the United States for the District of Alaska.
Before McKENNA and GILBERT, Circuit Judges.
Questions of law certified to the supreme court of the United States.

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STATE OF FLORIDA v. CHARLOTTE HARBOR PHOSPHATE CO.

(Circuit Court of Appeals, Fifth Circuit. October 3, 1895.)

No. 437.

Appeal from the Circuit Court of the United States for the Southern District of Florida.
H. Bisbee and C. D. Rinehart, for appellee.
Docketed and dismissed, pursuant to the sixteenth rule.

## FRESCOLE v. CITY OF LANCASTER.

(Circuit Court, E. D. Pennsylvania. October 10, 1895.)
No. 57.

1. PRACTICE AT LAW—INSPECTION OF DOCUMENTS—DISCOVERY.
   The plaintiff, in an action at law on a contract, is entitled, under the Pennsylvania practice, for the purpose of completing his pleadings and preparing for trial, to an inspection of "plans" constituting part of the agreement sued on, where he shows that there is but one complete copy thereof, which is in defendant's possession. Murphy v. Morris, 2 Miles, 60, followed.
2. SAME—FOLLOWING STATE PRACTICE.
   The practice in the federal courts in relation to the inspection of papers for the purpose of aiding a party in preparing for trial, as distinguished from inspection of papers "to be used on the trial," in respect to which an act of congress applies, is regulated by the practice prevailing in the state courts. See Anderson v. Mackay, 46 Fed. 105.
3. SAME—PLACE OF INSPECTION.
   Quære, whether production of papers, for the purpose of enabling a party to prepare for trial, may be ordered to be made elsewhere than in court.

This was an action at law by Samuel W. Frescole against the city of Lancaster, Pa. Plaintiff has applied for an order on defendant to produce certain papers for inspection.

John G. Johnson, W. H. Roland, and Brown & Hensel, for plaintiff.
John E. Snyder, George Hanman, and B. Frank Eshleman, for defendant.

DALLAS, Circuit Judge. This is an application by the plaintiff for an order on the defendant to produce in advance of the trial, certain "plans," it being averred by petition that said plans are a part of the agreement sued upon, and that their inspection by the plaintiff "is necessary for him in this proceeding, and in order to properly prepare certain amendments to his statements, and to fully complete the pleadings of this cause, and to properly prepare for the trial of said cause." The defendant, by answer, alleges that the petitioner "does not have such interest in the plans mentioned therein as to entitle him to have the same submitted to him in advance of the trial"; "that he has no property whatever in the same"; that (upon information) he already has a copy of them; and that "he cannot need them to prepare his amended statement, as he has filed the said amended statement with his petition." The petition and answer are verified as affidavits, and upon them the matter has been submitted and considered. In Murphy v. Morris, 2 Miles, 60, such an order as is now asked for was, after full consideration, and upon thorough examination of the English decisions, made by a judge of eminent reputation. He rested his judgment "on general principles of common law," and held that the application before him fell "within the narrowest limits of the modern British decisions," by which the general rule, as theretofore laid down by Lord Mansfield, "that, wherever the defendant would be entitled to a discovery in equity, he should have an inspection at common law," had been modified,