

Hausknecht Vs. Claypool

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Court : US Supreme Court

Decided On : 1861

Appeal No. : 66 U.S. 431

Appellant : Hausknecht

Respondent : Claypool

Judgement :

Hausknecht v. Claypool - 66 U.S. 431 (1861)

U.S. Supreme Court Hausknecht v. Claypool, 66 U.S. 1 Black 431 431 (1861)

Hausknecht v. Claypool

66 U.S. (1 Black) 431

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE SOUTHERN DISTRICT OF OHIO

SYLLABUS

1. The rules of evidence prescribed by the laws of a state are rules of decision for the United States courts while sitting within the limits of such state within the meaning and subject to the exceptions contained in the 34th section of the

Judiciary Act.

2. Where a bill of exceptions sets forth that a witness was produced, was asserted to be competent by his counsel, and was rejected by the court, a court of error will imply that the witness was material to sustain the issue without a direct statement to that effect in the bill of exceptions.

3. Brevity in bills of exception commended.

Hausknecht brought trespass on the case against Claypool and Lynn in the year 1859 for an infringement of his patent for an improved running gear for carriages. The suit was commenced in the Circuit Court of the United States for the Southern District of Ohio and the damages laid at \$5,000. The defendants pleaded the general issue and brought divers witnesses to prove that the plaintiff was not the original inventor of the thing he had patented, but that it had been described in printed works, and was in actual public use at a time anterior to the date of his patent. The plaintiff himself was produced as a witness to sustain his own case. His counsel asserted that by the law of Ohio, sec. 310, Code of Civil Procedure, he was a competent witness in his own behalf. The defendants objected

Page 66 U. S. 432

on the grounds first that he was a party to the cause, and therefore incompetent even by the laws of Ohio; second, that no notice of his intention to testify had been given to the defendants or their attorney, and, third that by a rule of the court, parties to suits were incompetent witnesses. These objections the court sustained, and the plaintiff's counsel took a bill of exceptions. Verdict for defendants. Writ of error to Supreme Court of the United States sued out by plaintiff.

Page 66 U. S. 434

MR. JUSTICE NELSON.

This suit was brought by the plaintiff in error against the defendants for the infringement of a

patent for an improvement in the running gear of carriages. The verdict and judgment were for the defendants.

The only question presented in the bill of exceptions is whether or not the plaintiff was a competent witness to give testimony in his own behalf. According to the law of Ohio, parties are competent witnesses. The case falls within the opinion of the Court just delivered in the case of *Vance v. Campbell*. It is objected that the bill of exceptions does not state that the witness was material, and hence there could be no error in his exclusion. The bill of exceptions is brief, presenting only this single question, and stating no more of the case than is necessary to present it, which practice the Court commends.

The bill states that on the trial, the plaintiff, to sustain the issue on his part, offered himself as a witness, and his counsel claimed he was competent &c.; Though it would have been more in conformity with the usual practice to have stated that the witness was material to sustain the issue, we think that enough is stated to imply the materiality, and that this objection cannot be maintained.

Judgment reversed -- venire de novo.