

the libel is defective, stating only in general terms, acts of cruelty by beating, &c., between January 1, 1855, and the filing of the libel, and at the same time stating a continued separation since August 6, 1858; so that for aught that appears, the acts of cruelty may have been committed five or six years ago, and yet no reason assigned for the delay in applying for a divorce.

The libel must, therefore, be

*Dismissed.*

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WHIPPLE *v.* WHIPPLE.

BELLOWS, J. In divorce cases, reasonable notice of the taking of depositions is ordinarily such notice as is required by the rules in other cases, and such notice not having been given, the depositions in this case must be rejected.

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BARKER *v.* REMICK.

Where the sheriff is the nominal or real party to a suit, writs and other process must be directed to and served by the coroner—but the sheriff is not disqualified by the mere fact that he is interested, or is of kin to one of the parties.

A plea in abatement speaks ordinarily of the time when it is pleaded, and not of the commencement of the suit, and therefore an allegation that the sheriff is a party, not being the party of record, does not imply that he was such when the suit was brought, and the plea is bad.

In this case the defendant filed a plea in abatement, as follows :

And the said Remick comes and defends, &c., when, &c., and prays judgment of the writ aforesaid, and that the same may be abated because, he says, that on the fourteenth day of October, 1857, he, the said Remick, was sheriff of the county of Carroll; that he continued so to be the sheriff of said county from that time until a long time after the defaults, wrongs, and grievances, set forth in the plaintiff's said writ, are supposed and alleged to have happened: to wit, until the fourth day of January, 1861; that the said Charles H. Parker, the deputy sheriff named and described in the plaintiff's said writ, whose alleged defaults are set forth in the plaintiff's said writ as the plaintiff's cause of action against the said Remick, was, at the time of the suing out of the said plaintiff's said writ, and at the time of the service thereof, and ever since has been and now is the sheriff of the county of Carroll; that the plaintiff's said writ is directed to him, the said Parker, as the sheriff of the county of Carroll or to his deputy, for service; that the plaintiff's said writ was served upon said defendant by one Benjamin E. Thurston, and the said Benjamin E. Thurston, at the time he made said service, was a deputy of the said Parker for the