

Case No. 5,241.

GAREY v. UNION BANK.

[3 Cranch, C. C. 91.]<sup>1</sup>

Circuit Court, District of Columbia.

Dec. Term, 1826.

DEPOSITIONS TAKEN BY COUNTY COMMISSIONER.

A “county commissioner,” in the state of Illinois, is not authorized to take depositions under the judiciary act of September 24, 1789, § 30 [1 Stat. 73], to be used in the courts of the United States.

In equity.

Mr. Taylor, for defendants [the Union Bank of Georgetown], objected to a deposition, purporting to be taken de bene esse under the thirtieth section of the judiciary act of 1789, which authorizes such depositions to be taken “before any justice or judge of any of the courts of the United States; or before any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city; or judge of a county court, or court of common pleas of any of the United States.” The deposition was taken before a county commissioner of the state of Illinois, who is a judge of the county commissioners’ court, which is a court of record composed of three judges, called county commissioners, who are elected by the people and hold their offices for the term of two years. They hold four sessions a year, and their jurisdiction extends to all matter concerning the county revenue, and the county tax. They grant licenses for ferries and taverns, and other licenses. They have jurisdiction in all cases of roads, canals, toll-bridges, and many other cases appertaining to county government and police; and have power to issue all kinds of writs and processes necessary to the execution of their jurisdiction. 3 Griff. Law Reg. 412.

THE COURT (nem. con.) rejected the deposition, being of opinion that the county commissioners’ court was not one of the courts described in Act Cong. Sept 24, 1789, § 30 (1 Stat 73).

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