

MEADE v. KEANE.

[3 Cranch, C. C. 51.]¹

Circuit Court, District of Columbia.

Dec. Term. 1826.²

EVIDENCE—PRODUCTION OF
 RECEIPT—COMMISSION TO TAKE
 DEPOSITION—CLERICAL ERROR—BY WHOM
 DEPOSITION WRITTEN.

1. If a witness for the plaintiff testifies that on a certain day he paid to the defendant a certain sum of money, and took his receipt, the plaintiff is not bound to produce the receipt on the trial.
2. If a dedimus issue to take depositions in a cause in which Richard M. Meade is plaintiff, whereas the name of the plaintiff was Richard W. Meade, and the commissioners certify that they took the depositions to be read in a cause in which Richard W. Meade was plaintiff, the depositions are admissible, notwithstanding the clerical error in writing an M. for a W. in the commission.
3. In taking a deposition under a commission it is not necessary that it should be written by the commissioners, or by their clerk, or by the witness.

{This was an action at law by Richard W. Meade against Richard R. Keane.} Assumpsit, for money had and received.

C. C. Lee, for plaintiff, offered to read a part of a deposition, in which the witness testified that he paid a certain sum of money on a certain day, and took his receipt.

Mr. Key, for defendant, objected, unless the plaintiff should produce the receipt.

But THE COURT (THRUSTON, Circuit Judge, contra) overruled the objection.

Mr. Key, then objected to the deposition, because the commission, under which it was taken, purported to be issued in a cause in which Richard M. Meade

(not Richard W. Meade, which was the name of the plaintiff,) was plaintiff; although the commissioners certified that they took the deposition to be read in a cause in which Richard W. Meade was plaintiff.

But THE COURT (THRUSTON, Circuit Judge, contra) overruled this objection also; ¹²⁹⁴ saying it was a mere clerical error; and that a commission is not an ex parte proceeding, as is the case where a deposition is taken under the act of congress, and the parties are not bound to the same strictness.

Mr. Key also objected that the commissioners had not certified that the deposition was taken down by the commissioners or their clerk, or by the witness himself.

But THE COURT (THRUSTON, Circuit Judge, contra) overruled this objection also.

Affirmed by the supreme court. 3 Pet. [28 U. S.) 1.]

¹ [Reported by Hon. William Cranch, Chief Judge.]

² [Affirmed in 3 Pet. (28 U. S.) 1.]

This volume of American Law was transcribed for use
on the Internet

through a contribution from [Google](#). 