

PAUL v. LOWRY.

{2 Cranch, C. C. 628.}¹

Circuit Court, District of Columbia. Dec. Term, 1825.

DEPOSITION—BEFORE MAYOR—OFFICIAL
SEAL—AUTHORITY SHOWN BY PAROL.

A deposition taken before the mayor of a city, who usually certifies his acts under his official seal, must be so certified; or his authority otherwise proved; which, it seems, may be done by parol.

R. P. Dunlop, for plaintiff, offered in evidence a deposition, taken under the act of congress [1 Stat. 73], before a person who certifies himself to be mayor of Petersburg, but who did not affix his official seal to his certificate, nor was there any other evidence of his being mayor. Mr. Dunlop cited the cases of *Dunlop v. Munroe* [Case No. 4,167], in this court, at June term, 1809, and *Lindsay v. Riggs* [Id. 8,366], at December term, 1811, (not reported as to this point,) when a deposition purporting to be taken before the superintendent of the city of Charleston, certified under the seal of the corporation, and taken in due form under the act of congress, was permitted by the court to be read in evidence, without other proof of the fact that he was the chief magistrate of the city, than his own certificate and his official seal; but before Mr. Key, the plaintiff's counsel, read the deposition, he proved, by the testimony of Mr. Cheves, that———, before Whom the deposition was taken, was the intendant and chief magistrate of the city of Charleston, at the date of the certificate, and that he believed it was the seal of the corporation, but did not know his handwriting.

THE COURT (nem. con.) having looked into all the cases respecting the admission of depositions taken under the act of congress, of which any note had been

taken in this court, rejected the deposition, stating that where the officer taking the deposition has an official seal, and usually certifies his acts under that seal, his certificate, (not accompanied by his official seal,) that he is such officer is not sufficient; but intimated that the fact that he is such officer, may be proved by parol testimony, as any other matter in pais.

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

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