

TRAVERS V. BELL ET AL.

{2 Cranch, C. C. 160.}¹

Circuit Court, District of Columbia. Dec. Term, 1818.

DEPOSITION—NOTICE OF
TAKING—CERTIFICATE—OMISSION—PROOF.

If the magistrate who takes a deposition under the act of congress omits to state whether notice ¹⁴² was given to the defendants, it is competent for the party who offers it in evidence to prove that the other party lived more than 100 miles from the place of caption, and had no agent or attorney within 100 miles, etc.

The plaintiff offered to read in evidence, at the trial, a deposition taken under the act of congress.

Mr. Jones, for defendants, objected that the judge who took the deposition had not stated whether any notice had been given to the defendants, although he had stated that the place of caption was more than 100 miles from the place of trial.

THE COURT (THRUSTON. Circuit Judge, absent), overruled the objection, and said that the plaintiff might prove that the defendants lived more than 100 miles from the place of caption, and had no agent or attorney within 100 miles, etc.

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