VAN NESS v. HEINEKE.

Case No. 16,866.

{2 Cranch, C. C. 259.}[1]

Circuit Court, District of Columbia. Oct. Term, 1821.

DEPOSITIONS—CAPTION—CERTIFICATE OF MAGISTRATE.

It is no objection to a deposition that, in the caption, it is not stated in what county the cause is depending; nor that the name of one of the parties is misspelled, nor that the magistrate has not certified that he reduced the testimony to writing in the presence of the witness, nor that the witness signed it in the presence of the magistrate.

{Cited in Re Thomas, 35 Fed. 823.}

Mr. Lear, for plaintiff, offered a deposition in evidence.

Mr. Marbury, for defendant, objected to the reading of it: (1) Because the cause is stated, in the caption of the deposition, as depending in the circuit court of the District of Columbia, without stating in which county. (2) Because the name of the defendant is misspelled. In the deposition is spelled Henick, but in the writ it is spelled Hinneckee. In the declaration it is spelled Henick, as in the deposition. (3) Because the deposition, although written by the magistrate, is not certified to have been written in the presence of the witness; nor to have been signed by the witness in the presence of the magistrate.

THE COURT overruled the objection.

THRUSTON, Circuit Judge, thought the first objection was fatal.

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