

Case No. 4,933. FORD v. KEYS.
[15 Int. Rev. Rec. 59; 4 Chi. Leg. News, 156.]

Circuit Court, S. D. Ohio.

Jan. 31, 1872.

BANKRUPTCY—JUDGMENT AND EXECUTION ON COGNOVIT.

[Taking judgment on a cognovit, and levying execution on the bankrupt's property, by his sufferance or permission, before the institution of proceedings in bankruptcy, is a fraud upon the act, although the cognovit is dated more than six months before the filing of the petition.]

[This was a proceeding by Ford, assignee in bankruptcy, against Keys.]

Hutchins & Ingersoll, for assignee.

Grannis & Henderson, for defendant.

EMMONS, Circuit Judge, held: That where judgment had been taken by confession on a cognovit and execution levied upon

FORD v. KEYS.

the property of a bankrupt by the sufferance or permission of the bankrupt before proceedings in bankruptcy were instituted, it was a fraud upon the act, notwithstanding the cognovit may have been dated more than six months prior to the filing of the petition in bankruptcy. That in such cases the date of the cognovit was entirely immaterial. Holding the law on that subject to be in accordance with the late cases, referring to *Hood v. Karp-er* [Case No. 6,664]; *Haughey v. Albin* [Id. 6,222]; *In re Hafer* [Id. 5,897]; and some ten or twelve other concurring decisions. Remanded for amendment and further proceedings.