

Case No. 6,396. HERBERT V. BANNATYNE ET AL.  
[2 Cranch, C. C. 12.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1810.

EVIDENCE—SUIT BY TRUSTEE OF INSOLVENT—CREDITOR AS WITNESS.

In a suit by the trustee of an insolvent debtor, a creditor of the insolvent is not a competent witness.

On the trial of an issue from chancery to ascertain for what sum the defendants could have sold a certain cargo of tobacco.

E. J. Lee, for complainant [William Herbert, Jr., assignee of John Potts], offered W. Wilson as a witness.

Mr. Swann, for defendants [Finlay Bannatyne & Co.], objected that W. Wilson was a creditor of Potts, the insolvent, and was therefore a cestui que trust, and as such directly interested in augmenting the fund.

THE COURT (THRUSTON, Circuit Judge, absent) decided that W. Wilson was not a competent witness.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]