

Case No. 7,731.

KERR v. HAMILTON.

[1 Cranch, C. C. 546.]<sup>1</sup>

Circuit Court, District of Columbia.

July Term, 1809.

DISCHARGE IN BANKRUPTCY—ACTION UPON DUTY—BOND—PROCEEDINGS  
AGAINST PERSON OF BANKRUPT.

A surety, who has paid money for a bankrupt in discharge of a duty bond, has not the right of the United States to proceed against the person of the bankrupt, but only against his effects.

[Cited in *Hamilton v. Reynolds*, 88 Ind. 193; *Post v. Losey*, 111 Ind. 80, 12 N. E. 124.]

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Assumpsit for money paid, and money had and received. Plea, discharge under the bankrupt law [of 1800 (2 Stat 19)]. Replication, II. at the money paid for the defendant [Robert Hamilton] by the plaintiff [Alexander Kerr] was paid by him to the United States in discharge of the defendant's bond given for duties in which the plaintiff was his surety.

General demurrer and joinder.

THE COURT (DUCKETT, Circuit Judge, absent), upon considering the several revenue laws and bankrupt law, decided that the plaintiff had not the right of the United States to proceed against the person of the bankrupt, but only against his effects.

Judgment for the defendant

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