

Case No. 8,174.

LEAY ET AL. V. WILSON.

[1 Cranch, C. C. 191.]¹

Circuit Court, District of Columbia.

Nov. Term, 1804.

EVIDENCE—PROCEEDINGS OF ENGLISH BANKRUPT
COMMISSION—ADMISSIBILITY UNDER VIRGINIA ACT.

A copy of the proceedings of the commissioners of bankruptcy, in England, certified by a notary and the American consul, or by a notary and the mayor of Liverpool, is not evidence admissible under the act of assembly of Virginia, because not recorded in England, so as to make them evidence there.

Assumpsit [by Leay & Gladstone, assignees of Adam Stewart, an English bankrupt]. A copy of the proceedings of the commissioners of bankruptcy, was offered in evidence by the plaintiffs' counsel, Mr. C. Lee, certified by a notary-public at Liverpool, with a certificate of the American consul, that he was a notary-public. He also offered another copy, certified by a notary-public and the mayor of Liverpool.

Mr. Taylor, for defendant [James Wilson], objected that neither copy was admissible under the Virginia act (Old Rev. Code, 168), because it had no seal of state, and because the deed of assignment was not acknowledged or proved by witnesses, according to the act, nor registered according to the laws of England.

Mr. Lee, contra. The act prescribing one mode of authentication does not preclude the court from receiving papers authenticated in a different manner.

Mr. Taylor, in reply. The deed of assignment is not proved or acknowledged according to the act of assembly. The proceedings ought to be certified by the register of the court of chancery, or the lord chancellor, under the great seal of England. By St. 5 Geo. II. c. 30, § 41, the proceedings may be entered of record, and copies of such record are made evidence.

THE COURT refused to permit either of the copies of proceedings to be given in evidence, because not recorded in England, so as to make them evidence there, to bring it within the act of assembly; and because it was not a sworn copy.

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