

Case No. 8,833.

McIVER v. WILSON.

[1 Cranch, C. C. 423.]¹

Circuit Court, District of Columbia.

July Term, 1807.

SETOFF—BANKRUPTCY—NOTE ASSIGNED TO ASSIGNEE.

A bond due from the bankrupt to the defendant cannot be set off against the defendant's note to a third person assigned to the assignee of the bankrupt's effects after commission issued.

Assumpsit on a promissory note of Wilson to J. Kennedy, dated the 15th of October, 1805, at 20 days, indorsed by J. Kennedy to McIver, assignee of the effects of Gillis, a bankrupt. The defendant offered to set off a bond of Gillis to W. Wilson and Roger Coltart, who is dead, dated 15th of September, 1795, and payable the 15th of March, 1796. The note was given since the date of the commission. The declaration is by McIver as assignee of the effects of Gillis.

THE COURT (nem. con.). Clearly, it was not a mutual credit before the bankruptcy, and therefore cannot be set off under the act of congress [of 1800; 2 Stat 19].

[See Case No. 8,830.]

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