

1810.

Wood
vs
Grundy &c.

city called *Howgrd's* late addition to *Baltimore*, and known on the plot thereof by No. 687, &c. The *demise* in the declaration was stated to be on the 1st of *January* 1801. The general issue was pleaded.

1. The plaintiff, (now appellee,) at the trial, produced and had witnesses sworn to prove that *Aquila Brown*, of *Baltimore*, merchant, was a person using trade and commerce at the said place, and that he was indebted before and on the 20th of February 1802, and afterwards, to *Nicholas Norris*, in a sum exceeding £2000; that *Norris* on the 22d of February 1802, sued out a writ of *capias ad respondendum* against *Brown*, which was returned *non est*. And the defendant, (now appellant,) having offered evidence to prove that the debt due to *Norris* had not become due or payable before or at the time when the writ of *capias ad respondendum* was issued, the plaintiff further produced and showed to the court the commission, qualifications, depositions and proceedings, before the commissioners, and their judgment thereon, as herein after mentioned, and offered to read the judgment of the commissioners to the jury, to prove that *Brown* had committed an act of bankruptcy before the issuing of the said commission; and further offered to prove that *Norris*, in the petition and writ aforesaid mentioned, was one and the same person, and that *Brown*, in the writ and judgment aforesaid mentioned, was one and the same person. The defendant objected to the judgment of the commissioners being read in evidence to show that *Brown* had committed an act of bankruptcy, as in the said judgment stated. But the court, (*Nicholson Ch. J*) was of opinion, that the judgment of the commissioners was *prima facie* evidence of the bankruptcy, and might be read to the jury to support the title of the assignees of *Brown*; but that if the jury should be of opinion, that the debt from *Brown* to *Norris* was not due at the time of issuing the *capias ad respondendum*, that then the judgment of the commissioners did not prove the bankruptcy. The defendant excepted.

2. The plaintiff then read in evidence the patent for a tract of land called *Lun's Lot*, granted to *Edward Lun*, on the 20th of July 1673; also an act of assembly passed at April session 1782, entitled, "An act for an addition to *Baltimore* town, in *Baltimore* county," reciting, that *John Eager Howard* had set forth that he was seized and possessed of a great part of *Lun's Lot*, part of which had been