

1810.

Wood
vs
Grundy, &c.

sioners were created a court of record, and with competent jurisdiction; that they acted judicially, and their judgment must be a judicial act, and sufficient evidence for the purpose for which it was admitted. They cited *Burr. Sett. Cases*, 136. *Billings vs. Prinn & Delabore*, 2 *W. Blk. Rep.* 1017. *The King vs. Forrest*, 3 *T. R.* 38. *The King vs. The Inhabitants of*, &c. *Ibid* 380. *Cooper's B. L.* 174. *Darby vs. Baughan*, 5 *T. R.* 210; and the 51st and 56th sections of the bankrupt law of the *U. S.*

Upon the second bill of exceptions they contended, that an ejectment was a fictitious action, and may be moulded by the court for certain purposes. The demise is a matter of form, and is an immaterial part of the declaration; and besides, under the act of 1809, *ch.* 153, it could be amended. They cited *Doe vs. Pilkington*, 4 *Burr.* 2449. *Bennett vs. Ganby*, *Carth.* 178. *Aslin vs. Parkin*, 2 *Burr.* 665. *Small vs. Cole*, *Ibid* 1159. *Fairclaim vs. Shamtitle*, 3 *Burr.* 1292. *Oates vs. Brydon*, *Ibid* 1895; and the act of 1809, *ch.* 153, s. 3.

Upon the third bill of exceptions they contended, that the act of April 1782, *ch.* 2, recites that Col. *Howard* was seized and possessed of *Lun's Lot*, and directs that *Lun's Lot* should be laid out and form a part of *Baltimore town*; and there was sufficient evidence offered without deducing title from the grantee of *Lun's Lot*.

Upon the fourth and fifth bills of exceptions they contended, that the 56th section of the bankrupt law renders it unnecessary to produce more than certain papers in evidence. The assignment of the commissioners was evidence of all the facts therein stated; and it was sufficient evidence against an intruder without title.

CHASE, Ch. J. delivered the opinion of the court. The court dissent from the opinions of the county court as expressed in the several bills of exceptions taken in this case.

On the first bill of exceptions, the court are of opinion, that the proceedings of the commissioners of bankruptcy are not legally admissible as evidence in this case, to prove the act of bankruptcy committed by *Aquila Brown*—the proceedings being *res inter alios acta*, and not evidence according to the principles of the common law, and not made evidence by the laws of the *United States*, which relate to