

*FEBRUARY TERM, 1799.

ON the opening of the Court, a commission, dated the 20th of December 1798, was read, appointing BUSHROD WASHINGTON, one of the associate judges of the supreme court of the United States, and he was qualified according to law. (a)

DEWHURST *v.* COULTHARD.*Jurisdiction.—Case stated.*

The supreme court will not take cognisance of a case brought before it by a case stated.¹

THE following statement of a case was presented by *E. Tilghman* to the court, at the instance of the attorneys for both the parties in the suit, in the circuit court of the New York district, with a request, that it might be considered and decided.

“This was an action commenced by Isaac Coulthard against John Dewhurst, in the supreme court of the state of New York, and was removed by petition to the circuit court of the United States for the New York district, agreeable to the act of congress in such case made and provided, by the defendant, he being a citizen of the state of Pennsylvania.

“The plaintiff’s action is prosecuted against the above defendant, as the, indorser of a foreign bill of exchange, drawn by G. B. Ewart, of the city and state of New York, on Thomas Barnes, of Baldock, near London, dated the 10th day of January 1792. On the part of the defendant, it is admitted, that at the time of the making and indorsing said bill, the said John Dewhurst was a citizen of, and resident in, the city and state of New York, and that he duly received notice of the protest of the said bill for [*410] non-acceptance and non-payment. That on or about the 25th day of May 1792, the defendant removed to the city of Philadelphia, in the state of Pennsylvania, where he has resided since that period. That shortly after his removal to Philadelphia, viz., on or about the 7th day of June 1792, a commission of bankruptey was awarded and issued forth against him, in pursuance of two certain acts or statutes of the said state of Pennsylvania, the one entitled ‘An act for the regulation of bankruptey;’ the other entitled, ‘An act to amend an act entitled, an act for the regulation of bankruptey.’ And in pursuance of which said statutes, the defendant did actually deliver, assign and transfer to the commissioners appointed under the said commission, the whole of his effects, as well in the state of Pennsylvania, as elsewhere, which consisted principally of credits due to the said defendant,

(a) The appointment of Mr. WASHINGTON was in the room of Mr. Justice WILSON, deceased. Mr. Justice CHASE was prevented by indisposition from attending the court, during the whole of the present term.

¹ *Keene v. Whitaker*, 13 Pet. 459. The appellate jurisdiction of the supreme court can only be exercised in conformity with the regulations prescribed by congress. *Wiscart v. D’Auchy*, *ante*, p. 321; *The Perseverance, ante*, p. 336; *The Charles Carter*, 4 Dall. 22; *United States v. Hooe*, 1 Cr. 318; *Sarchet v. United States*, 12 Pet. 143; *Minor v. Tillotson*, 2 How. 392; *Kelsey v. Forsyth*, 21 Id. 85.