

Case No. 1,680.

[5 N. B. R. 233.]<sup>1</sup>

IN RE BOSTON, H. & E. R. CO.

District Court, S. D. New York.

April 10, 1871.

BANKRUPTCY—PROPERTY IN SEVERAL STATES—APPOINTMENT OF ASSIGNEES.

Where a corporation, holding property and carrying on business in three several states, is adjudicated bankrupt and assignees are appointed who are respectively citizens of two states in which proceedings in bankruptcy are pending, but none is appointed in the third state in which proceedings in bankruptcy are also pending, *held*, that as three assignees were to be chosen, and proceedings were pending in three different districts, it ought to have been so arranged that each of the districts could have an assignee within it a resident thereof. The court in the district in which no assignee has been selected, therefore declines to approve of the election of the assignee.

[On certificate of register in bankruptcy.]

I, Edgar Ketchum, one of the registers of said court in bankruptcy, do hereby certify that in the course of the proceedings in said cause before me, the following question arose pertinent to the proceedings, and was stated by the counsel for the opposing parties, to wit, DaCosta, who appeared for one creditor, and Mr. James H. Clark, who appeared for other creditors of the bankrupt The assignees chosen are residents respectively of the states of Massachusetts, Rhode Island and Connecticut, and not of the state of New York, or of the southern district of New York, and the fact that they have already been appointed assignees in the proceedings in bankruptcy pending against the same bankrupt in the United States district courts in Massachusetts and Connecticut, respectively, is no reason why this objection should be disregarded; each of those courts having an assignee or assignees within its own jurisdiction. So the former. The latter answering that nothing in the act forbids it, and that convenience may justify the allowance of it in this case. In the opinion of the register, as three assignees were to be chosen, and proceedings were pending in three different districts of the United States, it ought to have been so arranged that each of the districts could have an assignee within it, a resident thereof. And in accordance with decisions upon the point already made, he considers the objection well taken.

In re BOSTON, H. & E. R. CO.

BLATCHFORD, District Judge. I concur in the views of the register, and decline to approve the election of assignees.

[NOTE. For proceedings in Massachusetts, see Cases Nos. 47,152, and 13,684; in New York, see Cases Nos. 1,678 and 1,679; in Connecticut, Case No. 1,677.]

<sup>1</sup> [Reprinted by permission.]