

Case No. 2,221.

In re BUSE.

[3 N. B. R. 215 (Quarto, 52).]¹

District Court, E. D. Missouri.

1870.

BANKRUPTCY—RIGHTS OF LIEN CREDITOR.

A lien creditor cannot be required to surrender until his liability or debt is discharged.

In bankruptcy. Scheele was served with a rule to show cause why he should not deliver to assignee two horses belonging to the bankrupt, or pay the value of the same. On return of the rule it appeared that Scheele had purchased of the bankrupt two horses, for which he paid three hundred and fifty dollars cash, and that at request of Buse he became security in an appeal from a judgment rendered by a justice of the peace for two hundred dollars, and that the bankrupt had deposited with him two hundred dollars, to indemnify him against his liability as a security in the appeal bond, and that the suit was still pending on the appeal.

PER CURIAM. It appears that the horses were sold and purchased in good faith before the commencement of the proceedings in bankruptcy, and paid for in cash. For the two hundred dollars deposited with Scheele to indemnify him as a security in the appeal; as the suit is still pending, and the security may be called upon to pay the debt, this proceeding is premature; for, until his liability is determined, the creditor may retain the pledge. Rule discharged.

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