

IN RE CHAPPEL.

Case No. 2,612.

[4 N. B. R. (1871) 540 (Quarto. 176).]<sup>1</sup>

District Court, N. D. New York.

ACT OF BANKRUPTCY—SETTING UP SUSPENSION OF PAYMENT OF  
COMMERCIAL PAPER.

1. The allegation of stoppage and suspension of payment on a certain day, upon commercial paper which was made and dated within the six months next preceding the actual filing of the petition, connected with the allegation that payment of the commercial paper (a due bill) had been demanded at different times, and that the respondent had failed to make such payment, was equivalent to an, allegation of a demand for payment on that day.
2. Order of adjudication granted.

In bankruptcy.

Audley W. Gazzam and George Wadsworth, for petitioning creditors.

George Gorham, for bankrupt.

HALL, District Judge. This was a motion on the return of an order to show cause for the adjudication of the bankrupt on the grounds that he had committed an act of bankruptcy by suffering his property to be taken on legal process within six months next preceding the commencement of bankruptcy proceedings. And also on the ground that the bankrupt had suspended payment of his commercial paper (a due bill), and had not resumed payment of the same within a period of fourteen days, etc. It appearing that the allegation setting forth the act of bankruptcy as suffering the bankrupt's property to be taken on legal process, did not allege any specified day, but that the said act was committed on the—dayof—, 1870, and that the only other allegation of the time of its commission, was, that it was committed within the six months next preceding the date of the petition, which was not dated, but which had been sworn to three days before it was filed, the court held the petition defective in this respect. As to the allegation that the bankrupt committed an act of bankruptcy on the 28th day of September, 1870, by suspension and non-resumption of his "commercial paper," within a period of fourteen days, the same not being a note, but a due bill, bearing date within the six months next preceding, and payable on demand, upon which there seemed indorsed several partial payments, objection was urged to adjudication on this specification, on the ground that there was no allegation of demand.

The court held that the allegation of stoppage and suspension of payment on the 28th of September, 1870, upon commercial paper which was made and dated within the six months next preceding the actual filing of the petition, connected with the allegation that payment of the due bill had been demanded at different times, and that the respondent

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had failed to make such payment, was equivalent to an allegation of a demand for payment on that day. Order of adjudication granted.

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