

Case No. 4,628.

IN RE FALLON.

{2 N. B. R. 277 (Quarto, 92);<sup>1</sup> Chi. Leg. News, 107.}

District Court, S. D. New York.

Dec. 7, 1868.

ADJUDICATION IN BANKRUPTCY—VALIDITY OF PETITIONING CREDITOR'S DEBT.

While an adjudication in bankruptcy stands unrevoked, all enquiry into the validity of the debt of the petitioning creditor in the involuntary proceedings, is precluded.

[In bankruptcy. In the matter of James W. Fallon.]

L. S. Chatfield and L. W. Brown, for Wylie.

D. T. Walden, for assignee in bankruptcy.

BLATCHFORD, District Judge. The motion by the creditor Wylie, to vacate the order of stay made herein, July 1st, 1868, and that he have leave to proceed to collect his execution, is denied. He cannot be allowed to interfere with the proceedings of the assignee in bankruptcy, to set aside the alleged fraudulent conveyance to Shaffer, or to embarrass those proceedings. When the assignee shall have realized anything out of the real estate on which Wylie claims a lien by his judgment, Wylie can then apply to this court, by petition, to have his judgment paid out of the proceeds of such real estate, and the questions at issue between Wylie and the general creditors of the bankrupt, represented by the assignee, can then be adjudicated by this court. Until then an enquiry on these points is premature.

So long as the adjudication of bankruptcy stands unrevoked, all enquiry as to the existence or validity of the debt claimed to be due to the petitioning creditor in the involuntary proceedings, is precluded. The debt due to such creditor was established for the purposes of the adjudication, and neither the debt nor the adjudication can be attacked, on a motion of this kind, by a creditor who claims an adverse interest to the assignee in bankruptcy.

<sup>1</sup> [Reprinted from 2 N. B. R. 277 (Quarto, 2), by permission.]