

Case No. 5,523.  
[52 How. Pr. 426.]

IN RE GOLDSTEIN ET AL.

District Court, S. D. New York.

March, 5, 1877.

BANKRUPTCY—ENJOINING PROCEEDINGS IN STATE COURT.

[Certain creditors, who had joined in a petition in involuntary proceedings, after adjudication therein brought an action on their claim in a state court, in which proceedings were taken under Act N. Y. April 26, 1831 (Laws 1831, p. 396), for the arrest of the debtors on the allegation that they had fraudulently contracted said indebtedness, and had disposed of a large part of their property with intent to defraud their creditors. *Held*, that the bankruptcy court, on motion, would enjoin further proceedings in the state court pending the question of the discharge.]

[In bankruptcy. Motion by the bankrupts, Isidor Goldstein and Abraham Goldstein, for a perpetual injunction restraining prosecution of an action in the state court, or any further proceedings therein.

[The petition in bankruptcy was filed December 27, 1876, in which Haines, Bacon & Co. joined, alleging a claim of \$1,056.10 for goods sold and delivered between January 1 and November 1, 1876, for which a note was given maturing January 12, 1877. An adjudication in bankruptcy was duly made and entered January 13, 1877. Subsequently, and on February 2, 1877, Haines, Bacon & Co. commenced an action on their said claim, in which proceedings were taken under Act N. Y. April 26, 1831, and the acts amendatory thereof, for the arrest of the debtors, founded on averments that such debtors had fraudulently contracted said indebtedness, and had disposed of a large part of their property with intent to defraud their creditors; and the debtors were arrested therein. They entered into a recognizance and bond for an adjournment as required by the act, and the proceedings were again adjourned to permit the making of the aforesaid motion in this court]

BLATCHFORD, District Judge, after hearing arguments, issued the following order, no opinion being written:

A motion having been made by David Leventritt, counsel for the above named bankrupts, for a perpetual injunction enjoining and restraining Richard R. Haines, Francis M. Bacon, Benjamin R. Haines and William Harrington, composing and comprising the firm of Haines, Bacon & Co., from prosecuting and attempting to prosecute a certain action and proceeding instituted by them against the above named bankrupts in the supreme court of the state of New York, county of New York, and upon reading and filing notice of motion thereof, the petition of said bankrupts and copies of the papers in said action and proceeding, and after hearing David Leventritt, counsel for said bankrupts, in support of said motion, and Richard S. Newcombe, Esq., counsel for said creditors, in opposition thereto, it is ordered that the said Richard R. Haines, Francis M. Bacon, Benjamin R. Haines and William Harrington, composing the firm of Haines, Bacon & Co., they and

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each of them, their and each of their agents, servants and attorneys, are hereby restrained, prohibited and enjoined from further prosecuting a certain action instituted by them in the supreme court of the state of New York, on February 2, 1877, for the recovery of the sum of \$1,050.10 against the above named bankrupts; and they and each of them, their and each of their agents, servants and attorneys are hereby restrained, prohibited and enjoined from further prosecuting a certain proceeding heretofore adopted by them against said bankrupts, under an act, known as "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831, and the acts amending the same, and under which proceeding said bankrupts were arrested on the 2d day of February, 1877. Said action and proceeding, and each of them, are hereby stayed until the final determination of this court upon the question of the discharge of said bankrupts, but this order is not to operate to discharge said bankrupts from said arrest, or to affect the order of arrest