

Case No. 6,555.  
[1 Dill. 421.]<sup>1</sup>

HOBSON ET AL. V. MARKSON ET AL.

Circuit Court, D. Kansas.

1871.

BANKRUPT ACT—GENERAL ASSIGNMENTS UNDER STATE  
LAW—ADJUDICATION OF BANKRUPTCY—COLLATERAL ATTACK.

1. A previous voluntary general assignment for the benefit of creditors, made in good faith, and valid under the law of the state where made, will not be sustained against a valid adjudication of bankruptcy.
2. An adjudication made after the return day, but upon petition and appearance, will be sustained in a collateral inquiry.

[Cited in Re Bush, Case No. 2,222.]

In bankruptcy.

Wallace, Pratt, Williams & Wagstaff, for plaintiffs.

Britton, Rogers, Hoag & Wheat, for defendants.

PER CURIAM (DILLON, Circuit Judge, and DELAHAY, District Judge, concurring). In sustaining a demurrer to the bill (filed by assignees under a voluntary general assignment against assignees in bankruptcy and the petitioning creditors), the court delivered a written opinion, ruling the following points:

1. A valid adjudication of bankruptcy against a debtor, has the effect to subject him and his property to the operation of the bankrupt act, notwithstanding a previous voluntary general assignment for the benefit of creditors; and the assignee in bankruptcy as against the assignee under the state law, is entitled to the possession and control of the estate. In re Burt [Case No. 2,210].

[See, also, Cragin v. Thompson, Id. 3,320.]

2. An order of the district court, adjudicating a debtor a bankrupt, made after the return day, but upon a petition of a creditor, and after notice to, and appearance by, the debtor, though it may be irregular, is not void, and cannot be collaterally assailed by his assignees under a previous voluntary assignment.

[Cited in Re Bush, Case No. 2,222.]

<sup>1</sup> [Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.]