

Case No. 8,278.  
[3 Ben. 487.]<sup>1</sup>

IN RE LESZYNSKY.

District Court, S. D. New York.

Nov., 1869.

STAY OF PROCEEDINGS—JUDGMENT APPEALED FROM.

1. A judgment rendered against a bankrupt in a state court, from which he has appealed before the filing of his petition, is conclusive, as against him, to enable the judgment creditors to prove it as a debt in the bankruptcy proceedings.
2. Proceedings by the creditors, on such appeal from the judgment, will be stayed, on motion of the bankrupt, pending the bankruptcy proceedings.

The petition in these proceedings was filed on the 4th of May, 1869. Before that time judgment had been recovered against the bankrupt [Henry S. Leszynsky] in the supreme court of the state of New York, and he had appealed from such judgment, giving security on such appeal. On the filing of his petition he obtained an injunction restraining the creditors from proceeding in the matter of the appeal. This injunction they moved to have modified, in order to enable them to determine the amount of their claim against the bankrupt, and to enforce their rights against the sureties. The bankrupt's petition did not admit the claim of the judgment creditors against him, but stated the fact of the recovery of the judgment against him, the appeal and the giving of security on such appeal.

John A. Mapes for the motion.

P. J. Joachimssen in opposition.

BLATCHFORD, District Judge. This motion must be denied. See Metcalf's Case [Case No. 9,494], in which decision I concur. The judgment already recovered is conclusive, as against the bankrupt, to enable the creditors to prove it as a debt.

<sup>1</sup> [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]