

IN RE O'MARA.

{4 Biss. 506.}¹

District Court, N. D. Illinois.

Oct., 1868.

ARREST OF BANKRUPT UNDER PROCESS FROM
STATE COURT.

Where a bankrupt is under arrest under process from a state court, he should make application to that court, before coming into the court of bankruptcy to obtain his release. This practice is less likely to produce conflict of jurisdiction.

In bankruptcy. Motion to discharge the bankrupt [Michael O'Mara] from arrest on ca. sa. issued from the circuit court of Cook county.

DRUMMOND, District Judge. I do not at present feel inclined to make an order in the case. I wish, in all cases, to avoid a conflict of jurisdiction. Where a man is arrested under the authority of a state court, the application should in the first instance be made in the state court for his discharge, not only on grounds that the state law will warrant, but on the ground that the bankrupt law authorizes his discharge. It is not necessary that the party should apply here. I suppose that the bankrupt law applies to all courts. I do not like to have any conflict of jurisdiction. I was obliged in one instance, where an application was made to a state court and refused, to grant an order; but that was done by consent when the court intimated an opinion upon the subject. In re Wiggers [Case No. 17,623].

The question is suspended, so that the counsel may renew upon notice.

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