

IN RE ROGERS ET. AL.

{2 N. B. R. 397 (Quarto. 129); 1 Chi. Beg. News,
195.}¹

District Court, S. D. New York. 1869.

BANKRUPTCY—EXECUTION OF
MORTGAGE—SUSPENSION OF PAYMENT.

Where defendants, machinists, executed chattel mortgages of tools, goods, &c, to secure the payment of certain debts due creditors, and suspended payment shortly after, *held* that an order adjudicating them bankrupts should issue.

[In the matter of Edmund P. Rogers and Miers Coryell, bankrupts.]

BLATCHFORD, District Judge. The petition avers that the debtor, while insolvent, did, on or about the 1st of December, 1868, execute to one Francis M. Pendleton a chattel mortgage on certain tools, fixtures, belting, and machinery, then in the premises known as the Quintard Iron Works, at the north-west corner of Avenue D and Eleventh street, in the city of New York, to secure the sum of four thousand dollars and interest, payable December 2d, 1868, with interest from July 1st, 1868, and to one Anna P. Rogers, a chattel mortgage on the same property, to secure the payment of four thousand five hundred and seven dollars and forty-five cents, and interest payable December 24th, 1868, and that those instruments were executed by the debtors with intent to give a preference to creditors therein named. The answer of the debtors admits the making of the mortgage to Pendleton, and states that it was given to secure the payment of four thousand dollars and interest thereon, the said sum having been loaned to them in cash on or about the 1st day of July, 1868. The answer also admits the making of the mortgage to

Rogers, and states that the same was given to secure the payment of four thousand five hundred and seven dollars and forty-five cents and interest thereon, the said sum having been loaned to them in cash, on or about the 1st day of July, 1868. It is also admitted by the respective parties, by a written stipulation, that the mortgages given to Pendleton and Rogers, were given in December, 1868, to secure the payment of debts contracted in July, 1868, and that, within a few days after, the debtors suspended payment. The answer avers that the debtors should not be declared bankrupts, for any cause alleged in the petition, and prays for a trial by the court, but it does not deny the insolvency of the debtors at the times they made the mortgages in question, or that the debtors intended to give preferences thereby to the creditors named in the mortgages. On these facts, it is clear that the debtors, being insolvent, made a conveyance of property with intent to give a preference thereby to a creditor, and thus committed an act of bankruptcy within section thirty-nine of the act [of 1867 (14 Stat 536)]. An order must be made adjudicating them bankrupts.

¹ [Reprinted from 2 N. B. B. 397 (Quarto, 129), by permission. 1 Chi. Beg. News, 195, contains only a partial report.]

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