

IN RE SHERBURNE.

{1 N. B. R. 558 (Quarto, 155).}¹

District Court, E. D. Missouri.

1868.

BANKRUPTCY—MOTION TO DISMISS.

After an adjudication has been made, it is too late to make a motion to dismiss the proceedings and settle with the debtor. If, however, the parties desire to make a settlement they may proceed under section 43 of the bankrupt act [of 1867 (14 Stat. 538)], and have the estate wound up by trustees.

Upon petition of creditors, the debtor had been adjudged a bankrupt. Motion was made for leave to dismiss proceedings and to settle with the debtor.

TREAT, District Judge. This motion comes too late. After the adjudication all the creditors have a right to present their claims and have the estate of the debtor wound up under the proceedings in bankruptcy. If the parties desire to make a settlement, they may proceed under section 43 of the act, and have the estate wound up by trustees. Motion overruled.

¹ [Reprinted by permission.]