

IN RE TIVOLI BREWING CO.

{11 N. B. R. 470.}¹

District Court, S. D. New York.

1875.

BANKRUPTCY—FAILURE TO PAY COMMERCIAL
PAPER—FORTY DAYS' LIMIT—PREMATURE
PETITION.

The petition in this case was filed June 19, 1874, the only act of bankruptcy alleged being a failure to pay the commercial paper of the debtor, which fell due June 4, 1874. *Held*, that as under the amendment of June 22, 1874 [18 Stat. 178], 1313 no person can be adjudged a bankrupt for failure to pay commercial paper before the expiration of forty days from the maturity of the said paper; and as this provision applies to cases commenced since December 1, 1873, this petition stands as having been prematurely filed and cannot be amended, and must therefore be dismissed; without costs.

In bankruptcy.

BLATCHFORD, District Judge. The petition in this case, in involuntary bankruptcy, was filed June 19, 1874. The only act of bankruptcy it alleges is the failure to pay commercial paper which fell due June 4, 1874. As under the act of June 22, 1874, no person can be adjudged a bankrupt for the failure to pay commercial paper, on a petition filed before the expiration of forty days from the maturity of the paper (instead of fourteen days, as under the former law); and as this provision applies to cases commenced since December 1, 1873, this petition stands now as having been prematurely filed, and cannot be availed of after the expiration of the forty days, and cannot be amended, but must be dismissed, without costs.

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