

IN RE BOGERT ET AL.

Case No. 1,600.

[3 N. B. R. 651 (Quarto, 161).]¹

District Court, S. D. New York.

April 16, 1870.

BANKRUPTCY—ASSIGNEE—KINSHIP TO BANKRUPT—DISQUALIFICATION.

At a meeting of creditors, several members of one family offer proofs of claims for a large amount against the bankrupts, which were objected to by counsel for opposing creditors, and a postponement for investigation by the assignee, took place. One of the first named creditors, who is a son of one of the bankrupts, having a claim of fifty-six thousand nine hundred and thirty-nine dollars and eight cents against the estate, is elected assignee, which counsel aforesaid object to. *Held*, the son of a bankrupt is not the proper person to be invested with the power of assignee and investigate the claims of other members of same family. Appointment not affirmed.

[In bankruptcy. In the matter of John B. Bogert and Cornelius Oakley, Jr. Heard on the register's certificate, which was as follows:]

The undersigned, one of the registers in bankruptcy, hereby certifies to this honorable court, that, at the first meeting of creditors, objections were made to the following proofs by Mr. Ira O. Miller, of counsel for J. & D. J. Stewart, two of the creditors, to wit:

Kate B. Boget	\$ 7456 88
E. A. Boget	4,979 51
John V. Bogert	56,939 08
Elizabeth C. Bogert	595 92
Tyrril Bogert	516 31
John F. Lowell	19,834 42

Thinking that said claims ought to be investigated by the assignee, I postponed the proof of them until the assignee should be chosen, whereupon said John V. Bogert was elected assignee by the votes, as per statement annexed. Mr. Miller objected to the confirmation of said Bogert as such assignee, on the ground: First. That he was a nonresident of the district. Second. That he is the son of one of the bankrupts, having a claim against the estate of said bankrupt above referred to. Upon said objections, I proceeded, on motion of Mr. Miller, Hon. Charles A. Peabody objecting, and took the testimony of said John V. Bogert, which is hereto annexed.

Pursuant to the requirements of rule 19 of this honorable court, I beg to submit that, during the said meeting, which lasted two days, I saw nothing that tended to throw any suspicion upon the validity and good faith of the claim of the said John V. Bogert, nor do I see any reason why his election

should not be confirmed, save the fact that he is a young man about thirty-two years of age, a son of one of the bankrupts, having a claim amounting to fifty-six thousand nine hundred and thirty-nine dollars and eight cents against the estate; and the further fact that members of the family of said bankrupt above-named present claims against said estate in the aggregate amounting to thirteen thousand five hundred and forty-eight dollars and sixty-two cents; and the further fact that John F. Lowell, who is a young man, the friend and lately a clerk of the bankrupt, and now a clerk in a hardware store at a salary of twelve dollars a week, presents a claim for nineteen thousand eight hundred and thirty-four dollars and forty-two cents against said estate, if indeed these facts be at all reasons why his election should not be affirmed. I think it, however, my duty to call the attention of the court to 2 N. B. R. 45 [In re Powell, Case No. 11,354]. All of which is respectfully submitted.

Memorandum.

This being the day appointed by the court for the first meeting of creditors in the above bankruptcy, and of which due notice has been given in the New York Times and Commercial Advertiser, and by special notice served personally, or through the mail, we, whose names are hereunder written, being the greater part in number and in value of the creditors of the said John B. Bogert and Cornelius Oakley, Jr., bankrupts aforesaid, present at this meeting, and who have proved our debts, have chosen, and do hereby nominate and choose John V. Bogert to be the assignee of the said bankrupt's estate and effects, and we do desire that he may be appointed such assignee accordingly:

John W. Stevens, Esq., New York City	\$ 750 00
Meriden Butt Co., Meriden, Conn.	141 28
Blackwell & Burr, New York City	433 50
Charles Van Bokkelin, New York City	400 00
Nathan Weed, New York City	55 65
C. C. Abel, New York City	1,286 61
Frederick H. Polt, New York City	48 00
Cutter, Tower & Co., New York City	42 85
Clark, Wilson & Co., New York City	169 63
De Witt Broth. & Co., New York City	23 59
Aaron L. Reid, New York City	300 00
Wm. A. Dodge & Co., New York City	356 35
Greenfield, Toll & Co., Greenfield, Mass.	137 12
W. & S. Butcher, Sheffield, England	82 80
R. E. Hadley, Deposit, N. Y.	66 58
C. Lockwood & Co., New York City	204 19
Bless & Drake, Newark, N. J.	122 80

Augustus W. Payne, New York City	2,284 06
Newcomb Bros. & Sons, New York City	34 35
Sampson & Baldwin, New York City	328 76
J. S. Leverett & Co., New York City	23 75
John Post, New York City	121 98

“John V. Bogert called and duly sworn. Mr. Peabody objected to the introduction of his testimony. Objection overruled. By Mr. Miller: (1) Q. Are you the son of the bankrupt? A. I am. (2) Q. Do you keep house or board? A. I have boarded. (3) Where? A. 140 W. 34th street. (4) Q. When? A. Today. (5) Q. When did you take it? A. I secured my place to-day. (G) Q. Today? A. Yes, sir. (7) Q. Where did you board previous to that? A. Brooklyn, 105 Hicks street, part of the time. (8) Q. How long have you boarded there? A. Whenever I am here, off and on. (9) Q. About how long, some months and years? A. While in town, some two or three years. (10) Q. Where are your things? A. Still in my trunk. (11) Q. In Brooklyn? A. Yes, sir. (12) Q. You have not moved your things? A. No, sir. (13) Q. But you intend to move? A. I intend to do so this day. By Mr. Pea-body. (14) Q. Have you a place of business? A. 89 Pearl street, New York city. (15) Q. How long have you had a place of business in the city of New York, sir? A. Since ‘66. (16) Q. Have you had a place of business in the city of New York all the time since ‘66 to the present time? A. Constantly. (17) Q. And have you been in business all the time there? A. Yes, sir. By Mr. Miller. (18) Q. What is your business there? A. I have an office there for the transaction of the Washington claim business, and also for the operation of a patent (19) Q. Are you in business on your own account? A. My own account. (20) Q. Not as clerk or employee? A. No, sir.’

Taken before me this 14th day of April, 1870.

I. T. Williams, Register.

BLATCHFORD, District Judge. As the register has thought it proper to postpone the proof of claims made by members of the family of one of the bankrupts, amounting to thirteen thousand five hundred and forty-eight dollars and sixty-two cents, until an assignee is chosen, on the ground that he thinks that such claims ought to be investigated by the assignee, I do not think proper that the son of the bankrupt, of whose family such persons are members, should become such assignee. I therefore do not confirm or approve of his appointment.

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