

Case No. 1,628.

IN RE BONESTEEL.

{2 N. B. R. 330 (Quarto, 106).}<sup>1</sup>

District Court, S. D. New York.

Nov. 28, 1868.

BANKRUPTCY—EXAMINATION OF BANKRUPT.

A bankrupt must answer questions put to him in relation to property in which it is shown that he might possibly have an interest.

{Cited in Re Dole, Case No. 3,965.}

{See Ex parte Craig, Case No. 3,322; In re Clark, Id. 2,805.}

In re BONESTEEL.

I, Isaiah T. Williams, one of the registers of said court in bankruptcy, do hereby certify that in the course of the proceedings in said cause before me, the following question arose pertinent to the said proceedings, and was stated and agreed to by the counsel for the opposing parties, to wit: N. J. Butler, who appeared for the bankrupt, and Mr. F. J. McDonald, who appeared for John P. Faure, a creditor of the said bankrupt.

The facts are as follows: The counsel for the said creditor, upon an examination of the said bankrupt, has shown that a large interest in a certain incorporated company known as the "Nicholson Pavement Company of Brooklyn," had been transferred to the wife of the bankrupt, after his insolvency, by parties interested in the success of that company. It further appeared that the bankrupt had been, prior to the said transfer, engaged in a dry-goods commission business, upon capital furnished to his wife by her father, and that his family had been supported by the profits of such business, aided by a monthly allowance from the said father to said wife; and that some time before the said transfer of said interest to said wife, the said bankrupt had discontinued the said dry-goods commission business, and devoted his time to promoting the interests of said company, during which period his family were supported by the said wife from moneys furnished by her said father, and by him charged to her prospective portion of his estate as heir, or next of kin thereto. That the said services of the said bankrupt were, by the persons who so transferred the said interest, deemed to be of especial value to said company, by reason of the political and other influence of the kins-people of said wife. That the said kins-people had insisted that the said interest in said company should be so transferred to said wife, before they would exert any influence whatever favorable to the interests of said company. The bankrupt claims further, that the conveyance of the said interest to his wife was induced, to a great extent, by the friendly relations existing between the persons who so transferred the said interest, and his wife and himself, for many years past, and that said interest was, in fact, more a gift than a reward for any services performed by the bankrupt.

It is claimed, on the part of the creditor, that the said interest, in said company, of right belonged to the said bankrupt, and passed to the assignee under the deed from the register, and, for the purpose of establishing this position, he proposed to go into a minute examination of the whole matter. The whole examination of the bankrupt touching the said interest and the transfer thereof to his wife, was taken under a general objection of the bankrupt's counsel, founded upon the allegation that the bankrupt was not the owner of the interest in question, and the final refusal of the bankrupt to answer further touching said interest, accompanied by a motion to the register to strike out all the testimony in relation thereto, which motion was denied.

I understand the counsel for the bankrupt to take the ground that the interest in question was never the property of the bankrupt, and therefore the creditor has no right to inquire concerning the same.

The counsel for the creditor, on the contrary, insists that he has shown enough to entitle him to go into the matter, for the purpose of satisfying the court that the consideration for the interest in question flowed in part or wholly from the bankrupt, and that therefore the assignee is, to this extent at least, entitled thereto.

Entertaining no doubt whatever that it was the right of the creditor fully to sift the transaction, and show, if he should be able to show, that the transfer to the wife was a mere cover, or if not wholly that, then that the consideration for the same flowed in whole or in part from the bankrupt; thus establishing an equitable interest therein in the assignee, I directed the examination to continue, and the bankrupt to answer such questions concerning the same as might be pertinent to the end aforesaid. The bankrupt, however, refusing to so answer any further questions upon the subject, I hereby certify the case to this honorable court for decision.

BLATCHFORD, District Judge. The register was correct in his direction, and the bankrupt must answer the questions referred to.

{NOTE. Subsequently a decree was entered by the district court adjudging that the stock in the Nicholson Pavement Company held by the wife was the property of the bankrupt. This decree was set aside by the circuit court (In re Bonesteel, Case No. 1,627), and thereafter the assignee brought a bill in equity to recover the stock, which bill was dismissed. See *Voorhies v. Bonesteel*, Id. 17,001.]

<sup>1</sup> [Reprinted by permission.]