

Case No. 1,974.

In re BROWN.

[4 Ben. 142; ¹3 N. B. R. 720 (Quarto, 178).]

District Court, S. D. New York.

May Term, 1870.

BANKRUPTCY—PREFERRED CLAIM—OPERATIVE'S LABOR—ASSIGNMENT.

Laborers in the employ of a brick-maker rendered service to him, and, on a settlement of their accounts, more than \$50 was found due to each. The employer had no money to pay them, and, as they needed money, to enable them to return to their homes, they applied to one L., who advanced each of them \$10, under an agreement that he was to collect the amount due to each, and repay himself the amount advanced, with interest and expenses. Each of them gave to L. an absolute assignment, in writing, of his claim. The employer having been, within six months thereafter, adjudged a bankrupt, L. presented to the assignee in bankruptcy the assignments, and prayed that \$50 should be allowed on each claim, as a preference, under the 27th section of the bankruptcy act [14 Stat. 529]. *Held*, that the claims must be allowed.

In bankruptcy.

[The bankrupt (Stephen Brown) was a brick-maker, and employed a large number of laborers at Cossackie, Greene county, N. Y., where his business was located; and on or about the 20th December, 1869, settled with the laborers hereinafter mentioned, and a balance was struck and the amount set opposite to their respective names found due to

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them and each of them, for labor performed, by the bankrupt, within six months prior to the filing of his petition.

[To wit:

Henry Naseher	\$141 35
Anthony Lavere	215 30
John Boushire	192 01
Nelson Boushire	134 70
David Boushire	141 63

Ambrose Petie	113 67
Edward Perso	136 23
Morris Messay	92 42
Augustus Demore	119 90
William Santain	53 81
Maxim Santain	87 98

[That such laborers and each of them were Canadian Frenchmen who came to Coxsackie to labor during the brick-making season, and, at the end of the season, receiving their wages, to return again to Canada, where they reside. That on or about the 21st December, 1869, after the season of labor was ended and they had settled up with their employer, the bankrupt, and found the amount due each of them, respectively, as above stated, the said bankrupt had no money to pay them],² [nor the means to get money to pay them or any part of such indebtedness, nor had any or either of said persons any money or credit in Coxsackie, and most of them being in a destitute condition for necessary clothing, and all of them desiring to go to Canada where they resided, and amongst their friends and countrymen applied to Henry Larue, one of their countrymen, a laborer and hard-working man, who, by many years of hard labor and economy had saved a little money, and requested him to advance money to them so that they could pay their expenses home. That upon the urgent and repeated solicitations of each of said laborers]³ [Larue advanced ten dollars to each of said persons, on the respective account of each, under an agreement that he, said Larue, was to draw the money of each of said persons, and pay himself the ten dollars and interest, and any expense necessarily incurred, and pay over to each of said persons the whole balance of the money due to such persons for labor as aforesaid. That in order to carry out such arrangement, the parties went to Simpson S. Bell, who was not a lawyer, but a justice of the peace, who drew up papers for the purpose of carrying out such agreement. That said Bell drew up an absolute assignment of each of said claims, which was signed by each of said parties and by said Bell as a witness, and delivered such papers to Henry Larue, who then and there paid over ten dollars (\$10.00) to each of said parties, besides paying two or three dollars for stamps and expenses, which money the parties (laborers) respectively received and went to Canada, where they now reside, or where most of them do reside. Henry Larue appeared before the register on the 4th of April, 1870, at Catskill, in person, and by his attorney, Wm. E. Leete, of Coxsackie, New York, and presented to the register the said written assignments of said demands, and by his said attorney submitted to said register orally, and also in writing of a prior date, a demand that such claims be allowed against the said estate respectively to each of the persons above-named, and that they be entitled respectively to a priority or preference to the amount of fifty dollars each, being for wages due to an operative, for labor performed within six months next preceding the adjudication in bankruptcy in this cause, under and by virtue of section 27 of the Bankrupt Act of 1867; the assignee claimed and demanded of the aforesaid register, that after paying the said Henry Larue the amount of money actually paid out, and interest and expenses as aforesaid, the balance of the said claim be paid over to the said persons, their attorneys,

executors, administrators, or assigns, respectively; and the said Henry Larue now claims and demands that this court allow and pay for the benefit of each of said laborers the sum of fifty dollars (\$50) each, out of said bankrupt's estate, as being a lien or liens prior to other creditors, on account of each of said claims, being for the labor of an operative, for labor performed within six months next preceding the adjudication of bankruptcy in this matter. Wm. B. Leete, Attorney.]⁴

By Theodore B. Gates, Register:

[Respectfully forwarded for disposal of his honor, Judge Blatchford.]⁴

BLATCHFORD, District Judge. The claims and demands above named ought to be allowed by the register and the assignee.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]

² [From 3 N. B. R. 720.]

³ [From 3 N. B. R. 178 (Quarto).]

⁴ [From 3 N. B. R. 720.]

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