

Case No. 1,979.

In re BROWN.

[5 Law Rep. 258.]

Circuit Court, S. D. New York.

1842.

BANKRUPTCY—FIDUCIARY DEBT.

1. The existence of a fiduciary debt does not preclude the parties from taking the benefit of the bankrupt act, as to all other debts.
2. The bankrupt act being intended for the benefit of creditors, a fiduciary creditor is not bound to come in and take his dividend under the act, but he has an election to do so, if he chooses.
3. Unless the fiduciary creditor does elect to come in under the bankruptcy, his debt is not discharged thereby; but the bankrupt is, or may be, entitled to a discharge from all other debts.

[Adjournment from the district court of the United States for the southern district of New York.

[In bankruptcy. In the matter of George Brown. The district court adjourned to the circuit court the question whether or not the existence of a fiduciary debt precluded the debtor from taking the benefit of the bankrupt act.]

[NOTE. Nowhere, more fully reported. For decision of the district court overruling exceptions to the schedules filed by the bankrupt, see Case No. 1,978.]

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