

Case No. 3,110.

IN RE CONNELL.

[3 N. B. R. 443 (Quarto, 113).]¹

District Court, S. D. New York.

Feb. 7, 1870.

DISCHARGE IN BANKRUPTCY—OMISSION IN SCHEDULES.

Where a bankrupt had omitted to include in Schedule B statement of an interest in an estate in expectancy under a will, *held*, discharge must be denied until the same be amended, for which leave is granted, with reference to the register for that purpose.

[In bankruptcy. In the matter of Frederick F. Connell. Jr.]

J. P. C. Cotterill, for bankrupt.

C. C. Beaman, Jr., for creditor.

BLATCHFORD, District Judge. The first specification does not allege anything which is made by the 29th section [of the act of 1867 (14 Stat. 531)] a ground for withholding a discharge. The third specification is not sustained by the evidence. As to the second and fourth specifications, the bankrupt ought to have included in Schedule B to his petition his interest under the will of Henry Vanderveer, in the estate left by said Vanderveer, as an estate in expectancy and as property assignable, under the act, to the assignee. But I do not think, on the evidence, that the omission to so include such interest can be held to have been willful, or that either of those two specifications is sustained, or that there is any ground established for withholding a discharge if such interest be included in Schedule B. But as long as such interest is not included in that schedule, it cannot be said, on the evidence, that the bankrupt has conformed to his duty under the act, or has conformed to all the requirements of the act. The case will be referred back to the register, with leave to the bankrupt to amend Schedule B to his petition in the particular indicated, under the direction of the register.

CONNELL (The BOB.). See Case No. 1,587.

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