

Case No. 3,887.
[4 Ben. 304.]¹

IN RE DIBBLEE ET AL.

District Court, S. D. New York.

Sept., 1870.

EXPENSES OF DISCHARGE—INVOLUNTARY BANKRUPT.

Where one member of a firm of involuntary bankrupts, having applied for a discharge, petitioned for the payment by the assignee of disbursements made by him in the proceedings to obtain such discharge, under the 47th section of the bankruptcy act [of 1867 (14 Stat. 540)]: *Held*, that the act makes no distinction between a voluntary and an involuntary bankrupt, as to the right to be discharged, and that the claim should be paid.

[In bankruptcy. In the matter of Henry E. Dibblee, John J. Krauss, and David P. Bingley. For previous proceedings, see Cases Nos. 3,884-3,886.]

This was a petition to the register, in behalf of John J. Krauss, one of the bankrupts, praying that the sum of \$36.66, paid by, and on behalf of said Krauss in the proceedings incident to his discharge, might be allowed, and paid out of the funds of the estate of the bankrupts, in the hands of the assignee. On the petition the register granted an order, that the assignee show cause why the amount should not be so paid by him. On the day appointed, the assignee appeared by counsel and objected to the payment thereof, on the ground that the petitioner was an involuntary bankrupt, and, therefore, not entitled to have the disbursements incident to his proceedings for a discharge paid out of the fund. The register certified the matter to the court, stating, that, as the entire claim was for sums disbursed by the bankrupt, (one of a firm,) which were all within the provisions of the 47th section, he saw no reason for excluding it from the operation of that section, especially as the act makes no distinction between a voluntary and an involuntary bankrupt, as to his right to be discharged.

Simeon E. Church, for bankrupt.

Charles H. Smith, for assignee.

BLATCHFORD, District Judge. The register is correct in his view.

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