

9FED.CAS.—52

Case No. 5,116.

IN RE FRIEDBERG.

{19 N. B. R. 302.}<sup>1</sup>

District Court, S. D. New York.

Dec. 5, 1879.

BANKRUPTCY—DISCHARGE OF DEBTOR—FAILURE TO KEEP BOOKS OF ACCOUNT.

1. The fact that the bankrupt failed to keep proper books of account in a business which has been entirely closed out, there being no debts due to nor owing by him, arising out of such business, will not prevent a discharge.
2. Nor will a discharge be prevented by the fact that he failed to keep proper books of account in his business prior to the passage of the bankrupt act.

{In bankruptcy. In the matter of Isaac Friedberg.}

Carpenter & Hays, for bankrupt.

C. Blandy, for opposing creditors.

CHOATE, District Judge. This is an application for the discharge of the bankrupt. The only specification of which any proof is offered that requires any consideration, is that the bankrupt, since March 2, 1867, being a merchant or tradesman, kept no books of account. It appears that prior to April, 1874, for a short time, the bankrupt was engaged in the business of buying and selling tobacco and cigars, and that in that business he kept no books of account. But it further appears that that entire business is closed out, there being neither debts due to him nor owing by him which arose out of that business. The case is therefore exactly like the case of *In re Keach* [Case No. 7,629], in which Judge Lowell held that the failure to keep books in such a case did not prevent the granting of a discharge. I entirely concur in the reasoning on which that decision was rendered. It further appears that very many years before the bankruptcy, the bankrupt was engaged in some business from which there may be some uncollected claims still due to him, but the evidence does not show the business was continued after the 2d of March, 1867. Discharge granted.

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