

Case No. 6,162.

IN RE HARTHORN.

{4 N. B. R. 103 (Quarto, 27).}¹

District Court. D. Maine.

Aug. 24, 1870.

BANKRUPTCY—PREFERRED CLAIM—MINOR—SERVICES OF.

Upon proof of claim made by the father of a minor son, for the labor of such son, as an operative in the employment of the bankrupt within the six months next preceding the first publication of the notice of proceedings in bankruptcy, *Held*, that the father is entitled to be preferred, to an amount not exceeding fifty dollars, according to section 28 [of the act of 1867 (14 Stat 530)].

In bankruptcy.

By the Register:

I, Charles Hamlin, one of the registers of said court in bankruptcy, do hereby certify, that in the course of the proceedings in said cause before me, the following question arose pertinent to the said proceedings, and was stated and agreed to by the opposing parties, to wit: Mr. Ephraim Cunningham, creditor of said bankrupt, and Mr. William C. Crosby, assignee of said bankrupt's estate, viz.: said Ephraim Cunningham offers for proof a claim against said estate, amounting to the sum of one hundred and eight dollars, of which amount the sum of ninety-six dollars is for the labor of his minor son, Freeman Cunningham, performed as an operative in the employment of the bankrupt in the six months next preceding the first publication of the notice of proceedings in this bankruptcy. Deponent claims the amount due for his-minor son's labor belongs to himself as the father of the minor, and that fifty dollars there of is preferred to himself under the provisions of section 28 of the bankrupt act. The assignee makes no objection to the amount claimed, nor to the same being allowed to deponent, as the father of the minor; but denies the right of the father to a preference under section 28, as above, on the ground that it can only be allowed to the minor himself in those cases where the minor makes the proof in his own behalf. I am of the opinion that, upon the strength of the authority of the case of *Thayer v. Mann*, 2 Cush. 371, deponent is entitled to the preference he claims. And the said parties requested, that the same should be certified to the judge for his opinion thereon.

FOX, District Judge. Ordered, that fifty dollars of the claim proved by Ephraim Cunningham, for services of his minor son, Freeman Cunningham, be allowed and paid as a preferred claim.

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