

Case No. 6,646.

IN RE HOLT.

[3 N. B. R. 241 (Quarto, 58).]<sup>1</sup>

District Court, S. D. New York.

Sept. 20, 1869.

BANKRUPTCY—EXAMINATION OF BANKRUPT.

Where bankrupt is Upon his examination and fails to answer proper questions propounded, he will be compelled to answer by the court.

By the Register:

I, Isaac Dayton, one of the registers in bankruptcy of this court, in the absence of Register James F. Dwight, sitting and acting in his absence for him, do hereby certify that pursuant to an order made by me on the 7th day of September, A. D. 1869, Asa Holt, Jr., the bankrupt above named, was examined on oath, September 9th, 1869, before the undersigned, under and as required by the 26th section of the bankrupt act of March, 1867 [14 Stat. 529]. And I hereby certify that, in the course of said examination, the questions arose which are stated and set forth in the examination hereto annexed, which questions are hereby, at the request of H. C. Bennett, attorney for examining and contesting creditors herein, certified to the honorable the judge of the district court for his decision thereon.

Examination of Asa Holt, Jr., the bankrupt above named, taken pursuant to an order made in this bankruptcy court: "Q. 1. Mr. Holt, it appears your petition was filed the 19th day of December, 1868? (Question withdrawn.) Q. 2. About how much did you claim from Mr. Schell? A. I only claim what Mr. McIntire said it should be, which was ninety-six thousand dollars for three of us, myself, Mr. McIntire, and Mr. Davis. Q. 3. What was your proportion of it? A. One-third of the amount. Q. 4. When did that claim arise? A. In 1863, 1864, and 1865; 1864 and 1865. I think. Q. 5. Why did you not put it among your assets in your schedules? A. Because it had been settled by an irrevocable power of attorney given to Stephen T. Russell. Q. 6. When? A. In January, 1866. Q. 7. Did you know that statements had been made at the time you were in consultation with Mr. Rudd? A. Yes. I knew that statements had been made. Q. 8. You subsequently took a consultation with Mr.

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Rudd, and had a settlement with Mr. Schell, did you not? A. I did not Q. 9. Did Mr. Schell pay you subsequently to this consultation two thousand dollars in cash, and three thousand dollars in acceptances? A. He loaned me that sum of money; he did not pay me at all. Q. 10. Just previously to the delivery of this five thousand dollars which I have spoken of, did you not execute and deliver to Mr. Schell a release? A. I did. Q. 11. Was that a general release? A. Yes. Q. 12. Did not Mr. Schell make the execution of this release the condition on which he would deliver to you this five thousand dollars? A. No, sir. Q. 13. Did he not refuse to deliver to you that five thousand dollars until you executed and delivered that release? A. There was no amount of money specified at all, nor any consideration. Q. 14. Question repeated. A. There was no amount of money nor consideration mentioned at all. Q. 15. Question repeated. A. He refused to answer me or have conversation with me, or business with me till that was settled. Q. 16. Question repeated. A. I can't answer any differently. Q. 17. Question repeated. The register considers the question has not been answered, and so states to the bankrupt. Witness gives same answer."

BLATCHFORD, District Judge. The witness has not answered question 13. From his answer to question 12, it is apparent that there can be no difficulty in his answering question 13 categorically. He must do so.

<sup>1</sup> [Reprinted by permission.]