

Case No. 6,903.

{18 N. B. R. 504.}¹

IN RE HUNTER.

District Court, W. D. Tennessee.

Dec., 1878.

BANKRUPTCY—PUBLIC SALE—PUBLICATION OF NOTICE.

It is imperative under the statute that notice of all public sales shall be published for three consecutive weeks, whether the assignee, or other officer proceeds under the power given him by the statute or under a special order of the court, and there is no power in the court or judge to change this requirement.

{In bankruptcy. In the matter of Mrs. M. C. Hunter.}

To Hon. E. S. Hammond, Judge of Said Court: Your petitioner respectfully represents that he was elected assignee of the above estate, just prior to the yellow fever. The assets, consisting of millinery, did not come into his hands until the fourteenth day of August, when there was no sale for them; the same have been boxed and stored for several months. The petitioner has earnestly, but unsuccessfully, endeavored for a few days to secure a favorable offer for said stock without success, it being unseasonable and unsalable; and he is satisfied, after a thorough examination of the stock, and having had it examined by persons acquainted with its value, that the said stock ought to be sold at public auction. Petitioner has rented a very cheap and well-located small store-room, where the said stock is being opened; and as he has no authority to sell at public auction without giving three weeks' notice by advertisement, he respectfully asks for an order of sale, authorizing him to sell at auction on the sixteenth day of December, 1878, to save the expense of rent and other expenses that will amount to more than the value of the goods. O. Wooldridge, Assignee.

Memphis, Tenn., December 10th, 1878.

HAMMOND, District Judge. Section 4 of the act of June 22, 1874, c. 390 (18 Stat. 178); Bump (10th Ed.) p. 367,—enacts that “all notices of public sales under this act by any assignee, or officer of the court, shall be published once a week for three consecutive weeks, in the newspaper or newspapers, to be designated by the judge, which in his opinion shall be best calculated to give general notice of the sale.” While the court has power under this section to supervise the sales made, and to direct a private sale if necessary, it has no power to change the character of notice prescribed for a public sale. It is imperative under the statute that notice shall be given for three consecutive weeks, in a newspaper or newspapers, designated by the judge, of all public sales, whether the assignee, or other officer, proceeds under the power given him by the statute or under a special order of the court. There is no power in the judge or court to change this requirement of the statute. The foregoing application is therefore denied.

¹ Reprinted by permission.

This volume of American Law was transcribed for use on the Internet