

Case No. 9,764.

MOORE ET AL. V. HARLEY.

{4 N. B. R. 242 (Quarto. 71);¹ 2 Balt. Law Trans. 666.}

District Court, D. Maryland. 1870.

BANKRUPTCY—PETITION NOT
SUBSCRIBED—INCURABLE DEFECT.

When in an involuntary case the petitioners failed to subscribe the affidavit to the petition, *held*, the petition was defective, inasmuch as the forms prescribed by the supreme court required the affidavit and petition to be subscribed by petitioners. Defect incurable, since petition was not a petition in propria forma, such as could be amended.

{Cited in [Hunt v. Pooke](#), Case No. 6,896.}

This was a case of involuntary bankruptcy [in the matter of Moore & Bro. against Harley.] The petition was regularly subscribed and sworn to, and the register who took the affidavit of the petitioners had signed his name in due form. But the petitioners had not subscribed the affidavit to the petition. Thereupon the respondent demurred to the petition, alleging that the petitioners had not by their petition made such a case as entitled them to have the respondent declared a bankrupt, within the provisions of the act of congress entitled, "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867 [14 Stat. 517]. Upon the hearing the demurrer was sustained, and the petition dismissed with costs. It was held that the petition was defective, inasmuch as the forms prescribed by the supreme court require that the affidavit as well as the petition should be subscribed by the petitioners, and that the defect was incurable, since the petition was not a petition in propria forma, such as could be amended.

R. McLaughlin, for plaintiffs.

Albert Ritchie, for defendant.

¹ [Reprinted from 4 N. B. R. 242 (Quarto, 71), by permission.]

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

through a contribution from [Google](#). 