

Case No. 17,532. IN RE WHITE.  
[2 N. B. R. 590 (Quarto, 179); 16 Pittsb. Leg. J. 110; 2 Am. Law T. 105; 1 Am. Law  
T. Rep. Bankr. 136; 1 Chi. Leg. News, 326.]<sup>1</sup>  
District Court, D. Massachusetts. 1868.

BANKRUPTCY—DISCHARGE.

A bankrupt who is a tradesman is not entitled to a discharge under the bankrupt act if he has not kept an invoice or stock book.

[Cited in Re Archenbrowne, Case No. 505; Re Frey, 9 Fed. 379.]

In bankruptcy.

J. G. Abbott and B. Dean, for creditors.

J. D. Ball, for bankrupt.

LOWELL, District Judge. The bankrupt was a tradesman, and the evidence tends to show that he did not keep such books of account as would enable his assignee to ascertain the state of his affairs, in this, that he kept no invoice book or stock book, so that it was impossible to tell what property he was possessed of in his trade. As I intimated at the hearing, the law which refuses a discharge to an honest trader because his books are not proper, has always seemed to be a harsh one and likely to cause some injustice. But I cannot refuse to carry out the law as I find it. A discharge from debts is not a right, but a privilege, and congress can annex, to its grant of the privilege, such conditions as in its discretion seem to be appropriate; while, therefore, I should not be disposed to extend the statute by construction beyond its fair meaning, and perhaps should not hold that a trader had not kept proper books if he had merely made some careless omissions or mistakes without fraud in books themselves proper, yet I cannot say that the omission of any entire book, or set of entries, necessary to the understanding of his business can be overlooked. Perhaps, if the bankrupt kept all the original invoices themselves, from which such a book could be made up, it might be enough. There is no evidence in this case whether this was done or not. Discharge refused.

<sup>1</sup> [Reprinted from 2 N. B. R. 590 (Quarto, 119), by permission. 1 Chi. Leg. News, 326, gives only a partial report.]