

Case No. 18,064.

[1 West. Law J. 143.]

EX PARTE WRIGHT.

District Court, D. Missouri.

1843.

BANKRUPTCY—DISCHARGE—EMBEZZLEMENT.

[One who, as register of the land office, converted to, his own use money deposited with him by private parties for the purchase of public lands, and returned the names of the depositors in the schedule of his debts, held not entitled to a discharge, the same being forbidden by the clause of the act which denounces any, defalcation in “any other fiduciary capacity”(Act 1841).]

One Wright had filed his petition for a discharge. Various objections were made, but the one which excited most attention, and elicited a lengthy and able opinion from WELLS, District Judge, was a charge against Wright which involved his integrity as an officer of the government. It was charged that while acting as register of the land office at Palmyra, large sums of money were deposited with him, to be used in the purchase of public lands, and that instead of fulfilling his written receipt and promise, the money was perverted to his own use and benefit,—the names of the depositors being returned in the schedule of his debts. The whole case was argued by Mr. Hickman for the petitioner, and Mr. Buckner for the objector, when an opinion of great force and length was pronounced by the judge against Wright. It was not stated by WELLS, District Judge, whether the register could be made responsible under his official bond, or that his defalcation was one which involved him in the technical sense of a “public officer,” but he expressly pronounced his guilt under that clause of the act which denounces a defalcation in “any other fiduciary capacity” than those enumerated. A petitioner, the judge remarked, must come into court an honest man, and prove himself such when assailed, or fail in his application. A “fiduciary trust” was a pledge of faith, and when broken by a strictly private citizen, by the violation of a special deposit for a certain purpose, or in any other manner which would prove a dishonest purpose, would be fatal to an application. In fact, the broadest meaning was given to the term “fiduciary,” and a strong moral denunciation pronounced against all violators of public and private faith.