

Case No. 18,070.

IN RE WRIGHT ET AL.

[2 N. B. B. 41 (Quarto, 14);¹ 15 Pittsb. Leg. J. 553.]

District Court, W. D. Michigan.

1868.

BANKRUPTCY—DISCHARGE—FRAUDULENT DEBTS.

The creation of a debt by fraud is not a ground upon which to oppose the discharge of a bankrupt. Such debts may be proved, and the dividend thereon shall be payment on account of said debt. Where a bankrupt contracted a debt through fraud he continues liable notwithstanding his discharge.

In this case, on the return day of the order to show cause why the bankrupts [Wright & Peckham] should not have a final discharge, Messrs. O. P. Ramsdell & Co., creditors, of Buffalo, N. Y., by their attorneys, appeared before the register, H. E. Thompson, Esq., in opposition thereto, and filed a specification of the grounds of their opposition, substantially as follows: That immediately prior to the purchase of the goods from the said O. P. Ramsdell & Co., by the said bankrupts, the said bankrupts represented and claimed to said Ramsdell & Co., that they were then worth twenty thousand or thirty thousand dollars, and obtained credit for said goods from said Ramsdell & Co., upon such representations; and that the same were false and fraudulent, and were made by said bankrupts with the intent to defraud said Ramsdell & Co. This specification was excepted to by the counsel for the bankrupt, for the reason (among others) that the facts set forth in said specification constitute no ground for opposing the discharge of said bankrupts.

WITHEY, District Judge. The exception, "first," to the specification presented by creditors of grounds of opposition to the bankrupts' discharge, is sustained. The creation of a debt by fraud is not a ground upon which to oppose the discharge of a bankrupt. Section 29 [of the act of 1867 (14 Stat. 531)] declares the several things which constitute grounds of opposition. The specification filed covers no ground therein declared, and there can be no ground of opposition presented nor prescribed by section 29. The thirty-third section of the bankrupt act provides that no debt created by the fraud of the bankrupt shall be discharged under this act, but the debt may be proved and the dividend thereon shall be payment on account of said debt. Wisely was this provision made, and equally wise to exclude it from the grounds of opposition to a bankrupt's discharge. As to a debt contracted by fraud, there is and should be, no discharge; the bankrupt continues liable to the creditor on whom the fraud was committed.

¹ [Reprinted from 2 N. B. R. 41 (Quarto, 14), by permission.]