IN RE DOE.

Case No. 3,957.

{2 N. B. R. 308 (Quarto, 100);[1] 1 Chi. Leg. News, 123.}

District Court, S. D. New York. Dec. 22, 1868.

BANKRUPTCY—ELECTION OF ASSIGNEE—SOLICITATION OF VOTES BY STRANGER.

The court will not sanction the practice of soliciting the votes of creditors by one seeking thereby to be chosen assignee, especially when such person is a stranger to the creditors, and makes it a regular business to seek out creditors and persuade them to prove their debts and vote for him as assignee.

[Cited in Re Mallory, Case No. 8,990; Re Wetmore, Id. 17,466.]

{In bankruptcy. In the matter of John Doe.}

BLATCHFORD, District Judge. In this case the register, in transmitting to the court the result of the first meeting of creditors, certifies to the court that at such meeting one creditor who had proved his debt appeared; that only one debt was proved; that the register enquired of such creditor if he desired to elect an assignee; that such creditor replied that he would elect Mr.—, who was present; that as Mr.—had been elected in six out of the last ten cases before the register, the register thought it right to make enquiries of the creditor concerning the choice, and elicited from him the statement that Mr.—was a stranger to him, and

called at his place of business on the day preceding, with one of the notices to creditors, which was the first he had heard of the meeting, and called his attention to the notice, and solicited of him that he would prove his debt and elect Mr.—as the assignee of the bankrupt, and, after consultation, it was agreed that he should attend the meeting of creditors, and swear to his claim and vote for Mr.—as assignee; and that this statement was made in the presence of Mr.—, who remarked that if he had not so called upon the creditor, the creditor would never have known of the meeting. The register remarks that he saw nothing in the conduct of Mr. R—in any way disingenuous, but that, on the other hand. Mr. R—was understood by the register to claim that it was not improper thus to secure himself to be elected. The register states that he certifies the case to the court, that it may be fully advised of the facts of the case in passing upon the question of the approval or disapproval of the assignee so elected, only suggesting the enquiry whether it would be a wholesome proceeding if adopted and approved by this court.

In addition to the facts stated in the certificate above-mentioned, I have been addressed by Mr.—himself, who states that he proposes to make a regular business of seeking out creditors of bankrupts, and soliciting them to prove their debts and vote for him as assignee, with a view to such pecuniary emolument as may legitimately belong to the position. He is very frank on the subject, and states that he had no idea, there was anything improper in what he had done, or proposed doing, and if the court thought there was, he would at once desist I have before me now, unapproved as yet the election of the same Mr.—in another case, at an earlier date, before the same register, as assignee. I have also before me, unapproved as yet his election in three other cases, before three other and different registers, as assignee. So far as appears from these cases his election was made in each of them by a single creditor.

To knowingly sanction election of an assignee made under circumstances such as those above stated, would be to open the door to abuses whose character can be well conjectured. A free election proceeding from the real choice of the creditors is one thing. A election persuaded by the importunity of the proposed assignee exercised upon indifferent creditors, is another thing. The elections are disapproved in all of the cases above-mentioned.

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