

Case No. 4,939.  
[9 Ben. 472.]<sup>1</sup>

FORMAN v. CAMPBELL.

District Court, E. D. New York.

April, 1878.

BANKRUPTCY—FAILURE OF ASSETS—SECURITY FOR COSTS.

An assignee in bankruptcy who is prosecuting an expensive litigation, and is without funds belonging to the estate, may be required to furnish security for the costs.

[This was a suit by James Forman, assignee, against Felix Campbell.]

C. F. Dickinson, for plaintiff.

A. J. Perry, for defendant.

BENEDICT, District Judge. The power to stay proceedings till security for costs shall be filed, is a power inherent in every court, and may be exercised independently of any statute. *Swift v. Collins*, 1 Denio, 659; *People v. Oneida Common Pleas*, 18 Wend. 652.

This power may properly be exercised in a case like this, where an assignee in bankruptcy, who is substantially without funds belonging to the estate, is prosecuting an expensive litigation. He may well call upon the creditors who are to reap the benefit of the litigation if it succeed to furnish him security to pay the costs of the litigation if it should fail.

<sup>1</sup> [Reported by Robert D. Benedict, Esq., and Benj. Lincoln Benedict, Esq., and here reprinted by permission.]