

Case No. 5,692.

IN RE GRANT.

[2 N. B. R. 106 (Quarto, 35).]¹

District Court, D. South Carolina.

1808.

ASSIGNEE IN BANKRUPTCY—APPOINTMENT.

Where an assignee is chosen by the greater part in value and number of the creditors who have proved their claims, and there is no imputation either upon his capacity or integrity, he is assignee by virtue of law, and the judge is not competent to interfere.

[In bankruptcy. In the matter of John G. Grant]

By R. B. Carpenter, Register:

This being the day appointed by the court for the first meeting of creditors, I sat at the time and place above mentioned, among other things, for choice of assignee. The only claim proved was that of Hudson & Townsend, attorneys at law, for about one hundred and seventy-five dollars, subject to a deduction, as stated in the deposition, of an unknown sum, supposed to be fifteen or twenty dollars. These creditors, by their attorney in fact, J. Barrett Cohen, Esq., voted for D. D. McCall, of Bennettsville, S. C, as assignee of said estate. C. P. Townsend, Esq., attorney for the petitioner, objected to the appointment, on the ground that Mr. McRae had been recommended by all the bar, including Hudson & Townsend themselves; had given up other business and devoted himself to this business; that he has been elected and appointed in all the cases in the district; and that he is a man of high character, honest and capable, and that to make this case an exception would be disparaging to him and that the amount due to Hudson & Townsend is much less than is stated by them, and that their claim is insignificant beside the whole amount of the debts—about five thousand dollars; that the creditors holding securities represent about five thousand dollars. Considering these objections, and that the interest, although that of the bankrupt is an opposing one, I do hereby certify the facts to the court for its action in the premises, simply adding that Mr. McRae is an efficient assignee, and that I would appoint him if I had the power.

BRYAN, District Judge. Duncan D. McCall having been chosen assignee by the greater part in value and number of the creditors who have proved their debts, and there being no imputation either upon his character or competency, the judge does not feel himself competent to interfere, and does not interfere. He is assignee by virtue of the law.

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