

Case No. 8,042.

IN RE LANE.

[3 Ben. 98; 2 N. B. R. 309 (Quarto, 100); 1 Chi. Leg. News, 123.]¹

District Court, S. D. New York.

Dec. 29, 1868.

BANKRUPTCY—POWER OF REGISTER—COSTS.

A register in bankruptcy has power to make an order directing an assignee in bankruptcy to pay fees to officers of court out of moneys in his hands.

[Cited in *Re Carow*, Case No. 2,426; *Re Noyes*, Id. 10,371; *Re Brinkman*, Id. 1,884; *Be Stafford*, Id. 13,274.]

[In the matter of Joseph M. Lane, a bankrupt.]

[By I. T. Williams, Register: The undersigned, one of the registers of this court, hereby certifies to this honorable court that the solicitor for the above-named bankrupt, Mr. W. H. Waite, has appealed to me to make an order requiring the assignee to pay the sum of sixty-four dollars and thirty-six cents, for certain fees and disbursements incurred in said proceedings, and thereupon delivered to me the annexed bill of items, with his affidavit thereto annexed. The said assignee also appeared before me at the same time, and made no opposition to the application, having sufficient funds in his hands for that purpose. Having doubts as to my power to make such an order, I hereby certify the enquiry whether a register has such power. In case the court should be of the opinion that he has, I will then enter upon an examination of the items, and determine the question. Respectfully submitted.]²

BLATCHFORD, District Judge. I think the register has such power. It is fairly embraced within the power given to the register, by section 4 of the act [of 1867 (14 Stat. 519)], “to make all computations of dividends and all orders of distribution,” and “to audit and pass accounts of assignees,” and within the power given to him, by general order No. 5, to conduct proceedings in relation to the following matters, when uncontested, namely, “taking evidence concerning expenses and charges against the bankrupt’s estate, auditing and passing accounts of assignees’ proceedings for the declaration and payment of dividends.” The doings of the register therein are made, by general order No. 5, “subject to the control of the court;” but, when there is no issue of law or fact raised and contested by any party in regard to the question, the register has power to entertain it and make the order. The fees paid to the officers of court, set forth in the bill of items, are fees which are embraced in the first subdivision in section 28, and that section directs that the order for a dividend shall direct the payment of those fees first in full by the assignee. An order for the assignee to pay those fees is an order of distribution, within section 4.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission. 1 Chi. Leg. News, 123, contains only a partial report.]

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² [From 2 N. B. R. 309 (Quarto, 100).]