

Case No. 8,502.

IN RE LORD.

{3 N. B. R. 243 (Quarto, 58).}¹

District Court, D. Maine.

Dec. 7, 1868.

BANKRUPTCY—EXAMINATION OF BANKRUPT—RIGHT TO CONSULT COUNSEL
BEFORE ANSWERING.

Whether the bankrupt should be allowed to consult counsel upon his examination, must be determined by the register, according to the circumstances of each particular case.

By the Register:

I, Charles Hamlin, one of the registers of said court in bankruptcy, do hereby certify, that in the course of the proceedings in said matter, before me, the following question arose pertinent to said proceedings, and was stated and agreed to by the counsel for the opposing parties, to wit: Mr. McCrillis,

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who appeared for the bankrupt, and Mr. Crosby, who appeared for Wood & Bishop, creditors of said bankrupt. The bankrupt on his examination, conducted by Mr. Crosby, attorney for creditors, was asked by me to answer the following written question proposed by Mr. Crosby, viz.: Have you ever made more than one deed to Hinkley & Egery, and if yea, what property and when? The bankrupt answered, that he desired to consult with his counsel, Messrs. Varney & McCrillis, who were present, before answering the question. Being of opinion that it was within my duty by law to determine whether, from the nature of the question and the facts sought to be discovered, the aid of counsel was necessary, and to aid me in deciding whether to refuse or admit the bankrupt to consult his counsel, I asked the following question of the bankrupt, viz.: Have you any recollection or knowledge of the subject-matter inquired into? and decided he should answer this last question without consulting his counsel; and the bankrupt answered, that he desired to consult with his counsel upon this question. I thereupon decided, the bankrupt should answer both of above questions without consulting with his counsel. And the said parties requested that the same should be certified to the judge for his opinion.

FOX, District Judge. Whether the bankrupt should be allowed to consult upon his examination, must be determined by the register according to the circumstances of each particular case. Counsel should not frame the answers; and as a general rule, I do not approve of the bankrupt's consulting with his counsel on his examination. In the present case the register was right in his decision.

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