

IN RE REED.

{2 N. B. R. 9 (Quarto, 2).}<sup>1</sup>

Circuit Court, N. D. Ohio.

1868.

BANKRUPTCY—QUESTIONS ARISING IN  
PROGRESS OF CASE—APPEAL—REVIEW.

An appeal is not the proper method to take a question arising in the progress of a case in bankruptcy into the circuit court; it should be by a petition addressed to the circuit court, stating clearly and specifically the point or question decided in the district court; that the petitioner is aggrieved thereby, and praying the circuit court to review and reverse the decision of the court below.

{Cited in Littlefield v. Delaware & H. Canal Co.,  
Case No. 8,400.}

This case came into the circuit court upon an appeal from the district court. [Case unreported.] The district court had decided that the opposing creditor could not properly file objections to the final discharge of the bankrupt, until he had proven his debt. The question is now upon a motion to dismiss the appeal.

HELD BY THE COURT (SWAYNE, Circuit Justice, and SHERMAN, District Judge) that appeal is not the proper method to take a question arising in the progress of a case in bankruptcy into the circuit court. That an appeal upon such a question is not provided for by the bankrupt act. That the only way that the circuit court can exercise its supervisory jurisdiction in such cases, is by a petition addressed to the circuit court, stating clearly and specifically the point or question decided in the district court; that the petitioner is aggrieved thereby, and praying the circuit court to review and reverse the decision of the court below. When the adverse party was duly notified of the pendency and prayer of the petition, and of the day assigned for the hearing, the circuit court would

immediately hear and decide the case and send its decision to the district court for such further action as it should direct; that the bankrupt act should be construed liberally, and every facility should be given by the courts to facilitate and simplify the proceedings under it; that the circuit court would hear and act on such petitions, in chambers or elsewhere.

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