

Case No. 11,942.

IN RE ROBINSON ET AL.

{2 N. B. R. 516 (Quarto, 162); 2 Am. Law T. Rep.
Bankr. 87.)¹

District Court, S. D. New York. March 11, 1869.

BANKRUPTCY—EXAMINATION OF BANKRUPT.

Where creditor made default on day appointed for continuing the examination of the bankrupt, but appeared on a subsequent day appointed, whereupon the bankrupt failed to appear, but both appeared on an appointed day thereafter, and the bankrupt objected to any further examination, held, that there was no sufficient reason for the court to interfere with such examination.

By the Register:

I, Edgar Ketchum, one of the registers of said court in bankruptcy, do hereby certify that in the course of the proceedings in said cause before me, the following question arose pertinent to the said proceedings, and was stated and agreed to by the counsel for the opposing parties, to wit: Mr. Logan, who appeared for the bankrupt, and Mr. J. S. L. Cummins, who appeared for William A. Coit, a creditor of the said bankrupt The petition was filed February 29, 1868, and the appearance of the creditor in opposition to discharge was entered the 7th of September, when the order to show cause against the same was returnable. Order was then, taken for the examination of the bankrupts, and on eighteen different days Mr. [Enoch] Chamberlain was examined, and on five different days Mr. [Edward] Robinson was examined. For the examination of the latter, Friday and Saturday of each week were to be taken, beginning in the morning. On Friday, the 26th February, Mr. Robinson and his counsel attended, and also the creditor, but not his counsel, who, as he afterwards declared, had forgotten the engagement. After waiting two hours, Mr.

Robinson and his counsel moved that the creditor's default be, and it then was, entered. On the 27th, the creditor and his counsel appeared, but not the bankrupt, and order was taken for the attendance of the bankrupt Robinson for examination on the 2d of March, instant, when the parties appeared with their counsel, and the said bankrupt objected upon affidavit then read to further examination by the said creditor. The 5th of March was then fixed to receive opposing affidavits on the part of the creditor, which were filed accordingly; and the register, holding that he had no power to hinder the further examination, the bankrupt claimed the right to appeal, by means of this certificate, to the court against the procedure of the said creditor. And the said affidavits, with copies of former affidavits, made and filed herein, are transmitted to the court herewith, at the request of the parties, who desire to be heard orally before the court.

BLATCHFORD, District Judge. On the affidavits submitted, I see no reason for interfering with the examination.

[For subsequent proceedings in this litigation, see Case No. 11,913.]

¹ [Reprinted from 2 N. B. R. 516 (Quarto, 162), by permission. 2 Am. Law T. Rep. Bankr. 87, contains only a partial report.]

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