

IN RE SHIELDS.

[1 N. B. R. 603 (Quarto, 170); 15 Pittsb. Leg. J. (O. S.) 391.]

District Court, W. D. Pennsylvania. May 9, 1868.

BANKRUPTCY—EXEMPTED PROPERTY—REPORT OF ASSIGNEE—TWENTY DAYS'LIMIT.

The rule requiring the assignee to make a report of exempted property within twenty days, is to receive such a construction as to prevent injustice to the bankrupt, and it may be extended by the court and leave granted to the assignee to make a further report.

[In the matter of David Shields, a bankrupt.]

By JOHN N. PURVIANCE, Register:

In this case it appears by the report of the assignee, John W. Rohrer, Esq., that a sale was made by the sheriff of Armstrong county, of a large portion of the bankrupt's personal property, subsequent to the filing of his petition in bankruptcy; and that the proceeds of the sale of said property are in the hands of the sheriff, awaiting a decision of the court of common pleas of that county as to whether the same should be paid to the assignee of said bankrupt's effects, or to the creditors upon whose judgment it was sold.

Until that question be decided, it is deemed proper that the assignee should not be required to make a final report of exempted property or be precluded from making an additional report, in case such should become necessary, so that the assignee may be able to set apart so much of the proceeds, arising from the sale of the personal property, as would secure to the bankrupt the amount allowed [1311] to him as exempted by the bankrupt act.

Rule 19, requiring assignees to make report to the court within twenty days after receiving the articles set off to the bankrupt by them, is to be strictly

observed in all ordinary cases, but it is to receive such a construction as to prevent injustice to the bankrupt; and in cases like the present, where the property has not come into possession of the assignee, and a question, as to his right to it, is pending in court, it would seem to be a just and reasonable construction of the rule, and the only one that could give proper effect to the provisions of the fourteenth section of the bankrupt law [14 Stat. 522], that the time shall be computed from the date of the final decision of the court, so as to give twenty days after the property is adjudged to be within, or under, the control of the assignee.

In this view of the question, the register is of opinion, that, for the reasons stated by the assignee in his report (as herein substantially restated), the time for making an additional return, of exempted property, as prayed for by the assignee, should be granted.

PER CURIAM. The decision of the register is approved, the time is extended, and leave granted to assignee to make further report.

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