

IN RE SMITH.

[14 N. B. R. 432.]¹

District Court, N. D. New York. Aug. 19, 1876.

BANKRUPTCY—EXAMINATION OF
ASSIGNEE—ORDER OF REGISTER.

1. An assignee may be subpœnaed and required to testify in the same manner as any other witness, and the register has authority to make the requisite order.
2. An assignee is not subject, as of course, to an examination by any creditor whenever the latter may desire it; but will be protected against unnecessary annoyance, by refusing an application for his examination unless upon some issues regularly referred to the register.

[In the matter of Elmer C. Smith, a bankrupt]

De L. Crittenden, for creditors opposing discharge.

Quincy Van Voorhis, for bankrupt.

WALLACE, District Judge. The assignee may be subpœnaed and required to testify in the same manner as any other witness, and he may also be examined orally without subpœna, upon submitting his account preparatory to a final dividend; and in either of these cases the register has authority to make the requisite order. But the assignee is not subject, as of course, to an examination by any creditor, whenever the latter may desire it. If he fails to file his reports according to the rules of the courts, or the general orders, he may be compelled to do so upon an application to the court, and he may be punished for contempt for delinquency; but he is not to be subjected to examinations, as the bankrupt is, upon the mere motion of a creditor, and will be protected against unnecessary annoyance by refusing an application for his examination, unless upon some issue regularly referred to the register.

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