

IN RE TIFFT.

{18 N. B. R. 177.}¹

District Court, E. D. New York. April 23, 1878.

BANKRUPTCY—COMPOSITION—EXAMINATION OF
BANKRUPT.

Where a resolution of composition has been adopted and confirmed by the requisite number of creditors, the right of a creditor to examine the bankrupt under section 5086, Rev. St., is suspended.

{In the matter of Alanson H. Tiffit, a bankrupt. See Cases Nos. 14,029–14,031, and 14,036.}

A. C. Aubrey, for bankrupt.

C. H. Phelps, for creditor.

BENEDICT, District Judge. This is an application on behalf of a creditor who has proved a debt for an examination of the bankrupt, in pursuance of the provisions of Rev. St § 5086. On the part of the bankrupt the application is opposed, upon the ground that composition proceedings have been Instituted and have progressed as far as the second hearing, the resolution of composition having been adopted and confirmed by the requisite number of the creditors.

I am of the opinion that the pendency of the composition proceedings in their present condition is sufficient to suspend the creditor's right to examine the bankrupt by virtue of section 5086. If the composition proceedings terminate in a valid composition, any examination of the bankrupt now had would avail nothing. If the composition fails, the examination of the bankrupt can be had with equal effect as if now had. The application must therefore be denied.

{For subsequent proceedings in this litigation, see Cases Nos. 14,033–14,035, and 11 Fed. 463.}

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