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## Case No. 14,036.

IN RE TIFT.

{17 N. B. R. 421.}[1]

District Court, E. D. New York. March 21, 1878.

BANKRUPTCY—EXAMINATION OF BANKRUPT—POWER OF REGISTER TO LIMIT.

The register has not the power, by an announcement beforehand, to fix a limit of time within which the examination of the debtor must be concluded, without regard to the nature of questions sought to be put, or the interest with which the same are propounded.

{In the matter of Alanson H. Tift a bankrupt}

Charles Harris Phelps, for opposing creditors.

A. C. Aubrey, for bankrupt.

BENEDICT, District Judge. The following conclusions are sufficient to dispose of the questions presented by the certificate of the register in this case. Where, in composition proceedings, the debtor attends at the first meeting of creditors, he can, at the instance of any creditor entitled to vote upon the composition resolution, be required to answer any proper question in respect to the particulars required to be furnished the meeting in his statement—i. e., the character and value of his assets, the amount and description of his debts, and the names and addresses of the creditors to whom such debts respectively are due. These inquiries are to be conducted under the direction of the register, who, by general order 36, is required to hold and preside at the meeting, and to report to the court the proceedings thereof, with his opinion thereon. A necessary incident to the power to conduct the inquiry is the power to prevent the examination from being conducted for the purposes of delay or vexation. The inquiry, although had at a meeting of creditors, is, nevertheless, 1220 a proceeding before a register, within the meaning of section 5009,

and accordingly any issue of fact or of law raised and contested by any creditor in the course of such inquiry, may be adjourned into court for decision by the judge, in the manner prescribed by section 5009. A question of law is raised when under, objection, the register determines a certain course of examination to be frivolous and calculated needlessly to occupy time, and upon that ground refuses to permit the creditor to continue the examination. The proper mode of presenting such a question would be to allow a reasonable number of interrogatories to be put in order to show the course of the examination, which questions being excluded, if the register is satisfied that the examination is being continued for the purpose of delay or vexation, would enable the court to determine whether the line of inquiry was such as to justify the conclusion of the register. Of course a limit could properly be put to the number of interrogatories allowed to be propounded for that purpose. Peck v. Richmond, 2 E. D. Smith, 380. The register has not the power, by an announcement beforehand, to fix a limit of time within which the examination of the debtor must be concluded without regard to the nature of questions sought to be put, or the interest with which the same are propounded. In this case, the register, at a certain stage of the proceedings, announced that the examination of the debtor at the instance of a certain creditor must close at a certain hour, and upon the arrival of that hour terminated the examination, upon the sole ground that the hour had arrived at which he had announced that the examination must close. In this I am of the opinion that the register erred. The reason for the action of the register is stated by him to be that the examination was vexatious and not for a legitimate purpose. The examination, as submitted to me, does not enable me to say that the reason assigned has a foundation in fact. I cannot regard the course pursued in the

former examination, which is outside of the inquiry commenced on the 11th. It is the latter only that can be considered on this occasion, and while I find in that examination many questions to have been put and answered, to which objections might properly have been made, I find no questions put and excluded which enable the court to say that that examination was vexatious, or for an improper motive. The papers show that that examination was not closed by reason of the nature of the questions being put, but solely because the limit of time fixed for the examination had arrived. In closing the examination upon that ground the register erred.

The other question certified does not arise in the pending examination, and therefore does not require determination at this time.

{For subsequent proceedings in this litigation, see Cases Nos. 14,030, 14,031, 14,029, 14,032, 14,033, 14,035, 14,034, and 11 Fed. 463.}

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