

Case No. 16,085.
[2 Dill. 405.]¹

UNITED STATES v. PRESCOTT.

Circuit Court, D. Minnesota.

1872.

BANKRUPT ACT—INDICTMENT—EVIDENCE.

The compulsory examination of a bankrupt under oath cannot be given in evidence against him on a criminal proceeding.

Indictment under section 44 of the bankrupt act [of 1867 (14 Stat. 539)], charging the defendant with disposing of his property with intent to prevent it from coming into the possession of the assignee in bankruptcy. The defendant had, before being indicted, been compelled to submit to an examination under section 26 of the act, and that examination was reduced to writing and signed by the bankrupt. On the trial of the indictment the district attorney offered in evidence to establish the fraudulent disposition of the property charged in the indictment the above mentioned examination of the defendant in bankruptcy.

Before MILLER, Circuit Justice, and DILLON, Circuit Judge.

MILLER, Circuit Justice. It is our opinion that the evidence offered is not competent. The general rule certainly is that evidence given or statements made by a party under compulsion or order of court tending to criminate himself cannot be put in evidence on a criminal proceeding against him. *Reg. v. Garbett*, 1 Denison, Crown Cas. 236. This case falls within this principle. Evidence excluded.

¹ [Reported by Hon. John P. Dillon, Circuit Judge, and here reprinted by permission.]