

Case No. 16,840.

IN RE VANDERHOEF ET AL.¹

District Court, S. D. New York.

Sept. 6, 1878.

BANKRUPTCY—EXAMINATION BY CREDITORS.

[Where creditors conducting an examination of the debtor in an apparently earnest opposition suddenly cease, without apparent cause, it is proper for the register to allow another creditor to continue the examination.]

In bankruptcy. In the matter of Nathaniel S. W. Vanderhoef and John P. Beatty.

M. H. Regensburger, for petitioner.

CHOATE, District Judge. So far as the register ruled that he had no right or power to allow the examination requested on behalf of Mr. Von Bauer, I think he was in error. The creditors should be allowed a full and fair examination, but if the register is satisfied that the examination is merely a device for delay, or it is clearly needlessly protracted, he may, in his discretion, check it, or limit the time when it shall be closed. I see no objection to one creditor's proceeding with an examination commenced by another, if that examination is incomplete, or leaves matters that may aid the creditors in voting on the composition uninvestigated; and at any time before the meeting is closed it is competent for the register to allow any creditor to carry on such an examination, whether he applied at the first session, or later, provided that the register shall be satisfied that the delay in applying for making the examination is explained. The fact that other creditors were conducting an examination in an apparently earnest opposition to the composition, and that their opposition and examination of the debtor suddenly ceased, without apparent cause, would, in my judgment, be in itself a good reason for allowing another creditor to continue the examination thus left incomplete. The register must exercise his own discretion, giving all the creditors a fair chance fully to discover the state of the debtor's affairs, yet preventing unreasonable delay and mere obstruction of the proceedings.

[For prior proceedings, see Case 16,841

¹ [Published from the records in the clerk's office. The case is also reported in 18 Alb. Law J. 220.]