

Case No. 17,999.

IN RE WOODWARD ET AL.

{4 Ben. 102;¹ 3 N. B. R. 719 (Quarto, 177).}

District Court, E. D. New York.

March, 1870.

PRIVILEGE OF COUNSEL—WITNESS.

A witness who claims to have acted as counsel for a bankrupt, cannot, on that ground, refuse to be sworn as a witness in the bankruptcy proceedings.

{In the matter of George Woodward and Julius C. Woodward, bankrupts.)

In this case, the assignee for the bankrupt, by his counsel, attended before the register, and one William McKeag attended as a witness, but refused to be sworn, on the ground that he had acted as counsel for the bankrupt, and was still his adviser.

The register decided as follows: “The

right to refuse to answer a question on the ground of privilege, does not warrant a refusal to be sworn as a witness. The privilege cannot be interposed until a question is asked which invades the privilege.”

On request the register certified the question to the court.

BLATCHFORD, District Judge. The decision of the register is correct.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]