

IN RE STEWART RUBBER CO., (LIMITED,
BANKRUPT.

District Court, N. D. New York. April, 1883.

ASSIGNEE IN BANKRUPTCY—COMPENSATION.

Under the circumstances of this case the additional compensation asked by the assignee cannot be allowed unless the consent of the creditors is first obtained.

In Bankruptcy.

William H. Shepard, for petitioner.

COXE, J. I do not think the court would be justified in making an additional allowance to the assignee upon the facts disclosed in the petition. Nothing is shown which particularly distinguishes this case from others of like magnitude. Wherever an extensive business has been suspended by the operation of the bankrupt act, the assignee is compelled and required to give much time and attention to the collection of the assets and the winding up of the estate. The case is not, however, for these reasons a "special" one, "requiring great care and exertion on the part of the assignee," within the provisions of general order No. 30, as amended. Before entering upon his trust the assignee knew, or might easily have ascertained, generally at least, what his duties were to be—what was required of him to administer properly the estate. He could then have refused to qualify, but instead of this, knowing precisely what compensation the statute allowed, he accepted. That he has done his duty thoroughly and well seems to be sufficiently established; but this the law and good conscience required of him, and he is not entitled to extra compensation for that reason. I am aware of no precedent in this district for an additional allowance where nothing more is shown than is developed here.

The application must, therefore, be denied; but if, at the approaching meeting, the creditors desire to give an additional allowance to the assignee, not exceeding $3\frac{1}{2}$ per cent, of the entire amount collected, they may express that wish by a vote of three-fourths in number and amount of those who have proved their debts. This application may then be renewed, upon a certificate of the register setting forth the action of the creditors, together with his approval thereof.

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