

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.

UNITED STATES v. WADDELL and others.

(Circuit Court, E. D. Arkansas. April Term, 1883.)

SETTLERS ON PUBLIC LANDS—CONSPIRACY TO INTIMIDATE—CRIME UNDER SECTION 5508, REV. ST.

During the period that a settler on public lands is required by the laws of the United States to reside upon the land in order to perfect his title thereto, he is in the enjoyment of a right guaranteed to him by those laws, and a conspiracy to deprive him of that right is a conspiracy to deprive him of a right guaranteed by the constitution and laws of the United States, and a crime under section 5508 of the Revised Statutes.

On Demurrer to the Information.

Charles C. Waters, U. S. Atty., for plaintiff.

Joseph W. Martin, for defendants.

Before McCrARY and CALDWELL, JJ.

McCrARY, J. This is a criminal information, filed by the United States attorney, charging an offense under section 5508 of the Revised Statutes of the United States. The information contains three counts. The first count charges—

“That Burrell Lindsay, a citizen of the United States of America, on the thirtieth day of December, 1882, at the United States land-office in Little Rock, Arkansas, made homestead entry of the following-described tract of land belonging to the United States in the county of Van Buren, and eastern district of Arkansas, to-wit, the S. W. fractional $\frac{1}{4}$ of section 26 S., township 9 N., range 13 W., and that thereafter, on the tenth day of January, 1883, the said Burrell Lindsay, citizen of the United States as aforesaid, was residing upon and cultivating said tract of land as aforesaid, for the purpose of protecting his right to the same, under the laws of the United States, as a homesteader, in good faith, his right to a patent from the United States to such land not yet having accrued, and that David Waddell, Samuel McDaniel, James Holland, R. M. Evans, Joel Hubbard, and Benjamin F. Palmer, being persons of evil minds and dispositions, together with divers evil-disposed persons whose names are to the said United States attorney unknown, on the said tenth day of January, 1883, at the eastern district of Arkansas, did conspire to injure, oppress, threaten, and intimidate the said Burrell Lindsay, citizen of the United States as aforesaid, in the free exercise and enjoyment of certain rights and privileges secured to him by the constitution and laws of the United States, and because of his having exercised the same, to-wit, the right and privilege to make said homestead entry on lands of the United States as aforesaid, and the right and privilege to reside upon, cultivate, and improve said homestead entry, and the right to mature title to himself to said homestead entry; said rights and privileges being duly conferred upon him, the said Burrell Lindsay, citizen of the United States as aforesaid, by the constitution and laws of the United States, and in particular by sections 2289, 2290, 2291, Revised Stat-