

Case No. 20,
[5 Law Rep. 328.]

IN RE ABRAHAMS.

District Court, S. D. New York.

Aug. 1842.

BANKRUPTCY—PRESENTATION OF PETITION—PRACTICE.

[The fact that a petition in bankruptcy was attested “nine days before presented” affords no bar to its presentation; and the decree dates back to the application, and property acquired after verification, and before presentation, passes as assets to the assignee.]

In bankruptcy.

Brady, for [Aaron Abrahams,] bankrupt. Joachemssen, for creditors.

BETTS, District Judge. The court decided that a petition need not be presented to the court simultaneously with its attestation; and its being sworn to, nine days before presented, afforded no bar to it. The decree of bankruptcy retroacts to the time of the application, and if property is acquired by a bankrupt, intermediate the verification and offering of his petition, it would pass to the assignee. That written objections to the sufficiency of the papers, with others to the merits, will not authorize a delay of reference to a commissioner, upon those involving an inquiry into facts, unless there is a plain probable cause for making the legal points. The court will be careful that such a method of procedure, shall not avail to purposes of procrastination merely. The court accordingly refused granting an order now to refer the objections to a commissioner, because of the long delay and laches of the creditors in not pursuing them, and the case being regularly on the docket for a final order, directed a decree of bankruptcy to be entered.