

Case No. 2,443.

IN RE CARRIER ET AL.

{13 N. B. R. 208;¹ 23 Pittsb. Beg. J. 57.}

District Court, W. D. Pennsylvania.

Nov. 29, 1875.

BANKRUPTCY—AMENDMENT OF JUNE 22, 1874.

An adjudication entered on the 22d day of June, 1874, may be set aside on the motion of the debtor, if the provisions of the act passed on that day were not complied with.

[See *In re Williams*, Case No. 17,700.]

Petition of Andrew F. Baum for a revocation of the adjudication and a dismissal of the bankruptcy proceedings.

On the 11th day of June, 1874, John Heath, a creditor of the firm of Carrier & Baum, filed a petition in the district court of the United States for the western district of Pennsylvania, for the adjudication of the said firm of Carrier & Baum in bankruptcy. The petition was regular and properly verified under the act of March 2d, 1867 [14 Stat. 523]. A rule to show cause was issued and duly served, and on the 22d day of June, A. D. 1874, no answer having been filed, the court adjudged said firm bankrupts, according to the prayer of the petition filed on the 11th of June. On the 15th day of May, 1875, Andrew F. Baum presented a petition to the court setting out the passage of the amendment of June 22, 1874 [18 Stat 181], and alleging that the requisite proportions of the creditors of the firm had not joined in the petition, as required by the amendment to the bankrupt act, and asking that the adjudication be set aside and the proceedings dismissed. The order of adjudication was made about ten o'clock in the morning of the 22d day of June, 1874. The question discussed by counsel during the argument was, whether the act went into effect from the first hour of the day of its approval, or from the actual time of the signing by the president.

MCCANDLESS, District Judge. The adjudication set aside, and the creditors have leave to proceed under the amendment to the bankrupt act of June 22, 1874 [18 Stat 181].

¹ [Reprinted from 13 N. B. R. 208, by permission].