

Case No. 7,253.

IN RE JEFFERSON INS. CO.

{2 Hughes,¹ (1877), 255; 11 N. B. R. 287.}

District Court, E. D. Virginia.

BANKRUPTCY—CORPORATION—VOLUNTARY PETITION—AUTHORITY TO FILE—FAILURE OF STOCKHOLDERS TO OBJECT.

The petition in this case was filed by an officer of the company, by order of the board of directors. One of the corporators filed a petition four years afterwards, alleging that the petition was never authorized by the stockholders as required by law; that the proceedings were null and void from their inception; and praying that all the proceedings in bankruptcy be dismissed for want of jurisdiction. *Held*, that after this lapse of time the court would presume that the stockholders had regularly authorized the petition to be filed; and a stockholder who had remained silent for more than four years would not be heard to impeach the validity of the proceedings. Petition dismissed with costs.

{Cited in *Re Collateral Loan & Sav. Bank*, Case No. 2,997.}

{In the matter of the Jefferson Insurance Company, a bankrupt.}

The voluntary petition of this company praying to be declared a bankrupt was filed in July, 1870. It was filed by an officer of the company by order of the board of directors. The bankrupt law [of 1867 (14 Stat. 517)] requires that in the case of a joint stock company the petition in bankruptcy must be duly authorized by a vote of a majority of the corporators at any meeting called for the purpose. On the 9th of November, 1874, one of the corporators, James D. Jones, filed a petition alleging that the petition was never authorized by the stockholders as required by law; that the proceedings were null and void from their inception, and praying that all the proceedings in bankruptcy be dismissed for want of jurisdiction.

THE COURT (HUGHES, District Judge), held that after this lapse of time it would presume that the stockholders had regularly authorized the petition in bankruptcy to be filed; and on the authority of the United States supreme court, in *Zabriskie v. Cleveland*, 23 How. [64 U. S.] 398, and of the district court of Maryland, in the Matter of Baltimore County Dairy Association [Case No. 828], it further held that a stockholder who had remained silent for more than four years would not be heard to impeach the validity of the proceedings in bankruptcy. It was ordered, therefore, that the petition of James D. Jones, stockholder, be dismissed with costs; but that the stockholders have leave to take proper proceedings in this court for adjudicating their mutual rights and obligations touching the contributions required in settlement of the affairs of the bankrupt company.

¹ {Reported by Hon. Robert W. Hughes, District Judge, and here reprinted by permission.}