

Case No. 8,431.

[25 Pittsb. Leg. J. 123.]

IN RE LLOYD.

Circuit Court, W. D. Pennsylvania.

1878.

BANKRUPTCY—JUDGMENT UPON COMPOSITION—REVIEW.

The judgment of the district court declaring a composition final, precludes further review by the circuit court. 12th and 13th sections of act of congress of 22d June, 1874 [18 Stat. 178].

[In review of the action of the district court for the Western district of Pennsylvania.]

On December 13th, 1877, the district court made a decree that a legal quorum of petitioning creditors [of William M. Lloyd] had joined in the proceeding. See [Case No. 8,430]. On the 14th of December, 1877, the debtor filed a petition for review of this decision, in the circuit court, alleging that the district court had erred in respect to the number and amount of creditors who had joined in the supplementary petitions. The creditors, through their counsel, filed pleas to the bill of review, one of which pleas was to the effect that the supervisory powers of the circuit court did not extend to a decision of the district court upon the question of the quorum under the 12th and 13th sections of the amendatory act of 22d June, 1874. The case came up for argument upon the plea denying the right of review in such a case before the circuit court on the 26th of February last, and the court intimating that they were of the opinion that the bill of review would not be sustained; the counsel for the debtor alleged they were not prepared to argue this question: Whereupon the court adjourned the further hearing until the 15th of March, 1878, when, upon further hearing the counsel for the debtor, the court dismissed the petition.

Geo. M. Reade and Geo. Shiras, Jr., for creditors.

S. S. Blair and John M. Kennedy, for debtor.

MCKENNAN, Circuit Judge, filed no written opinion, but announced that he was of opinion that the words in the 12th and 13th sections of the act of congress, approved 22d June, 1874, declaring that the judgment of the district court should be final, precluded all further inquiry upon this subject, and dismissed the petition on review.

[NOTE. The case was again heard upon the question of the allowance of counsel fees, 7 Fed. 459, upon the confirming of the assignee's sale of certain real estate, 11 Fed. 586, upon the proof

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of partnership debts against the bankrupt, 22 Fed. 88, and upon the tender of proof of a bankrupt partnership of which the bankrupt was a member, claiming debts against the estate of the bankrupt. *Id.* 90.]