

Case No. 11,091.

IN RE PHILADELPHIA AXLE WORKS.
[1 Wkly. Notes Cas. 126.]

District Court, E. D. Pennsylvania. Dec. 17, 1874.

AMENDED BANKRUPT ACT—HOW PROPORTION
IN NUMBER AND VALUE OF PETITIONING
CREDITORS COMPUTED.

A petition in bankruptcy having been filed against the above corporation, an answer was filed by them denying that the requisite proportion in number and value of their creditors had joined in said petition. Whereupon the court referred the question to the register (Davis) to ascertain and report summarily whether the requisite proportion in number and amount of said creditors had joined in the petition. The register reported that the requisite proportion in number and amount had so joined.

Exceptions were filed to said report: 1. Because the register had computed in said proportion Gordon, Monges & Co., who had first signed the petition, but subsequently filed a petition praying that they might be allowed to withdraw. 2. Because certain creditors who had joined in the petition had not filed proofs of debt. 3. Because the register had excluded from the computation, as to both number and amount, all creditors whose debts did not exceed \$250.

S. W. Pettit and R. C. McMurtrie, for exceptions.

S. Davis Page, H. S. Hagert, and Henry M. Dechert, for petitioning creditors, cited *In re Hymes* [Case No. 6,986].

THE COURT held—1. That a creditor, having once joined in the petition, cannot withdraw.

2. That it was not necessary for each creditor for joining in the petition to file the proof of his debt; it was required only of the first five signers to do so.

3. That in the computation as to the requisite proportion in number, all creditors under \$250 are to be excluded.

Order of adjudication.

As to the first ruling of the court, see *In re Heffron* [Case No. 6,321].

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