

Case No. 17,246. IN RE WASHINGTON MARINE INS. CO.
[2 Ben. 292;¹ 2 N. B. R. 648.]

District Court, S. D. New York.

March, 1868.

BANKRUPTCY LAW—INSOLVENT CORPORATION—SERVICE OF ORDER.

1. Where a corporation was organized under the laws of the state of New York, and, in a proceeding instituted by the attorney general of the state, and restraining the company and its officers from exercising any of its corporate powers, was declared insolvent, and an order dissolving it and appointing a receiver was made by the supreme court of the state, and the receiver took possession of the property of the company, and thereupon a petition in involuntary bankruptcy was filed: *Held*, that the service of the order to show cause must be made by publication.
2. The company had suffered its property to be taken on legal process, with intent to defeat the operation of the bankruptcy act [of 1867 (14 Stat. 517)].

This was a proceeding in involuntary bankruptcy against The Washington Marine Insurance Company, a corporation, incorporated under the laws of the state of New York. On the 26th of October, 1867, upon the petition of the attorney general of the state of New York, the supreme court of the state of New York, for the city and county of New York, made an order dissolving the company, and appointed Cornelius K. Garrison receiver, and restraining the company and all its officers and agents from exercising any of the corporate powers or franchises of the company, and from disposing of any of its property and effects except to the said receiver. Under this order, the said receiver took possession of the office, books, and property of the company on the same day, and

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thereafter continued in possession of them, and had done various acts in the winding up of its affairs. On the 9th of March, 1868, a petition for adjudication of bankruptcy was filed in this court against the company, by the Ocean Insurance Company of Portland, Me., alleging, as the act of bankruptcy, that the Washington Company had suffered its property to be taken on legal process with intent to defeat the operation of the bankruptcy act, and showing, by depositions, that the Washington Company had suffered all of its property to be taken possession of under the order appointing a receiver. Upon the petition, an order was granted by this court requiring the Washington Company and the receiver to show cause why the company should not be adjudged bankrupt, and ordering that service of the petition and order be made upon the officers of the company and the receiver. The order was returnable on the 15th of March, on which day the usual Proof of service was made.

F. C. Nye and T. A. Jenckes, for Ocean Insurance Company, petitioning creditor.

E. R. Meade, W. F. Allen, and C. A. Seward, for receiver.

THE COURT (BLATCHFORD, District Judge), held, after argument on the part of the petitioning creditors and the receiver, that the bankruptcy act applied to the case of the Washington Marine Insurance Company, but that it was a case where the debtor proceeded against could not be found on account of the dissolution. Service of the order to show cause was, therefore, ordered to be made by publication, and the return day was adjourned to the 21st of March. On that day, on due proof of service of the order to show cause by publication, and in default of an appearance by the company, the court declared the Washington Marine Insurance Company bankrupt, and issued process accordingly.

¹ [Reported by Robert D. Benedict, Esq., and here reprinted by permission.]