

PRICE, RECEIVER, *v.* COLEMAN AND OTHERS.

Circuit Court, D. Massachusetts. September 3, 1884.

1. EQUITY—PLEADING—MULTIFARIOUSNESS—ACTION BY RECEIVER OF NATIONAL BANK.

Where a bill, brought by the receiver of a national bank against all of the directors holding office during the existence of the bank, the legal representatives of deceased directors, and the cashiers of the bank, joins claims for losses suffered by the bank by reason of the directors' negligence and inattention, and claims for losses suffered by the stockholders by reason of having been induced to subscribe for new shares by misrepresentations of the directors, it is multifarious.

2. SAME—CERTAINTY—DEMURRER.

Where such a bill does not state the dates of the losses sustained by the corporation, nor the dates of the acts or omissions contributing to those losses, with sufficient certainty to inform each of the defendants with which and how many of the losses it is sought to charge him, it is demurrable.

In Equity.

A. A. Runney and *R. Clark*, for complainant.

E. R. Hoar, Henry Baldwin, J. W. Richardson, Sherman do Bell, Richard Stone, Geo. F. Williams, Jesse F. Wheeler, Joseph Cuttler, Morse db Allen, and Brooks db Nichols, for defendants.

Before Gray and Nelson, JJ.

GRAY, Justice. To the bill in its present shape the demurrers for multifariousness and for uncertainty are well taken. The bill is clearly multifarious in joining claims for losses suffered by the corporation by reason of the directors negligence and inattention, and claims for losses suffered by the stockholders by reason of having been induced to subscribe for new shares by misrepresentations of the directors.

The bill, brought against all those who were directors during various periods of time, does not state the dates of the losses sustained by the corporation, nor the dates of the acts or omissions contributing to those losses, with sufficient certainty to inform each of the defendants with which and how many of the losses it is sought to charge him. The bill must be amended, in these respects, at least, before the court can justly or intelligently determine, as between the complainant and the several defendants, whether the bill is multifarious in joining as defendants those who were directors at different times; whether it sets forth a liability upon which the complainant can maintain a bill in equity; and whether it sets forth a cause of action which survives against representatives of deceased directors.

Demurrers sustained, with costs; leave to amend the bill.

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