

## BAKER v. REEVES et al.

(Circuit Court, D. Washington, N. D. February 3, 1898.)

**1. TRANSFER OF STOCK IN NATIONAL BANK—INSOLVENCY OF BANK—LIABILITY FOR ASSESSMENTS.**

A stockholder in a national bank, with knowledge that the bank is in a failing condition, cannot make a voluntary transfer of his stock to one financially irresponsible, and thereby escape liability for assessments.

**2. SAME—INSOLVENT BANK—LIABILITY OF OWNER OF STOCK AT TIME OF FAILURE.**

The owner by assignment of stock in a national bank at the time of its failure is liable for assessments thereon, though his assignor, who transferred it knowing that the bank was in a failing condition, is also liable.

This was a suit in equity by Charles H. Baker, as receiver of the Merchants' National Bank of Seattle, against W. H. Reeves, Minnie Reeves, and Ira Bronson, to recover an assessment on certain shares of stock in the bank.

Stratton, Lewis & Powell, for plaintiffs.  
Boyd J. Tallman, for defendants.

HANFORD, District Judge. The object of this suit is to hold each of the defendants liable for an assessment upon stock of which the defendant William H. Reeves was owner, and which he transferred to his daughter, Minnie Reeves, and subsequently held as her assignee or agent. In that capacity he transferred part of it to the defendant Bronson.

At the time of the first transfer, William H. Reeves was a director of the bank, and fully informed as to its condition. It was a time of general financial depression, and it was difficult to keep on hand the amount of money required as a reserve fund to meet the demands of the depositors, and to maintain the credit and standing of the bank. Minnie Reeves is the daughter of William H. Reeves, and at the time owned no property, and was dependent on him for support, and was a student in college. William H. Reeves voluntarily, and without any request from his daughter, or consideration, transferred the stock to her, and immediately thereafter she indorsed the certificates and left them in his keeping. I am convinced that at the time of making the transfer of stock to his daughter, Mr. Reeves hoped and believed that the bank would survive, and that his present would be a benefit, rather than an incumbrance, to his daughter; but the bank was in a failing condition, and there was then ground to apprehend that it would become insolvent, and be compelled to go out of business. With knowledge of its condition, he could not transfer the stock to a person financially irresponsible, and thereby escape the liability of a shareholder for assessments to meet the demands of creditors. *Bowden v. Johnson*, 107 U. S. 251-264, 2 Sup. Ct. 246. The defendant Bronson, having received the stock, and being the holder of it at the time of the failure of the bank, is liable for the assessment; and, for the reasons stated, the defendant William H. Reeves is also liable.

Upon the authority of the case of *Gilbert v. Van Arman*, Fed. Cas.

No. 5,414, I overrule the defendants' objection to the evidence on the ground that the same was not taken in time. A decree will be entered according to the prayer of the bill.

PATON et al. v. NORTHERN PAC. R. CO. et al.

(Circuit Court, E. D. Wisconsin. July 22, 1896.)

**1. INSOLVENT CORPORATION—REORGANIZATION—EXCLUSION OF GENERAL CREDITORS.**

A plan for the reorganization of an insolvent corporation which gives stockholders an interest in the new organization upon agreed terms, but does not include general creditors, or tender them an opportunity to join therein, is not invalid, unless the scheme is one to give to stockholders that which should go to creditors, or one to defraud creditors.

**2. SAME—INCLUDING STOCKHOLDERS IN REORGANIZATION—FRAUD ON CREDITORS.**

Where stockholders of an insolvent corporation were permitted to participate in a reorganization thereof, and for their stock were given an equal number of shares in the new organization upon the payment of a given sum per share, and it appears that such sum is largely in excess of the market price of such new stock, it cannot be said that including stockholders in such reorganization was a fraud upon general creditors.

**3. SAME—EQUITY—PLAN OF REORGANIZATION—OFFER TO ACCEPT.**

A bill by general creditors of an insolvent corporation which seeks to set aside a decree for the sale of the corporate property, and enjoin the sale and the carrying out of a plan of reorganization, and asks that the court formulate a new and just plan of reorganization, giving to the general creditors their appropriate proportion of bonds or stock, and determining the terms upon which that proportion shall be awarded, is wholly without equity, where there is no offer by complainants to enter into or be bound by any plan of reorganization.

The complainants, holders of 5,498 bonds, of \$1,000 each, issued by the Seattle, Lake Shore & Eastern Railway Company, and claiming to be general unsecured creditors of the Northern Pacific Railroad Company, by virtue of the latter's guaranty of the bonds mentioned, filed their bill setting forth the various mortgages issued by and upon the railroad of the Northern Pacific Railroad Company, and the proceedings instituted in this court in the year 1893, to foreclose the second, third, and consolidated mortgages upon the road, resulting in a decree of foreclosure passed by the court on the 27th day of April, 1896, directing a sale of the property to satisfy the amount found due upon the various mortgages sought to be foreclosed.

The bill alleges that such foreclosure decree was passed by consent, pursuant to a conspiracy, plan, and agreement published March 16, 1896, by which the trustee and bondholders under the various mortgages conspired with the railroad company and its stockholders to exclude general creditors from participation in the assets of the insolvent Northern Pacific Railroad Company, and to award to stockholders of the company, in proportion to their former holdings, new rights and privileges, which the bill charges should belong to the general creditors of the road, and that such general creditors were excluded from participation in the plan of reorganization. It was charged that such plan and agreement was a fraud and wrong upon general creditors, because it gave to stockholders, upon the payment of specified sums of moneys, the right to participate in the reorganization, which was a valuable right, and one which could not legally be reserved for the stockholders until it should first be offered to and declined by general creditors, and that it also was a combination to prevent the general creditors from bidding at the sale under the decree, thereby preventing competition between stockholders