

Those made defendants by the receiver are as follows:

H. P. Clark, S. W. Morrison, R. P. Morris, C. P. Overfield, F. A. Sweet, H. C. Edwards, John Pingree, Solon Spiro, O. P. Soule, Moroni Heiner, A. B. Apperson, James H. Brown, Mercy W. Lewis and Mercy W. Lewis as guardian of the person and estate of Francis V. Lewis, a minor; Mercy W. Tuttle, distributees of the estate of O. K. Lewis, deceased, and W. H. Eardley, J. H. Leavell, A. H. Godbe, Preston J. Cannon, A. O. Jacobson, George E. Ford, B. Binnard, W. Price, M. S. Browning, Charles E. Kaiser, John Watson, L. R. Eccles, James F. Burton, James M. Peterson, M. O. Packard.

Though the receiver has collected in the neighborhood of \$175,000 unpaid claims totaling \$525,000.00 still remain.

In the course of the complaint we find the following excerpts:

IV.

That, as this plaintiff is informed and believe and therefore alleges, all the defendants and O. K. Lewis, now deceased, failed and neglected as directors and officers of said bank to perform their duty to said bank, its creditors, patrons, depositors and stockholders with due and proper time, care and attention to its business and the management of its affairs; and allowed the funds and property, and choses in action of said bank to be lost, misused, misapplied and dissipated; abused and violated the trust, confidence and responsibility resting upon them as officers and directors of said bank; disobeyed and violated the rules and principles of safe and efficient banking and the law and the statutes in such cases made and provided.

(2) They negligently failed and omitted to consider, devise, adopt, effect and carry out such proper, fair and equal measures and arrangements as they knew, or should have known from time to time, were necessary for the safe, fair and efficient conduct of the bank and its business; on the contrary they devised and entered into agreements and arrangements for the benefit and protection of, and gave their care, time and attention as such directors to, the safeguarding of the interests of themselves and certain favored creditors and third persons, and negligently and in violation of their duty omitted to give the same, or any adequate, measure of protection, or the same or any adequate care, time and attention toward the safe-guarding of the interests of the bank's aforesaid general creditors and depositors. The creditors and third persons so favored were, inter, alia, the following:

Deseret National Bank, Walker Brothers Bank, National City Bank, Farmers & Stockgrowers Bank, Utah State National Bank, Na-Farmers & Stockgrowers Bank, Utah State National Bank, National Bank of the Republic, Utah Savings & Trust Company, First National Bank of Ogden, Jesse D. Jewkes, treasurer of state of Utah; S. A. Whitney, Rodney T. Badger, Hyrum Pingree, trustees; N. W. Clayton, M. S. Browning, R. B. Porter, A. T. Wright, John Spiers, Chas. S. Burton, R. T. Badger, John F. Bennett, Chas. B. Stewart, Jas. G. McAllister, N. T. Porter, Geo. T. Odell, J. Parley White, John Stringham, E. D. Hashimoto, S. A. Whitney, O. C. Beebe.

(6) They negligently made, published and exhibited reports of the resources and liabilities of the bank, and published the names of the defendants herein as the duly elected, qualified and acting directors of said bank and held them out as the trustees and guardians of the funds of said bank and as discharging the duties and responsibilities incident thereto; all of which reports and publications did not show the true condition of affairs of said bank and the management thereof, and all of which were published to the public generally and to the aforesaid depositors, creditors and stockholders, and all of which represented that the affairs of the bank were in good condition, that its capital was unimpaired and that it had a surplus, and that the said directors were exercising and discharging the duties of their offices and managing the affairs of said bank, when in truth and in fact said bank was in an unsound condition and said directors were failing and neglecting to discharge and perform the duties of their offices, and they and the said bank were unworthy of the trust and confidence which the said reports and publications were designed and intended to secure, and did secure from the said depositors, creditors, and stockholders hereinabove referred to.

(8) They knowingly and negligently authorized and permitted the withdrawal in the form of dividends of the capital stock and assets of said bank, when a proper examination of the principal books of the bank and a proper examination of the assets therein listed would have disclosed that there were no profits from which a dividend could be properly and legally paid and that moneys so paid really belonged to the creditors of said bank, including said depositors herein mentioned.

(13) They negligently, carelessly and habitually permitted the wrongful extension of loans, often without requiring any payment

either of principal or accrued interest thereon, or requiring any adequate, or proper security, or security in proper form therefore, and frequently without any provision for the continuation or extension of the right to hold, or rely upon the security originally given for the repayment of said loans and without any provision for other security in lieu thereof; and negligently and carelessly lost, misplaced, or failed to record or register, deeds, mortgages, stock certificates and bonds and liens and agreements given to secure the repayment of loans, or given in payment thereof, and thereby allowed third parties otherwise subsequent in right to acquire prior rights and liens and postpone the bank; and carelessly and negligently failed to utilize, prosecute in a timely and efficient manner, and liquidate causes of action from time to time accruing to the bank.

(14) They negligently permitted sundry persons and corporations to overdraw their accounts without security and without authorization by the board of directors.

(15) They negligently permitted and allowed moneys of the bank to be loaned to persons and corporations who were not safe risks, without any, or adequate, or proper security, or security in proper form.

(16) They negligently permitted increased loans and an undue amount of money to be loaned to persons and corporations already indebted to the bank and to persons and corporations who were in an unsafe financial condition.

(17) They permitted and allowed the funds of the bank to be loaned in excessive amounts without any, or adequate, or proper security, or security in proper form, to persons and corporations with which or in which, officers and directors of said bank, or their friends, had a personal or financial interest. That is to say, inter alia, to the following persons and corporations:

A. P. Apperson, John Pingree, Boston Development Co., H. C. Edwards, Glenallen Mining company, Keystone Con. Mining company, W. O. Kay Investment company, Parley T. Moyes, National Cash company, Lorenzo Price, Jr., Rock Springs Fuel company, State Loan & Trust company, Copper Basin Mining company, Big Four Exploration company, Georgia Mining company, A. O. Jacobsen, B. M. Rykert, A. Montgomery, Parrott Bros. company, Clarence M. Cannon, Lewis Cannon, Quayle Cannon, L. A. Martin & Co., J. E. Brown, Wm. Buchanan, Canon State Bank, Hotel Fifth East, John Y. Smith, O. C. Beebe, George G. Knox, F. V. Bodfish, W. T. Davis, A. S. Ross, S. H. Thompson, A. M. MacDonald, Mullet-Kelly Co., L. O. Taylor Co., R. W. Nicol, Oakley State Bank, Geo. H. Rathman, Geo. H. Rust, Theo Sweitzer, Shaw Motor Co., Western Resources Promotion Co., Hugh J. Cannon, Nephi L. Morris, A. J. Davis, P. A. Dix, Norman W. Haire, David Miller, J. H. Richards, W. T. Cannon, J. T. Carruth, H. B. Cole, W. E. Hubbard, Agnes Curtis, Francis X. A. Eble, Liberty Gold Mining Co., Park City Mines, Walter K. Yorston, H. L. Cummings, H. H. Dalrymple, J. E. Langford, A. H. Crabbe, P. C. Kittle.

(18) They negligently permitted the funds of the bank to be used to promote, finance, conduct and acquire unsafe and failing corporations, businesses and enterprises, and permitted the continued financing and conducting of the same with the funds of said bank when they knew, or should have known, that the said corporations, businesses or enterprises were in a failing and hopeless condition. That is to say, inter alia, they permitted the promotion, financing, conducting and acquiring of the following corporations, businesses and enterprises and permitted the continued financing and conducting of the same:

Salt Lake Lumber Co., Arthur Zinc Mining Co., Utah Concrete Pipe Co., Clayton Talking Machine Shop, Hyrum Baird, Savoy Hotel Co., Deseret Soda Co., Butte-Salt Lake Inv. Co., Kenyon Hotel Co., Rose Pickle & Vin. Co., Sullivan Plaster Block Co., Utah Packing & Provision Co., Kenyon Cafe Co., Taylor Richards Co.

(19) They carelessly and negligently permitted the bank to take and acquire, and hold as assets, stocks, bonds and other securities, and real estate, at valuations which they knew, or should have known, were excessive, inflated, and unreal.

(20) They negligently permitted large amounts of the bank's money to be used, loaned and taken in violation of the law and the statutes in such cases made and provided.

(23) That in the month of January, 1914, and thereafter, said bank had deposited in it by the state treasurer of Utah, in a depositing and checking account, a large amount of money subject to the check of the said state treasurer; and on or about said time certain other individuals and corporations, whose names are at this time unknown to this plaintiff and who were directly and indirectly interested in, or familiar with,

(24) They negligently, carelessly and wrongfully, permitted to be devised and carried out agreements and arrangements whereby, to the advantage of themselves and the disadvantage of the bank, they, and certain stockholders of the bank whose names are unknown to this plaintiff, surrendered to the bank certain of their personal stock in said bank aggregating \$59,000.00 par value, and took