

1933-083
Nansemond Co (Suffolk) Chancery Causes: National Exchange Bank of Baltimore] vs Merchants & Truckers Bank of Suffolk] 98

Myers

To Merchants and Truckers Bank of Suffolk Va.

Take notice that on Monday the 19th day of April 1909 at 10 A.M in the office of Hon Jas L. McLemore Judge of the Circuit court for the County of Nansemond, ^{Westall} move the Circuit Court or the Judge thereof, to appoint a receiver or receivers of all property and assets of the said Merchants and Truckers Bank, and order the said receiver or receivers so appointed to take possession and charge of all the property and assets of the said company, and to administer the same under the orders of the said court: and for an injunction against the directors and officers of the said Merchants and Truckers Bank to injoin and restrain them, and each of them, from in ~~anyway~~ ^{anywise} interfering with the property and assets of the said Merchants and Truckers Bank so placed in charge and possession of such receiver or receivers so appointed.

Dated this the 17th day of April 1909.

National Exchange Bank of Baltimore
by Lloyd R. Freeman
attly.

I executed the within process this 17th day of April 1909
by delivering a true Copy thereof in writing to
W.R. Meyers President of The Merchants & Truckers Bank
in person, in the County of Nausemund.

A. H. Baser Sheriff
by Jack. Baser deputy

Wm. B. Baser

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The M & T Bank

CHANCERY SUMMONS

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON *The Merchants & Traders Bank of Suffolk, Virginia, W.R. Myers, President of the said Merchants and Traders Bank, of Suffolk, Virginia, and W.R. Myers*

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the *Third* Monday in *April 1909*, to answer

a Bill in Chancery, exhibited against *them* in the said Court by *National Exchange Bank of Baltimore, Baltimore Md, a Corporation of Maryland, who sues for themselves as well as others, Stockholders, depositors and Creditors.*

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *17th* day of *April*, 190*9*, in the 13*th* year of the Commonwealth.

A copy.—Teste :

, CLERK. }

Teste :

R R Smith, CLERK.

By A. Gomez D.C.

I executed the within process this 17th day of April 1909
by delivering a true copy thereof in writing to W.R. Meyers
in person, and W.R. Meyers President of the Merchants & Truckers
Bank in person, also copy marked Merchants & Truckers
Bank delivered to W.R. Meyers, President in person,
in the County of Nantuxmond.

Ad H. Baser Sheriff
by Jno R. Lecroy Deputy

, p. 9.

National Exchange

Bank of Nanto.

VS.

IN CHANCERY.

The Merchants &

Truckers Bank &

1909

April Rules.

April Monday.

NANSEMOND CIRCUIT COURT.

Process Book No. 3

Page 69

Know All Men by These Presents, That we, Robert W. Withers
and The Virginia Safe Deposit and Trust Corporation of Alexandria, Va.

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of
Ten Thousand DOLLARS,

to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the office, post or trust herein mentioned, with coupons detached from bonds of said State.

Sealed with our seals, and dated this 15th day of July in the year
of our Lord one thousand nine hundred and nine, and in the 134th year of
the Commonwealth.

In Testimony Whereof, the said Robt. W. Withers has
hereto set his hand and seal, and the said The Virginia Safe Deposit and Trust
Corporation has caused its corporate name to be hereto signed, and its
corporate seal to be hereto affixed, this 15 day of July in the year of our
Lord, one thousand nine hundred and nine, and in the 134th year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound
Robt. W. Withers, shall well and truly discharge the duties imposed upon
him as trustee under a deed of Assignment from the Merchants and Truекers
Bank of Suffolk, Virginia, dated April 16, 1909, then this bond to be void
otherwise to remain in full force and virtue.



Robt. W. Withers



Virginia Safe Deposit & Trust



Corporation



By J. T. Withers, atty-in-fact



VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, on the 15th day
of July, 1909:

The above bond was executed and acknowledged before me by the obligors to the same
(the security approved justifying), and ordered to be recorded.

Teste:

A. P. Gomer, D. C.

Robert W. Withers
To } Trustee's Bond.
The Commonwealth.

1909
July 15th.

Record in Bond Book
No 2 Page 117,

Attest

Know All Men by These Presents, That we, Robt. W. Withers,
Principal and National Surety Company, of New York, by J. T. Withers, atty. in
fact, his surety

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of
Ten Thousand DOLLARS,

to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind our-
selves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or
right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the
office, post or trust herein mentioned, with coupons detached from bonds of said State.

~~Sealed with our seals, and dated this~~ day of ~~in the year~~
~~of our Lord one thousand nine hundred and~~ , and in the ~~year of~~
~~the Commonwealth.~~

In Testimony Whereof, the said Robt. W. Withers has
hereto set his hand and seal, and the said National Surety Company by J. T. Withers,
atty- in- fact

has caused its corporate name to be hereto signed, and its
corporate seal to be hereto affixed, this 17th day of April in the year of our
Lord, one thousand nine hundred and nine, and in the 133rd year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound
Robert W. Withers shall faithfully discharge and perform all of his duties
as Trustee for the benefit of the Creditors of the Merchants and Truckers
Bank of Suffolk, Va., as set forth in the deed of assignment from said Bank
to him as Trustee dated the 16th day of April, 1909, then the above obliga-
tion to be void, otherwise to remain in full force and virtue.



Robt. W. Withers



National Surety Company



by J. T. Withers, atty. in fact



VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, on the 17th day
of April, 1909:

The above bond was executed and acknowledged before me by the obligors to the same
(the security approved justifying), and ordered to be recorded.

Teste:

A copy sent to A. P. Gomer & Co.

A. P. Gomer, D. C.

Robt M Withers
To } Trustee's Bond
The Commonwealth.

1909
April 17/15.

Recorded in Official
Bond Book No 2 Page
133

Attest.

In ~~the~~ Circuit Court of Nansemond County, Virginia, in ~~vacation~~.

The day of April 1909.

National Exchange Bank of Baltimore, Baltimore, Md. a corporation of Maryland, who sues for themselves as well as others, stockholders, depositors and creditors.....Complainants.

Vs. In Chancery.

The Merchants and Truckers Bank of
Suffolk, Virginia, W. R. Myers, President.
of the said Merchants and Truckers Bank,
of Suffolk, Virginia, and W. R. Myers.....Defendants.

On motion of the complainants and for good cause shown, the court, doth grant unto the said complainants in the above entitled cause the right to amend their ^{bill} ~~petition~~ as filed ~~under date of April 17th.~~ 2nd April Rule 1909.

All which is certified to the clerk of this court
to be entered in the chancery order book.

Natl Exchange Bk
vs
Merchants & Traders
Bank

Enter, May 10. 1909
James McShane

Entered in Chancery
Order Book No. 4. Page 333

Popper in hand is M
Stewart Lewis

National Exchange Bank of Baltimore, Baltimore, Md.,
a Corporation of Maryland, who sues for themselves
as well as others, stockholders, depositors and
creditors.....Complainants.
vs. In Chancery.

The Merchants & Truckers Bank of
Suffolk, Virginia, W. R. Myers, President
of the said Merchant & Truckers Bank,
of Suffolk, Virginia, and W. R. Myers,.....Defendants.

On motion of the complainant it is adjudged, ordered
and decreed that this cause be stricken from the
docket.

National Exchange Bank of
Baltimore, Baltimore, Md., etc.
vs. In Chancery.

The Merchants & Truckers
Bank of Suffolk, Va., etc.

Enter October____, 1909.

Entered in Chancery Order
Book No.____, Page____.

To the Honorable James L. McLemore, Judge of the Circuit
Court of Nansemond County, Second (Third Monday)
Rules in April, 1909.

National Exchange Bank of Baltimore, Baltimore, Md.,
a corporation of Maryland, who sues for themselves as well
as others, stockholders, depositors and creditors...Complainants
vs. In Chancery,

The Merchants & Truckers Bank of
Suffolk, Virginia, W.R. Myers, President
of the said Merchants and Truckers Bank,
of Suffolk, Virginia, and W.R. Myers, ...Defendants

Humbly complaining, your orators, the National
Exchange Bank of Baltimore, it being the party interest
and hold of \$5,000 of the capital stock of the said
Merchants & Truckers Bank, by assignment, sheweth unto your
honor the following facts:

" That the said Merchants & Truckers Bank, Inc.,
was chartered under the laws of the State of Virginia August
1st 1906, and it immediately began operation in Suffolk,
Virginia, and has been engaged in the banking business until
the present time; That some few months ago the said Merchants
& Truckers Bank established a branch bank under the same name
at Branchville, in the County of Southampton, and State of
Virginia, which said branch bank has also been in operation,
doing a banking business under the control of said bank until
the present time. The said bank is now insolvent. Your
orators further say that they have ~~not~~ had an opportunity of
obtaining but little knowledge of the practical workings of
said bank since its commencement, but were of the belief
that the same

was being managed in proper and legal manner until a few days ago, when it was brought to their knowledge that the said bank was insolvent and was operating along illegal lines; that in the month of _____, 1908, Wilkerson Jones was duly elected cashier of said bank by the board of Directors, and at once entered upon the discharge of his duties as such; that the said Wilkerson Jones, Cashier, communicated to your orators, as he was in duty bound to do, a knowledge of the fact that the bank was being badly managed, and that if such management continued the stockholders, depositors, and all creditors of said bank would be subjected to irreparable loss; that as soon as they had knowledge of this fact thus obtained, a meeting of the directors of said bank was called in the counting room of said bank, on the ____ day of April, 1909, that at said meeting the directors of said bank, consisting of the following persons: _____

asked for a statement of the financial condition of said bank, which its president, W. R. Myers, refused; that the said Board of Directors then decided that they would have the affairs of said bank examined by expert accountants, thinking and believing it was the duty of themselves to take this action in order to more fully protect all persons interested in said bank, whether as creditors, depositors, or otherwise. That the president of said bank, W. R. Myers, was incensed at their actions and called a meeting of the stockholders, and without any cause or justification, discharged and dismissed all of said directors, and undertook illegally, and without authority, to name a new board of directors, consisting of himself, R. W. Withers, and John King, that the new board of directors immediately and without cause, dismissed the said Wilkerson Jones, Cashier, from any further service as such Cashier. That soon thereafter the said accountants, who had been employed, submitt-

ed a report of the affairs of said bank, which said report is now herewith filed, marked Exhibit "A", and prayed to be read as a part of this bill. From this report it will be seen that the bank is insolvent; that large sums of its money have been borrowed by the president himself, amounting in the aggregate to the sum of \$34,000.00; that this money was borrowed or taken from said bank on paper discounted by himself, and is represented by his own notes and his wife, Mrs. W. R. Myers; that said notes were never discounted by any Board of Directors or any discount committee whatever, nor ever passed upon by anybody in authority in said bank; That these notes are very improperly secured, most of the security tendered for them being of an unknown and worthless character. That many of the bills receivable due the said bank have been re-discounted at other banks by said president W. R. Myers, without any knowledge or authority of any Board of Directors, or any meeting of stockholders, and without any authority in law what ever. That said president, W. R. Myers, is now largely indebted to said bank, that the notes representing his indebtedness were kept by him in a secret drawer locked from any inspection, even by the Cashier himself. That the said W. R. Myers, has illegally assumed, and without authority has attempted to exercise, and has exercised, full and absolute control of all the affairs of said bank, without consultation, and without knowledge on the part of either its Directors or stockholders. That when knowledge of these conditions were received by your orators, they called in consultation the directors of the branch bank at Branchville, who were indignant and amazed at the condition of affairs, and who have expressed a wish to join with your orators in asking the court to grant them full relief from the present management. That the said President has issued, or caused to be issued, in an illegal manner, the said stock of said bank, and your orators further are informed and believe, and therefore charge, that all of these said stock of said bank which the said President, W. R. Myers, pretends to hold, ~~has~~ as

a matter of fact been hypothecated by him, so after in fact he has but little financial interest in said bank. Your orators further charge that on the 15th day of April, 1909, the said bank practically ceased operation, that it stopped receiving deposits, stopped discounting paper, and stopped paying checks and drafts, and meet any claims whatever. Your orators further say that they are informed and believe, and therefore charge, that ~~in order~~ to still control the affairs of said bank, the said W. R. Myers, individually, and as President is now about to make a deed of assignment conveying all the assets of said bank to himself, his agent or his attorney, and your orators further say that, believing it their duty, in order to protect the stockholders, the depositors, and all other creditors of said bank, they therefore file this bill, and they respectfully ask that all the assets of said bank be immediately committed to the hands of a receiver or receivers. *"And therefore I pray that"*

in tender consideration whereof, and for as much as your orators are remediless in the premises save ^{the aid of a} by a court of equity your orators pray that The Merchants & Truckers Bank, of Suffolk, Virginia, and W. R. Myers, President of the Merchants & Truckers Bank, of Suffolk, Virginia, and W. R. Myers, may be made parties defendant to this bill, and required to answer the several statements thereof, though an answer under oath is hereby waived, that proper process issue, all proper orders and decrees may be made, and inquiries may be directed, and accounts taken, and that a receiver or receivers may be appointed to take charge of the assets of the said bank, and particularly to take charge of and secure possession of the books and accounts, notes, etc., and to proceed to collect all debts, the rights of all parties interested ascertain its debts paid, and the proceeds divided among the complainants and the other parties entitled thereto. That all proper allowances of counsel fees may be made in this suit, and that all such further and general relief may be afforded your complainants as the nature of their case may require, or to equity shall seem meet, and your complainants will ever

pray, etc.

The National Exchange Bank
of Baltimore
by
Lloyd R. Freeman
Atty.

VIRGINIA,

to-wit:

COUNTY OF HANSEMOND.

This day The National Exchange Bank
of Baltimore by Lloyd R. Freeman
Atty.

personally appeared before me J. E. N. Hecoddy
A Notary Public in and for the county and state aforesaid, and
made oath that the statements contained in the foregoing bill
are true so far as made upon their own knowledge, and so far as
made upon information of others they believe to be true.

Given under my hand this 17th day of April, 1909.

J. E. N. Hecoddy
Notary Public.

My commission expires June 30th 1910 -

National Exchange
Bank of Baltimore &
12 } In Chancery
The Merchants &
Truckers Bank of
Suffolk & c.

1000
Black 100
1000 200
1000 100
1000 100

Lloyd R Freeman pg

Nat'l Exchange Bank &c

W. R. Chancery

The Merchants and
Truckers Bank

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