

Case Vs. Marchland

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Court : US Supreme Court

Decided On : Jan-27-1879

Appeal No. : 154 U.S. 642

Appellant : Case

Respondent : Marchland

Judgement :

Case v. Marchland - 154 U.S. 642 (1879)

U.S. Supreme Court Case v. Marchland, 154 U.S. 642 (1879)

Case v. Marchland

No. 804

Submitted January 13, 1879

Decided January 27, 1879

154 U.S. 642

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF LOUISIANA

SYLLABUS

In a case of conflicting evidence on a question of fact, the Court affirms the decree of the court below.

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The case is stated in the opinion.

MR. JUSTICE MILLER delivered the opinion of the Court.

The Crescent City National Bank of New Orleans having failed to redeem some of its circulating notes, on a demand made March 17, 1873, was put into liquidation, and the present appellant appointed receiver by the Comptroller of the Currency. In the process of liquidation, the Comptroller issued a call of seventy percent upon the amount of the capital stock held by each shareholder at the time of the failure, and the suit now before us on appeal is a bill in equity brought in the circuit court of the United States to discover who was liable under this order on fifty shares of the stock, standing in the name of Edward Lubie, and for a decree for the sum assessed.

The bill charged that Lubie was insolvent, and that the transfer of the shares on the books of the corporation, made by Keenan, one of the defendants, to Lubie, a day or two before the failure, was a device to evade the liability under the act of Congress, which it is the purpose of this bill to enforce, and that Alfred Marchand, the other defendant, was the real owner of the stock when the bank failed.

Lubie permitted a decree to be taken *pro confesso* against himself, and then became a witness against Marchand, and swears that he merely acted for Marchand and permitted the stock to be transferred to his name because he was insolvent and could not be hurt, and that Marchand furnished the money paid to Keenan for the shares. Marchand denies all this under examination as a witness. There is much other conflicting and doubtful testimony. The case is one whose decision involves no question of law, and is otherwise unimportant, and we shall

not criticize the evidence closely in this opinion. Lubie renders himself incredible by his own confessions and by his manner of testifying. The books of the company and the certificates of the shares delivered to him are record evidence against him, and while there are suspicious circumstances against Marchand, there is not enough to justify us in reversing the decree of the circuit court in his favor, and it is accordingly

Affirmed.

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