

disposed of in the winding-up proceedings, such action will be stayed (p. 674). For liquidation proceedings are analogous to administration proceedings: *Re Life Association*, 10 L. T. N. S. 833, 34 L. J. Ch. 64.

In prosecutions for offences the Crown does not allow the private prosecutor to assume its responsibility in such prosecutions. Nor should this Court except for cause allow a private prosecutor to relieve its officer who has given security as liquidator, of his statutory responsibility under the section referred to, and intrust the collection of a portion of the trust funds to a private litigant.

If it would be proper to relax the statutory injunction in favour of this shareholder, on what grounds could it be refused to each of the several hundred shareholders of this insolvent company? For each of them may claim a similar right and may prosecute his action as he thinks proper, until a plaintiff in one of these class actions, on behalf of shareholders, obtains a judgment. See *Handford v. Storie*, 2 S. & S. 196.

Lord Romilly, M.R., has graphically pictured the spectre of a legal Briareus hurling (not rocks, but) 200 or 300 law suits on a liquidator to the damage of the assets of the estate: see 20 L. T. N. S. 840. And he might have added as a legend Lord Coke's maxim, "The law will sooner tolerate a private loss than a public evil."

In the *Central Bank* case (*Ex p. Henderson*), after the claims of creditors had been practically paid in full, I allowed,—the liquidator not opposing,—more as a matter of caution, than as a right, a shareholder to join the bank as a formal party to an action, intimating however that actions against directors for personal wrongs did not require the leave of the Court. For it is a doctrine of equity that no one ought to be a party to an action merely as a witness for discovery, who has no other apparent interest in it. See *Calvert on Parties*, pp. 90-91; *Re New Zealand Banking Corporation*, 21 L. T. N. S. 481, 39 L. J. Ch. 128; and *Hall v. Old Talargoch Mining Co.*, 3 Ch. D. 749.

As the liquidator has intimated his intention of proceeding against the directors and officers under sec. 83, and as the general practice of the English Court under a similar Act is