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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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CHAPTER 67.

PROCEEDINGS AGAINST CORPORATIONS IN EQUITY.

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[Chapter 77, Revised Statutes.]

Injunction against corporations in certain cases.

(1.) SEC. I. Upon a bill being filed under the direction of the attorney general in any district court, such court shall have power to restrain by injunction, any corporation from assuming or exercising any franchise, liberty, or privilege, or transacting any business not authorized by the charter of such corporation, and in the same manner to restrain any individuals from exercising any corporate rights, privileges, or franchises not granted to them by any law of this territory.

Issuing and continuance of injunction.

(2.) SEC. II. Such injunction may be issued before the coming in of the answer, upon satisfactory proof that the defendant complained of, has usurped, exercised, or claimed any franchise, privilege, liberty, or corporate right not granted to them, and after the coming in of the answer, such injunction may be continued, until judgment at law shall have been had.

Jurisdiction of court over officers, &c.

(3.) SEC. III. The district court shall have jurisdiction over directors, managers, trustees, and other officers of corporations:

1. To compel them to account for their official conduct in the management and disposition of the funds and property committed to their charge;

2. To decree and compel payment by them, to the corporations whom they represent, and to its creditors of all sums of money, and of the value of all property which they may have acquired to themselves, or transferred to others, or may have lost or wasted by any violation of their duties as creditors, managers, trustees, or other officers;

3. To suspend any such trustee, or other officer from exercising his office whenever it shall appear that he has abused his trust;

4. To remove any such trustee, or officer from his office, upon proof or conviction of gross misconduct;

5. To direct, if necessary, new election to be held by the body or board duly authorized for that purpose, to supply any vacancy created by such removal;

6. In case there be no such body or board, or all the members of such board be removed, then to report the same to the governor, who shall be authorized to fill such vacancies;

7. To set aside all alienations of property made by the trustees, or other officers of any corporation, contrary to the provisions of law, or for purposes foreign to the lawful business and objects of such corporation, in cases where the person receiving such alienation knew the purpose for which the same was made; and

8. To restrain and prevent any such alienation, in cases where it may be threatened, or there may be good reason to apprehend that it is intended to be made.

(4.) SEC. IV. Whenever any visitatorial powers over any corporation, are or shall be vested by statute, in any corporate body or public officer, the provisions of the preceding section shall not be construed to direct or impair the powers so vested. Construction of last section.

(5.) SEC. V. The jurisdiction conferred by the third section of this chapter, shall be evidence as in ordinary cases, on bill or petition, as the case may require, or as the court may direct, at the instance of the attorney general prosecuting in behalf of this territory, or at the instance of any director, trustee, or other officer of such corporation, having a general superintendence of its concerns. Jurisdiction conferred how to be exercised.

(6.) SEC. VI. Whenever a judgment at law, or a decree in chancery shall be obtained against any corporation incorporated under the laws of this territory, and an execution issued thereon, shall have been returned unsatisfied in whole or in part, upon the petition of the person obtaining such judgment or decree, or his representatives, the district court within the proper county, may sequester the stock, property, things in action, and effects of such corporation, and may appoint a receiver of the same. Sequestering corporate property.

(7.) SEC. VII. Upon a final decree on any such petition, the court shall cause a just and fair distribution of the property of such corporation, and of the proceeds thereof, to be made among the fair and honest creditors of such corporation, in proportion to their debts respectively, who shall be paid in the same order as provided in the case of a voluntary dissolution of a corporation. Distribution upon decree.

(8.) SEC. VIII. Whenever any incorporated company shall have remained insolvent for one year, or for one year shall have neglected or refused to pay and discharge its notes, or other evidences of debt, or for one year, shall have suspended the ordinary and lawful business of such corporation, it shall be deemed to have surrendered the rights, privileges, and franchises, granted by any act of incorporation, or acquired under the laws of this territory, and shall be adjudged to be dissolved. Surrender of corporate rights.

(9.) SEC. IX. Whenever any corporation having banking powers, or having the power to make [loans] on pledges, or deposits, or authorized by law to make insurances, shall become insolvent, or unable to pay its debts, or shall neglect or refuse to pay its notes or evidences of debt on demand, or shall have violated any of the provisions of its act or acts of incorporation, or of any other law, binding on such corporation, any court having equity jurisdiction, may, by injunction, restrain such corporation and its officers, from exercising any of its corporate rights, privileges, and franchises, and from collecting or receiving any debts or demands, and from paying out, or in any way transferring or delivering to any person, any of the moneys, property, or effects of such corporation, until such court shall otherwise order. Proceedings against certain insolvent corporations.

(10.) SEC. X. Such injunction may be issued on the application of the attorney general, in behalf of this territory, or on the application of any creditor or stockholder of such corporation, upon bill, or petition, filed for that purpose, and upon due proof of any of the facts in the last section required, to authorize the issuing of the same. Whenever such injunction shall issue against any bank for any violation of its charter, on the appli- Who may apply for injunction, &c.

cation of any creditor, the court shall proceed to final decree in such case and adjudge a forfeiture, if the proof is sufficient, notwithstanding such creditor may settle with such corporation, and relinquish his claim against said corporation, and in all such cases, the attorney general, under the direction of the governor, or any creditor, shall have the right to appear and prosecute such suit; and such suit shall not be discontinued, if either of them so appear and prosecute such suit to final judgment.

Court may appoint receivers.

(11.) SEC. XI. Upon such application being made, in any stage of the proceedings, thereupon the court may appoint one or more receivers to take charge of the property and effects of such corporation, and to collect, sue for, and recover the debts and demands that may be due, and the property that may belong to such corporation, who shall in all respects be subject to the control of the court.

Powers and obligations of receivers.

(12.) SEC. XII. Such receivers shall possess all the powers and authority conferred, and be subject to all the obligations and duties imposed upon receivers appointed in case of the voluntary dissolution of a corporation.

When stockholders, &c., may be made parties.

(13.) SEC. XIII. If such application be made by a creditor of any corporation, whose directors or stockholders are made liable by law for the payment of such debt, in any event or contingency, such directors or stockholders or any of them, may be made parties to the bill or petition, either in the filing thereof or in any subsequent stage of the proceedings, whenever it shall become necessary to enforce such liability.

Making directors, &c., parties after decree.

(14.) SEC. XIV. If any creditor of a corporation desire to make such directors or stockholders parties to the suit, after a decree therein against the corporation, he may do so on filing a supplemental bill against them, founded upon such decree; and if such decree was rendered in a proceeding instituted by the attorney general, such creditor may, on his application, be made complainant therein, and may in like manner make the directors and stockholders sought to be charged, defendants in such suit.

Bill against stockholders, &c.

(15.) SEC. XV. Whenever any creditor of a corporation shall seek to charge the directors, trustees, or other superintending officers of such corporation, or the stockholders thereof, on account of any liability created by law, he may file his bill for that purpose, in any district court which shall possess jurisdiction to enforce such liability.

Proceedings thereon.

(16.) SEC. XVI. The court shall proceed thereon as in other cases, and when necessary, shall cause an account to be taken of the property and debts due to and from such corporation, and shall appoint one or more receivers, who shall possess all the powers conferred, and be subject to all the obligations imposed on receivers in case of the voluntary dissolution of a corporation.

Proceedings if corporation be insolvent.

(17.) SEC. XVII. But if on the coming in of the answer, or upon the taking of any such account, it shall appear that such corporation is insolvent, and that it has no property or effects to satisfy such creditors, the court may proceed, without appointing any receiver, to ascertain the respective liabilities of such directors and stockholders, and enforce the same by its decree as in other cases.

Distribution of property.

(18.) SEC. XVIII. Upon a final decree being made, upon any such application to restrain a corporation, or upon any such bill filed against directors or stockholders, the court shall cause a just and fair distribution of the property of such corporation, and of the proceeds thereof, to be made among its fair and honest creditors, in the order and in the proportions prescribed in the case of a voluntary dissolution of a corporation.

When stockholders compelled to pay on stock held by them.

(19.) SEC. XIX. In all cases in which the directors or other officers of a corporation, or the stockholders thereof shall have been made parties to a suit in which a decree shall be rendered, if the property of such corporation shall be insufficient to discharge its debts, the court shall proceed

to compel each stockholder to pay in the amount due and remaining unpaid on the shares of stock held by him, or so much thereof as shall be necessary to satisfy the debts of the company.

(20.) SEC. XX. If the debts of the company shall remain unsatisfied, the court shall proceed to ascertain the respective liabilities of the directors or other officers, and of the stockholders, and to decree the amount payable by each, and enforce such decree as in other cases. Enforcing payment by directors.

(21.) SEC. XXI. (a) Upon any application to the court having jurisdiction in any of the cases provided in this chapter, such court may compel such corporation to discover any stock, property, things in action or effects alleged to belong or to have belonged to it, the transfer and disposition thereof, and consideration, and all the circumstances of such disposition. Discovery by corporation.

(22.) SEC. XXII. Every officer, agent or stockholder of any corporation, against which proceedings shall be instituted, according to the provisions of this chapter, and every person to whom it shall be alleged that any transfer of property or effects of such corporation has been made; or in whose possession or control any such property or effects shall be alleged to be, may be compelled, in the discretion of the court, to answer a bill filed to obtain any discovery in the preceding section specified, notwithstanding such answer may expose the corporation, of which he is a member, to a forfeiture of its corporate rights, or any of them. Discovery by officers, &c.

(23.) SEC. XXIII. The answers of the officers or agents of any corporation, shall be evidence against the corporation, in the same manner, and to the same extent as if such answers had been given upon an examination of such officers or agents, as witnesses in the cause, and such officers or agents may subsequently be examined as witnesses by either party, under the order of the court; but no such answer shall be compelled, unless by special order of the court. Answers how far evidence, and how compelled.

(24.) SEC. XXIV. Neither the answer of any such officer or agent, nor his testimony upon any such subsequent examination, shall be used as evidence upon an indictment or other criminal prosecution or proceeding against him. Answer, &c., not to be used on indictment.

(25.) SEC. XXV. Whenever any bill shall be filed, or any application shall be made against any corporation, its directors or other superintending officers, or stockholders, according to the provisions of this chapter, the court may, by injunction on the application of either party, and at any stage of the proceedings, restrain all proceedings at law, by any creditor against the defendants in such suit, and whenever it shall appear necessary or proper, may order notice to be published, in such manner as the court shall direct, requiring all the creditors of such corporation to exhibit their claims and become parties to the suit, within a reasonable time, not less than six months, from the first publication of such order, and in default thereof to be precluded from all benefit of the decree which shall be made in such suit, and from any distribution which shall be made under such decree. Staying proceedings in civil actions.

(26.) SEC. XXVI. The provisions of this chapter shall not extend to any incorporated library, or lyceum society, to any religious corporation, or any incorporated academy, or select school, nor to the proprietors of any burying ground, incorporated under the laws of this territory. Certain corporations excepted.

(a) As all discoveries in chancery are now abolished, the relief given by sections xxi, xxii and xxiii, is now obtained by calling the parties concerned as witnesses.