

REPORTS OF CASES

ADJUDGED IN THE

COURT OF CHANCERY

OF

UPPER CANADA.

COMMENCING IN NOVEMBER, 1849.

HAMILTON V. THE DESJARDINS CANAL COMPANY.

Pleading—Parties.

Where the directors of an incorporated company misappropriate the funds of the corporation, a bill against them and the company in respect of such misappropriation; cannot be sustained by some of the stockholders on behalf of all, except the directors. The company must be made plaintiffs, whether the acts of the directors are void or only voidable, and the stockholders have a right to make use of the name of the company as plaintiffs in such proceedings.

1849.

Nov. 2, 6, 13.

Where by the act of incorporation the government is authorised to purchase the corporate estate on payment of its full value, the Attorney-General is not a necessary party to a bill by the stockholders against the directors, complaining of the improper conduct on the part of the latter in dealing with the corporate funds.

In such a case, the defendants having answered, admitting certain moneys to have been received by the directors, a motion to pay the amount into court was refused—but the costs of the motion were reserved.

The bill in this case was filed by *James Hamilton*, the Honourable *J. H. Dunn*, *John O. Hatt* and others, stockholders in the *Desjardins Canal Company*, on behalf of themselves and all others the stockholders, except the defendants, who should come in and contribute to the suit, against *John Paterson*, *James Coleman*, *Benjamin Overfield*, *William Dixon*, *John Gamble*, shareholders in the said Company and *The Company*—and stated the incorporation of the company by statute (of Upper Canada) 7 Geo. IV., ch. 18—setting forth in detail, several of the clauses thereof relating to the election of officers and their duties, one of them being, that the directors of the company should once in every three years, or oftener if required by the stockholders, at a general meeting, render an exact and particular statement of the affairs of the company. It also appeared by the bill that the canal had been constructed so as to permit of its being used, and that a large sum had been received by the directors for tolls, &c.

Statement.

The bill then went on to recite the act of 9 Vic., ch. 85,

A

VOL. I.

PAGE.

484,

[497

133

392

409

352

434

439

530

560

215

187

349

582

311

425

356

134

346

346

169

215

327

392

443

90

98

147

84

422

98

502

539

502

105

209

136

93

179

218

138