holders universally had sustained some loss by the misfeasances of the directors, and an inquiry was directed accordingly. In this case, therefore, the surviving directors and the personal representative of deceased directors were held liable to make good the losses occasioned by their neglect on their part. The inquiry, it is to be observed, went to ascertain what losses had been so incurred since 1846, for a lapse of time is no bar in cases of breach of trust.

With reference to another of the charges in respect of which an inquiry was also directed, we cannot do better than quote the words of the judgment:—"Mr. Higgins was elected a director in 1849. He ceased to be a director in July, 1858. During the nine years that he was a director, in open violation to the clause I have just read, the directors advanced to him, or allowed him to overdraw his account to an extent amounting to an unsecured balance of £8,000, and he died in 1860 insolvent, owing to the company £8,134 2s. 11d. In my opinion this was a clear breach of trust, and one which the persons who were the directors during those nine years are bound to make good if alive, and which the estates of those who have died are liable to replace. I cannot look upon the acts of the directors as different in this respect from the acts of ordinary trustees. They undertake for a valuable consideration—a paid salary—to perform a duty for certain persons, and for this purpose they undertake to hold and employ the money of those persons who trusted them; one of the promises they make is, that they will not lend the money to any one of themselves without taking such precautions as would in practice have made loss impossible. They do nothing of the sort; they take no precaution, no security, and throw away the money of those who trusted them, by giving it to one of their own body. Are they not then to make it good? I think they are."

The case will, no doubt, remind our readers of *The Charitable Corporation* v. *Sir Robert Sutton*, 2 Atk. 400. This was a suit by the Charitable Corporation, which was a *mont de piètè*, a chartered pawnbroking establishment, against the directors or committeemen as they were called, and others—fifty in number—to have satisfaction for breaches of trust, fraud, and mismanagement of the concern. It was a similar case to this, but grosser, as the directors in the present case seem to have been guilty of little more than *crassa negligentia.* We observe the following *dicta* of Lord Hardwicke, with respect to the duties of a "committeeman," which may come home to some directors of the present day, when to be a director has become a trade or pursuit, irrespective of the qualifications of the director, or any special knowledge of the business which he is to conduct.

Gross non-attendance may make him guilty of the breaches of trust committed by others. Saying that he had no benefit, but that his place was merely honorary, is no excuse for want of diligence.

Where there is supine negligence in a committee, by which a complicated loss has occurred, all are guilty.

It was contented on behalf of the directors of the bank that, as directors, they were agents, and not trustees. They are no doubt agents to those who employ them in the trust to superintend the corporations affairs, but the fact is that a director is at once an agent and trustee. He is the agent or delegate of the shareholders, to manage their affairs; he is also a trustee, with regard to the funds entrusted to him, and the confidence reposed in him by the general body. It is a hardship, no doubt, that, as directors act by a board, and the proceedings of a *quorum* are binding, a director may find himself unawares involved in all the consequences of trust by the misconduct of a majority of his colleagues. It is always open to one who disapproves of the policy of the rest to protest against it, and to warn his colleagues against the danger of the course they are pursuing, and, in extreme cases to warn the shareholders. By doing so, he would probably exempt himself from the liability incurred by the rest; but few positions can be harder than the position of a director of a company in embarrased circumstances who disapproves of the course which his colleagues are pursuing, and believes it to be unwarranted by their fiduciary position, yet knows that if he warns the shareholders, or discloses the state of things, he may avoid personal liability, but must ruin the company.

The following are our own conclusions from this case which we venture to submit to the reader.

After the winding-up order is made a suit may be properly instituted in the name of the official liquidator to recover from the directors the amount of losses incurred by reason of misfeasances on their part which have injured all the shareholders alike. The directors, however, cannot be made liable in such a suit for distinct acts which have injured particular shareholders, although individual shareholders who have been damnified thereby would be entitled to sue the directors who have done or sanctioned those acts.

With regard to obtaining such relief the position of directors is similar to that of trustees, and the rule *actio personalis moritur cum personâ* is inapplicable, so that no time is a bar to the remedy, which extends alike to surviving directors and the estates of deceased directors. If this were otherwise; if in fact these cases between directors and the company whose affairs they administer, or between directors and individual shareholders, were to be dealt with on the footing of questions between principal and agent, the remedy would be, comparatively speaking, imperfect, and in the case before us obsolete: the wrongs for which the remedy was sought having been committed more than twenty years before the bill was filed, so that action on the case would not lie.