

soever, who may come into possession of the corporate property, for the purpose of collecting it and distributing it among the creditors and shareholders, is obliged to regard the right of action against such delinquent directors as a part of the available assets. It is his duty to push the claims, to make what he can out of them, and to apply the proceeds together with the other funds of the corporation to the discharge of its indebtedness, and the reimbursement of its creditors and shareholders. The liability is at common law, and though a statute or charter may declare what acts of a director, and under what circumstances committed, shall render him liable, yet these enactments will not operate to alter the nature of the liability, once accrued, or to render it statutory. They must be construed as simply relating to evidence, and as declaring that testimony establishing the act and circumstances described shall suffice to fix the liability, which, however, after it has been thus fixed, will still retain its original and inherent common-law character. But whatever liability may have been incurred by all or any of the members of a board of direction, it will not descend to their successors in office, who are blameless upon their own account. Neither will it pass to any third party to whom they have assigned corporate property, if he took it in good faith without collusion, and for value (1).

FALSE AND DECEPTIVE STATEMENTS.—It sometimes happens that the directors of a banking corporation put forth deceptive and fraudulent reports, and make false statements concerning its affairs, in order to keep up its good reputation with the public, and to sustain or raise the price of shares by attracting purchasers. A collection of case-law on this and cognate subjects is to be found in Shelford's Law of Joint Stock Companies, and other books, referring to the highest sources of authority in cases upon this subject in England; both on the question of a report of directors being in any sense a representation to an outsider who buys on the faith of it, and also on the point whether it is to be considered a report of directors, or (after its adoption by the Bank) a report by the latter as having approved of it and profited by it.

Reports made and accounts rendered by directors in the course of their duty, though made and issued to the shareholders only, as to the state of affairs of the company, are considered the representations of the company, not only to shareholders, but to the

(1) Schley v. Dixon, *supra*.