

Comment: The changes effected in the General Corporation Law by this section have been inserted to promote simplicity. There is no change in content except that unclaimed assets are to be paid to the state comptroller as aban-

doned property, rather than paid into court as provided in General Corporation Law § 186, and the word distribution has been substituted for "dividend" as used in General Corporation Law §§ 184, 185 and 186.

Cross References

Comparable provisions, see Not-For-Profit Corporation Law § 1212.

United States Code Annotated

Corporate liquidation, see section 331 et seq. of Title 26, Internal Revenue Code.

Library References

Corporations ¶511, 568, 629, 687.
C.J.S. Corporations §§ 230, 1357, 1397, 1574, 1767, 1892.

Notes of Decisions

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1. Shareholders' right to surplus

There was a clear and simple recognition in former General Corporation Law, § 185 [now this section] of the principle that every stockholder has a quasi lien upon, or an interest in, all the assets of the corporation, for the value of his distributive share of such assets, after the payment of the corporate indebtedness; and he is entitled to have a sale of assets for cash or its equivalent and cannot be compelled to submit to an exchange of his lien on the assets for a lien upon, or interest in, other securities. *People v. Anglo-American Savings, etc., Ass'n*, 1901, 60 App.Div. 389, 60 N.Y.S. 1054. See, also, *Smith v. Westchester Bronxville Realty Co.*, 1912, 78 Misc. 75, 137 N.Y.S. 690.

Upon the dissolution of a joint stock corporation the interests of the several stockholders are reduced to mere equitable rights to their several distributive shares of the funds of the corpora-

tion, upon principles of justice and equity among all the stockholders, and that in making distribution each stockholder is to be charged with the debts due from him to the corporation, so as to equalize the distributive shares of all the stockholders in the fund after payment of all debts due by them respectively to the corporation. *James v. Woodruff*, 1844, 10 Paige 541, affirmed 2 Denio 574.

2. Abandoned property

Where Delaware court confirmed recommendation of receiver, appointed by it for Delaware corporation in dissolution proceeding, that he should not prosecute certain claims against majority stockholder, failure of Delaware receiver to prosecute claims did not amount to "abandonment" of claims, so as to make them "derelict property" within New York, or give a permanent receiver of New York assets of the corporation, appointed pursuant to former CPA § 977-b, any title to the claims. *Hirson v. United Stores Corporation*, 1942, 263 App.Div. 646, 34 N.Y.S.2d 122, affirmed 289 N.Y. 564, 43 N.E.2d 712.

§ 1213. Omission or default of receiver

Upon notice to the attorney-general and upon such notice to creditors or others interested as the court shall direct, the court

may, in the furtherance of justice, relieve a receiver from any omission or default, on such conditions as may be imposed, and, on compliance therewith, confirm his action.

(L.1961, c. 855.)

Historical Note

Derivation. Gen.Corp.Law of 1929, § 173, repealed by L.1973, c. 451, § 2; formerly 194, renumbered 173, L.1929, c. 650. Section 194 derived from CCP, § 2429, amended L.1895, c. 175; L.1899, c. 599; originally revised from R.S., pt. 3, c. 8, tit. 4, §§ 65, 66.

Legislative Studies and Reports

1. Source: McKinney General Corporation Law § 173.

2. Changes: No substantial change.

Comment: Except for the correction of an apparent typographical error in General Corporation Law § 173, from

which this section is derived, no change or modification has been made. The General Corporation Law provision commenced: "Upon notice of the attorney-general ...". This has been changed to "Upon notice to the attorney-general ...".

Cross References

Comparable provisions, see Not-For-Profit Corporation Law § 1213.

Library References

Corporations ¶511, 560(1) et seq., 622(1) et seq., 687. C.J.S. Corporations §§ 1357, 1505, 1753, 1755, 1892.

§ 1214. Application by attorney-general for removal of receiver and to close receivership

(a) Whenever he deems it to be to the advantage of the shareholders, creditors or other persons interested in the assets of any corporation for which a receiver has been appointed, the attorney-general may move:

- (1) For an order removing the receiver and appointing another in his stead;
- (2) To compel the receiver to account;
- (3) For such other and additional orders as may facilitate the closing of the receivership.

(L.1961, c. 855.)

Historical Note

Derivation. Gen.Corp.Law of 1929, § 156, repealed by L.1973, c. 451, § 2; formerly 311, renumbered 156, L.1929, c. 650. Section 156 derived from L.1883, c. 378, § 7.