

ute, and such facts as the proof may establish as to the necessary operation of the statute, come before the court to be dealt with upon the final hearing and in the appellate court.

In re CENTENNIAL BOARD OF FINANCE.

(Circuit Court, E. D. Pennsylvania. June 29, 1891.)

DISSOLUTION OF CORPORATION—DIVISION OF ASSETS.

"A body corporate," incorporated by act of congress, having certain specified duties to perform, and required by the act "to convert its property into cash, and to divide, after the payment of all liabilities, the remaining assets among the stockholders, will not be relieved from this duty on the ground of the smallness of the dividend or the difficulty of distribution.

In Equity.

Petition of Thomas Cochran, John S. Barbour, Frederick Fraley, William Sellers, Clement M. Biddle, N. Parker Shortridge, James M. Robb, Edward T. Steel, John Wanamaker, Amos R. Little, Thomas H. Dudley, Edwin H. Fidler, William V. McKean, John Baird, Henry D. Welsh, W. W. Justice, Joel J. Bailey, John Cummings, John Gorham, Abram S. Hewitt, William L. Strong, John B. Drake, George Bain, and A. T. Goshorn, officers and directors of the Centennial Board of Finance, setting out that it had fully discharged its duties; that it had on hand two funds, one \$4,960.03, the amount still unclaimed from two dividends, and a general fund, \$8,630.87. This latter fund would pay a dividend of between two and three cents a share. The shares were widely scattered. Prayer that the petitioners be relieved from further custody of the fund, and that the court should appoint a suitable custodian of it, after certain payments had been made. The Centennial Board of Finance was incorporated by act of congress of June 1, 1872, as "a body corporate, to be known by the name of the 'Centennial Board of Finance,'" and section 10 of the act provided:

"That as soon as practicable after the said exhibition shall have been closed it shall be the duty of said corporation to convert its property into cash, and, after the payment of all its liabilities, to divide its remaining assets among its stockholders *pro rata*, in full satisfaction and discharge of its capital stock. And it shall be the duty of the United States Centennial Commission to supervise the closing up of the affairs of the said corporation, to audit its accounts, and submit, in a report to the president of the United States, the financial results of the Centennial Exhibition."

S. S. Hollingsworth and Thos. Dudley, for petitioners.

BUTLER, J. The petitioners are not ordinary trustees, but the officers of a corporation, with active duties to perform as such. The distribution of the moneys in their hands is provided for by the statute out of which the corporation grew. The petitioners are required to divide it

among the stockholders. From the performance of this duty we cannot relieve them. Their situation is rendered embarrassing by the circumstances stated in the petition, and we would relieve them if we had the power to do so, and could thus exercise it with propriety. Relief may probably be found through application to congress.

MERCANTILE TRUST CO. v. MISSOURI, K. & T. RY. CO. *et al.*

FIDELITY INSURANCE, TRUST & SAFE DEPOSIT CO. v. EAST LINE & RED RIVER R. CO. *et al.*

(Circuit Court, N. D. Texas. June 6, 1890.)

1. FEDERAL AND STATE COURTS—CONFLICTING JURISDICTION—RAILWAY MORTGAGES—FORECLOSURE.

An interstate railway company purchased a small road lying entirely within a state, and afterwards mortgaged the whole system, including the new purchase. After several years, suit to foreclose was brought in the federal circuit court, and the whole property was placed in the hands of a receiver. In the mean time, by proper proceedings in the state court, the charter of the state road was declared forfeited, and a receiver of its property appointed. This receiver then petitioned the federal court for possession, alleging that the sale of the road was *ultra vires* and void, and that, therefore, the federal court had no jurisdiction. *Held*, that this merely raised the question as to the validity of the sale, which question could properly be tried in the federal court, and hence it would retain possession.

2. SAME.

The fact that the mortgagees of a prior mortgage, which was placed upon the state road before its sale, had intervened in the federal court for the protection and enforcement of their prior lien, was also a sufficient ground for retaining jurisdiction and possession of the road.

3. SAME—FOLLOWING STATE LAWS.

The fact that the state statutes provide for the payment of the corporation's debts after its charter is forfeited, and for the distribution of its assets, does not give the state courts exclusive jurisdiction, since these directions will be complied with in the federal courts.

In Equity. Petition by W. M. Giles, who was appointed receiver of the East Line & Red River Railroad, in a proceeding in the state court of Texas to forfeit its charter, to obtain possession of the road as against receivers appointed by the federal court. Petition denied.

Alexander & Green and *E. Ellery Anderson*, for Mercantile Trust Co.

James Hagerman, for receivers of Missouri, K. & T. Ry. Co.

Simon Sterne and *Charles F. Beach, Jr.*, for Missouri, K. & T. Ry. Co.

John C. Bullitt and *Samuel Dickson*, for Fidelity Insurance, Trust & Safe-Deposit Co.

R. C. Foster, for East Line & Red River R. Co.

Sawnie Robertson, for W. M. Giles, receiver.

Before MILLER and LAMAR, Justices, and PARDEE and CALDWELL, JJ.

MILLER, Justice, (*orally.*) We have given this application our attentive consideration, and, as there is no difference of opinion among the four judges who have been asked to consider the case, there is no reason