



1940

## Law Books for Sale

North Dakota State Bar Association

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tors are not responsible for paying a just debt notwithstanding that the corporation was insolvent at the time; but if the payment was an unlawful preference, the remedy, if any is against the creditor. Where the statute of limitations has commenced to run against the liability of officers for a corporate debt, it seems that the running of the statute is not suspended or affected by the recovery of the judgment against the corporation upon the debt, nor by the renewal of the indebtedness by the corporation. In a court of equity, the court commented that at all events it is not too much to say that a party who claims to have paid a debt by a successful plea of the statute, and seeks an affirmative remedy on the ground of such fortunate venture, is not regarded as a special favorite of the court. The statute of limitations is a personal privilege accorded by law for reason of public expediency; and the privilege can only be asserted by a plea; the statute of limitations only bars the remedy and not the debt, and a debt uncollectable by operation of law taking away the remedy in sufficient consideration for the execution for a new promise to pay.

Although there is a dearth of authority, the cases there are reveal that a corporation can and may waive the statute of limitations by its officers or directors or agents. But as to the question of the liability of the directors and officers for so waiving the statute of limitations, no authority was found that dealt with the situation directly in point. However, there is no question that the moral obligation to pay a debt which has been barred by the statute of limitations still exists. And in light of justice, the performance of moral obligations should be encouraged instead of impeded by imposing the risk of liability. And to label this communicable performance by a manager of a corporation as mismanagement for which a liability can be imposed is analagous to saying that what is right is wrong. Thus it is submitted that no liability should be imposed upon director and officers for so waiving the statute of limitations.

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#### LAW BOOKS FOR SALE

Federal Code Annotated with Annual Pocket Supplement for each volume. Address inquiries to Burnett, Bergesen & Haakenstad, Attorneys, Fargo, N. D.

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#### OUR SUPREME COURT HOLDS

In *Mrs. Hester McKinnon, Pltf. and Respt., vs. North Dakota Workmen's Compensation Bureau, Deft. and Applt.*

That the Workmen's Compensation Act does not cover diseases contracted by an employee outside of his employment; and where compensation is sought on the theory that the death of the employee was caused by disease, it must be shown that the disease was approximately caused by the employment.